

## Time-Limited Waqf in Indonesian and Yemeni Law: A Comparative Study Based on National Legislation and Fiqh Approaches

Mohsen Farid Abdulrahman Al-Baiti<sup>1</sup>, Ahmad Khoirudin<sup>2</sup>

<sup>1</sup>Al-Ahgaff University, Yemen

<sup>2</sup>UIN Siber Syekh Nurjati Cirebon, Indonesia

Email: <sup>1</sup>mohsenalbaiti77@gmail.com, <sup>2</sup>ahmad.khoirudin@uinssc.ac.id

### Abstract

This study compares the regulation of time-limited waqf berjangka in Indonesia and Yemen, focusing on Indonesia's Law No. 41 of 2004 on Waqf and Yemen's Qānūn al-Waqf al-Shar'ī of 1992. The primary objective of this study is to analyze the validity of temporary endowments (mu'auqqat) within both legal systems and how national regulations affect the acceptance of time-limited endowments. In Indonesia, time-limited endowments are explicitly accommodated in the law, allowing for more flexible management of endowments. In contrast, Yemen's regulations prioritize the permanent (ta'bīd) nature of waqf, limiting the possibility of time-limited endowments. This study employs a cross-mazhab fiqh approach, comparing the views of the Maliki school, which permits temporary endowments, with the Shafi'i and Hanbali schools, which tend to reject them. The findings of this study reveal a shift in the legal paradigm of waqf, from traditional practices to a more modern model, influenced by the social, political, and economic dynamics in each country. The novelty of this research lies in the direct comparison of two different legal systems, offering a new perspective on the acceptance and application of time-limited waqf in the context of socio-economic development. These findings contribute to a deeper understanding of the role of waqf in contemporary legal dynamics.

**Keywords:** time-limited waqf; waqf law; Indonesia; Yemen; Fiqh; Comparative Law

### Abstrak

Penelitian ini membandingkan pengaturan hukum wakaf berjangka di Indonesia dan Yaman, dengan fokus pada Undang-Undang No. 41 Tahun 2004 tentang Wakaf di Indonesia dan Qānūn al-Waqf al-Shar'ī Tahun 1992 di Yaman. Tujuan utama penelitian ini adalah menganalisis keabsahan wakaf temporer (mu'auqqat) dalam kedua sistem hukum tersebut, serta bagaimana regulasi nasional memengaruhi penerimaan konsep wakaf berjangka. Di Indonesia, wakaf berjangka diakomodasi secara eksplisit dalam undang-undang, memungkinkan pengelolaan wakaf yang lebih fleksibel, sedangkan di Yaman, regulasi cenderung mengutamakan sifat permanen (ta'bīd) dari wakaf, membatasi kemungkinan wakaf berjangka. Kajian ini menggunakan pendekatan fikih lintas mazhab, dengan membandingkan pandangan Mazhab Maliki, yang memperbolehkan wakaf temporer, dengan Mazhab Syafi'i dan Hanbali yang cenderung menolaknya. Temuan penelitian ini menunjukkan adanya pergeseran paradigma hukum wakaf, dari yang bersifat tradisional menuju model yang lebih modern, yang dipengaruhi oleh dinamika sosial, politik, dan ekonomi di masing-masing negara. Novelty dari penelitian ini terletak pada komparasi langsung antara dua sistem hukum yang berbeda, dengan memperkenalkan perspektif baru dalam penerimaan dan penerapan wakaf berjangka dalam konteks pembangunan sosial-ekonomi. Temuan ini memberikan kontribusi pada pemahaman lebih lanjut mengenai peran wakaf dalam dinamika hukum kontemporer.

**Kata Kunci:** wakaf berjangka; hukum wakaf; Indonesia; Yaman; fiqh; perbandingan hukum

## Introduction

Waqf is one of the important instruments in the Islamic economic system that aims to realize social justice and wealth distribution (Lita, 2020; Zauro et al., 2020). Traditionally, the majority of scholars consider waqf to be permanent (*ta' bīd*), cannot be temporary (Khusaini, 2020). However, in the modern context, there is a legal flexibility that opens up the possibility of the practice of waqf futures (*mu' aqqat*).

Waqf plays a role in overcoming social and economic problems, such as poverty, and can improve the economy of the ummah (Kasanah, 2019). Waqf can be used as a source of funds for social programs and economic empowerment of the people, such as education, health, and public facilities (Nabi et al., 2019; Shaikh et al., 2017; Syakir, 2018). With proper management, waqf can improve people's welfare and help reduce poverty.

The history of waqf in Islam began during the time of the Prophet Muhammad (PBUH) when he first arrived in Medina and bought land from orphans for 800 dinars to be used as waqf in the construction of the Prophet's Mosque (Zahrah, 1959). Since then, waqf has evolved as a social and religious instrument used to provide long-term benefits to Muslims. During the time of the Companions, waqf was also used by Umar bin Khaththab who endowed fertile land in Khaibar, as well as Uthman bin Affan who bought a well and provided it for the benefit of the ummah (Al-Qaradawi, 1990; Kahf, 2003). The practice of waqf was increasingly structured in the Islamic legal system during the caliphate rule, where waqf management institutions were established (Afifuddin et al., 2021; Zainal, 2016). Over time, waqf has been regulated in various regulations and accepted as a tool for empowering the people, both in social, educational, and economic contexts.

Law No. 41 of 2004 concerning Waqf explicitly allows waqf futures, both for movable and immovable objects, including money waqf. Meanwhile, the 1992 Yemeni Qānūn al-Waqf al-Shar'ī, in its definition of waqf, uses the words *ta' bīdan* (تأبیداً), which shows that waqf must be eternal, thus giving an indication of rejection of the concept of temporary waqf (Law, 2004; Qānūn, 1992).

This research aims to conduct a comparative study between two different legal systems, namely Indonesia and Yemen, by tracing their normative basis in the laws of each country and analyzing the differences in the views of the fiqh schools that underlie the two. This study is very important because it provides an in-depth understanding of how the regulation of waqf futures is regulated in two countries with different legal contexts, as well as how different interpretations of fiqh affect the acceptance and application of the concept of waqf futures. By examining these two legal systems, this study not only presents a comparison in terms of

legislation, but also introduces a new perspective on the relevance of waqf futures in the context of contemporary Islamic social, economic, and law. The findings of this study are expected to make a significant contribution to the development of a more flexible and responsive waqf legal policy to the needs of the people in the modern era.

## **Methods**

This study uses a comparative method (Suteki & Gaufani, 2020) to analyze differences and similarities in the arrangement of waqf futures between Indonesia and Yemen. This method provides a more in-depth insight into the comparison between the two legal systems that govern waqf futures in both countries, focusing on the applicable national legislation. In Indonesia, Law No. 41 of 2004 on Waqf explicitly accommodates the concept of waqf futures, while in Yemen, Qānūn al-Waqf al-Shar‘ī of 1992 tends to emphasize the importance of the permanent nature (ta’bīd) in waqf. This approach aims to understand how different regulations in each country affect the legal practice of waqf, as well as how those rules are applied in each country's social and religious context.

In addition, this study adopts a cross-sectarian fiqh approach to explore the views of sects in Islam regarding waqf futures. This study mainly examines the differences between the Maliki madhhab, which allows temporary waqf (futures), and the Shafi'i madhhab and the Hanbali madhhab, which reject the concept. Utilizing this approach, this study seeks to explain how these different fiqh views affect the legal legitimacy of waqf futures in the two national legal systems being compared. This fiqh perspective is also expected to provide a clearer picture of the shift in the perspective of waqf in the Islamic legal tradition.

Finally, this study also applies social, political, and economic analysis to explain how external factors play a role in the formation and development of waqf law. In this context, the research will analyze how social changes, political conditions, and economic development needs affect the shift from the traditional waqf system to a more modern and flexible waqf system, such as waqf futures. With this approach, it is hoped that the research can provide a more complete understanding of the development of waqf law in Indonesia and Yemen and how external factors interact with existing legal norms.

## **Concept and History of Waqf**

Waqf comes from a word that means to hold, stop, or remain standing, which refers to the detention of property so that it does not change ownership. Waqf is a form of infaq fi sabilillah which is explained in the Qur'an, as in surah al-Baqarah verses 267 and 261, as well as Ali Imran verse 92 (Departemen Agama RI, 2019). The basis of waqf is also found in the

hadith of the Prophet Muhammad (PBUH). When he first arrived in Medina, he bought land belonging to orphans for 800 dinars and donated it to build the Prophet's Mosque. In addition, the hadith also narrates the companion of Umar bin al-Khattab who got fertile land in Khaibar, and the Prophet recommended that the land be taken care of and the proceeds donated. Another hadith tells of a well bought by Uthman bin Affan, who donated water from the well to the people of Medina who were in dire need of it, at a well price of 20,000 dirhams (Agrawal, 2024; Awqaf Australia, 2025; Bakar & Gunardi, 2023; Hafizd, 2021).

Waqf assets are goods provided by the waqf that have economic and durable value so that they can be used in the long term. Goods can only be donated if they are legally owned and fully controlled by the wakif (Law, 2004).

Al-Sarakhsi said that waqf must be its own property, property rights include goods, benefits, and rights of material value that are not haram goods (Al-Sarakhsi, 1985; Thabrani, 2010). This is in accordance with Law No. 41 of 2004 article (15) waqf of waqf objects can only be waqf if it is legally owned and controlled by the waqf and KHI article 217 paragraph (3) property that is free with all burdens, bonds, confiscations, and disputes (KHI, 1991; Law, 2004).

Waqf assets are separated for social and religious purposes, so that the benefits can be felt by others. Islam teaches to give away property in this way, so that the waqf property will not run out, be damaged, or change hands. The detention of this property aims to ensure the sustainability of benefits and rewards that can be charitable for the waqf (Hafizd, 2022).

Over time, the concept of waqf has evolved to become an integral part of the Islamic legal system which is regulated in various laws in Muslim countries. The legal history of waqf shows that in the early days, waqf was more often governed by the decisions of local rulers or scholars, with little formal codification. However, during Islamic dynasties, such as the Abbasid and Ottoman Dynasties, waqf began to receive serious attention from the state with the establishment of waqf management institutions. At this time, waqf is not only limited to social and religious aspects, but also includes the fields of education, health, and infrastructure development.

In some countries such as Saudi Arabia, Turkey, Egypt, and Yemen, waqf has become an important instrument in the Muslim economy, with more organized management through waqf bodies responsible for distributing its benefits fairly (Azrak, 2022; Elmahgop et al., 2025; Hajeb, 2025; Kahf, 2003). In this context, waqf is seen as an institution that is able to create socio-economic stability by contributing to the basic needs of the people, such as education, medical treatment, and public infrastructure development. In modern times, many Muslim

countries, including Indonesia and Yemen, have adopted more systematic and clear regulations on waqf, with the aim of ensuring that waqf can be managed properly, transparently, and sustainably.

This development of waqf law shows that the waqf system not only has a very important historical value in Islamic civilization, but also has a strong relevance in the economic and social development of Muslim society in modern times. In the context of Indonesia and Yemen, waqf plays a role in providing alternative financing for social and religious projects, as well as helping to reduce economic disparities through community empowerment.

In Indonesia, waqf has been clearly regulated through the Law of the Republic of Indonesia Number 41 of 2004 concerning Waqf. This law provides a strong legal basis for the management of waqf, with the aim that waqf can be used productively for the benefit of the people. In this case, Indonesia is one of the countries that has a relatively advanced waqf legal system, with regulations that cover various aspects ranging from the determination of waqf, nadzir, to the management of waqf assets. This law also regulates institutions that play a role in managing waqf, such as the Indonesian Waqf Agency (BWI), which is responsible for ensuring transparency and accountability in the management of waqf in Indonesia. Over time, Indonesia began to develop various forms of productive waqf, including cash waqf and term waqf, which aimed to improve the welfare of Muslims in a more measurable and sustainable manner.

Meanwhile, in Yemen, the Qānūn al-Waqf al-Sharʿī promulgated in 1992 provides a legal framework similar to Indonesia's, with the same goal of maximizing the potential of waqf as an instrument of social and economic empowerment. Waqf law in Yemen regulates the types of waqf, management mechanisms, and the role of institutions involved in waqf management. One of the important points in Qānūn al-Waqf al-Sharʿī is the emphasis on waqf management based on sharia principles, which includes the obligation to maintain the sustainability of the benefits of waqf property so that it can continue to be used for the benefit of the ummah. Despite the challenges in the management of waqf in Yemen, especially related to political and economic stability, waqf law in the country plays an important role in ensuring that waqf can still provide long-term benefits to the community.

From a comparative perspective, although Indonesia and Yemen have a similar legal basis in the management of waqf, there are differences in its implementation and practice. For example, Indonesia is more adopting innovations in the form of cash waqf and waqf futures that allow Muslims to more easily participate in the waqf system, while in Yemen, waqf management still relies more heavily on physical assets and more traditional waqf land

management. However, both have the same goal, which is to use waqf as a tool to empower Muslims, both in terms of improving economic, social, and religious welfare.

### **The Concept of Term Waqf in the Perspective of the Fiqh School**

Term waqf or *waqf mu'qqat* is a form of waqf that is limited by a certain period of time. In practice, waqf assets are not released permanently, but are only used for a good period of time, after which ownership returns to the wakif or his heirs. This concept has become a debate among classical fiqh scholars (Jamal, 2022; Nor & Mohamad, 2023). The term *waqf mu'qqat* comes from the Arabic word *waqqa-ta*, meaning "to fix a time," referring to an endowment limited by a specific period. Unlike perpetual waqf (*waqf ta'bidī*), this form allows the asset to return to the donor or heirs after the set time ends.

The majority of schools such as Shafi'i and Hanbali reject the validity of waqf futures. According to them, waqf should be *ta'bid* (eternal), where the ownership of benefits completely moves away from the waqf for the purpose of continuous good. For example, scholars like al-Nawawī from the Shāfi'ī school and Ibn Qudāmah from the Hanbalī school emphasized the requirement of *ta'bid*, while Muḥammad Jawād Mughniyya, a Shī'a scholar, also supported the perpetual nature of waqf in his legal views. They adhere to the hadith, "لا يُباع ولا يُورث ولا يُوهب" (not sold, not inherited, and not granted), which is understood as an absolute condition that the waqf property must be completely out of the power of the waqf and must not be temporary. In their view, if waqf is given a time limit, then the status of beneficial ownership becomes dependent and not fixed, thus contrary to the essence of waqf itself (Al-Nawawi, n.d.; Mughniyya, 2025; Qudāmah, n.d.).

In contrast, the Maliki school has a more flexible view. They allow temporary waqf with a specific time limit as long as the purpose is charitable. In this madhhab, waqf does not have to be permanent and can be set for a defined period—such as ten years or during a person's lifetime. This view is supported by Ibn Rushd, who in *Bidāyat al-Mujtahid* acknowledged the permissibility of time-bound waqf within the Maliki framework. After that period is up, the property can return to its original owner. This is because in Maliki's view, there is no *nash syar'i* that expressly requires the eternity of waqf. As long as the benefits of goodness are achieved, waqf remains valid, even if it is not permanent (Rushd, 2003).

The Hanafi school shows a slightly different attitude. Initially, Abu Hanifah did not require eternity in waqf, but his disciples such as Abu Yusuf and Muhammad al-Shaibani later perfected the view that waqf should be eternal, for the sake of legal certainty and protection of

waqf property. Thus, Hanafi's views are finally close to the majority opinion (Al-Marghinani, 2013; Al-Sarakhsi, 1985).

Given this difference, it can be seen that only the Maliki school explicitly allows waqf futures, while the other three schools tend to reject it. This difference becomes relevant in the context of a comparative study of waqf law between Indonesia and Yemen. Indonesia accommodates waqf futures in its positive regulations, while Yemen, as seen in Qānūn al-Waqf al-Shar'ī of 1992, seems to still hold the principle of the eternity of waqf as the dominant view of the Shafi'i sect.

**Table 1** Comparison of Opinions of 4 Madhhabs

Sect	Opinions on Term Waqf	Note
Hanafi	Not valid in general	Initially open, but progresses towards permanence
Maliki	Legal/Allowed	Flexible, in accordance with benefits and intentions
Syafi'i	Invalid	It must be eternal and must not return to the waqf
Hanbali	Invalid	Must be permanent

### **Futures Waqf in Indonesia's Positive Law**

In Indonesia's positive law, term waqf or temporary waqf is explicitly recognized and allowed. This provision is contained in Law Number 41 of 2004 concerning Waqf, especially in Article 1 paragraph (4) which defines waqf as a legal act of the waqf to separate and/or hand over part of its property to be used forever or for a certain period of time in accordance with the interests of worship or general welfare according to sharia. The phrase "a certain period of time" expressly opens up a legal space for waqf mu'qqat which was previously rejected in the view of the majority of classical fiqh schools (Law, 2004).

This arrangement is then further elaborated in Government Regulation No. 42 of 2006 concerning the Implementation of the Waqf Law, which states that waqf can be carried out both in the form of perpetual waqf and term waqf, as long as it meets the requirements of waqf and is in accordance with sharia principles. In practice, this term waqf is often applied to movable objects such as money waqf, vehicles, or rental buildings, where the waqf only waqf the property to be used for a certain time, for example for 5 or 10 years (Government Regulation, 2006).

In Indonesia, the reason for allowing temporary waqf is more about legal flexibility to encourage community participation in productive waqf (Johari et al., 2024). A similar approach is also adopted in Malaysia, where temporary waqf (waqf mu'qqat) is recognized under certain state enactments and fatwas. The rationale behind this flexibility is to widen public access and

engagement in waqf practices, particularly for those who may not be able to endow property permanently (Ab Rahman et al., 2024; Johari et al., 2024). It reflects a practical response to contemporary socio-economic realities while maintaining the spirit of charitable endowment in Islam. By providing an alternative in the form of term waqf, people do not need to feel that they have lost their property permanently, but can still contribute to social charity for a certain period of time. This is a realistic solution for modern society who have limited fixed assets but still want to participate in Islamic philanthropic activities.

The allowability of this term waqf is in line with the views of the Maliki madhhab (Rushd, 2003), but in the Indonesian context, this is not only fiqh but also part of the national legal system. The Indonesian government, through the Indonesian Waqf Board (BWI), has actively promoted money waqf (*wakaf uang*) and productive waqf (*wakaf produktif*) based on Law No. 41 of 2004, Government Regulation No. 42 of 2006, and DSN-MUI Fatwa No. 2/2002, which collectively provide a legal foundation for time-limited waqf as a legitimate and flexible Islamic social finance instrument aligned with current development goals (DSN-MUI, 2002; Government Regulation, 2006; Law, 2004). Thus, Indonesia's positive law emphasizes that waqf is not only limited to a permanent traditional concept, but can also be developed in a more dynamic form according to the benefits.

### **Yemen's Qānūn al-Waqf al-Sharʿī Attitude towards Temporary Waqf**

The meaning of the word *taʿbīdan* in Article 2 of the Yemeni Qānūn al-Waqf al-Sharʿī refers to the concept of immortality or permanence. The word comes from the Arabic root "abad" which means "eternal" or "forever," which is used to describe the nature of the waqf that must be permanent (Qānūn, 1992). Thus, waqf regulated in Yemeni law is considered to be in existence without any time limit, so that the assets that are waqf must not change hands or be used temporarily (Alaghbari, 2022).

In the Yemeni legal system, waqf is explicitly defined as perpetual and without time limitation. This is clearly stated in Article 3 of the *Qānūn al-Waqf al-Sharʿī*, which defines waqf as: "*ḥabs māl wa al-taṣadduq bi manfaʿatihi aw thamaratihi ʿalā sabīl al-qurba taʿbīdan*" (حبس مال والتصدق بمنفعته أو ثمرته على سبيل القرية تأبدياً). The term "*taʿbīdan*" comes from the Arabic root *abada* (أبد), meaning eternal or everlasting, indicating that waqf under Yemeni law must be permanent, and cannot be revoked, transferred, or inherited—except under specific conditions aligned with Islamic law and with the approval of the competent authority. Therefore, the statement that "*waqf regulated in Yemeni law is considered to be in existence without any time limit*" is accurate and valid, supported directly by the language of Article 3.



This principle of permanence reflects one of the foundational values of waqf management in Yemen and affirms the country's legal commitment to classical Islamic jurisprudence on waqf.

The use of the word *ta'bīdan* in this context leads to the understanding that waqf is only acceptable if it is eternal, which means that waqf cannot be temporary or have a specific time limit (Ministry of Awqaf and Islamic Affairs Kuwait, 2020). This has implications for the restriction of the types of waqf that can be accepted by Yemeni law, where temporary waqf or *mu'aqqat* (futures) are not accommodated.

If *ta'bīdan* is interpreted strictly, then only waqf that is permanent will be recognized. On the other hand, if the meaning of this word is more flexible, there can be a possibility to receive waqf with a limited duration. Therefore, an understanding of *ta'bīdan* is essential in this context to determine whether or not Yemeni law allows for the existence of waqf with a time limit. This difference in meaning can affect how term waqf is accepted or rejected in the existing legal system.

The implications of the use of the term *ta'bīdan* in *Qānūn al-Waqf al-Shar'ī* Yemen have a direct effect on the validity of term waqf or temporary waqf. The word *ta'bīdan*, which literally means "eternal" or "forever," indicates that waqf in Yemeni law is expected to be permanent and has no time limit. Thus, the use of this term affects the legal interpretation of waqf futures, which usually have a certain time limit.

Based on the definition of waqf listed in the law, term waqf is not accommodated, because it is considered contrary to the concept of waqf which is permanent and perpetual. This law tends to assume that waqf is only valid if there is no set time limit, so waqf that is temporary or with a specific period of time, such as waqf *mu'aqqat*, cannot be accepted as part of the definition of a valid waqf under Yemeni law.

The legal implication of this understanding is that the temporary waqf is considered invalid and unacceptable in the Yemeni legal system. This causes term waqf not to be recognized, and if a person performs waqf with a certain time limit, the act will not be legally recognized. Therefore, while waqf futures may have practical benefits in social and economic contexts, their legal acceptance in Yemen is limited by definitions that affirm immortality in waqf.

The understanding of temporary waqf is closely related to the community's need for flexibility in the management of waqf assets. Yemeni people, like many developing countries, face great challenges in overcoming poverty and lack of resources. In this case, temporary waqf can be an effective tool to meet short-term social needs, such as funding for urgent education, health, or infrastructure projects. However, the restriction of waqf on things that are permanent,

as specified in Qānūn al-Waqf al-Shar‘ī limits the potential for social empowerment that waqf can offer. Therefore, a more flexible approach to temporary waqf can be more in line with the needs of a dynamic community.

The waqf policy that affirms the permanent necessity of Qānūn al-Waqf al-Shar‘ī can be influenced by the need to maintain stability and sustainability in the management of existing resources. This more conservative approach to waqf may also reflect concerns about the potential misuse of waqf or uncertainty in the management of temporary assets. On the other hand, more open futures waqf policies in other countries, such as Indonesia, may be more influenced by political factors that encourage inclusivity and responsiveness to social change. Therefore, a more in-depth socio-political analysis is needed to understand why Qānūn al-Waqf al-Shar‘ī affirms permanent waqf and how it is related to the national political agenda.

Yemen faces major challenges in terms of poverty and development financing, waqf futures can be a very useful instrument for providing funds for urgent projects or temporary needs, for example for the development of the health, education, or infrastructure sectors. However, the policy of prioritizing immortality in Qānūn al-Waqf al-Shar‘ī certainly limits the flexibility of waqf management for more practical economic purposes. On the other hand, Indonesia, which is more open to temporary waqf through the Waqf Law No. 41 of 2004, shows how waqf can be used to improve the economic welfare of the people, such as in the form of productive waqf or cash waqf. In this case, temporary waqf can provide faster and more direct economic benefits, with results that can be felt by the community more immediately, especially in the face of poverty and limited resources.

A comparison between Yemen's Qānūn al-Waqf al-Shar‘ī and the practice of temporary waqf in Indonesia provides important insights into how the two countries regulate and respond to the concept of waqf futures. In Yemen, Qānūn al-Waqf al-Shar‘ī tends to emphasize that waqf must be permanent, as explained through the use of the term *ta’bīdan*, which means "eternal." This restricts the receipt of term or temporary waqf within the framework of Yemeni law, given that there is no place for waqf with a specific time limit according to the applicable definition.

In contrast, in Indonesia, Law No. 41 of 2004 concerning Waqf explicitly accommodates the concept of term or temporary waqf. In this regulation, waqf is not only limited to permanent assets, but also includes waqf that can be managed productively within a certain period of time. Indonesia, through the Indonesian Waqf Agency (BWI), also supports the development of cash waqf and term waqf as a form of waqf that is flexible and can be used for social and economic needs that are more relevant to the current conditions of society.

**Table 2** Comparison of Waqf in Indonesia and Yemen

Aspect	Indonesia	Yemen
Main Regulation	Law No. 41 of 2004 on Waqf	Qānūn al-Waqf al-Shar'ī Law No. 23 of 1992
Nature of Waqf	Can be permanent or temporary	Must be permanent (eternal)
Key Terminology	No use of the term <i>ta'bīdan</i> ; terms used are flexible	Uses the term <i>ta'bīdan</i> (تأبیدا) which means permanence
Acceptance of Term/Temporary Waqf	Explicitly accepted in the regulation	Not accepted – contradicts the legal definition
Dominant Fiqh Basis	Shafi'i school with influence from contemporary thought	Classical fiqh, predominantly Hanbali and Shafi'i schools
Managing Institution	Indonesian Waqf Board (BWI)	Ministry of Awqaf and local religious bodies
Flexibility in Management	High – includes cash waqf, productive waqf, and term waqf	Low – only accepts perpetual/endless waqf
Socio-Economic Objectives	Empowering the ummah through education, health, MSMEs	Traditional long-term charitable acts
Openness to Innovation	High – supports innovations like cash waqf and productive waqf	Low – conservative approach to new waqf forms
Main Challenges	Low public literacy and uneven governance	High development needs, but limited by conservative regulation

This comparison, as presented in Table 2, highlights the differences in the receipt and management of waqf futures in the two countries. In Indonesia, the attitude of waqf institutions and the community is more open to the concept of waqf which is temporary, considering its economic benefits that can be directly felt by the community, such as in education, health, and development projects. In contrast, in Yemen, although there is the potential to make use of temporary waqf in an urgent socio-economic context, existing regulations do not allow the acceptance of such forms of waqf because they are contrary to the applicable legal definition.

The purpose of this comparison is to provide a clearer picture of how the legitimacy and acceptance of waqf futures in two different legal systems are. Although both countries recognize the importance of waqf as an instrument of social and economic empowerment, the approach taken by each country shows significant differences in terms of legal flexibility and acceptance of a more modern and dynamic concept of waqf.

## Conclusion

This study has discussed a comparison between legal attitudes towards waqf futures in Indonesia and Yemen, focusing on the regulations that apply in each country and the views of the fiqh school that affect the understanding of the law. In Indonesia, Law No. 41 of 2004 concerning Waqf provides space for the receipt of waqf in a timely manner, accommodating the social and economic needs of the ummah in a more flexible and productive framework. Indonesia has demonstrated its commitment to developing cash and futures waqf, which allows

Muslims to provide direct benefits to society without having to be tied to the enduring nature of waqf.

On the contrary, the Yemeni Qānūn al-Waqf al-Shar‘ī affirms that waqf must be permanent, as reflected in the use of the word ta’bīdan which has an eternal meaning. This attitude restricts the receipt of temporary or term waqf in the Yemeni legal system, which considers waqf to be permanent and indefinite. However, the potential social and economic benefits of waqf futures in Yemen remain a matter of debate, given the challenges the country faces in managing resources for development.

This comparison shows a significant difference in the way the two countries regulate waqf futures. Although both recognize the importance of waqf in social and economic development, Indonesia is more open to innovation in waqf management, while Yemen emphasizes the principle of immortality in waqf management. Thus, this discussion provides a clearer picture of how fiqh regulations and views affect the acceptance and implementation of waqf in two different Islamic legal systems, as well as opening up space for further discussion on how waqf can adapt to the needs of the ummah in the modern era.

This study is limited to a comparison between the regulation and practice of waqf futures in Indonesia and Yemen, focusing on the national legislation of each country and the approach of the associated fiqh schools. This research focuses more on legal and fiqh aspects, so it does not explore in depth the social and political factors that may also influence the practice of waqf in each country. Thus, this study provides a comprehensive picture in the context of Indonesia and Yemen, although it does not extend the analysis to a more global context.

## Bibliography

- Ab Rahman, M. F., Abdullah Thaidi, H. ‘Azeemi, Mohamad Suhaimi, F., & Ab Rahim, S. F. (2024). Proposed temporary waqf model for family waqf implementation in Malaysia. *Journal of Islamic Accounting and Business Research*, 15(1), 56–78.
- Afifuddin, N., Rosidah, L., & Sutrisno, E. (2021). *Sejarah Perkembangan Wakaf dalam Persepektif Hukum Islam dan Peraturan Perundang-undangan di Indonesia*. CV Jejak (Jejak Publisher).
- Agrawal, A. (2024). *Waqf in Muslim Law*. LawBhoomi. <https://lawbhoomi.com/waqf-in-muslim-law/>
- Al-Marghinani, B. al-D. (2013). *The Hedaya, Or Guide: A Commentary on the Mussulman Laws* (Vol. 2). Cambridge University Press.
- Al-Nawawi, Y. ibn S. (n.d.). *Al-Majmu’ Sharh al-Muhadhdhab*. Buku Islam Rahmatan.

- Al-Qaradawi, Y. (1990). *Madkhal li Dirâsat al-Syarî ‘ah al-Islâmiyyah*. Kairo: *Maktabah Wahbah*, 1421.
- Al-Sarakhsi. (1985). *Al Mabsu*. Dar al-Fikr.
- Alaghbari, W. (2022). *Land Problems And Disputes In Yemen*.
- Awqaf Australia. (2025). *A Billion-dollar Waqf Empire: The Gardens of Uthman RA*. Awqaf Australia. <https://awqaf.org.au/notable-waqfs/a-billion-dollar-waqf-empire>
- Azrak, T. (2022). The roles of cash waqf in improving the economic welfare: Case study of Turkey. *The Journal of Management Theory and Practice (JMTP)*, 3(1), 42–47.
- Bakar, A. Y. A., & Gunardi, S. (2023). Model wakaf korporat sahabat sebagai rujukan model pembangunan ummah. *Journal Islamic Philanthropy and Social Finance*, 5(1), 10–21.
- Departemen Agama RI. (2019). *Al-Qur'an dan Terjemahan*. Lajnah Pentashihan Mushaf al-Qur'an Balitbang Kemenag RI.
- DSN-MUI. (2002). *Fatwa DSN-MUI No. 2/DSN-MUI/IV/2002 tentang Wakaf Uang*.
- Elmahgop, F., Alsulami, F., Mohammed, M. G. A., Abdel-Gadir, S., & Elhassan, T. (2025). The Socio-Economic Impacts of Waqf Investment Funds as a Model for Sustainable Financing in Saudi Arabia. *Sustainability*, 17(9), 3805.
- Government Regulation. (2006). *Peraturan Pemerintah Nomor 42 Tahun 2006 tentang Pelaksanaan Undang-Undang Wakaf [Government Regulation Number 42 of 2006 on the Implementation of the Waqf Law]*.
- Hafizd, J. Z. (2021). Kedudukan Wakaf Dalam Ekonomi Dan Strategi Pengembangannya. *Mahkamah: Jurnal Kajian Hukum Islam*, 6(1). <https://doi.org/http://dx.doi.org/10.24235/mahkamah.v6i1.7854>
- Hafizd, J. Z. (2022). Pengembangan Wakaf Tunai Melalui Dakwah Berbasis Masjid. *ORASI: Jurnal Dakwah Dan Komunikasi*, 13(1), 109–120.
- Hajeb, A. (2025). An Assessment of the Current Reality and a Forward-Looking Analysis of the Future of Localisation in Yemen. *Available at SSRN 5276459*.
- Jamal, M. (2022). The concept of waqf from worldview theory: The study of Sharia-philosophy. *ULUL ALBAB: Jurnal Studi Islam*, 23(1), 22–41.
- Johari, J., Wahidin, W., Maghfirah, M., Zulkifli, Z., Mawardi, M., & Maulidizen, A. (2024). The Role of Temporary Waqf in Improving the Social Welfare of the Muslim Community. *Available at SSRN 5038463*.
- Kahf, M. (2003). The role of waqf in improving the ummah welfare. *International Seminar on Waqf as a Private Legal Body*, 6(1), 1–26.
- Kasanah, N. (2019). Wakaf Uang Dalam Tinjauan Hukum, Potensi, Dan Tata Kelola. *Jurnal*

- Muslim Heritage*, 4(01).
- KHI. (1991). *Kompilasi Hukum Islam [Compilation of Islamic Law]*.
- Khusaini, M. (2020). *Wakaf Muaqqat Perspektif Mazhab Syafi'i*. IAIN Metro.
- Law. (2004). *Undang-Undang RI Nomor 41 Tahun 2004 Tentang Wakaf [The Republic of Indonesia Law Number 41 of 2004 on Waqf]*.
- Lita, H. N. (2020). The implementation of waqf to actualize economic justice based on Islamic law. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 7(1), 1–18.
- Ministry of Awqaf and Islamic Affairs Kuwait. (2020). *Madūwanat Ahkām al-Waqf al-Fiqhiyyah (مدونة أحكام الوقف الفقهية)*. al-Amānah al-‘Āmmah li al-Awqāf.
- Mughniyya, M. J. (2025). *The Five Schools Islamic Law*. Ahlul Bayt Digital Islamic Library Project. <https://al-islam.org/five-schools-islamic-law-muhammad-jawad-mughniyya/10-waqf>
- Nabi, M. G., Islam, M. A., Bakar, R., & Masduzzaman, M. (2019). Using waqf for socio-economic development in Bangladesh: Potentials, challenges, and policy directions. *Revitalization of Waqf for Socio-Economic Development, Volume I*, 107–133.
- Nor, M. Z. M., & Mohamad, A. M. (2023). Waqf in Medieval Islam: an Overview. *Russian Law Journal*, 11(4S), 38–44.
- Qānūn. (1992). *Yemen's Qānūn al-Waqf al-Shar'ī [Law of Islamic Endowments] Law No. 23 of 1992*. Republic of Yemen. <https://www.cocayemen.com/laws/300>
- Qudāmah, M. al-D. I. (n.d.). *Al-Mughnī*.
- Rusld, I. (2003). *Bidayat al-mujtahid wa nihayat al-muqtasid*. Dar al-Kotob al-Ilmiyah.
- Shaikh, S. A., Ismail, A. G., & Mohd Shafiai, M. H. (2017). Application of waqf for social and development finance. *ISRA International Journal of Islamic Finance*, 9(1), 5–14.
- Suteki, & Gaufani, G. (2020). *Metodologi Penelitian Hukum (Filsafat, Teori & Praktis)*. RajaGrafindo Persada.
- Syakir, A. (2018). Pemberdayaan ekonomi umat islam indonesia melalui wakaf produktif. *Al-Intaj: Jurnal Ekonomi Dan Perbankan Syariah*, 2(1).
- Thabrani, N. (2010). Wakaf Menurut Al-Sarakhsi Dalam Kitab Al-Mabsuth Dan Korelasinya Dengan Wakaf Di Indonesia. *Falasifa*, 1, 47–58.
- Zahrah, M. A. (1959). *Muḥāḍarāt fī al-Waqf*. Jāmi‘at al-Duwal al-‘Arabīyah, Ma‘had al-Dirāsāt al-‘Arabīyah al-‘Āliyah.
- Zainal, V. R. (2016). Pengelolaan dan pengembangan wakaf produktif. *Al-Awqaf: Jurnal Wakaf Dan Ekonomi Islam*, 9(1), 1–16.
- Zauro, N. A., Saad, R. A. J., Ahmi, A., & Mohd Hussin, M. Y. (2020). Integration of Waqf

towards enhancing financial inclusion and socio-economic justice in Nigeria.  
*International Journal of Ethics and Systems*, 36(4), 491–505.