
LEGAL AND PRACTICAL ISSUES IN THE MANAGEMENT OF WAQF PROPERTIES IN SRI LANKA


Iqbal Saujan

Assistant Lecturer

Islamic Law & Legislation

Faculty of Islamic Studies and Arabic Language
South Eastern University of Sri Lanka, Oluvil, Sri Lanka

E-mail: savjaniqbal@seu.ac.lk

 <https://orcid.org/0000-0003-3622-0016>

Seyed Mohamed Mohamed Mazahir

Professor and Dean

Faculty of Islamic Studies and Arabic Language
South Eastern University of Sri Lanka, Oluvil, Sri Lanka

E-mail: mazahirsmm@seu.ac.lk

 <https://orcid.org/0000-0001-8652-3643>

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ABSTRACT

Waqf (Endowment) is the permanent dedication extended by a Muslim to any movable or immovable property for a purpose recognized by the Shari'ah as pious, religious, or charitable. This is one of the Islamic institutions that have existed since the time of the Prophet (PBUH). The Sri Lankan management operations of Waqf were exercised institutionally as early as 1956. Due to the improper management of waqf assets, society has faced several problems such as poverty, unemployment, recession in education. Therefore, this study aims to identify the legal and practical challenges faced by Waqf institutions in terms of proper implementation of the Muslim Mosques and Charitable Act- 1956 (Wakfs Act of Sri Lanka). The method of the qualitative study was used. The findings demonstrate that there is no authority to the waqf Tribunal to amend a verdict, the Waqf Tribunal depends on the District Courts in implementing the judgments and there are deficiencies in the selection of trustees or mutawallis. This study concludes with the argument that the institutional process of the Sri Lankan Waqf act has legal and practical shortcomings. If these shortcomings are minimized there is no doubt that this Islamic waqf system will help to develop Sri Lanka economically.

Keywords: *Waqf Governance, Regulatory Issues, Islamic Endowment, Muslim Mosques, and Charitable Act- 1956, Sri Lankan Wakfs Act.*

BACKGROUND OF THE STUDY

The legal system of Sri Lanka, which is a multi-ethnic and multi-lingual island, is a combination of English common law, Roman-Dutch civil law, and customary law which is based on the practice of tribunal people (Cooray, 2003). Since the country was governed under the influence of colonial foreigners for a long time (1505-1948) multiple legal systems have been applied. The part of the law enforced is representing a particular region, culture, religion, and the traditions of the people. This kind of law is called “personal laws” (Abdullahi, 2020). The Kantyan law, The Law of Theesawalamai, and the Muslim personal law are applied in Sri Lanka as personal laws (Cooray, 2003). The Muslim personal law is applicable for any Muslim, by birth or religious conversion, who lives in any part of Sri Lanka. The Muslim personal law has been enacted by the Dutch rulers to ease the application of the Muslims’ customary practices which are based on Islamic faith and culture (Abduroaf & Moosa, 2016). This type of law was called as “Dutch Code”. This law has been accepted and enforced by the English rulers who seized the power of the colonial regime in 1799 (Bary, 2003). The Dutch Code had been replaced with the Muslim Marriage & Divorce Act of 1896 by the British rulers and the Muslim Marriage & Divorce Act of 1896 had been amended by The Muslim Marriage & Divorce Act of 19951 which is still on the account. The Muslim personal law has three parts namely the Marriage and Divorce Act. No 13 of 1951, Muslim Intestate Succession Ordinance No.10 of 1931, and the Muslim Mosques and charitable trust Act No. 51 of 1956 or *Waqfs* Act of 1956. The provisions of the law of 1951 insist that the practice of the law should consider and decided according to the *Mathhabs* (schools of thought) (Abdullah, 2020). There are *Mathhabs* in Sri Lanka such as *Shafi Math-hab* which is mostly followed and the *Hanafi Mathhab* which is followed by some particular group (Abduroaf & Moosa, 2016). The Department of Muslim Cultural Affairs has been entrusted to apply the *Waqfs* Act of 1956 among the Muslim community and the Courts of *Quazi* have been authorized with limited power of jurisdiction in respective law (Abduroaf & Moosa, 2016). There are approximately 65 Courts have been established and functioning in Sri Lanka for a long time (Department of Muslim religious and cultural affairs-2014).

Muslim Mosques and Charitable Trusts or *Wakfs* Act of 1956 were brought into effect in 1957 to register the Muslim Mosques, Muslim shrines, places of religious resorts, the appointment of trustees, and defining the power of the trustees (Zarook, 2018). This has been considered as Muslim marriage and divorce act related to the property which controls the Act organizations which implement the Islamic *waqf* system (Bushra, 2021). The Act concerned has been subjected to the amendment twice in history.

1. *Waqf* Act No. 21 of 1962
2. *Waqf* Act No. 33 of 1982

The amendment of *Wakfs* Act No. 33 of 1982 was brought to the parliament and implemented on 23rd September 1982. The positions of the Commissioner and the Deputy Commissioner of *waqf* have been changed respectively as Director and Deputy Director as well as the *waqf* tribunal also established to find solutions to the problems related to the *waqf* and the practice of appointing three Muslim members by the Judicial Service Commission also applied.

The first *waqf* board of Sri Lanka was appointed on 1st August 1957 by the Minister of

Internal Affairs Honourable. A. P. Jayasoorya. Thereafter the appointment of the *waqf* board is being appointed by the minister in charge of Muslim affairs from time to time. Even though the first *waqf* tribunal was appointed in 1982 the first case as an appeal to the *waqf* tribunal was registered on 27th September 1985. The Department of Muslim Religious and Cultural Affairs, the *Waqf* Board, the *Waqf* Tribunal, and the Charitable Trust play a vital role in implementing the provisions of administration on Muslim Mosques, Muslim shrines, religious places, and Muslim charitable trusts.

The power to control and administer the *waqf* properties has been provided to the *Waqf* Board by the Ministry of Religious and Cultural Affairs even the Muslims are a minority religious group in Sri Lanka. It is being criticized by some parties that the property of *waqf* is being misused without proper utilization while the *waqf* board has the power and the necessary provisions (Ashiq, 2019). Therefore, there should be a strong arrangement to strengthen and implement the act concerned without interfering with another sector. Hence, this article intended to identify the challenges faced by the *Waqf* Board on implementing the *Waqf* Act and the practical and regulatory issues in this regard.

Islam has placed the provisions of *Zakat* (almsgiving), *Hiba* (gift), *Wasiyyah* (bequest), *Mirath* (a division of inherited property), *Kaffarah* (expiation), lending, and other welfare projects intending to alleviate poverty and equity in the economic status of among the members of the society (Ashiq, 2019). The *waqf* is also one of the provisions provided by Islam.

As long as the properties belonging to *waqf* are planned, organized, and administered effectively, the shareholders will benefit directly and indirectly. Further, it is possible to achieve the status of success in the socio-economic, educational aspects, and the other necessary development regarding religion (Abduraof & Moosa, 2016). The personal property diverted as a public property would serve by ways and means as solutions for social and educational problems and capable to act as a suitable alternative solution for the community. Some leading countries in the world have planned, organized, and succeeded in the process of managing *waqf* properties such as Malaysia, Nigeria, Iran, Kuwait, India, and other countries where the organizations are on account properly.

METHODOLOGY

This research is a qualitative study. The data have been collected based on secondary data sources. Since the study deals with the principles of *Waqf*, the practices of the *Waqf* Organizations of Sri Lanka and the Act related to the *Waqf* the first evident source such as al-Quran & al-Sunnah, the gazette notifications of Sri Lankan government and annual reports have been used along with the second data sources such as books, magazines, research articles, and websites. The information through the documents has been analyzed with the document analyzing system and the coding method.

LEGAL AND PRACTICAL ISSUES IN THE MANAGEMENT OF WAQF PROPERTIES

The section is described under separate sub-titles according to the identified deficiencies.

LEGAL ISSUES

The Muslim Charitable Trust Act No. 51 of 1956 has failed to define the doctoring of Waqf legally

There are disagreements among Islamic scholars legal deals legal matters on defining Waqf as per the instructions in Islam due to a hadith declares that Omar (Rali) had touched them in relation to the Waqf.

Ibn Umar reported: Umar acquired land at Khaibar. He came to Allah's Apostle (may peace be upon him) and sought his advice regarding the land. He said: Allah's Messenger, I have acquired land in Khaibar. I have never acquired the said property more than valuable for me, so how do you command me in this regard? Thereupon he (Allah's Apostle) said: If you like, you may keep the corpus intact and give its produce as sadaqah. So 'Umar has granted it as sadaqah declaring that property must not be sold or inherited or given away as gift. And Umar devoted it to the poor, to the nearest kin, and to the emancipation of slaves, aired in the way of Allah and guests...." (Sahih Muslim, Hadith no:4006)

The view of Aboo Haneefa (Rali)" Blocking a property or an article methodically from the right of the others" further "protecting the original property belonged to a particular person, maintain, obtain the benefits and distributing among the needy people"> the view of Imam Malik (Rahima) Creating detention of the benefits of a particular article/object for a limited period being the right of the property is on account for a land load." (Ameen 2006).

Several countries in the world have given a clear definition for *waqf* and related terms such as *Hiba*, *Sadaqa*, and *zakat* (Majeed, 2021). The *waqf* law produced by India in 1913 can be considered as evidence for the statement mentioned above which defines the *Waqf* as "It is a sustainable dedication which is applicable with the purpose of sincere good deed conducted by a person who embraced Islam" (Ameen, 2006). Furthermore, the conditions of the property granted as *Waqf* have been prescribed clearly while the Muslim Charitable Trust Act No. 51 of 1956 (*Waqf* Ordinance No.51 of 1956) of Sri Lanka has failed to provide a clear definition (Ashiq, 2019). The same shortage exists even after the amendment made in 1962 and 1982 (Zarook, 2018). These kinds of issues are denoted as prime disadvantages due to the possibilities of confusion and mess up with *Zakath*, *Sadaqa* by people who have no strong Islamic knowledge (Knowledge of Islamic *waqf* doctrine) (Ashiq, 2019). Since most of the lawyers who are dealing with *waqf* cases are neither Muslims nor Alims (Islamic Scholars).

The case instituted by Husam Ali vs Sayyed Ali has been decided on 1814 by the court which revealed on *Waqf* in the report of 2nd Sel was meant as "*Waqf* is a property granted by a donor with some words having a good clear intention for religious services" (Ameen, 2006). It is crystal clear that this type of theory has been revealed without having sound *Shari'ah* knowledge. Since the *Shafi Madhab* is followed on most of the activities of the Muslims in Sri Lanka, the court has failed to focus on the theories of *Shafi Madhab* in this regard and the definition pronounced by the court differs from the definition of Imam Shafi (Mahdi, 1423). The definition of Imam Shafi reveals that "Reserving a thing or property which would provide the benefits without changing its original nature" (Ameen, 2006). It is noteworthy that when a contradiction related to the act arises it would lead towards immense problems that the

contradiction between two theories and the law concerned did not place the correct definition and the same issue is being faced in the determining wedding age of the Muslim women in Sri Lanka.

The power of amending the judgment has not been granted to the Waqf Tribunal

The power has been granted to the Board of *Quazi* to amend the judgment delivered by the *Quazi* Courts in-charge of the implementation of the marriage and divorce practice in Sri Lanka (Zarook, 2018). The provision granted to the Board of *Quazi* has paved the way to correct the mistakes made by the *Quazi* courts and provides an opportunity to exercise fair judgment by the plaintiff and the defendant.

It has been noted as a disadvantage that the power to review the judgment delivered by the *Waqf* tribunal and to issue the interim relieves have not been granted to the *Waqf* board. For example, the case filed by Wasil vs Riyal No. WT/81 requesting the tribunal of *Waqf* to issue an order to stop the election to elect the board of trustees of Wellawatta Jumma Masjid has been dismissed as the board has no power to deliver such judgment (Ashiq, 2019). This kind of practice would reflect negatively on a fair inquiry and accurate judgment. Further, it would create an opportunity to raise questions on the activities of the *Waqf* Tribunal since it has not been granted such power. Hence, such power should be granted to the *Waqf* Tribunal.

Even though the power of the District Court has been provided to the Waqf Tribunal, it depends on the district court continuously for the implementation of the verdicts

The power related to the charitable trust has been granted to the *Waqf* Tribunal under the *Waqf* Act No. 95 such as summoning the witnesses to the district court under section 9F of waqfs Act of Sri Lanka, insisting on the presence of the witnesses, insisting to produce the documents and granting the oath or promise of the witness. It has been mentioned that the decision taken by the board has to be implemented as of the practice of the district court as per section 9G. This kind of practice has compelled the *Waqf* Board to depend on the district court continuously (Ameen, 2006).

The law does not require the *Quazi* Court which has the power to implement the judgment delivered on the Muslim divorce, marriage, and family maintenance to follow the practice of the district court where the *Quazi* Court has to implement the above-said judgment but the *Waqf* Tribunal has been instructed to follow the practice of the district court (Ameen, 2006). The cases decided by these two courts are equal to the civil cases. Hence, this practice is considered an obstacle to the freedom of the *Waqf* Tribunal.

The qualifications of trustees are not stipulated in Wakfs law

Trustee is a legal term for the Islamic term of *Mutawalli* (IslamQA, 2011). The *Wakfs* law has failed to indicate the qualification of the trustees although it has mentioned that the trustees should be selected. Since their qualifications are not mentioned, the selection is done based on financial influence, the political background, those who hold property, or the succeeding tradition from a particular family which has isolated the intellectuals, and those who have social welfare intentions (Ashiq, 2019). In contrary the Islamic legal - scholars have defined the qualifications of *Muthawallies*. The author of Raddul Muhta defined the qualification of trustees as “Terms and condition of a *Mutawalli* as to be an adult, sane and Muslim. Furthermore, he

should be trustworthy and capable of managing the establishment. The *Mutawalli* who bears the post without having such qualification and qualities or he engages on criminal works openly, then he should be removed immediately from his post” (Raddul Muhtar p.578-579 v.6). Mohammed Tosir Miah (2011), identifies the qualifications which have to be held by *Mutawalli* as follows: Fulfilling the obligation of five-time daily prayers punctually on time. His dress code, conducts and behavior should reflect the teaching of the Prophet of *Allah Sallallahu Alahi Wasalam*, He should have a beard, His property should not be involved in an unlawful mortgage. The nature of his livelihood and the wages must be from lawful sources. Hence, by enacting an ordinance that would bind some kind of qualifications of trustees, such kind of practice would be changed.

The Issues on the method of selecting the trustees or the person-in-charge

It has not been mentioned when appointing a person as *Muthawalli* in the *Shafi madhab* which is followed by most of the Muslims in Sri Lanka (Ameen, 2006). The power has been granted by the Islamic *Shari'ah* to the Donor (*waqf*) to appoint an in-charged person called *Mutawalli* (Mahdi. et.al, 2015).

The people who are appointed as in-charge of the properties of *Waqf* can be divided into two kinds. The first is appointing an individual as a sole trustee by *waqf* and the second is the trustees of mosque, this type of appointment is accepted by the *Waqf* Board. The trustees of the mosque work as *Muthawalli* (Zarook, 2018). In case of demise of the donor, the court would appoint an individual as a *Muthawalli* which has been confirmed with the judgment of the case of Seyyadu Mohamed Gouws 68 MLJ 684 and Ijaz Ahmad ILR 39ALL 228.

The Sri Lankan *Wakfs* Act (No. 51 of 1956) has concentrated on the selection of trustees and their duties. The selection of trustees is applied according to section 14 of the Act in three ways (Ameen, 2006) which are as follows: -

1. The *Waqf* Board appoints the trustees of the mosque as per section 14 (1) (A)
2. In case of an objection of the mosque to select the trustees then the *Waqf* Board will appoint the trustees from the members (*Jama'ath*) of the area of the mosque according to section 14 (1) (B).
3. The *Waqf* Board appoints the special trustees according to 14 (1) (E)

The power has been granted to the *Waqf* Board to appoint the trustees with the three sections of the act mentioned above but this power is not being applied practically at present. The *Waqf* board is granted the power only to accept when the selection of the board of trustees is made with the customs and traditional practices of the public and the mosque's administrative system. This has paved the way to select some unsuitable persons as trustees.

It has been noted that there are no opportunities to implement the other two laws of sections 14 (1) (A) and 14 (1) (E) due to the reason that every mosque has some own practices and customs belonging to the area as well as the mosque's administrative systems to select the trustees. This kind of system applied to select trustees has provided opportunities to the rich people to be selected as trustees and the suitable members to be neglected continuously as it happened in the shrine of Devetagaha mosque in Sri Lanka (Ameen, 2006).

PRACTICAL ISSUES

The properties of Waqf are utilized only for mosques and religious services

The rich history of Islam Prophet has recorded that the Wakf has played a vital role in the period governance of *Umayya* and *Abbasiya* where the *Waqf* has been planned and executed for the different walks of life such as Education, empowering economy and politics Atc. The *Hadith* narrated confirms the above Prophet Mohemmed (PBUH) says: “The good deeds that will reach the believer after his death are: knowledge which he learned and then spread; a righteous son whom he leaves behind; a copy of the Qur’an that he leaves as a legacy; a mosque that he built; a house that he built for wayfarers; a canal that he dug; or charity that he offered from his money during his lifetime when he was in good health. These deeds will reach him after his death.” (Ibn Mâjah: 242). As far as the concern of the institutions of *Waqf* in this modern world have been politically centralized and the purpose and objective of the Wakf has been forgotten by the administrators except for some particular countries

The properties of *Waqf* in Sri Lanka are used and limited for mosques, cemeteries, Arabic colleges, and spiritual activities. This kind of practice does not create a fruitful situation in terms of reducing or eradicating the poverty of poor people. The income generated by the said property is used to build several big mosques which is a useless practice while the poor people, orphanages, and the elder’s homes are under the financial burden.

The major purpose of Islam in introducing the *Waqf* is to empower society and eradicate poverty (Sukmana, 2020). The property of *Waqf* should be spent to all which are necessary towards the development of the Muslim community regarding education, health, and the socio-culture (Mahdi. et.al, 2015).

A certain group is holding the title of trustees

The official period of a trustee board shall be for three years. According to section 14 (2) of the act that the director of the trustee board can be in-charge at the end of the period of the board until the new trusty board is selected. This practice is applied for a good intention to overfill the period between the trustees those who have completed three years and the trustees who will be selected newly (Jaldeen, 1993). The board of trustees those who hold the post for a long period is a big challenge and the *Waqf* Board also does not take necessary action to avoid such kind of practice which is a crucial practical issue of the *waqfs* Act of Sri Lanka.

The carelessness of heirs whether the Waqf property is used properly

The person who donates a property as *Waqf* has a right to appoint an in-charge called sole-trustee. The appointees can be from legal heirs or his friends. According to *Shafi madhab*, the property of *Waqf* is converted to the property of Allah (Jaldeen, 1993). When the beneficiaries fail to obtain the benefit from the *Waqf* the property shall have belonged to the legal heirs of the donor. Since the *Waqf* is considered as a *sadaqah jariya* (charity ever-flowing) which would bring rewards even after the death of the donor, the legal heirs should act responsibly in this regard.

Even though the administration practice of *Waqf* in Sri Lanka has been monitored and applied by the *Waqf* Board, if a property is donated as a conditional *Waqf* such as a particular person shall be in charge (*Muthawalli*) after the demise of the *Wakif* and whenever necessary to sell or maintain, there should be a pre permission from such person (Ashiq, 2019). In the event of

such a condition, the person appointed by the *Waqif* will get the power to control the *Waqf* board (Majeed, 2021). This practice has not been applied in the context of Sri Lanka. The legal heirs have the responsibility is over as soon as donated the property this situation should be replaced with the correct way of the utilization of property. The legal heir should be aware of whether the *Waqf* is spent on the social welfare programs. This issue is somewhat related to the negligence of people in Sri Lanka.

The Documents of “Waqf Namar” which is the written property is not maintained properly

The *Wakfs* Law of Sri Lanka allows two types of practices. The first one is the *Waqf* denoted by a person in writing as it was donated as *Waqf*. The second type is “confirming the *Waqf* with the last-will in writing. This kind of *Waqf* is called *Waqf Namar* which is proved with the judgment delivered in the case AIR 1937 M 731 Pathu Kutti Umma accepting the kind of *Waqf Namar*. This type of document has not been kept by the *Waqf* board or the board of Trustees. This is considered as one of the disadvantages.

The high Interference of Quazi in the administration of property belonged to the Waqf Board of Sri Lanka

The *Waqf* trust established in the period of the Umayyad regime had been monitored by the kalifs. The same practice had been followed by the kalifs of Abbasid regime. The administration of the *Waqf* properties can be entrusted to an organization or an individual. The man who is entrusted the *Waqf* is called “*Al- Mutawalli*” (Rani & Aziz, 2010). The *Mutawalli* executes the duties and responsibilities vested on him such as fulfilling the expectation of the donor, administering the *Waqf* property, generating the income from the property, and distributing it among the beneficiaries (Majeed, 2021).

There is a provision for the *Quazi* of the Muslim community to interfere in the administration of the property and appoint a suitable person instead of the person appointed by the donor in case of mismanagement and improper administration occurred. In such circumstances, the *Quazi* takes responsibility for the administration of the property and acts as *Mutawalli* until the appointment is made by the guidance of intellectuals who follow *Shafi* and *Maliki Madhabs* (Rani & Aziz, 2010). The same practice is followed in several countries. but as far as the Sri Lankan context is concerned, it is different.

The trustees are appointed to administer the *Waqf* properties in Sri Lanka. These trustees act in place of *Mutawallies* and the practice is allowed by the Act. The *Waqf* Board and the Director of the Ministry of Cultural have the power to monitor and question those trustees (Majeed, 2021). The activities of *Quazi* who exceeds the limit of law stipulated clearly would disturb the function of the *Waqf* Board and the board of trustees.

Lack of the power of the Waqf Board to appoint trustees

The trustees for the charitable trust are selected in two ways, according to section 14 (1).

1. Method of selection (it is a customary practice)
2. Election

The method of selection is selecting 8-11 trustees from the list of Mosque’s members of the area (*Jama'ath*) by proposing with a member and seconding another one. The selected

trustees would appoint suitable trustees for the post of President, Secretary, Treasurer, and others. All these activities are handled with the former president who is in charge of the interim administration and the cultural officer in the Divisional Secretariat participates in such activities as the representative of the *Waqf* Board (Zarook, 2018).

The second method of selection which is the method of Election is applied with the direct selection of the president, secretary, and other officials by the members of *Jama'ath*. In either way, the list of trustees should be forwarded to the *Waqf* Board which has the power to accept and reject (Zarook, 2018).

The most critical issue is that the *Waqf* Board has no power to interfere directly with the activities related to the selection (Majeed, 2021). Further, the *Waqf* board has no power to insist on following one of the methods if the trustees are selected by the custom or tradition followed in the particular area.

The limited power has been granted to the Waqf Board

The *Waqf* Board or *Waqf* tribunal has been providing the right of first instance or appeal. This has the power to look into the matter and inquire about the complaint made by five members of the trustees together against another member regarding his duties.

The powers given to the trustees of a mosque on the appeal are as follows: -

- 1- The right to appeal against the judgment of the *Waqf* Board within 30 days (section 9H (1))
- 2- Right to accept or reject the appeal after the completion of thirty days as per the regulations of the civil code with section No. 30 (1)).
3. The petition should contain the reasons briefly and has the right to secure the copies required sending defendants has been granted with section No.32.
4. The power of requesting the documents concerned from the *Waqf* board and sending the related summons have been provided under rule No.34

The *Waqf* tribunal enjoys limited power in addition to this. The power of executing the judgment, recovering the property, and collecting the fine money have been entrusted to the district court while these are not executed directly by the *Waqf* Board (Bushra, 2021). Furthermore, the board has no right to exceed the limit of the power and such limited power is considered as a blockage to the activities of the board (Bushra, 2021). Hence, it becomes clear that the board has to depend on district courts in religious-related affairs.

Following the traditional practices instead of following the modern Waqf practices.

The *Wakfs* Act was enacted in 1956, amended in 1962 and 1982, and is being applied up to now. The law has implemented the old *Waqf* practices and failed to implement the modern *waqf* tools such as cash *waqf*, cooperate *waqf*, etc., and the latest practices of the *waqf* Act and handle them. It may cause the decentralization of the institutional *Waqf* programs and traditional activities should be amended intending to meet the requirement of the modern era.

Mismanagement of Zakat foundations

The *waqf* is one of the permanent charities as long as it is handled properly a Muslim can earn the benefits even after he demises. It is authentically reported that the Prophet (PBUH) says: “When a person dies, all his [good] deeds come to an end except three: ongoing charity, beneficial knowledge, and a righteous child who will pray for him.” (Tirmidhi: 1376). The *Zakat* Institutions in Sri Lanka have been functioning as part of the existing *waqf* institutions applying the present institutional practices of Sri Lanka.

The *zakat* organizations in Sri Lanka are in the inactive mode which has paved the way to increase the number of poor people in the community especially due to the lack of the proper activities of collecting and distributing *Zakat* among needy people (Bushra, 2021). It is noteworthy in this regard at the particular act does not include the special ordinance related to the *Zakat*. Meantime the institutions in Nigeria and Kuwait administer the *Zakath* organizations effectively with proper laws. The Amiri Ordinance of 1982/1403AH, No. 5 of *Zakat* law was enacted in Kuwait and established an organization called Kuwait Zakath House which has been functioning properly (Ahmad, 2015). Further Amiri Ordinance of the *Zakah* law no. 46 of 2006 functions directly under the supervision of the Ministry of Economics (Ahmad, 2015).

The Waqf Board of Sri Lanka did not conduct an audit

The practice of auditing is the tool of security of a business accepted by the world which has been neglected by the board of *wakf*. there are more than 2500 registered mosques 63/65 trusts or related institutions are available throughout the country. The auditing system especially financial accounts of the mosques and the charity organizations have been executed by the Board of *wakf*. however, the above said practice is followed by the Department of Muslim cultural affairs with the officials therein. The practices of the Trustees have been monitored by the officials who visit the mosques as well as the properties that belonged to the mosque concerned and confirmed. however, the infection of all the mosques and the charity organizations connects be inspected or monitored since we don't have enough human resources to fulfill such obligations. In the event of mistakes or misconduct are found the relevant guidance and advice are provided followed by the inspection. The whole documents relating to the auditing report should be prepared submitted to Wakf board accordingly. The general audit in this regard shall be conducted annually on a limited basis.

RECOMMENDATIONS

The projects and experts proposed the following to develop the *waqf* practice in Sri Lanka.

- The definition should be provided as per the guidance of Imams belonging to *Mathhab* and providing the priority for the terms and the definitions of the Imams those who are from *Shafi* and *Hanafi Madhabs*.
- The power provided to the other courts in the country should be granted to the *Waqf* Tribunal to re-correct the judgment.
- The *Waqf* Tribunal should be facilitated to deliver the judgment similar to the facility provided to the District Court.
- The Activities and expenses should be decentralized by including the general welfare programs towards the community in addition to the services executed towards the

religious activities and organizing the awareness programs to the public regarding the subject.

- Their priority should be considered in selecting the trustees from education and religious education.
- The board of trustees should be selected as soon as the completion of tenure of a trustee board under the supervision of the *Waqf* Board without any more delay.
- The legal heir of the donor should be aware of the property whether it is utilized according to the will of the donor if not they should take necessary action to revoke the certain property and use it properly.
- The property donated as *Waqf* should be called a *Waqf* by written document should be maintained with the trustees' board of Mosque and *Waqf* Board properly.
- The interference of *Quazi* Judges on the *Waqf*- the property should be limited.
- The power should be provided to the board of *Waqf* to eradicate the different systems representing the tradition of area concern and replace a general unitary system applicable throughout the country and keep the uniformity on the selection of the trustees.
- The power granted to the *Waqf* tribunal should be increased. Especially sections 30, 32 and 34
- The *Waqf* board should come into the circle of innovation and appoint a group of researchers to find out the management and legal shortages and implement the recommendation of the research group intending to meet the requirement of the hour.
- There should be a special ordinance for the organizations of *Zakat* and the activities of such organizations should administer and monitored by *Waqf* Board.
- The legal heir should be appointed as sole trustee when the property is donated based on *Waqf* for the public institution.

CONCLUSION

The practice of *Waqf* is applied in Sri Lanka for long period. It has not brought under the institutional system till 1956. It was amended twice in history, namely in 1962 and 1982. The *Waqf* which is a very important part of the Islamic economic system has a strong structure of administration but the shortage in management, as well as legal and regulatory issues related to *Waqf*, are considered as a barrier for the productive achievement. The above-said concept can be the result of the research. These kinds of practices have led to the ruin of the property without proper benefit, reducing poverty, scarcity of employment, and the backwardness of volunteer organizations from their services. The activities of the *Waqf* have a strong power to bring a country into the appropriate track towards development until becomes an economically self-sufficient country. There is no doubt that the principle of *Waqf* would help Sri Lanka to become a prosperous country if the disadvantages related to the law, the management, and the practical challenges are peeled out from this sector. The legislatures and the rulers must work more carefully in this regard.

AUTHOR CONTRIBUTIONS

Conceptualization: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Data Curation: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Formal Analysis: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Funding Acquisition: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Investigation: Iqbal Saujan

Methodology: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Project Administration: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Resources: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Software: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Supervision: Seyed Mohamed Mohamed Mazahir

Validation: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Visualization: Iqbal Saujan, Seyed Mohamed Mohamed Mazahir

Writing – Original Draft: Iqbal Saujan

Writing – Review & Editing: Seyed Mohamed Mohamed Mazahir

CONFLICT OF INTEREST STATEMENT

The authors declare that they have no conflict of petting interests.

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