

Analysing The Effectiveness of Stock Waqf Management in Indonesia and Malaysia: Regulation Practices and Nadzir Readiness

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Abstract — Stock Waqf, an innovative concept in the realm of endowments, offers significant advantages and is considered permissible. In Indonesia, Stock Waqf is a collaborative effort involving the appointed nadzir (waqf asset manager), the Indonesian Waqf Board (BWI), and the Indonesia Stock Exchange (IDX). Officially established in 2019, this initiative has attracted a growing number of investors in Islamic securities, with an expected 93,870 participants in the Islamic capital market in 2021. In 2019, Malaysia also recorded 67,000 investors in stock waqf, as the Johor State Islamic Religious Council (MAINJ) reported. This qualitative study investigates how Indonesia and Malaysia manage stock waqf, emphasizing the application of waqf regulations and the readiness of nadzirs. The research employs content analysis and secondary data from authoritative sources, including waqf regulations in both countries. The study's findings encompass various aspects, such as waqf regulations, regulatory bodies, methods for collecting stock waqf, and the preparedness of nadzirs to administer stock waqf in accordance with Islamic principles. The research highlights the importance of reevaluating existing waqf regulations in both nations and advocates for increased governmental support in the collection, management, oversight, and equitable distribution of share-based waqf assets to maximize their societal benefits.

Keywords—Stock Waqf, Waqf Management, Regulations, Nadzir Readiness, Indonesia and Malaysia

I. INTRODUCTION

A development of monetary waqf, and stock waqf allows for the waqf of Islamic stocks. Equity-based securities that uphold Islamic precepts are called Islamic stocks. The object of Islamic stock transactions is company ownership that can only be issued by companies/corporations. Investors invest in Islamic shares to gain ownership of companies from other investors. [1]

The current stock of waqf usage in different Muslim and Muslim minority countries is a good testament to the continuity of the tremendous role of waqf institutions from the time of Prophet Muhammad to the present day. [2] Stock waqf is currently a type of productive waqf like cash waqf and a type of Islamic philanthropy where Islamic

stock investors as *wakif*, Indonesian Waqf Board or Dompot Dhuafa as *nazhir*, and Islamic equities listed on the Sharia Securities List as *mauqif*. [3]

The creation of newly invented waqf items like cash waqf, stocks and securities emerged as a result of scholarly *ijtihad* based on the motive of maximizing the benefits that will be felt by the recipients. [4] The purpose of waqf is To improve waqf asset generation to meet the ideal goal and serve society as much as possible. [5]

Waqf shares are currently in demand and are becoming a trend among the public with systems and mechanisms that make waqf-making easier for Islamic stock investors. Some of the world's Islamic countries, that are actively engaged in the field of waqf, are Indonesia and Malaysia.

Stock waqf in Indonesia was first launched by the Indonesia Stock Exchange in April 2019 and is an uncommon phenomenon in Indonesia, consequently, there is little public awareness of the use of stock waqf there [4]. In Indonesia, the demand for waqf is quite high. This is supported by data from the Indonesian Waqf Board (BWI), which shows that as of 2022, cash waqf assets in Indonesia virtually reached Rp. 4.3 billion and had a goal cash waqf revenue of Rp. 1 trillion. [6].

The number of issuers of Islamic stocks on the stock exchange, per data from the Indonesia Stock Exchange (IDX), is now rising year over year, reaching a total of 93,870 (2021). Meanwhile, in Malaysia there were 67,000 investors based on data from the Johor State Islamic Religious Council (MAINJ) in 2019. Then, according to Magda Ismail Abdel Mohsin (2007), Indonesia's cash waqf potential (\$14 billion) per year is greater than Malaysia (\$1.4 billion), Egypt (\$6.5 billion), and Pakistan (\$8 billion). [7]

Waqf management must be managed well for it to ensure that the enormous potential for waqf in Indonesia and Malaysia may be effectively realized. In this case, enhancing waqf management more effectively and efficiently requires both government regulation and professionalism through nadzir (nadzir preparedness).

Based on the explanation above, this study aims to evaluate the existing regulations governing stock waqf management in Indonesia and Malaysia, and assess their effectiveness in promoting transparency, accountability, and investor protection. This study will also evaluate the readiness of nadzir (trustee) in managing stock waqf assets in Indonesia and Malaysia, including their knowledge and expertise in financial management, investment strategies, and risk management.

II. LITERATURE REVIEW

A. Management Effectiveness of Waqf

According to the language, effective means successful or something that is done well or as accuracy of use, results in use and supports the goal. [8] Quoted by Rihardini, that the measure of effectiveness includes achievement, where achieving goals as a whole must be viewed as a process. Therefore, it is essential to stage the accomplishment of each stage and per-period to guarantee the completion of the ultimate aim. Goal achievement consists of several factors, namely the period and goals which are concrete targets.[9]

According to language etymology, The Arabic term from whence the word waqf derives is "*Waqf*" or "*Tahbis/al-Habs*" which means to prevent, hold, stop, or be silent. [5] the practice of keeping ownership rights to tangible possessions (*al-'ain*) to donate any benefits or advantages (*al-manfa'ah*).

In addition, the definition of waqf is also the same as "*Tasbil*", which means preventing the transfer of property and donating its benefits while maintaining the permanence of the waqf property for good purposes.[10] Meanwhile, according to its etymology, the word waqf derives from the verb *waqafa-yaqifu-waqfan*, which means to stop, hold, or remain standing. [3]

Waqf is divided into several types based on its purpose, restrictions, and use of goods, namely 1) social waqf (*Khairi*); 2) family waqf (*dzurri*); 3) combined waqf (*musytaraq*). Waqf can be classified into two categories, everlasting and temporary, according on the time limit. Then, waqf is divided into two categories based on its use: direct waqf and productive waqf. [11]

The pillars of waqf are 1) *Wakif* (the person who endows); 2) *Mauquf Bih* (the item or property being waqfed; 3) *Mauquf 'Alaih* (the party to whom the waqf is given); 4) *Sighat* (a statement or pledge by the waqif as a will to endow some of his property).[12]

Furthermore, according to Mundzir Qahaf (2007), an effective waqf will show the results of a high level of productivity of waqf benefits for the community. The criteria for the effectiveness of a waqf management include: a) the choice of means of waqf in accordance with sharia provisions; b) being able to achieve the ideal goal of waqf management, which is to provide broad and sustainable waqf benefits; c) being able to maintain the security of the principal investment of waqf funds; d) being able to provide optimal returns for the benefit of the ummah [13]

B. Stock Waqf

Furthermore, the word share comes from the Arabic word "*Sahm*" or "*Sahmun*" which means part, of one's

capital participation in a company that needs combined capital for its business development. The statement is in the form of a piece of paper or securities issued by the company owner. So, the benefits that have been handled will be used to further the welfare of the populace, and the form of paper that has value, can be distributed, and can be possessed by someone can be donated. [14]

Shares are one of the forms of waqf securities, which in the MUI fatwa dated May 11, 2002, are equal to cash waqf. This fatwa expands the scope of waqf assets to include stocks to accommodate the development of community needs.[15] AAOIFI International Sharia Standards for Waqf of Shares highlight that waqf of investment shares and sukuk is legal as long as *istibdal* is performed at the moment of *tashfiyah*. The beneficiaries of waqf also receive the benefits of waqf (returns on stock investments). The AAOIFI Sharia Standards state that the basis for the legitimacy of stock waqf is the legitimacy of cash waqf.

Waqf of sharia shares/shares consists of sharia shares/shares of Closed and Public Limited Companies. The legal entity in consideration must get the Akrrar Ikrar Wakaf (AIW) of Islamic shares of Closed PT before it can be registered as waqf on behalf of the nadzir. The AIW must be presented to the securities firm as a sub-register, which performs custodial duties and manages Islamic shares to be recorded as waqf on behalf of the nadzir, for the waqf of Islamic shares of Public Limited Companies.[15]

The primary goal of developing waqf-stock is the collection of assets through fundraising from various demographic groups and in various amounts to offer them the aforementioned services. Waqf-stock is defined as money that a founder converts to waqf-stock to advance the benefit and general well-being of society. In the recent past, Malaysia, Indonesia, Sudan, Kuwait, and the UK have all employed this kind of waqf stock. The waqf stock structure is explained in the paragraphs that follow: [2]

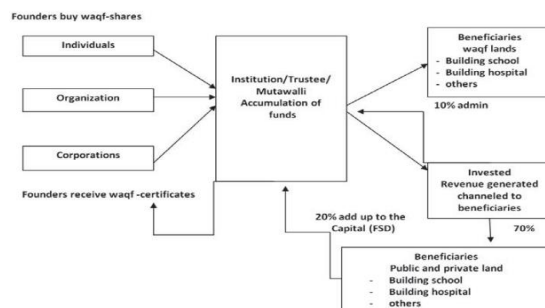


Fig. 1. Waqf-Stock Structure

C. Regulation's Stock Waqf

The current stock waqf regulation still needs to strengthen the education and administration of stock waqf management to be able to reach the potential of Islamic social financial instruments. This will have a major impact and become an obstacle in the management of stock waqf if a special regulation of stock waqf is not sought, hence

the need for responsive policies from several authorized institutions.

We anticipate that the existence of regulations related to stock waqf, investors and prospective stock waqf investors do not need to worry about investing in stock waqf, considering that there are risks of managed shares, namely 1) leaving DES, causing the shares to not meet the requirements to be waqfed, 2) not generating profits and or a decrease in the price of shares outstanding in the Islamic Capital Market. [16]

D. Nadzir Readiness in Managing Waqf

The nadzir can be a company, a person, or a legal body, in accordance with Indonesian Law No. 14 of 2004. The nadzir's responsibilities include administering waqf property, monitoring and protecting waqf property, administering and developing it in accordance with its purpose, function, and designation, and reporting task accomplishment to the Indonesian Waqf Board.

The nadzir then serves a crucial role in the management and development of waqf assets. To fulfill this role, the nadzir must possess the following qualities: 1) integrity and skill in managing and developing waqf assets, particularly waqf shares; 2) an in-depth knowledge of waqf regulations and Islamic stocks; and 3) expertise in managing Islamic investments on the Islamic capital market. This is an effort to reduce the risk of loss brought on by volatile stock prices. The goal of this mitigation is to reduce Islamic investment risk while maximizing profit and waqf benefits from Islamic stocks. It is important to understand the sharia stocks that are transacted in order to avoid *gharar*/uncertainty transactions.[17]

III. METHODS

This research is qualitative research using literature analysis (content analysis). One of the many qualitative techniques currently accessible for studying data and deciphering its meaning is qualitative content analysis. [18]. The data used secondary data taken from several official sources, such as waqf regulations from Indonesia and Malaysia; and some data related to nadzir readiness used in these two countries to see the effectiveness of waqf management.

IV. RESULT AND DISCUSSION

A. Regulation of Stock Waqf and Nadzir Readiness Viewed in Indonesia

Law No.41/2004 expands the scope of waqf objects, which in Article 16 paragraphs (1) to (3) of the Law specifies that both moveable and immovable assets can be considered waqf assets.

Securities, namely shares, are also a part of the development of waqf items. Indonesian law No. 41 of 2004 concerning waqf, government regulation No. 42 of 2004, DSN-MUI Fatwa No. 135/DSN-MUI/V/2020 regarding shares, and Minister of Religious Affairs Regulation No. 73 of 2013 regarding Procedures for Perwakafan of Immovable Objects and Movable Objects Other Than Money all regulate the waqf of shares.

In the meantime, the laws regulating cash waqf in Indonesia are based on: 1) The Minister of Religious Affairs (PMA) Regulation No. 4 of 2009 concerning Cash

Waqf Registration Administration; 2) The Director General of Islamic Guidance Decree No. Dj.II/420 of 2009 concerning Models, Forms, and Specifications of Cash Waqf Forms; and 3) The Government Regulation No. 25 of 2018 regarding Licensing of Ruislag of Waqf Land.

The core of stock waqf is the regulation of cash waqf, therefore indirectly stock waqf complies to the provisions of the regulation of cash waqf (Waqf Law No. 41 of 2004): [20] a) as evidence of the transfer of waqf property, the Cash Waqf Recipient Islamic financial institution (LKSPWU) issues and delivers a cash waqf certificate to the Waqif and Nazhir; b) Cash waqf that can be bestowed is denominated in rupiah. The money to be endowed must first be translated into rupiah if it is still in foreign currency; c) financial institutions that receive cash waqf must apply to the Minister as LKSPWU; d) LKS-PWU provides a Cash Waqf Certificate form; receives cash waqf from the Waqif on behalf of the Nazir; places the waqf money into a trust account (*wadi'ah*) on behalf of the Nazir appointed by the Waqif.

Then, the relevant Ministries and Institutions oversee the regulation of waqf in Indonesia, including:[18]

- *Bank Indonesia*; has published waqf guidebooks, waqf research and a history of waqf in Indonesia and in 2017 has compiled international waqf management principles (Waqf Core Principle) that serve as risk mitigation limits in waqf management.
- *Ministry of Finance*; playing an active role in cash waqf research and optimization in particular, as well as initiating cash waqf sukuk (CWLS).
- *Ministry of Agrarian Affairs and Spatial Planning/BPN-RI*; Play an active role, especially in accelerating waqf land certification in Indonesia through synergy programs with the Ministry of Religious Affairs.
- *The Financial Services Authority (OJK)*; took an active role in providing recommendations for performance analysis for the legality requirements of LKSPWU from Sharia Banks & BPRS. In addition, he conducted research on the mechanism and risk mitigation of cash waqf.

There are two different forms of waqf management methods in Indonesia, according to the Indonesia Stock Exchange (IDX), namely (1) waqf drawn from the profits of stock investors and (2) waqf that makes Islamic stocks the object of waqf. The initial model of stock waqf was implemented in the manner described below:

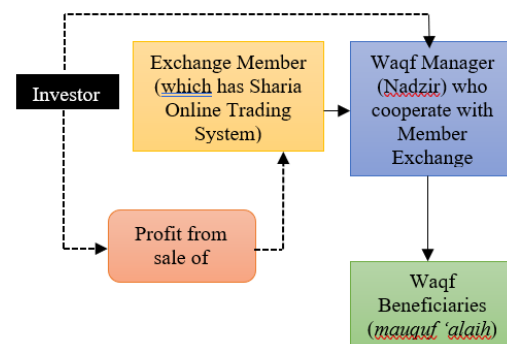


Fig. 2. First Model on Implementation of Stock Waqf

The second model involves Islamic stocks that Islamic investors have bought and endowed. The second model of stock waqf was implemented in the manner described below:

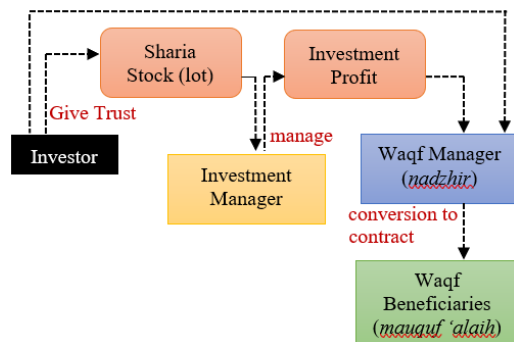


Fig. 3. Second Model on Implementation of Stock Waqf

In Indonesia, there are two stock waqf items: [19] 1) Indonesian Sharia Stock Index (ISSI)-compliant stocks listed on the Indonesia Stock Exchange (IDX); 2) Investment gains from ISSI-compliant Islamic stocks listed on the IDX.

There are five forms of stock waqf in Indonesia, namely: 1) Waqf assets invested as shares/capital of a company; 2) Waqf assets invested through a third party using a *mudharabah/waakalah bil itstmar* contract in which the *mudharabah* capital, among other things, is bought into a stock portfolio; 3) Endowing shares owned by a person, whether the principal (source of capital) is released from the ownership of the waqif or not; 4) Waqf sourced from the profits of stock investors; 5) Referring to the value of the rupiah.

Through the expansion of waqf funds through Islamic financial waqf products including Islamic bank deposits, government sukuk (CWLS), and corporate share placement, stock waqf management is indirectly implemented in Indonesia.

Waqf shares have been operating in Indonesia with the support of the Indonesian Waqf Board (BWI) and Dompot Dhuafa (DD), and have been made possible by the members of the sharia online trading system (AB-SOTS) exchange listed below: [3]

TABLE I. COMPANIES WITH SHARIA ONLINE TRADING SYSTEM (SOTS) CURRENTLY

No	Securities Company Name	SOTS Name	Website Address (Link)
1	PT. MNC Securities	MNC Waqfku	www.mncsekuritas.id
2	PT Indo Premier Securities	IPOT Sharia	www.indopremier.com
3	PT BNI Securities	e-Smart Sharia	www.bnisekuritas.co.id
4	PT Trimegah Securities Tbk	iTrimegah Syariah	www.trimegah.com
5	PT Mandiri Securities	MOST Sharia	www.most.co.id
6	PT Mirae Asset	HOTS Sharia	www.miraeasset.co.id

	Securities		o.id
7	PT Panin Securities Tbk	POST Sharia	www.pans.co.id
8	Phillips Securities Indonesia	IPO/ POEMS ID	www.phillip.co.id
9	PT Henan Putihrai Securities	HPX Syariah	www.hpfinancials.co.id

B. Regulation of Stock Waqf and Nadzir Readiness Viewed in Malaysia

Waqf management in Malaysia is registered with an institution known as the Joint Management Committee in cooperation with the government, which consists of: 1) An authorization letter from Majlis Agama Islam Selangor (MAIS), 2) A Pengerusi (Chairman), 3) A Setiausaha (Secretary) and 4) A Joint Secretariat consisting of 6 experts, namely 3 experts from BMMB and 3 more experts from PWS. The above parties must collect, manage and distribute waqf funds. In addition, the distribution is channeled for education and health activities, and investment. [20]

There are three waqf structures or models such as corporate waqf (pioneered by JCorp), asset fiscal waqf, and cash waqf. Majlis Agama Islam Negeri (MAIN) has authority over all legal issues about waqf assets in Malaysia. As the sole trustee of waqf assets, MAIN has the sole authority to choose individuals and entities to act as its agents for managing and effectively utilizing waqf assets. [21]

Furthermore, in Malaysia there are three states namely Selangor, Melaka and Negeri Sembilan that have specific enactments relating to waqf namely 1) Enakmen Wakaf (Negeri Selangor) 1999; 2) Enakmen Wakaf (Negeri Sembilan) 2005; 3) Enakmen Wakaf (Negeri Melaka) 2005; and 4) the 77th Fatwa of the National Council of Islamic Religious Affairs Malaysia. All these policies provide the foundation for waqf stocks so that they can be developed to support the national economy and sustainable prosperity.

Apart from MAIN, which is the legal manager of waqf shares, there are several official institutions appointed by the state and already have standard operational programs to manage waqf shares, namely 1) Perbadan Wakaf Selangor, 2) Tabung Baitul Maal Sarawak, 3) Perbadan Wakaf Berhad, and 4) MAIWP Waqf Center Sdn.Bhn. [22]

Waqf shares in Malaysia, both refer to the aspect of managing waqf assets in the form of cash, Islamic shares, and stock dividends that are fully administered by *tadbir*. The Johor Corporation (JCorp), which endowed RM200 million worth of shares in its subsidiaries Kulim (M) Berhad, KPJ Healthcare Berhad, and Johor Land Berhad in 2006, is credited with coining the phrase "share waqf" in Malaysia. [23]

An-Nur Waqf Clinic and An-Nur Waqf Hospital are run by Wakaf An-Nur Corporation (WANCorp), a Syarikat JCorp subsidiary with the responsibility of managing waqf equities notably in the healthcare sector. Along with managing Menara Bank Islam, a waqf asset that has been developed since 2011 and is leased to Bank Islam Malaysia Berhad, business firms in Malaysia including Tabung Haji Properties (TH Properties) and

UDA Holdings work with MAIN. The dividend income from the waqf shares is used by WANCorp for several social activities like health and human resource development that are part of JCorp's Corporate Social Responsibility (CSR) program. In addition, the proceeds of the waqf shares are used for the construction of mosques, Islamic boarding schools and orphanages. As well as providing relief funds with the concept of benevolent loans (*qardul Hasan*)/Wakaf Dana Niaga (WDN) and providing relief missions for disaster victims.[14]

The scheme of the Johor Corporation Berhad (JCorp) corporate share endowment model can be described as follows:

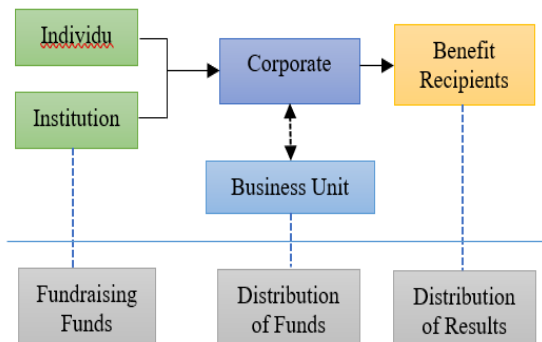


Fig. 4. Corporate Share Waqf Model

Then, there is the Selangor Muamalat Waqf which is also a form of cash waqf managed jointly by both the corporate entity and the state, be it BMMB, PWS, JPB, and MISB. The concept of waqf used is *wakalah bi al-istithmar* which has the purpose of being channeled to the education and health sectors. This is categorized as waqf for policy (*Khairi waqf*).

The scheme of the Selangor Malaysia Waqf model can be described as follows:

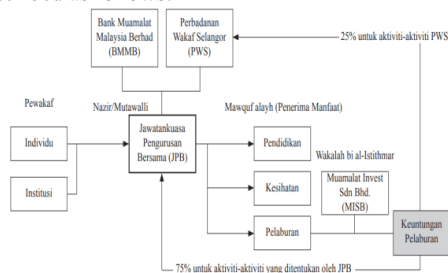


Fig. 5. Selangor Muamalat Waqf Model

C. Analysis of Management Effectiveness of Stock Waqf in Indonesia and Malaysia in Term Regulation Used and Nadzir Readiness View

1) Stock Waqf in Indonesia View of Management Effectiveness in Regulation Used and Nadzir Readiness

The effective management of stock waqf in Indonesia, in terms of the waqf regulations used, has several evaluations: First, the government's support is still weak, with no specific regulation related to stock waqf issued. This is by the principle of *mu'amalah*, namely "everything is permissible unless there is evidence that prohibits it". Furthermore, the DSN-MUI has also not issued a specific

ruling on waqf shares, even though it is necessary to have regulations related to supervision and risk mitigation. The reason is that stocks that become waqf assets are very vulnerable to fluctuations in value and need to be transparent and prudent so that the rules and standards for transactions are immediately made. [24]

Second, judging from the readiness of the nadzir in managing waqf shares, namely the need for PPAIW (Government Regulation of Waqf Pledge Acts) to prepare waqf pledges with waqf objects in the form of shares and the appointment of notaries appointed by PPAIW and appointed by the Minister of Religion. This is necessary, because there needs to be an official nadzir name to register the waqf property in accordance with Articles 32-35 of Law No. 41 of 2004 to avoid disputes or conflicts and the realization of legal certainty of waqf property. [25]

Third, in terms of the waqf stock supervision system, there are still obstacles that have not been overcome by the KNKES, due to several factors, namely the lack of optimal regulation, literacy, nadzir capacity, and waqf digitalization. As well as the low utilization of digital and the lack of integration of national waqf data that hinders the development of waqf realization. [26]

2) Stock Waqf in Indonesia View of Management Effectiveness in Regulation Used and Nadzir Readiness

Waqf policy in Malaysia after independence is regulated by each state. Each state has an Act (Enakmen) that regulates Islamic Family Law and the implementation of waqf. The regulations stipulate provisions on the mechanism and procedures of waqf management, such as the 1959 Perak Waqf Control Regulation (regulating the mechanism of waqf).

The cash waqf fatwa used by Malaysia is issued by the National and International Fatwa Board. This fatwa is the basis for the permissibility of cash waqf in accordance with Sharia principles and the results can be distributed to *mauquf'alah*.

In accordance with the effectiveness of share waqf management seen from the Malaysian waqf regulation, it has several evaluations, namely first: there is already an Act related to share waqf, but it is still incomplete, it is necessary to issue new regulations that are more comprehensive regarding "additional regulations to solve the problems; Parish Position, Authority and Use of Regional Position, Administration Book, Duties of Committee Secretary, Treasurer, Administration Committee (Correspondence), Confiscation of Waqf Property.

Secondly, the Fatwa decided by Majma 'Fiqh Islami' has allowed Muslims in Malaysia to waqf with cash including in the form of shares. The object of waqf developed in the form of cash proceeds from the purchase of shares from the Majlis trustees to be managed and the proceeds distributed to *mauquf'alah*. [27]

Third, in terms of the readiness of the nadzir in managing waqf in Malaysia, specific tasks and schemes have been determined, namely the cash waqf scheme and the waqf share scheme. Each state has a waqf policy as the basis for its development. Each provision has been clearly stated in the relevant articles, so that it can be implemented

properly according to the policies in Malaysia. However, the capacity of nadzir in each state needs waqf training in order to maximize their performance. [28]

V. CONCLUSION

As a conclusion, stock waqf is a new thing that has emerged in the development of waqf before. The existence of stock waqf developed in both Indonesia and Malaysia has a positive side in promoting economic growth and the welfare of the people in need.

However, when reviewed through the effectiveness of stock waqf management in Indonesia and Malaysia in terms of the waqf regulations used and the readiness of the nadzir, it can be concluded that each needs adjustment and renewal efforts. Especially in Indonesia, the regulation of stock waqf has not been specifically regulated and the readiness of the nadzir also needs the issuance of AIW (Akta Ikrar Wakaf) by the Minister of Religion or MUI and even the Government.

While the effectiveness of stock waqf management in Malaysia in terms of stock waqf regulations has been fulfilled and still needs periodic adjustments while the readiness of the nadzir still needs to be improved by providing intensive training to the nadzir in each state.

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