

BOOK REVIEW

Istibdāl Wakaf dalam Pembangunan by Zakaria Bahari and Azreen Hamiza Abdul Aziz. Kuala Lumpur: Dewan Bahasa dan Pustaka, 2020, 248 pp.

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Istibdāl Wakaf dalam Pembangunan examines a central issue in contemporary *waqf* administration, namely the permissibility and governance of substituting existing *waqf* assets with alternative assets of equivalent value (*istibdāl*) and quality to preserve their intended purposes. Academic engagement with *istibdāl* intensified from the late 1980s through the 1990s, in tandem with the revival of *waqf* studies prompted by rapid socioeconomic change and urbanisation in Muslim societies (Zarqa 1997; Sadeq 2002). These transformations exposed the diminishing capacity of many traditional *waqf* assets particularly immovable properties to fulfil the objectives of the *wāqif* (an individual who establishes a *waqf*), due to changes in location, physical condition, or economic relevance. Early scholarly works sought to reconcile classical fiqh doctrines with modern legal and administrative realities, emphasising *maṣlaḥah* (public interest) and *maqāṣid al-sharī'ah* (objectives of shariah) as key normative frameworks to legitimise *istibdāl* beyond its traditional classification as an exceptional measure rooted in necessity.

From the early 2000s onwards (Cizakca 2000; Jasni 2025), discourse on *istibdāl* gained wider acceptance and scholarly momentum, particularly following legal reforms in several Muslim jurisdictions that formally regulated *waqf* administration and permitted *istibdāl* under defined conditions. This phase witnessed a notable expansion of empirical studies, comparative legal analyses, and policy-oriented research examining *istibdāl* as a mechanism for enhancing the sustainability and developmental role of *waqf* assets. Supported by international conferences, institutional reports, and case studies from countries such as Malaysia, Kuwait, Türkiye, and Indonesia, contemporary scholars increasingly conceptualised *istibdāl* not merely as a response to *ḍarūrah*, but as

a strategic governance tool aimed at ensuring the continuity, economic viability, and relevance of *waqf* assets in modern socioeconomic contexts (Rose and Abdul Ghafar 2017; Mohsin 2013).

The book is systematically organised into three principal sections that address the theoretical foundations, legal dimensions, and contemporary issues of *istibdāl* in *waqf* administration. It comprises ten chapters, all coherently aligned with the central theme of *istibdāl*: four devoted to theoretical analysis, three to legal frameworks, and the remaining three to applied and institutional issues relating to *waqf* substitution. A notable strength of the volume lies in its empirical and scholarly grounding, as the contributions are derived from a Research University Team (RUT) grant awarded by Universiti Sains Malaysia. This funding framework enhances the methodological rigour and academic reliability of the research. Moreover, the contributors are established scholars with extensive publications in *waqf* and Islamic law, drawn not only from Universiti Sains Malaysia but also from Universiti Sains Islam Malaysia and Universiti Teknologi MARA. This multi-institutional collaboration deepens the book's analysis and reflects a growing trend in *waqf* scholarship towards interdisciplinary and collective research approaches.

The first section, which focuses on theoretical foundations, anchors its discussion in the objectives (*maqāṣid*) and intrinsic significance of *waqf* as a perpetual charitable institution. These objectives form the essential normative basis for the legitimacy, continuity, and governance of *waqf* assets, without which *waqf* cannot be meaningfully sustained. Within this framework, the permissibility of *istibdāl* is examined through the lens of preserving the original intent of the *wāqif* and ensuring the continuity of benefit (*manfa'ah*). Accordingly, any substituted asset must embody the same objectives and functional value as the original *waqf*. The discussion is reinforced through authoritative textual evidence derived from the al-Quran and the Prophetic Sunnah, alongside classical juristic reasoning that emphasises *maṣlaḥah* and the preservation of *waqf* purposes. This approach is consistent with established scholarly treatments that view *istibdāl* as a mechanism to safeguard *waqf* utility in changing socioeconomic contexts while remaining firmly grounded in the primary sources of Islamic law (Zarqa 1997; Kahf 1999).

The second article, which develops the theoretical framework, conceptualises *waqf* as a core institution within the Islamic economic system whose sustainability depends on the preservation of both its capital (*'ayn al-waqf*) and the continuity of its benefits (*manfa'ah*). Within this framework, *istibdāl* is advanced not merely as an administrative mechanism, but as a principled instrument grounded in *maqāṣid al-sharī'ah*, particularly the preservation of wealth (*ḥifẓ al-māl*) and the realisation of public interest (*maṣlaḥah 'āmmah*).

The author situates *istibdāl* within contemporary governance challenges, arguing that changing economic conditions, asset depreciation, and urban transformation necessitate adaptive legal responses to ensure that *waqf* assets remain productive and socially relevant. This analytical position aligns with contemporary scholarship that frames *istibdāl* as a governance tool capable of reconciling the permanence of *waqf* with economic dynamism, rather than viewing it solely as an exceptional measure justified by necessity (Rose and Abdul Ghafar 2017; Pitchay, Mydin and Saleem 2014).

The third chapter extends the discussion beyond theoretical exposition by focusing on the role of *waqf* in economic development and institutional empowerment. Rather than engaging in abstract theorisation, the chapter examines the structuring and management of *waqf*-based products derived from diversified financing sources, including debt-based instruments, equity participation, and self-financing mechanisms. The objective is to establish *waqf* assets with sustainable economic competitiveness capable of generating long-term returns. This developmental orientation is significant, as it positions *waqf* not merely as a charitable institution but as a strategic economic asset closely linked to real estate development and socio-welfare enhancement. Contemporary studies similarly emphasise that professionally managed *waqf* investment models can strengthen the economic resilience of Muslim communities, if governance, risk management, and sharī'ah compliance are coherently integrated (Rose and Abdul Ghafar 2017).

The fourth chapter examines the financing of *waqf* property development through *istibdāl*, situating the discussion within the *maqāṣid al-sharī'ah* framework that governs the sustainability and administration of *waqf* assets. It traces the historical evolution of *istibdāl* practices in Malaysia and analyses the mechanisms by which development financing is facilitated through asset substitution in response to changing socioeconomic and spatial conditions. Moving beyond purely theoretical exposition, the chapter integrates classical juristic perspectives across various fiqh schools with contemporary statutory provisions regulating *istibdāl*, demonstrating how legal doctrine is operationalised within modern *waqf* governance structures. It further emphasises that the implementation of *istibdāl* requires formal approval from the State Fatwa Committee, which functions as the competent religious authority in issuing binding rulings (Kahf 1999; Rose and Abdul Ghafar 2017). The chapter also illustrates that many instances of *istibdāl* have emerged from practical challenges faced by mosques and burial grounds as core *waqf* assets, particularly due to rapid urbanisation, increased congregation numbers, and spatial constraints associated with development pressures, thereby underscoring *istibdāl* as a pragmatic and adaptive mechanism essential for ensuring the continuity of benefit and the realisation of *waqf* objectives in contemporary settings (Pitchay, Mydin and Saleem 2014; Jasni 2025).

The second section of the book addresses the legal dimensions of *istibdāl*, with chapter five providing a comprehensive exposition of the juristic (*fiqh*) positions of the *fuqahā'* on the permissibility of substituting *waqf* assets. Drawing extensively on the views of the four Sunni schools and supported by textual evidence from the al-Quran and Hadith, the chapter systematically classifies *istibdāl* into three main categories: substitution of mosque *waqf*, substitution of other immovable *waqf* assets, and substitution of movable *waqf* assets, including vehicles and horses. While the chapter succeeds in mapping classical juristic discourse with clarity, its focus remains largely descriptive, offering limited engagement with contemporary challenges in regulatory and institutional contexts. The permissibility of *istibdāl* is consistently justified by the principle of loss of benefit (*zawāl al-manfa'ah*), permitting substitution under conditions of necessity (*darūrah*). A more analytical treatment could have been achieved through an explicit connection between classical doctrines and modern governance frameworks, particularly in contexts influenced by urban development, statutory regulation, and economic imperatives (Rose and Abdul Ghafar 2017; Pitchay, Mydin and Saleem 2014).

Chapter six, the second contribution within this legal section, provides a comparative analysis of *istibdāl* between Malaysia and other Muslim countries, highlighting both convergences and institutional divergences. Malaysia has developed state-specific statutory frameworks regulating *waqf*, including provisions on *istibdāl*, while states without such enactments rely on rulings issued by the State Fatwa Committee, chaired by the state mufti. As matters of religion fall under the authority of the Rulers or Sultans in each state, federal institutions do not intervene, and shari'ah courts do not possess jurisdiction to determine the permissibility of *istibdāl*. In contrast, several other Muslim countries vest administrative authority over *istibdāl* in ministries of religious affairs or *waqf*, often in coordination with shari'ah courts. Despite these structural differences, there is a shared legal principle across jurisdictions that recognises the permissibility of *istibdāl* under conditions of necessity and to preserve the intended benefits of *waqf* assets, in accordance with the original intent of the *wāqif* (Rose and Abdul Ghafar 2017).

The second article, constituting chapter seven in the legal section, examines the regulatory framework governing the acquisition of *waqf* land by state authorities, analysing it through the dual lenses of Islamic law and the Land Acquisition Act 1960. The chapter highlights that, grounded in the principles of *maṣlahah 'āmmah* (public interest) and *wilāyat al-ḥākim* (the authority of the ruler), state authorities are vested with legitimate power to acquire land for public purposes, including *waqf* land, when compelling necessity arises. Crucially, such acquisitions must be accompanied by fair compensation in accordance with statutory provisions, aligning legal practice with ethical obligations. This framework resonates conceptually with the principle of *istibdāl*, whereby *waqf*

assets may be substituted in cases of urgent necessity, particularly to advance social justice and economic development. The chapter further demonstrates that *istibdāl* becomes especially pertinent when *waqf* property can no longer generate meaningful benefit, except through substitution, reinforcing its role as a legally, ethically, and sharīah-compliant mechanism within contemporary *waqf* governance (Rose and Abdul Ghafar 2017; Fathullah, Mohd Amirul and Jasni 2020).

The final section of the book addresses practical issues in the implementation of *istibdāl* for *waqf* land, focusing on operational challenges, case-specific issues at the Kelantan Islamic Religious and Malay Customs Council, and preliminary findings on *waqf* revenue generation in Penang. Chapter eight revisits the concept of *istibdāl* and its functional significance in ensuring *waqf* assets continue to benefit the *mawqūf fīh*, examining practices in Malaysia and other Muslim countries. The discussion highlights statutory provisions in several Malaysian states, including Selangor, Melaka, Negeri Sembilan, and Johor, as well as guidance from JAWHAR through its *istibdāl* management manual. Comparable regulatory frameworks are observed internationally, where ministries, religious councils, and courts administer *istibdāl*, demonstrating a growing consensus on adaptive governance to preserve *waqf* utility and sustainability (Rose and Abdul Ghafar 2017; Pitchay, Mydin and Saleem 2014). The chapter further identifies key challenges for Malaysian *waqf* assets, including strict adherence to the *wāqif*'s intentions and traditional juristic interpretations, non-strategic and economically marginal properties, fragmented assets, limited availability of suitable replacement land, and insufficient institutional support. It emphasises the rising need for professional expertise in real estate and investment to guide *istibdāl* processes effectively. Finally, it underscores the urgency for State Islamic Religious Councils to promptly secure replacement land commensurate with the compensation provided by state authorities, ensuring that equivalent *waqf* assets are reinstated and mitigating the risks of depreciation and loss of value.

Chapter nine provides a focused examination of *istibdāl* cases administered by the Kelantan Islamic Religious and Malay Customs Council, situating the discussion within the broader historical and administrative framework of *waqf* in Malaysia. The chapter begins by contextualising *waqf*, its historical evolution, and the scope of authority vested in State Islamic Religious Councils, before presenting several *istibdāl* cases across Kuala Lumpur, Penang, Melaka, Perak, Terengganu, and Kelantan. A detailed case study is provided on Lot 145, Section 12, Kota Bharu, which involved the development of *waqf* property for 30 three-storey shop houses, 19 terrace houses, four semi-detached houses, and a bungalow unit. In contrast, the *istibdāl* case at Lot 146, Section 12, Kota Bharu, involved the transfer of an old cemetery site adjacent to Hotel Perdana, authorised by the Kelantan State Mufti's Office based on *maṣlahah* (public

interest). This decision reflects the application of classical juristic principles in a contemporary urban context, demonstrating the necessity of *istibdāl* in reconciling the preservation of *waqf* objectives with practical socioeconomic development needs (Rose and Abdul Ghafar 2017; Fathullah, Mohd Amirul and Jasni 2020).

The chapter further analyses the rationale and implementation of the Lot 146 case, highlighting that the cemetery was no longer in use, the area had undergone rapid urbanisation, and the site held high potential for community benefit and economic development, particularly for the *bumiputera*. Permodalan Nasional Berhad was tasked with development, and compensation for the *istibdāl* was calculated based on the principle of highest and best use by the valuation and property services department. Notably, the case exemplifies a coordinated, multi-agency approach involving Jabatan Wakaf, Zakat & Haji, State Islamic Religious Councils, Yayasan Wakaf Malaysia, the Department of Director General of Lands and Mines, the State Land and Mines Office, and the District Administrative Office. This integrated governance model illustrates how contemporary *istibdāl* operations can combine legal, religious, and economic considerations to optimise *waqf* asset utilisation while ensuring compliance with shari'ah and statutory requirements (Pitchay, Mydin and Saleem 2014; Fathullah, Mohd Amirul and Jasni 2020).

The final chapter under the section on issues related to *istibdāl* examines *waqf* revenue generation in Penang, focusing on instruments capable of producing sustainable income for the growth and long-term viability of *waqf* assets. These instruments include property-based *waqf*, *waqf* funds, *waqf* shares, cash *waqf*, *waqf kaki* (foot-endowment), and *waqf* takaful schemes. The chapter argues that, given the extensive scope and strategic location of *waqf* assets in Penang, there is substantial potential to expand and optimise the utilisation of *waqf* property, thereby enhancing both financial returns and the socioeconomic impact of *waqf* management. By analysing the mechanisms through which these instruments operate, the author situates *istibdāl* not merely as a legal or administrative tool but as a strategic instrument for improving asset productivity and sustaining the intended benefits for the *mawqūf fih* (Auda 2008; Kahf 1999).

The chapter further provides a historical overview of *waqf* administration in Penang, tracing its evolution from pre-colonial periods when the wāqif directly managed *waqf* properties to the colonial era under the Muslim and Hindu Endowment Board, and subsequently to post-independence governance under the Penang State Islamic Religious Council pursuant to the Administration of Islamic Religious Affairs Enactment 1959. The discussion highlights strategic developments of *waqf* properties, particularly for rental income, and the utilisation of cash *waqf* to acquire permanent assets, alongside Penang State

Islamic Religious Council's involvement in *ibddāl*, *istibdāl*, and *irsād* practices to maximise benefits and productive returns. Nevertheless, persistent challenges are noted, including limited public engagement in *waqf* contributions, maintenance difficulties, high development costs in urban areas, and the urgent need for professional expertise in real estate and investment management to guide effective *waqf* governance (Sadeq 2002; Cizakca 2000).

Overall, the book offers a comprehensive and critical examination of *istibdāl*, integrating theoretical perspectives, legal frameworks, and contemporary case studies. Its multidimensional approach, drawing on the insights of traditional scholars, contemporary practitioners, government agencies, and international bodies involved in *waqf* administration, effectively highlights both the challenges and opportunities inherent in *waqf* management. By addressing the practical, legal, and socioeconomic dimensions of *istibdāl*, the book serves as a valuable resource for scholars, policymakers, and practitioners seeking to understand the complexities of *waqf* governance and to develop strategies for the sustainable utilisation and growth of *waqf* assets in a modern context. Furthermore, the inclusion of empirical data, case studies, and statistics from both academic research and government agencies enhances the analytical rigour of the work. This evidence-based approach enhances the credibility and robustness of the arguments, providing readers with a clear, well-substantiated understanding of how *istibdāl* can be operationalised to ensure the continuity, relevance, and socioeconomic impact of *waqf* assets.

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