



The Need For Constitutional Review To Accommodate Zakat And Waqf Laws In Nigeria

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Abstract

This paper investigates the fundamental elements of Islamic social welfare and economic systems Waqf and Zakat. As required almsgiving and charitable endowments, they are essential to wealth redistribution and communal support. Regardless of their relevance, the absence of official recognition and incorporation within the national legal system poses significant obstacles for these institutions in Nigeria. In an effort to increase the effectiveness and influence of Zakat and Waqf legislation in Nigeria, this study makes the case for a constitutional review that would include them. A qualitative research approach was taken, utilizing contents analysis for data analysis as well as literature and interview to obtain pertinent information. According to the research, the Nigerian constitution does not explicitly and immediately formalize the Waqf and Zakat institutions, and new legislation is required to enable their creation and management. The study offers a thorough analysis of pertinent federal laws and acts as a viable remedy to improve the Waqf and Zakat systems throughout Nigeria.

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Introduction

Nigeria, a nation renowned for its diversity of religions and cultures, has a sizable Muslim population, especially in the north. Within these communities, Islamic customs like Waqf (endowment) and Zakat (almsgiving) have significant religious and socioeconomic implications. In spite of this, Nigeria's statutory and constitutional laws do not adequately incorporate the legal framework controlling these institutions¹.

One of the Five Pillars of Islam, Zakat, requires Muslims to give away a certain percentage of their money to the poor. It is a tool for poverty alleviation and wealth redistribution in addition to being a form of worship. Waqf, on the other hand, is putting property or assets aside for philanthropic or spiritual reasons, establishing a steady stream of funding for different societal needs².

These customs play a major role in the social welfare and economic advancement of Muslim communities and are firmly ingrained in Islamic tradition and jurisprudence³. Even with their importance, these institutions in Nigeria fail to create enough jobs, significantly reduce poverty, and advance national economic stability.

Zakat and Waqf are two essential Islamic institutions where Muslims are required to give up a portion of their money to the poor in order to worship the Almighty Allah. These institutions are meant to ensure social justice and economic equity. The money obtained will be put to religious and philanthropic uses in order to provide a long-term source of funding for different social programs. In Nigeria, Zakat and Waqf institutions have a lot of promise, but a lot of obstacles stand in the way of their efficiency and long-term viability⁴.

Important Islamic institutions like Zakat and Waqf have the potential to improve social welfare and reduce poverty. However, because these institutions

¹ A.A.Muhammad, Adam M.A., Hamza A.H, & Jamila A.A. "Relevance Of Zakat And Waqf Models To Achieve Sustainable Development Goals Of Water And Sanitation In North Eastern Nigeria" *Islamic Economics Journal*, 9, No. 2, 187-188.

² A.A.Muhammad Et Al, Relevance Of Zakat And Waqf Models To Achieve Sustainable Development Goals ..., 187-189

³ Benthall, J. Financial Worship: The Qur'anic Injunction To Almsgiving. *Journal Of The Royal Anthropological Institute*, 5, No. 1, (1999): 27-42

⁴ A.A.Muhammad Et Al, Relevance Of Zakat And Waqf Models To Achieve Sustainable Development Goals ..., 187-190

are not integrated into the national legal framework in Nigeria, they confront practical, administrative, and legal difficulties. In order to include Zakat and Waqf legislation in Nigeria, a constitutional review is necessary. This literature study looks at previous researches and discussions on the subject, emphasizing important concepts such as political independence, public trust, administrative effectiveness, and legal recognition.

Nigeria's legal system is a sophisticated synthesis of Sharia, customary, and statutory law. Nonetheless, Sharia is mostly applied to areas of personal law in the northern states, and it receives scant legitimacy under federal law. Inconsistencies and inefficiencies in the administration and enforcement of Waqf and Zakat result from the current constitutional framework's inadequate attention to these issues⁵. The potential influence of these practices on reducing poverty and promoting socioeconomic development is hampered by the absence of comprehensive legislative measures.

One significant point raised is the importance of adapting legal frameworks to better integrate Islamic financial instruments like zakat and waqf into national legislation. This approach is considered crucial for enhancing poverty alleviation efforts and ensuring more efficient wealth distribution in Muslim-majority regions. The literature highlights the potential for these instruments to contribute significantly to social welfare if properly legislated and institutionalized within Nigeria's legal system⁶.

One of the main obstacles to the efficient administration of Waqf and Zakat in Nigeria is the absence of any constitutional status for both. Research indicates that in northern Nigeria, Zakat and Waqf are currently regulated by a patchwork of state-level laws, which causes irregularities and inefficiencies⁷.

The federal government of Malaysia, for instance, has centralized the administration of Zakat, leading to more efficient and transparent management⁸. Similarly, Indonesia's comprehensive Waqf laws provide clear guidelines for the

⁵ M. Ahmad, "An Empirical Study Of The Challenges Facing Zakat And Waqf Institutions In Northern Nigeria" *ISRA International Journal Of Islamic Finance*, 11, No. 2, (2019): 338-356.

⁶ A. Razak, "Zakat And Waqf As Instrument Of Islamic Wealth In Poverty Alleviation And Redistribution: Case Of Malaysia", *International Journal Of Sociology And Social Policy*, 40, No.3-4, (2020): 249-266

⁷ M. Ahmad, "An Empirical Study Of The Challenges Facing Zakat And...", 354

⁸ A. Razak, "Zakat And Waqf As Instrument Of Islamic Wealth In Poverty...", 260

management and development of Waqf assets, demonstrating the benefits of a centralized legal framework⁹. Legal scholars argue that formal recognition at the national level would provide a unified framework, enhancing the legitimacy and operational coherence of these institutions.

Successful management is essential to the development of Waqf and Zakat institutions but a large number of Nigerian administrators lack the requisite knowledge and resources that resulting in poor management and a diminished impact¹⁰. It is crucial to increase administrative capability through training initiatives and resource distribution¹¹. Research indicates that nations like Malaysia and Indonesia, which have strong management systems and administrators with a wealth of experience, have more prosperous Waqf and Zakat establishments¹².

Moreover, the discussion around the role of faith-based organizations (FBOs) for capacity building in Sub-Saharan Africa, including Nigeria, emphasizes the growing importance of these entities in providing social services traditionally managed by the state. The 'NGO-ization' of Islamic organizations and the increasing visibility of religion in social development efforts make it necessary to review existing constitutional provisions to allow these entities to function effectively within the legal framework¹³.

Establishing accountability and transparency is essential to fostering public confidence in Waqf and Zakat organizations. Significant problems in Nigeria include corruption and a lack of openness in fund management, which discourage potential donors and lessen these institutions' efficacy¹⁴. Restoring confidence may be aided by putting strict transparency measures in place, such as frequent audits

⁹ A.A.Muhammad Et Al, Relevance Of Zakat And Waqf Models To Achieve Sustainable Development Goals ..., 187-191

¹⁰ H. Weiss, *Muslim Ngos, Zakat And The Provision Of Social Welfare In Sub-Saharan Africa: An Introduction*. In: Weiss, H. (Eds) *Muslim Faith-Based Organizations And Social Welfare In Africa*. Palgrave Macmillan, Cham. (2020)

¹¹ M. Ahmad, "An Empirical Study Of The Challenges Facing Zakat And...", 354

¹² A.T. Diallo & Gundogdu, A.S. *Economic Empowerment, Zakat, Waqf, And Social Infrastructure. In: Sustainable Development And Infrastructure*. Palgrave Studies In Islamic Banking, Finance, And Economics. Palgrave Macmillan, Cham. (2021).

¹³ H. Weiss, *Muslim Ngos, Zakat And The Provision Of Social Welfare In Sub-Saharan...*

¹⁴ Ishola, Abdullahi. "Legal Bases For Al-Waqf In Nigeria". *Journal Of Shariah Law Research*, Vol.4, (2019): 67-88

and open reporting. Comparative research shows that accountability and openness are essential to the Waqf and Zakat systems' performance abroad¹⁵.

Fundamental to the success of Waqf and Zakat is public confidence. Research indicates that poor public awareness and engagement exist in Nigeria as a result of mistrust and a lack of knowledge about the functions and advantages of institutions (Ahmad, 2019). To educate the public on the significance and operation of Waqf and Zakat and to promote increased support and involvement, public awareness campaigns and education initiatives are required¹⁶.

Political meddling damages the Waqf and Zakat institutions' reputations and efficacy. Studies reveal that political appointments frequently result in poor management and corruption, which erodes public confidence even more (Ishola, 2019). These institutions can be made more credible and successful by ensuring their political independence through the implementation of transparent, merit-based appointment procedures. Comparative research highlights how crucial political independence is to the Waqf and Zakat institutions' prosperity¹⁷.

As a result, the research on Waqf and Zakat emphasizes their ability to improve social welfare and reduce poverty. Studies for example, suggest that these institutions have systemic problems in a variety of settings. Political meddling, distrust, and insufficient administrative capabilities are common themes in Northern Nigeria. Previous research underscores the need for institutional reforms to harness the full potential of Zakat and Waqf¹⁸.

Thus, this study investigates the necessity of a constitutional review to include Waqf and Zakat laws in Nigeria, contending that this would improve these organizations' effectiveness and impact in filling in the legal system's gaps and investigating the possible socioeconomic advantages of such integration.

¹⁵ M. Salman & Mohamad J, N. A. ., & Sadique, M. A. . "E-Waqf Implementation: A Paradigm Shift In Nigeria Waqf System" *Journal Of Asian And African Social Science And Humanities*, 7, No. 4, (2022): 41-53.

¹⁶ A.A.Muhammad Et Al, Relevance Of Zakat And Waqf Models To Achieve Sustainable Development Goals ..., 187-192

¹⁷ H. Weiss, *Muslim Ngos, Zakat And The Provision Of Social Welfare In Sub-Saharan...*

¹⁸ M. Ahmad, "An Empirical Study Of The Challenges Facing Zakat And...", 355

Method

Doctrinal and Empirical Legal Research type which involves a detailed analysis of legal texts, including statutes, case law, and legal principles as well as the collection and analysis of data from real-world practices and perceptions was adopted. It is suitable for examining the existing constitutional framework and its capacity to accommodate Zakat and Waqf laws as well as assessing the practical challenges and societal needs that may necessitate a constitutional review. The qualitative research approach was employed for its simplicity in understanding the complexities of legal issues and the contextual factors influencing the need for constitutional reform. It allows for an in-depth exploration of opinions, experiences, and interpretations of legal provisions related to Zakat and Waqf. And the comparative legal research was also adopted just to compare Nigeria's legal framework with those of other countries that have successfully integrated Islamic financial laws into their constitutions. This can provide insights into best practices and potential models for Nigeria.

The relevant data were sourced mostly from interview with pertinent stakeholders, legal experts, scholars of Islamic law, policymakers, in the Nigerian legal system to gather qualitative data on the perceived need for constitutional review, academic journals articles that discuss constitutional law, Islamic finance, and religious freedom in Nigeria and other contexts, legal materials like sections of the Nigerian Constitution that pertain to religious freedoms, financial laws, and property rights and the specific laws related to Zakat and Waqf in Islamic jurisprudence and any existing Nigerian statutes or regulations.

For analyzing the data, document, content and thematic analysis was used to identify, analyze, and report patterns (themes) within qualitative data collected through interviews, focus groups, and surveys to understand how existing laws could be amended or interpreted to accommodate Zakat and Waqf. For the semi-structured interviews with stakeholders, four different categories of people in are consulted: Legal Practitioners, Religious Scholars, Government Officials, and Administrators of Zakat and Waqf

institutions which were coded as LP, RS, GO, and AZWI for gathering data directly from reliable sources and participants' perspectives. The content analysis was chosen to analyze the data for proper interpretation and documentation.

By employing these research methods, you can effectively explore the legal, social, and religious dimensions of integrating Zakat and Waqf laws into the Nigerian constitutional framework, providing a robust foundation for your academic research.

Results and Discussion

To accommodate Zakat and Waqf laws in the Nigerian constitution, several areas require review and modification which include:

1. Legal Recognition and Integration

The Nigerian Constitution's lack of explicit legal recognition for Waqf and Zakat institutions leads to fragmented and uneven management throughout the several states. The efficacy and legitimacy of these institutions are compromised by this legal ambiguity. State-level rules,¹⁹ are inconsistent and lack coherence, shows that nations with centralized legal frameworks like Malaysia have more efficient Zakat management because of their unambiguous legal recognition²⁰.

Every nation's or society's constitution can be changed to the extent that the people desire; it just requires bringing the issue before the legislative branch of government, which is made up of representatives of the people. This makes the process very straightforward, and it can be reviewed and changed to the extent that the Nigerian constitution allows.

For the success of the formal recognition of Zakat and Waqf institutions in Nigerian legal framework, it is necessary to consider the following:

- a. Current Situation: State administrations in the Muslim states are responsible for regulating Waqf and Zakat, leading to inconsistent practices. The Nigerian Constitution does not specifically recognize these practices as legal organizations.

¹⁹ M. Ahmad, "An Empirical Study Of The Challenges Facing Zakat And...", 353

²⁰ Ishola, Abdullahi. "Legal Bases For...", 68

- b. Required Changes: Four actions must be taken in order to alter the current state of Nigeria's legal framework with relation to Waqf and Zakat institutions.
 - i. Definitions: By amending the constitution, it is now possible to clearly understand the meanings of the terms "Waqf" and "Zakat," as well as their respective religious and social standing.
 - ii. Legal Status: In order to recognize Zakat and Waqf organizations as official channels for wealth redistribution and social welfare within the Nigerian setting, the government must grant them legal status.
 - iii. Uniform Legislation: To oversee Zakat and Waqf institutions throughout the nation, the federal government must create a uniform national legislative framework.
 - iv. Collection and Distribution Guidelines: To the benefit of all bodies concerned, precise guidelines regarding the collection, management, and distribution of Zakat and Waqf monies must be directed.
 - v. Administrative Structure: The Nigerian federal government must specify the composition and duties of organizations in charge of overseeing Waqf and Zakat money nationwide.

Thus, a more unified and efficient structure for the administration of Zakat and Waqf laws may result from a constitutional review that incorporates these laws and Nigeria can improve the practices of Waqf and Zakat as well as its regulations, collections, and distributions by incorporating these practices within the country's legislative framework.

In addition to guaranteeing increased accountability and transparency, this would also be in line with the state of Nigeria's socioeconomic goals, notably with regard to combating poverty and inequality.

The absence of formal legal recognition of Zakat and Waqf institutions in the Nigerian Constitution results in fragmented and inconsistent administration across different states. This legal ambiguity undermines the effectiveness and credibility of these institutions. indicates that state-level regulations are inconsistent and lack coherence, demonstrates that countries with centralized legal frameworks, such as Malaysia, exhibit more effective Zakat management due to clear legal recognition.

The Constitution of every country or society can be amended as far as the citizens' hint for it; it is a matter of channeling the matter to the legislative arm of government, and the legislators are representatives of the citizens, so the matter is so simple and that it can be reviewed and amended as far as the Nigerian constitution is concerned (LP)²¹.

2. Administrative Efficiency and Capacity

The administrative ability of Nigerian Waqf and Zakat institutions is severely lacking. Many administrators lack the knowledge and tools needed to run these organizations well, which results in inefficiencies and poor management²². who emphasized the necessity of competent management to guarantee efficient management of Zakat and Waqf institutions, in nations like Indonesia, training initiatives and resource distribution have been effective in raising administrative effectiveness. In order to tackle the issues related to the administrative capability of Waqf and Zakat establishments in Nigeria, the following factors must be taken into account:

- a) Current Situation: One of the ongoing issues is the lack of resources and training for administrators in the Zakat and Waqf institutions across the nation, which widens the gaps in the community.
- b) Needed Modifications: There are two things that need to be done in order to improve the administrative capacity of Waqf and Zakat institutions in Nigeria.
 - i. Appropriate Training Programs: To guarantee efficient administration and long-term viability, it is necessary to mandate the implementation of training programs for administrators of Zakat and Waqf institutions in Nigeria.
 - ii. Resource Allocation: It is the responsibility of the government and the people to provide and allocate pertinent and necessary resources for the development of the institutions in order to guarantee that Zakat and Waqf institutions are given enough

²¹ M.A.A. And Kassim Sano, S. "Waqf Governance In The Republic Of Guinea: Legal Framework, Issues, Challenges And Way Forward", *ISRA International Journal Of Islamic Finance*, 13, No. 2, (2021): 194-210

²² M. Abdullahi, S.I, Shuaibu, M. & Yusufu, "Zakat And Poverty Alleviation In Nigeria: An Analytico-Longitudinal Study," *MPRA Paper 112535, University Library Of Munich, Germany*. (2022).

resources to run effectively and compete with technological advancement.

Since each institution's administration requires competence, independence, and capabilities, our Zakat and Waqf administrators benefit from appropriate training and workshops that address the majority of their issues (AZWI).

3. Transparency and Accountability

A lack of accountability and openness in the way Waqf and Zakat monies are managed damages public confidence and decreases individual contributors' desire to make contributions.

According to Muhammad et al. (2024), one of the main factors influencing the Waqf and Zakat institutions in the Nigerian states is the negative influence that corruption and a lack of transparency have on public faith.

Transparency measures like frequent audits and public reporting are essential for preserving public trust and, if they are implemented in Nigerian Zakat and Waqf organizations, can effectively address their obstacles²³.

The following actions must be taken into account in order to guarantee effective accountability and transparency in the Nigerian Waqf and Zakat institutions:

- a) Current Situation: The activities of certain Waqf and Zakat institutions, as well as public confidence in Nigeria, are undermined by corruption and a lack of transparency.
- b) Required Changes: Two crucial actions must be taken in order to combat this threat.
 - i. Oversight Mechanisms: This entails setting up impartial commissions, ministries, and organizations to supervise the management of Waqf and Zakat institutions in order to guarantee accountability and transparency.
 - ii. Reporting Requirements: This is accomplished by putting strict reporting guidelines into place, which include frequent audits, open

²³ Zauro, N. A., Saad, R. J. And Sawandi, N. "Enhancing Socio-Economic Justice And Financial Inclusion In Nigeria The Role Of Zakat, Sadaqah And Qardhul Hassan", *Journal Of Islamic Accounting And Business Research*, 11, No. 3, (2020): 555-572

disclosure of financial activity, and, when appropriate, the adoption of contemporary technologies.

Accurate accounting and auditing are essential components of any successful institution, but they are especially crucial for the management of Waqf and Zakat institutions. Relevant commissions keep an eye on government ministries and agencies for financial auditing purposes in order to address any irregularities in their financial spending (GO).

4. Public Awareness and Participation

The success of the Waqf and Zakat institutions in Nigeria is largely hindered by low public engagement and understanding. Potential donors are discouraged by mistrust and a lack of knowledge about the functions and advantages of these organizations. This agrees with Ahmad's (2019) assessment that the main obstacles facing Nigerian Zakat and Waqf institutions are low awareness and popular mistrust. According to Weiss (2020), education initiatives and public awareness campaigns can effectively increase support and involvement in Waqf and Zakat.

The following actions need to be taken into consideration in order to address the problem of poor public knowledge and irregular involvement in events linked to Waqf and Zakat institutions in Nigeria.

- a) Current Situation: Because of a perceived lack of transparency and corruption in the operations of Nigerian Waqf and Zakat institutions, there is a severe lack of public trust and involvement.
- b) Needed Modifications: There are two important things to think about.
 - i. Public Awareness Campaigns: To ensure the correct establishment, administration, and management of Waqf and Zakat, it is imperative to start nationwide campaigns educating the public about these important institutions.
 - ii. Incentives for Participation: The government must provide incentives to people and companies so they will support the operations of Nigeria's Waqf and Zakat institutions.

Islam recognizes information and knowledge as the two main prerequisites that assist law-abiding persons in comprehending any idea (RS).

5. Political Independence

Political meddling erodes the legitimacy and efficiency of Waqf and Zakat institutions when administrators are appointed. Public trust is further undermined by political appointments, which frequently result in mismanagement and corruption.

In his discussion of the detrimental effects of political meddling on the management of Waqf and Zakat, Diallo & Gundogdu, (2021) argues that political independence is necessary to guarantee the impartial and capable management of Waqf and Zakat.

Two main approaches are proposed to tackle the problems of political independence in the management of Waqf and Zakat institutions in Nigeria.

- a) Current Situation: Political meddling in the selection of Waqf and Zakat administrators in Nigeria is becoming more prevalent at the moment.
- b) Needed Modifications: Two strategies are necessary in order to successfully alter the situation.
 - i. Merit-Based Appointments: To guarantee that political affiliation is not used as a factor in the appointment of individuals to administrative bodies overseeing Waqf and Zakat.
 - ii. Independent Autonomy: In order to shield Waqf and Zakat institutions from political influence, the government must provide them with independent autonomy.

6. Comparative Success Models

A comparative analysis of countries like Malaysia and Indonesia demonstrates that centralized legal frameworks, skilled administration, and robust transparency measures significantly enhance the effectiveness of Zakat and Waqf institutions²⁴. Provides evidence of Malaysia's successful centralized Zakat administration system and highlights Indonesia's comprehensive Waqf laws and effective administration as a model for Nigeria. Several Muslim-majority countries have successfully integrated Zakat and Waqf within their national legal frameworks, offering valuable lessons for Nigeria. For instance, Malaysia and Indonesia have established robust institutional mechanisms for Zakat collection

²⁴ M. A. Salman, M. J., Mohamad, N. A. ., & Sadique, "E-Waqf Implementation: A Paradigm Shift In Nigeria Waqf System" *Journal Of Asian And African Social Science And Humanities*, 7, No. 4, (2022): 41-53.

and distribution, which have significantly contributed to poverty alleviation and social welfare²⁵.

By using comparable models, Nigeria might be able to fully use these Islamic customs, promoting social cohesiveness and socioeconomic growth. This can be achieved by examining the roles, processes, and efficacy of Waqf and Zakat establishments in Nigeria and other nations in order to implement their strategies for greater success.

Recent academic discussions on the need for constitutional review to accommodate Zakat and Waqf laws in Nigeria emphasize the importance of integrating Islamic financial instruments into the legal framework to promote social welfare and economic development. Scholars argue that Zakat and Waqf laws, if constitutionally recognized could enhance poverty alleviation and economic empowerment by leveraging these tools for sustainable development. Current research highlights the successful models from other Islamic countries and explores how similar frameworks could be adapted to Nigeria's context.

²⁵ A. Y. Chabbal, "WAQF And Entrepreneurship: An Ignored Mechanism For Modern Economic Development In Nigeria" *Journal Of African Sustainable Development*, 20, No. 2, (2020): 2218-8777.

Conclusion

Nigerian Zakat and Waqf institutions confront major obstacles that prevent them from achieving their Shari'ah goals. The main challenges include mistrust from the public, political meddling, and insufficient administrative abilities. Comprehensive reforms, such as constitutional modifications to strengthen the independence and accountability of these institutions, are necessary to address these problems. The results of this research highlighted how urgently Nigeria's constitution needs to be reviewed in order to incorporate the country's Waqf and Zakat regulations. The objectives of such a review ought to include granting formal legal recognition in order to incorporate Waqf and Zakat legislation into Nigeria's national legal framework, improving administrative capability, guaranteeing accountability and transparency, raising public awareness, and preserving political independence. By taking inspiration from successful models in other nations, such as Malaysia and Indonesia, which have shown the potential advantages of similar reforms, it is possible to suggest that a unified and well-regulated system could greatly increase the efficacy of Waqf and Zakat institutions in Nigeria, leading to sustainable socio-economic development. To optimize the socio-economic advantages of Waqf and Zakat laws, Nigeria's constitutional framework must incorporate them. In addition to recognizing the importance of these activities, this article makes the case for a thorough constitutional examination that offers an organized and effective system for managing them. Nigeria's legal system would then reflect the country's diverse religious and cultural population, which would be in line with the country's larger goals of poverty reduction and socioeconomic development.

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