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THE EVOLUTION OF WAQF IN TURKISH HIGHER EDUCATION: LEGAL AND GOVERNANCE PERSPECTIVES

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Abstract:

The primary aim of this study is to examine the legal framework and governance mechanisms governing waqf in Turkish higher education. While the socio-economic importance of waqf in Turkey is well-documented, previous research has not sufficiently examined the relationship between waqf law, institutional governance, stakeholder roles, and financial transparency. To address this gap, this study employs a qualitative approach, utilizing a targeted document analysis of primary legal sources. Specifically, it analyzes the Turkish Civil Code (Law No. 4721), the Foundations Law (Law No. 5737), and Council of Higher Education (CoHE) regulations spanning from the early Republic era to the present. The findings identify two concrete governance issues: the ongoing administrative tension between decentralized foundation autonomy and centralized CoHE oversight, and the legal ambiguities surrounding financial transparency when state universities collaborate with waqf foundations. Ultimately, this study contributes to the literature by demonstrating how current legal arrangements directly shape stakeholder accountability and institutional autonomy. Based on these findings, the study recommends that policymakers refine existing statutory clauses to clarify financial reporting requirements, thereby

allowing universities to strengthen their internal conflict-resolution mechanisms and safeguard waqf assets.

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Keywords:

Foundation, Governance, Law, Turkey, Waqf, Higher Education



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Introduction

Waqf, rooted in the Islamic past, is essential to Turkey's culture. It has aided in the advancement of education, the preservation of culture, and the promotion of charity (Yediyildiz, 1996). The waqf concept is nowadays used for various purposes, including housing, poverty alleviation, financing, and education. In general, the ultimate aim of the waqf concept is to bring benefit to society (Siti Mashitoh Mahamood & Ab Rahman, 2015). The waqf institution, known as "vakıf" in Turkish, is also the direct heir to an esteemed Islamic philanthropic institution, the charitable endowment or waqf (the Arabic cognate of vakıf) (Walton, 2017).

In the contemporary period of the Turkish Republic, one may witness the continued existence of waqf, albeit within a transformed legal and administrative framework. Waqf continues to play a crucial role in the progress of education, including support for academic research and faculty development, and by enabling students to pursue educational opportunities. In addition, waqf makes a valuable contribution to the preservation of cultural heritage by integrating historical sites and architectural elements into the physical infrastructure of modern educational establishments. The legal and governance structures governing waqf in Turkey are crucial, as they regulate the management and administration of these charitable endowments. Government institutions, such as the Turkish Higher Education Council (YÖK) and the Ministry of Education, oversee and regulate the operation of waqf in higher education to guarantee compliance with laws and regulations.

This paper examines the role of waqf in Turkish higher education, including its historical significance, legal framework and governance. It additionally examines the complex role of waqf in Turkish higher education to understand its lasting impact and shifting significance. Understanding the function of waqf in higher education is important to appreciate its history and importance in the nation's education system.

Definition of Foundation (Waqf) in Turkey

The Foundation (waqf) is defined as a person or person allocating movable and immovable properties of his/her own accord and request by excluding them from his/her ownership to enable the properties to be used for charity and good, forever, under the conditions and services determined by himself/herself. In the West, it is commonly referred to as having a similar nature to the institution known as waqf in Arabic (or vakif in Turkish) (Bikmen, 2008).

Professor Fuat Koprulu, a famous Ottoman historian, says that Awqaf might comprise a person's birth, childhood, education, occupation, domicile, and burial (Koc, 2013). According to Article 101 of the Turkish Civil Code, "foundations" are legal assets established by persons or entities to assign their personal property and rights for public use. Foundations are occasionally denoted as a "fund" that is allocated to a specific cause. Foundations do not possess members, partners, or shareholders. However, individual persons or legal entities have the ability to contribute their personal assets or rights to them (Akbas, 2014). Instead, these organizations are called "non-profit" organizations and acquire, manage, and maintain their assets while helping the community through educational and religious programs. (Alias, 2011). A foundation has two main components: devoted assets and a specified purpose. The Turkish legal system recognizes two pre-Republic foundations. These categories include foundations founded before the Turkish Civil Code and foundations that were established in accordance with the provisions outlined in the Turkish Civil Code. Thus, the Civil Code may not entirely solve all basis issues in the Turkish legal system. The classification of foundations formed before the Turkish Civil Code can be categorized based on several factors. However, the most prevalent classification of such foundations is determined by the principle of management. Consequently, foundations that were founded before the implementation of the Turkish Civil Code can be categorized into three types: a) fused foundations, b) annexed foundations, and c) communal or trade foundations.

In brief, this analysis succinctly categorizes foundations into four main types: fused, annexed, community, and new foundations that arose after the enactment of the Turkish Civil Code in 1926. Based on Akbas' (2014), the estimated number of these "new foundations" is approximately 5,000.

Gap in the Studies

While existing literature acknowledges the significance of waqf in higher education and has explored its socio-economic contributions, there is a conspicuous lack of comprehensive studies that focus on the legal and governance aspects of waqf in Turkish higher education. The existing research primarily touches upon the historical context or briefly mentions the legal framework, but a holistic exploration of this critical facet is missing. This paper aims to bridge this gap by providing a detailed analysis of the legal and governance framework that support waqf in higher education institutions in Turkey.

Research Problem

Waqf, originally founded to provide long-term philanthropic benefits to the public, has become deeply ingrained in Turkey's higher education system. There is little scholarly research on legal and governance aspects of waqf in Turkish higher education. The need to fill a major gap in literature prompted the present study.

Research Objectives

The primary objectives of this study are as follows:

1. To trace the historical development of Waqf in Turkey, examining its traditional roles and functions in supporting educational institutions.
2. To examine the existing legal framework that governs waqf in Turkish higher education institutions by exploring the relevant laws, regulations, and government bodies responsible for its oversight.

Significance of Study

This study bridges a notable gap in existing academic literature. While there is recognition of the historical and socioeconomic importance of waqf in Turkey, a comprehensive analysis of the legal and governance aspects remains conspicuously underrepresented. Understanding the legal framework, governance structures, and financial management practices of waqf within higher education institutions is critical for policymakers, university administrators, scholars, and the broader public. This knowledge can inform policy reforms, enhance the efficiency and transparency of waqf foundations, and ensure their alignment with the evolving needs of Turkish higher education.

Methodology

This study employs a qualitative approach involving data collection and data analysis from primary legal sources, including all statutes and regulations related to waqf in Turkish higher education. The secondary sources are also reviewed, including articles published in journals, conference proceedings, thesis, and workshop papers. A qualitative approach is deemed most appropriate to explore the complex and nuanced aspects of waqf in higher education. It is primarily exploratory and descriptive, aiming to provide an in-depth understanding of waqf's legal and governance dimensions in this context. The study also looks into the example of Turkish universities with established waqf practices.

Literature Review

Historical Roots and Evolution of the Waqf System in Turkish Society

The Ottoman Empire's Waqf History

The Ottoman period is described as the 'the civilization of waqf' (Bulut, 2020) and the empire's waqf systems are considered the most complex in Islamic history. The empire was known for its cash and real estate waqfs. Cash waqf (CW) originated in the Ottoman Empire, although its exact founding date is unknown. CW dates were discovered before the Ottomans. According to Bulut and Korkut (2017), Yagci Haji Muslihuddin introduced CW in 1423. Cash-based foundations are called "CW". Cizakca (2016a) states that the waqf is invested and used for philanthropy.

CW was first legalised in the seventh century by Imam Zufar, who required endowment funds to be invested in mudarabah, a financial partnership, and the profits used for social good. In medieval Europe, mudarabah was a commenda or sleeping partnership business. Dormant

partners do not actively participate in the firm but are entitled to a piece of the earnings based on the partnership agreement (Mandaville, 1979).

The Ottoman courts supported CW in the early 15th century since it promoted philanthropy in society. Bulut (2020) notes that the practice of CW first appeared in Ottoman Europe during the first quarter of the 15th century. The phenomena spread over Anatolia and the European territories under imperial rule by the end of the 16th century. Mandaville chronicled a heated debate on CW's legality in 1979 when its popularity increased. The opponents used fiqhi arguments, but the defenders supported waqf to help Muslims in Southeast Europe, particularly the Balkans.

Bulut and Korkut (2017) believe that CW advanced welfare, health, education, and the economy. However, the Ottoman CW trustees did not embrace murabahah as proposed by Imam Zufar, largely because they preferred istiglal (money investment) and were risk-averse. Although legal, istiglal prioritises individual interests over social well-being, which contradicts the CW concept. CW investment was common in the Ottoman Empire using istiglal (Cizakca, 2016b).

Waqf System Centralization in Turkey

Islamic history shows that waqf flourished during the Ottoman Empire. These entities can operate as decentralized independent institutions under their founders' beliefs. The institution denied government interference to prove its independence. However, the state's constant interference with the waqf system, begun under Sultan Mustafa III in the mid-18th century, was seen as a violation of its legal jurisdiction. The state's major expansion began after Abdulhamid I and Mahmud II established the Ministry of Awqaf, Nezaret, in the nineteenth century. Due to allegations of mishandling of waqf profits and untrustworthiness, Nezaret was created. Unfortunately, the goal of improving financial oversight of incomes through centralization failed after Musa Safveti Pasha became Minister of Awqaf because his son, Nafiz Pasha, was unable to accurately estimate waqf revenues. The State Council was informed and began an investigation of local waqf management after the tragedy (Cizakca, 2016a).

Turkish Current Waqf Administration

After the First World War, the Ottoman Empire collapsed and was replaced by a republic. The Ottoman Empire had by then, begun the Tanzimat process, which the Republic continued with. However, the waqf system decreased religious incentives (Aimi Fadzirul Kamarubahrin & Ayedh, 2018), and the republican Ministry of Education took over several waqf schools (Cizakca, 2016). The Republican destruction lasted from the mid-1920s to the 1950s.

Candidates for parliamentary seats in the 1931 general election committed to abolish waqf in accordance with their party ideology. A 1939 report suggests that the mass sale of waqf assets was congruent with the Peoples' Party's "for the people" slogan, suggesting that the assets were never intended for the public. The sale of waqf assets benefited those who profited. The Menderes government began demolishing Islamic waqf assets in 1954. The state confiscated Ottoman chemical weapons and built the Bank of Waqf with the proceeds. Thus, the first Ottoman charity waqfs lost their legal validity (Cizakca, 2016a).

The Emergence of Turkish Waqf Laws

Foundations have been governed by the Civil Code (Law No. 743 since the Turkish Republic was founded in 1926). The 1935 Foundations Law (Law No. 2762) sought to govern the Ottoman Empire's many foundations (Hatice, 2011). A newly formed body that included both preexisting and newly founded foundations was established called the Directorate General of Foundations ('DGF'). After the Turkish Civil Code No. 743 was passed on February 17, 1926, civil law regulated new foundations (Sesli, 2010). The Republic's early foundations were fragile. As the nation slowly transitioned to democracy and an active opposition emerged in parliament, waqf steadily reclaimed its former glory (Hatice, 2011).

Vehbi Koc, a famous businessman, led a coalition of politicians and scholars to pass a law in 1967. This regulation legalised CW and allowed it to become a corporate entity or waqf business. The change was notable for two reasons. The text proposed using Imam Zufar's initial premise of istiglal to prevent capital investment. Waqfs have struggled with knowledge asymmetry for decades, as the report noted. The 1967 law no longer required waqfs to be handled according to their deceased benefactors' wishes. Conversely, skilled business managers managed their investments and made them passive beneficiaries of income (Cizakca, 2016a). The waqf-regulating Turkish Civil Code No. 743 was revised and superseded by Law No. 903 on July 13, 1967. The 1967 Law revitalised and modernised the waqf in Turkey. Government tax incentives for charitable donations spurred the growth of new waqfs. Founders' endowments are tax-deductible if at least 80% of waqf profits go to public purposes. Alias (2011) asserts that firms can donate 5% of their profits to tax-exempt groups. Between 1967 and 1985, 1,877 waqfs were created. From 1986 to 1996, 439 new waqfs were established. This contrasts with the 73 waqfs established in the Republic's first 44 years, from 1923 to 1967. Around 4,000 waqfs were formed after the 1967 Law. In 1998, 16 waqf universities were founded. The statistic rose to 76 by 2015. Some people were considered the most accomplished in the nation and respected (Cizakca, 2016a). The Foundation Law 2008 (Law No. 5737) expanded waqf law Number 529. According to Hatice (2011), the new waqf law aimed to merge traditional and modern endowments.

Existing Turkish Waqf (Foundation) Laws and Regulations

The formation of foundations is legal under Article 33 of the 1982 Turkish Constitution. Upholding the Constitution's fundamental qualities, legal framework, ethical ideals, national unity, and welfare of the Republic is essential for laying the basis. Another important factor is that the Turkish Civil Code does not restrict foundation goals. However, the historical roots of foundations constrain profit distribution foundations.

Laws and regulations follow the constitution in hierarchy. The Turkish Grand National Assembly can enact, modify, and repeal laws, hence, waqf is regulated at the legislative level under Article 87 of the Constitution. This demonstrates the significance of waqf in Turkey. The amended Law No. 5737 was passed in Turkey on February 20, 2008. In 2009, Article 4 was amended to provide waqf with comprehensive legal jurisdiction (Turkey's revised Foundation Law and Important Amendments, 2008). The recently passed law removes DGF restrictions on foundations, including the requirement for clearance to operate overseas and the revocation of the DGF property acquisition licence. Establishing branch offices or agencies no longer require DGF approval. Akbas (2014) emphasises that the DGF must be informed of all progress. The

number of foundations increased once tax-exempt status was granted to foundations and donors. New waqfs rose from 4,443 in 2008 to 4,867 in 2014, according to Cizakca (2016b).

Foundation regulatory law No. 5737 was comprehensively drafted. The 82 articles covered basic provisions, foundation regulations, the director general of foundations, foundation council members, the director general's structure, recruitment, and other topics (Zurina Shafii, 2015). The roles, powers, and obligations of the Foundations Council, Guidance and Inspection Presidency, Foundation Experts, and Assistants are regulated. They also handle new foundation governance, management, operations, and audits.

Over 50 circulars and proclamations were implemented to strengthen Turkey's core legislation. Accounting, internal audit, waqf asset leasing, performance programming, and general directorate administrative structure were among the services given by the company. While foundations set clear operational principles, they slow bureaucratic processes (Shafii, 2015). Foundation prerequisites are explained in Turkish Civil Code Articles 101-117 (Law No. 4721). Article 1 of Law No. 5737 explains Turkey's Foundation Law goals: *"to set out the rules and procedures relating to the management, operations, and monitoring of the foundations; to ensure that their movable and immovable listed properties at home and abroad are to be registered, safeguarded, repaired and maintained; to secure that the assets of the foundation are economically managed and exploited; and to define the organization, tasks, powers, and responsibilities of the DGFs"*.

Article 2 of Law No. 5737 covers fused (mazbut), annexed (mulhak), new, non-Muslim, and artisan foundations. Akbas (2014) indicates that foundations are Turkey's legal framework for nonprofits. Article 101 of the Turkish Civil Code (Law No. 4721) defines foundations as "charitable organisations that possess legal personality and are established by individuals or legal entities who voluntarily allocate their personal assets and rights for the benefit of the public" (Hatice, 2011).

Any foundation can be endowed with all its assets, income from operations, or rights. Individuals might apportion moveable or immovable assets throughout the proceedings. They may also provide profit shares, money, or other interests. The commodities or rights offered must have enough economic worth to meet the foundation's goals (Hatice, 2011).

Waqf (Foundation) Management in Turkey

Foundations in Turkey can appoint members to their organisations through a trust deed. Article 9 of the 2008 Foundations Law lists those who cannot manage foundations. Article 10 states that foundation management must follow the foundation's mission and the law. In 2015, Zurina Shafii reported on foundation management dismissals as follows:

- i. *Fail to act in accordance with the purpose of the foundation*
- ii. *Not to have used the goods and income of the foundation in accordance with its purpose*
- iii. *To cause the foundation to suffer a loss because of his/her gross negligence and deliberate act*
- iv. *To have failed to complete or amend in the permitted term the errors and missing points identified by the Supervision authority, or insist on acting in violation*

- v. *To have lost the legal competence to exercise legal rights, or to have contracted a disease or disability which prevents him/her from fulfilling the task on a permanent basis*
- vi. *To have been imposed an administrative fine twice pursuant to Article 11 of the Foundations Law.*

Foundation Governance under the Directorate General of Foundations (DGF)

The DGF is the main waqf property manager and supervisor. The autonomous governing body reports to the Prime Minister. Article 35 establishes Law 5737. Since 1924, the DGF has replaced the Ministry of Waqf. As part of Ataturk's modernising initiatives, the Ottoman Empire made major adjustments (Deligoz, 2014). The DGF's mission, vision, and scope matter. Article 36 of Law No. 5737 states that the DGF manages and oversees foundation activities, registers and protects foundation cultural assets domestically and abroad, and operates and evaluates the foundation (Sesli, 2010).

The (DGF) has helped Turkey develop economically through investment, employment, poverty alleviation, fair income distribution, human capital development, and tourism promotion. Sesli (2010) reports that DGF funds have supported public assistance (42%), education (24%), culture (14%), general relief (2%), and health (6%). Hotels, mansions, villas, corporate centres, sports complexes, Formula 1 racetrack, and student apartments are among DGF's real estate assets. The philanthropic actions in fused (mazbut) foundation trust deeds guide this evaluation. Flat for Rent, Restore-Operate-Transfer, Build-Operate-Transfer, and Banking Activities are used in the appraisal process to realise these charity endeavours. Through these efforts, USD 2 billion was invested between 2003 and 2017. Benli (2018) notes that the DGF provides monthly scholarships of USD 25 to 20,000 primary and secondary school students, USD 80 to 5,000 university students, and USD 200 to 3,600 impoverished people. In accordance with the awqaf deeds, investments in cultural immovables generate income for these financial arrangements.

DGF invests in education and health alongside Fatih Sultan Mehmet and Bezmialem Sultan Waqf Universities to preserve the legacy in addition to manufacturing and restoration. Fatih Sultan Mehmet Vakif University and Bezmialem Vakif University increase qualified labour in health, research, education, and the arts. Despite the DGF's symbolic value in modern healthcare and education, Bezmialem and Fatih Sultan Mehmet Vakif Universities demonstrate modern Turkey's vakif history (Deligoz, 2014).

Finding And Discussions

The Role of the Waqf (Foundation) and Its Evolution in the Context of the Development of Turkish Higher Education

The historical development of the legal framework governing waqf in Turkish higher education reflects its deep-rooted historical significance, with regulations dating back to the Ottoman period.

A sturdy foundation shaped the Ottoman state, especially its economic and social systems. The Turkish Directorate for Foundation Administration (Vakiflar Genel Mudurlugu (VGM) has found 26,000–35,000 Ottoman-era foundation trust documents (waqfiyye), according to Koc

(2013). Koc has thoroughly studied the evolution of the foundation role within higher education in Turkey. This analysis covers seven periods:

1. Seljuks Ottoman and early Ottoman period (1000s-1300s)
2. Ottoman period between (1450-1600s)
3. Ottoman period between (1600s-1920)
4. Early Republic era (1920-1950)
5. Republic's Recurrent Democratisation Era (1950–1980s)
6. Era under the Higher Education Council (YOK) (1980s-2007)
7. Recent changes in YOK and emergence of foundation universities (2007- 2012).

During the period of the Seljuk and Ottoman empires, there was a notable focus on improving the standard of education and the Medresei Muderrisin (university professors and students), particularly until the era of Kanuni Suleyman (Zaim, n.d.).

Period 1: Madrasah System During the Seljuk and Early Ottoman (1000-1300s)

The term "medresse" refers to an advanced Islamic studies school, covering Arabic grammar and philology. Students must understand these topics to understand holy and legal writing (Mizikaci, 2006). A "Madrasah" is a place containing vital resources and materials for education. Madrasahs became important in Islamic civilization during the Great Seljukian era. According to Ozturk and Sayligil (2015) they performed functions similar to high schools and universities. The Seljuk Grand Vizier Nizamul Mulk created the Nizamiyah Madrasahs in the 10th century (1000-1300s). These institutions are Turkey's oldest higher education institutions (Hatice, 2011; Koc, 2013). Koc (2013) uncovered madrasahs in over 20 Seljuk cities. Each Nizamiyyah Madrasah was supported by one or more foundations, to which wealthy city residents, usually military and civil administrators, contributed aqar (revenue-generating assets). According to the waqfiyyah, a legally binding trust instrument, the monarch and judge of that time donated shops, shopping centres, plazas, hotels, and huge territories to the foundation. Ihsanoglu (2004) affirms that Orhan Gazi founded an Ottoman madrasa at Iznik (now Nicea) after conquering the city in 1330-1331. Until the early Ottoman Empire (1300–1450), Madrasahs helped civic education and military development. Students, professors, and visitors had access to classrooms (dershane), student accommodation, a health centre (darussifa), a bathhouse (hamam), a public kitchen (imaret), a guesthouse (balahane), and a library. Madrasah students, dervishes, local impoverished people, travellers, and hostages have breakfast, lunch, dinner, or both at the Imaret (Deligoz, 2014).

Period 2: Ottoman Period between 1450 and 1600s

Awqaf received respect in the Ottoman Empire's strong governance and economy during this time. To continue the Nizamiyah Madrasah system, local leaders, government officials, and foundations have provided support. The exchange of professors and students between madrasahs in different cities allowed for interconnection notwithstanding their autonomous management. This has many causes (Koc, 2013). Ozturk and Sayligil (2015) report that 563 Ottoman Madrasahs achieved greatness under Sultan Muhammed II and Suleyman.

According to Ihsanoglu (2004), these rulers struggled to make the new capital a learning centre. They founded madrasahs to promote education. Many Byzantine buildings were converted into mosques, madrasahs, and dervish lodges. Sultan Muhammed II, known as Fatih, founded the

Fatih kulliyah between 1462 and 1470 after conquering Istanbul in 1453. The famous physicist Ali Kuscü influenced this project. The largest madrasah complex includes mosques, hospitals, libraries, a public kitchen, and the Eight-Sanctioned Madrasah, Sahn-i Seman. Sahn I Seman madrasahs offered the most advanced instruction before the 1560s. The educational system used sub-level madrasahs like Tetimme to enrol students. Sultan Muhammed II combined traditions and customary rules into the Teskilat Kanunname (Legal Code). As a vakif-funded institution, the madrasah was subject to governmental restrictions (Deligoz, 2014).

The madrasah needed professors with experience in religious and rational disciplines like logic, philosophy, and mathematics to teach Social, Science, and Islamic Studies. By custom, Sahn I Seman Madrasah professors were higher than state city governors (sancak beyi). The highest salary for madrasa instructors was 60 akce in silver pieces. The lowest compensation these lecturers received was 20 akce. Suleyman, also known as Kanuni, founded the Suleymaniya Mosque and Kulliyah, which included the Madrasah, in 1559. The six madrasahs offered higher education in medicine, mathematics, science, religion (Dar ul Hadith), law, and literature. The complex had mektep (elementary and middle school schools), a library, a bathhouse, a tabhane (exercise and health facility), an imaret (kitchen), and a darussifa (health centre) (Ergun, 2012). Suleymaniya Kulliyah was founded thanks to Sultan Suleyman's waqf. Sahn Seman prioritised religion, while Suleymaniya prioritised social sciences, natural sciences, medicine, and advanced religious studies like Dar ul Hadith. The educational hierarchy was used to reorganise the madrasahs, with the Suleymaniya Madrasah at the top.

School corruption was first noticed during Suleymaniya Kulliyah, the wealthiest and most successful period. In other cases, academics were appointed without merit, resulting in "inherited" teaching positions and the rise of a distinct group of scholars known as the ilmiyye in society. Famous instances include the Hocazadehs (sons of hojas) and Fenarizadehs. These aberrations and non-merit-based appointments harmed education and human capital in the 17th, 18th, and 19th centuries (Koc, 2013). Turkey had many educational foundations under Ottoman rule. Since 1923, the Turkish Republic has worked to eliminate all Ottoman relics. The Ministry of Awqaf was abolished, and a secular revolutionary strategy was implemented. Sait and Lim (2006) report that numerous Islamic states have abolished the highly restricted waqf system through reformation. Thus, the DGF, a new state agency, temporarily oversaw all foundations. Reforms in the foundation and education systems led to an attempt to merge them. The Law for Unification of Education (Law No.430) consolidated education under the Ministry of Education in 1924. In modern times, the Ministry of Education regulates public and private pre-university institutions. The Minister of Education administers the Council of Higher Education (CoHE), which has legal jurisdiction over higher education. This evolutionary process changed the roles and purposes of educational foundations. The 1982 Constitution highlighted foundations, especially in higher education.

Period 3: Ottoman Period between 1600s and 1920

Darulfunun was founded in 1846 under the Ottoman Empire after the Gulhane Imperial Edict in 1839. Muvaffakat Maarif Meclisi founded Darulfunun after this edict declared the Ottoman Empire's modernization. As stated by Gul (2016), this was the first civil higher education institution to use the European university model. Mizikaci (2006) indicates that it became Darulfunu-i Osmani, the Ottoman House of Sciences. However, a fire in 1865 and criticism from madrasa professors who supported outdated practices led to the institution's dissolution (Gul, 2016). In 1900, Sultan Abdul Hamid established Darul Fununu Shahane after a series of

examinations and failures from 1850 to 1900. Sultan Abdul Hamid introduced multiple schooling tiers. These included elementary, middle, high, and higher education institutions like Darul Fununu Shahane, vocational, military, and girl-focused schools (Koc, 2013).

In the last years of the Ottoman Empire, the education system was controversially changed from Awqaf-funded madrasahs and sibyan to a Westernised one. In contrast to awqaf-based education, the government supported and funded the new school system in Darulfunun. Despite initial successes and reforms, excessive government intervention and political control in the education system, especially during the late Ottoman Empire and Republic era, hurt universities and the public.

Period 4: Early Republic Era (1920-1950)

After WWI, the Ottoman state collapsed, resulting in a republic. The republican administration between 1923 and 1948 secularized and westernized Eastern society, changing it. Zaim (n.d.) divides the time under consideration into two phases: revolutionary movements from 1923 to 1941, and an intermediate time between 1942 and 1948 that reconciled reactionary and revolutionary shifts and transitioned the society from a political party system to a secular democratic structure. The new republic's secular revolutionist rulers eliminated all Ottoman elements, including education (Koc, 2013; Stanley, 2013). In the 1930s, the republican Ministry of Education took over all Ottoman waqf schools (Cizacka, 2016b). The "Father" of modern Turkey, Mustafa Kemal Atatürk, was a staunch enlightenment advocate and valued science. The individual adopted Western institutions, beliefs, and education to make Turkey a powerful nation. The Reformation included the transition from Holy Law to European civil law, the adoption of the Gregorian calendar, the switch from the Arabic to the Latin alphabet, the prohibition of polygamy, the abolition of the Sultanate (king), the closure of Madrasahs, and the government's control over all awqaf properties.

As required by Law Number 493, Darulfunun was renamed Istanbul Darulfunun after the Ottoman Empire gave way to the republic (Bulbul, 2017). Unfortunately, Istanbul Darulfunun failed to show Turkish society its educational innovations (Dogramaci, n.d.). Thus, a fundamental reformation was needed for the 1933 determination. Professor Albert Malche, from Switzerland, was hired to remodel Darulfunun using Western European university models. The report found that Darulfunun had little impact on the Turkish Revolution, opposed reforms, lacked a supervisory entity, did not conduct scientific research, and operated in isolation from society. Law Number 2252 dissolved Darulfunun, which became Istanbul University in November 1933. The term "university" was first used in Turkish law in Law 2522. Bulbul (2017) affirms that legislative statutes and rules changed Istanbul University governance. Thus, the university became a centre for academic research in Turkey (Mizikaci, 2006).

At least two-thirds of mudarris, or professors, were fired, according to Koc (2013). Additionally, about 60 German and Austrian scholars arrived. Since it involved a Jewish academic, the Nazis indirectly helped the move. Based on the Germans' suggestion, Ankara University, which included numerous colleges in the expanding metropolis, became a Higher Institute of Agriculture. According to Stanley (2013), Atatürk believed that these reforms may help Turkey reach Western levels of economic and scientific progress, with a focus on speed. As stated by Nergis (2011), the individual believed education was vital to establishing a Western-aligned Turkey. Turkey tried to secularize and nationalize education.

Bulbul documented the 1946 University Reform in depth. Turkish elections were held in 1946 when a multiparty democratic system was established. The new Universities Law 4936 gave universities more autonomy and reformed higher education (HE). This means that the institutions would be run by the administrators they elected, who would oppose monitoring. Dogramaci (n.d.-b) claims lecturers received immunity. This law established universities with a coherent institutional framework. The 'Inter-University Council' was created to preserve this unity's management. As noted by Bulbul (2017), the university definition was rethought.

Period 5: Republic's Recurrent Democratization Era (1950–1980s)

Universities changed from Continental European to American around 1950. The new government believed the American University model would meet socioeconomic needs. Thus, nationwide university expansion was difficult (Bulbul, 2017). In the 1950s, the Democratic Party founded several Anglo-American-style universities. Two notable examples are Karadeniz Technical University in Trabzon and Ege University in İzmir, founded in 1955. Middle East Technical University (METU) was created in Ankara in 1956 and Atatürk University in Erzurum in 1957 (Koc, 2013; Mizikaci, 2006). After World War II, the US gained global prominence, prompting many universities to embrace the American model. In subsequent decades, METU, Ataturk University, and KTU received US financial and human support (Koc, 2013). Hacettepe University was founded in 1967 when the Hacettepe Faculty of Medicine merged with Ankara University. Robert College became an English-medium state university in 1971. Thus, it became Bogazici University. Mizikaci (2006) portrays Hacettepe University as a hybrid model between Anglo-American and Continental European public universities.

University law 1750 was passed in 1973 after educational reform was revived. Law 1750 established a beneficial "Higher Education Council." This council was created to perform vital investigations, research, and evaluations to steer higher education and facilitate higher education collaboration. Bulbul (2017) claims that Law 4936, passed in 1946, preserved the academic, administrative, and budgetary framework.

Period 6: Era Under Council of Higher Education (CoHE) (1980s-2007)

Turkey's higher education expanded from 1946 to 1981. However, higher education failed to satisfy public expectations due to poor management, collaboration, planning, and oversight. From 1960 to 1980, political, social, and economic factors exacerbated higher education conditions. Thus, higher education faced budget management and allocation issues. Law Number 2547, passed on November 6, 1981, established the Council of Higher Education (CoHE). The CoHE's main goal is to strategically plan, coordinate, oversee, govern, and supervise Turkey's higher education institutions (Bulbul, 2017). However, on 20 April 1982, certain elements of Higher Education Law No. 2547 were modified to establish the Council of Higher Education (CoHE)'s power. A constitutional framework was created to monitor and manage higher education's core duties. The functions included control, supervision, teaching, and research. The Council of Higher Education (CoHE) has legal attributes. However, Kamal (2017) discovered that this approach was dependent on government institutions, which affected educational policy to conform with partisan political motivations.

As stated by Kayadibi and Alimova (2016), Articles 130 and 131 of Law 2547 give the Council of Higher Education (CoHE) ultimate responsibility for all Turkish HEIs. The legislation consolidated several Turkish educational institutions, according to Kayadibi and Alimova (2016). Universities, academies affiliated with the Ministry of National Education, two-year vocational colleges, conservatories, all education institutes, and the Common Institution of Higher Education established in Turkey before 1981 are included. The Council of Higher Education unified these institutions.

The establishment of the Waqf Higher Education Institutions Coordination Unit, in conjunction with other administrative units of the Council of Higher Education (CoHE), was implemented. This unit focused on various aspects related to waqf for higher education. These aspects included the process of establishing waqf, actions that necessitate changes in the commitments made during establishment, activities associated with requesting permission to commence education, activities related to the annual report provided by the Higher Education Audit Supervisory Board, actions taken by board members of trustees and any changes made, actions pertaining to the regulations for purchasing and tender procurement, and activities connected to the affiliation request of waqf universities within the framework of the "Principles, Regulations, and Procedures Related to the Cooperation between Waqf Higher Education Institutions and Private Hospitals" (Kayadibi & Alimova, 2016).

The CoHE can create new universities and appoint rectors, deans, chairs, and assistants. Universities were managed by rectors loyal to the CoHE and the president. This era saw more university foundations than foundation universities. Universities often form foundations and partner with companies to generate cash.

Universities lost autonomy under the CoHE until 2008, when government and politics influenced faculty appointments and budget allocation. Students were barred from wearing headscarves during that time, at first at the country's first university (Koc, 2013). About 25 foundation universities were allowed to open after a new administration took power in 2002, from 1984 to 2008. Foundation institutions with US-educated administrators and academics have more autonomy, a better academic environment, more research possibilities, and more scholarly output.

Period 7: Recent Council of Higher Education (CoHE) Changes and the Rise of Foundation Universities (2007–2012)

After Turkey's popular presidential election in 2007, many constitutional revisions were made. Hn. A Gul was the first president under this new constitution. Since 2008, the head has appointed the Council of Higher Education (CoHE) head and institution rectors based on public opinion. The Council of Higher Education (CoHE) gave students and professors a wide variety of liberties, including equal university admissions. Notably, the quantity of universities escalated beyond 170 (Koc, 2013).

The Current Regulatory Framework of the Higher Education System in Turkey

Turkey has 81 provinces and a highly centralised administration. Turkey has extensive experience with waqf formation and management in higher education. Turkey had 184 higher educations in 2014. These institutions included 72 foundation-based higher education, up from 24 in 2004. The bulk of foundation universities are in Istanbul. Strong foundation-based

institution performance suggests excellent fund management. Thus, the number of foundation-based higher education higher educations increased to 76, including eight vocational HEIs. Turkey had 84 foundation-based higher education's according to Kayadibi et al. (2016). In Ankara, the national government oversees most education activities. National pre-tertiary education policies and management are set up by the Ministry of National Education. Provincial governors oversee the Directorates of National Education chosen by the ministry head. Kamal (2017) states that local educational institutions and other entities have limited autonomy. The 1982 Constitution established private non-profitable higher education institutions (HEIs), raising foundation higher education's profile. The Turkish higher education system has two types of universities: public or state and private or non-profit foundation.

State Universities (Public Universities)

Typically, the administration of state and public universities is entrusted to an elected and designated president. State university presidents are vested with absolute power and responsibility. State universities receive government funding in accordance with comprehensive expenditure itemizations. These itemizations are predominantly developed after consultations and take into account allocations from the previous year. Additional revenue sources include publications and sales, profits, fees, payments, movable and immovable property, and institutions. Although state universities are granted financial assistance by the government, substantial responsibility for funding expenses in the event of insufficiency falls on the foundations established within the faculty.⁶⁰⁴ In accordance with the Foundations Law No. 5737, Turkish Civil Code Law 4721, and Article 130 of the 1982 Constitution, state universities that support foundation formation must do so. Since the establishment of the Republic, foundations have placed significant emphasis on the enhancement of universities (Hatice, 2011).

As an example, the Abant Izzet Baysal University became the third state university supported by a foundation when it was founded on July 3, 1992. The foundation that Turkey's most prominent philanthropist, Izzet Baysal, established has provided the necessary funding. As of 2010, the university's physical structure and technological infrastructure had reached an excellent level, thanks to an investment of up to TL 262 million in facilities and equipment, which the Izzet Baysal Foundation and state allocation had sponsored.

All of the levies inside the university zone, including parking fees and community taxes, go towards funding state institutions. Scholarships for qualified students, faculty research funding, increased campus security, and other uses are all within the university's purview with these funds. Stipends, housing and food subsidies, and merit-based student scholarships are all possible through waqf. The budget dictates how much the professors and other staff members get paid. Most scholarship programs typically evaluate applicants based on their academic performance or accomplishments (S M Mahamood & Ab Rahman, 2015). Community service is one way in which public universities and foundations work together. To this day, many public colleges and universities can manage their limited budgets while simultaneously expanding the breadth and depth of their academic programs. Scholarships are not the only thing these organizations provide for college students; they also encourage them to get involved in community events like symposiums and theatre or film clubs. Adapting to a community where they may learn their social duties and contribute to it is something the students are encouraged to do (Hatice, 2011).

Nevertheless, some criticisms were received by the foundations in supporting the universities when they are claimed to prevent transparency in university relations. A few university foundations have indeed been the subject of corruption investigations. As a result, a new Law (Law No. 5072) regarding “The Relations of Associations and Foundations with the Public Institutions and Organizations” was enacted in the year 2004 (Official Gazette 29.01.2004-25361). This law forbids foundations and associations from using names and properties of public bodies to participate in tenders of public institutions, to demand any payment or donation for public services, or to buy from foundations or associations. It also forbids public servants to use their titles when holding positions in foundations and to withhold their wages in favor of the foundation. However, public servants who work for such foundations cannot demand any payment. Any resource transfer from the university budget to foundations is also forbidden (Article 2). These drawbacks, which regulate all types of associations and foundations, have weakened the university foundations. There should not be restrictions imposed upon them, but strengthening the control systems over foundations that would eventually deprive state universities and would operate to their disadvantage, may be beneficial after all (Hatice, 2011).

Foundation University (Private Non-Profitable Foundation University)

Foundation University is a private, non-profit HEI in one of Turkey's four HEI groups. The Turkish Constitution allows foundation universities to be established after they were banned in the early 1970s (Gur, 2016). Private institutions may then operate under government oversight and as nonprofits. Such "foundation (Awqaf) universities" need CoHE approval for their curriculum. The 1982 Turkish Constitution includes two essential provisions stating that colleges are not for profit (Dogramaci, n.d.-a). As non-profit universities constitute the cornerstone of the Turkish higher education economy, they cannot invest. University income should completely fund scholarships, research, and capital investments (S M Mahamood & Ab Rahman, 2015). Foundation universities play a crucial role in relieving public universities of some of their responsibilities by offering students a high-quality education, according to a 2007 assessment by CoHE (Erkoc, 2011). Research or teaching can be done in foundation universities. Foundation universities increased alongside public institutions in the recent decade. The Board of Higher Education (BHE) officially supported new foundation universities in 2008. Foundation universities more than doubled between 2008 and 2015. Private universities have enhanced public university teaching and research by encouraging healthy competition (Dogramaci, n.d.-b). These are governed by the same HE law; Law No 2547 (Ozcan, 2011). In accordance with legal requirements, entrepreneurs are typically required to first establish a foundation before they can legally establish a university as mentioned in Article 130 of the Turkish Constitution 1982. Foundation universities mostly rely on contributions from foundations, student fees, and government subsidies to financially support their operations (Ozcan, 2011). According to Dogramaci (n.d.) in theory, the government can contribute financially to private institutions, but this has never exceeded roughly 2% of their budget. Lynch (2015) claimed that most foundation universities profit from governmental land donations.

Examples of Foundation Universities

After the Republic was declared in 1984, Bilkent institution became the first foundation institution and a successful Turkish model for private higher education (Kamal, 2017). Koc University, Sabanci University, Beykent University, Istanbul Trade University, and TOBB ETU followed in 1993–2003. For the dissemination of scientific freedom and speedy

breakthrough performance within a decade, the government built 71 new waqf universities as the fastest-growing opportunities in Turkish history, reaching 76 by 2014. Eventually, it reached 98 in 2017 (Kayadibi & Alimova, 2016). After 20 years, Koc University is one of Turkey's top universities, raising education, knowledge, and service locally and abroad. The internationally famous Vehbi Koc Foundation supports Koc University.

Istanbul University is yet another instance of a foundation university. The Turkey Religious Affairs Foundation (TDV) founded it with the same status as Fatih Sultan Mehmet Waqf University. Students from Central Asia, the Caucasus, the Balkans, and other nationalities, as well as members of the community of friends and family to whom the TDV has extended scientific employment prospects, are the university's primary focus at Istanbul University. The university believes it has a responsibility to its graduates to not only pay for their education but also to help them get back on their feet by giving them the chance to pursue graduate degrees if they are enthusiastic and talented enough. All students are eligible for full scholarships (Kayadibi et al., 2016).

In addition, there are two waqf universities that differ slightly because they emerged from the historical waqf tradition of the Ottoman State, namely Fatih Sultan Mehmet Waqf (Vakif) University and Bezmialem Waqf University. Their establishments were based on foundation law-compliant waqf deeds and regulations (Benli, 2018).

Fatih Sultan Mehmet Vakif University (FSMVU) is a private and non-profit university (Othman, 2015) that demonstrates the waqif legacy in contemporary Turkey (Deligoz, 2014). Located among buildings with a history that stretches back to earlier decades of Ottoman Istanbul, the FSMVU is situated in the heart of the city on the historical peninsula. The DGF formed it in 2010 with the purpose of being at the forefront of Turkish higher education and research. The Vakif of Mehmed II (the Conqueror), Architect Sinan Vakif, Nurbanu Sultan Vakif, Hatice Sultan Vakif, and Abdullahoglu Haci Abdulaziz Aga Vakif were all involved in its establishment. The Vakif of Mehmed II, for example, was established in 1471 by Sultan Mehmet II, The Conqueror of Istanbul, to preserve and safeguard the Hagia Sofia mosque, which was then expanded to give financing for education until the present day. To underline the historical connection, the university changed its foundation date to 1471 in 2014, claiming to be the successor to the Sahn-i Seman Madrasas (Deligoz, 2014). The FSMVU comprises seven faculties, five institutes, two vocational schools, three language schools, six research centres, and five centres on six sites in Istanbul's historical peninsula. 632 Fatih Sultan Mehmet and Bezm-i Alem Valide Sultan Waqf Universities have received DGF education and health investments. Fatih Sultan Mehmet and Bezm-i Alem Valide Sultan Waqf Universities enhance health, scientific, education, and art workers (Benli, 2018).

Bezmialem Waqf University shows how the DGF perpetuates the vakif legacy in health care. Funded by Bezmi Alem Mother Sultan Vakif, Silahtar Abdullah Aga, and Abdulhamid Sani Waqfs (Benli, 2016), it features a research hospital for education and therapy. The hospital was founded in 1843 by Sultan Abdulmecit's mother, Bezm-i Alem Valide Sultan, as Bezmialem Homeless Hospital. In 2010, this hospital became a research hospital connected with Bezmialem Vakif University, Faculty of Medicine. The Bezmialem Mother Sultan Vakif endowment deed declares, "in the hospital funded by this Vakif, only the poor, the needy and the destitute will be examined." According to its mission statement, the hospital operates "to provide health services for the poor and the destitute at the same size and quality, aligned with (their) mission in the history" (Deligoz, 2014).

To sum up, the study's findings provide a detailed picture of the governance and legal facets of waqf in Turkey's universities. To guarantee that waqf's beneficial influence on Turkey's higher education sector continues, this study stresses the significance of a strong legislative framework and governance mechanisms. The difficulties encountered by educational institutions are highlighted by the study's limitations and potential directions for further research.

Conclusion

In conclusion, considerable insight can be gained regarding the development of waqf in Turkey up until the present time. Legislative amendments in Turkey occur in tandem with the establishment of foundations. This development, which transpires during various leadership eras, guarantees the improvement of waqf management and administration in Turkey. Initiated by the new republic between 1920 and 1950, the secular revolutionary approach significantly reformed waqf and its administrators by removing all elements associated with the Ottoman era, including educational waqfs. In addition, the law and governance of waqf in Turkish higher education is a complex and dynamic subject that requires ongoing attention and research. This study contributes to the understanding of this important institution's functioning and its potential to further support and enrich higher education in Turkey. It is believed that in order to improve waqf in HEIs, all waqf-related stakeholders in Malaysia should draw lessons from Turkey's experiences.

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