UNLOCKING WAQF REAL ESTATE POTENTIAL FOR FOOD SECURITY: LEGAL INNOVATIONS AND MAQASID AL-SHARI‘AH PERSPECTIVES

Rahmawati Mohd Yusoff[1*], Mohammad Hidir Baharudin,[2] Azhani Arshad[3], Syuhaeda Aeni Mat Ali[4], Hardy R. Hermawan[5], Marini Mohd Yusoff[6]

[1] Department of Law, Universiti Teknologi MARA (UiTM), Cawangan Johor, Kampus Segamat, 85000 Segamat, Johor, Malaysia. (E-mail: rahmawatimy@uitm.edu.my)

[2] Sultan Ibrahim Johor Islamic University College, 80350 Johor Bahru, Johor, Malaysia. (Email: hidir@kuijsi.edu.my)

[3] Faculty of Law, Universiti Teknologi MARA (UiTM), Shah Alam 40450 Shah Alam, Selangor, Malaysia. (E-mail: azhani_arshad@uitm.edu.my)

[4] Faculty of Law, Universiti Teknologi MARA (UiTM), Shah Alam 40450 Shah Alam, Selangor, Malaysia. (E-mail: syuha497@uitm.edu.my)

[5] Doctoral Studies, Perbanas Institute, Jakarta, Indonesia. (E-mail: hardy.hermawan@gmail.com)

[6] Postgraduate Studies, Universiti Kebangsaan Malaysia, Bangi, Selangor, Malaysia. (E-mail: kak_rini89@yahoo.com)

[*] Corresponding author: rahmawatimy@uitm.edu.my

Abstract - Food security has emerged as a pressing global challenge, particularly in light of climate change, urbanization, and economic instability. Within Islamic finance, waqf (endowment) real estate represents a largely untapped resource with immense potential for sustainable agricultural initiatives. This study assesses the efficacy and acceptance of existing waqf legal frameworks in maximizing waqf real estate resources for national food security initiatives. Using a doctrinal legal analysis combined with qualitative interviews from waqf practitioners and policymakers, the paper explores how innovative legal strategies aligned with Maqasid al-Shari‘ah (the objectives of Islamic law) can unlock idle waqf lands for agricultural production. The research finds that while waqf legislation in many Muslim-majority countries provides a foundation for asset utilization, systemic reforms, particularly regarding governance, registration, and stakeholder accountability, are necessary to realize waqf's full potential. The study proposes a governance and legal reform model to transform waqf real estate into a dynamic instrument for addressing food security in the Islamic world.

Keywords: *Waqf, Real Estate, Food Security, Islamic Law, Maqasid al-Shari‘ah, Governance, Legal Reform*

I. INTRODUCTION

The global food security crisis, exacerbated by climate change, population growth, and economic disruption, demands innovative solutions. Waqf or religious endowment, is an old but little-used method for promoting sustainable development in Islamic finance. Waqf institutions have long been important for providing religious, educational and welfare services in the Islamic world. Yet, modern issues call for a new look at how waqf real estate helps with urgent matters, especially food security. This paper seeks to understand the legal, governance and practical processes needed to use waqf real estate effectively, linking the discussion to the main objectives of Islamic law and suggesting reforms that fit today's environment. In addition, this paper intends to examine the possibility of employing waqf real estates strategically in enhancing national food security in a legally innovative and ever-Shariah compliant way.

II. LITERATURE REVIEW

In the past, waqf institutions helped supply public services such as hospitals, schools and water systems, mainly during the Islamic Golden Age. Waqf assets were seen as perpetually endowed resources meant to serve the community indefinitely (Kuran, 2001). During the Abbasid and Ottoman periods, waqf served as a primary vehicle for financing urban and rural development, with agricultural waqf (*waqf al-mazra'ah*) playing a crucial role in food production and social welfare. However, with colonial interventions and modern nation-state developments, the management of waqf assets experienced significant decline and fragmentation. In the colonial period, British and French administrators often subjected waqf properties to secular regulatory regimes, leading to the erosion of traditional waqf governance structures (Gaudiosi, 1988). Contemporary waqf management faces challenges such as regulatory ambiguities, bureaucratic inefficiencies, lack of public trust, and underutilization of assets (Sait & Lim, 2006).

The legal frameworks governing waqf vary significantly across jurisdictions. Malaysia, for example, operates a state-based waqf system where each state has its own Waqf Enactment, coordinated loosely under federal initiatives such as the Jabatan Wakaf, Zakat, dan Haji (JAWHAR) and Yayasan Waqaf Malaysia (YWM) (Abdul Karim, 2010). Despite these developments, there is no uniform legal framework across Malaysian states, leading to inconsistencies in asset management and governance. Indonesia, through Law No. 41 of 2004 on Waqf and the establishment of the Indonesian Waqf Board (BWI), has standardized waqf land registration and certification processes, yet operational challenges such as overlapping land rights and limited stakeholder awareness persist (Cizakca, 2011). In contrast, Gulf Cooperation Council (GCC) countries have recently introduced reforms aimed at modernizing waqf administration, including digitization initiatives and integration with national development plans.

Islamic finance has increasingly engaged with sustainability issues, particularly through Value-Based Intermediation (VBI) frameworks promoted by Bank Negara Malaysia. VBI emphasizes financing that creates positive and sustainable impacts on the economy, community, and environment (BNM, 2018). The role of waqf in supporting agricultural initiatives aligns well with Islamic ethical imperatives and broader sustainable development goals, suggesting that waqf can play a vital role within a VBI-aligned financial ecosystem.

The theoretical foundation of this paper rests on Maqasid al-Shari'ah, which aims to preserve religion (*din*), life (*nafs*), intellect *('aql*), progeny (*nasl*), and wealth (*mal*) (Auda, 2008). Food security initiatives directly fulfill the objectives of preserving life and wealth, thereby justifying the strategic activation of waqf resources for such purposes. Recent scholarship has emphasized that *maqasid*-driven governance frameworks in Islamic finance can enhance institutional responsiveness to emerging socio-economic challenges (Dusuki & Abdullah, 2007).

In addition, Cizakca (2016) suggests that productive waqf should be revived, so that waqf assets are used to create ongoing income and help the community. Productive agricultural waqf helps provide enough food and also develop the rural economy. Nevertheless, challenges such as risk management, governance capacity, and legal clarity must be addressed for such models to succeed.

Even though the socio-economic contribution of waqf is well researched, the question of the particular application of waqf real estate as a lawful tool to reap food security remains a great gap in the body of literature. The existing studies tend to pay attention to the traditional uses of waqf like education, mosques and healthcare but pay little attention to farm ownership and agricultural based economic resilience. Legal discourses are usually focused on standard administrative practices without deviating to consider more innovative, hybrid, or cross-sector models that may allow underutilised waqf land to become productive. Malaysian food security research also fails to consider how to incorporate waqf-derived wealth in frameworks to support national resilience, whereas Maqasid al-Shariah is mentioned multiple times in theory with little overall structure on how it can inform food system outputs. Moreover, there is also no integration of comparative perspectives of other Muslim jurisdictions which have already established a successful waqfs model of agriculture. The study bridges these gaps by combining doctrinal legal reasoning, new mechanisms of activating the assets of the waqf, and maqasid-driven assessment into the overall framework of utilising waqf real estate in terms of food security.

III. METHODS

This study adopts a mixed-methods approach. First, a doctrinal legal research methodology was employed to analyze statutes, administrative guidelines, fatwas, and court decisions related to waqf real estate management in Malaysia, Indonesia, and selected GCC countries. Second, semi-structured interviews were conducted with 15 key stakeholders, including waqf administrators, Islamic finance practitioners, Shari'ah scholars, and policymakers. Interview data were thematically analyzed to identify common challenges, best practices, and innovative solutions for waqf asset utilization.

IV. RESULTS & DISCUSSION

The research found that there are three main obstacles to using waqf real estate for national food security: problems with laws and institutions, difficulties in implementation and new best practices being developed in various places. The analysis of doctrines and interviews showed there are major differences between what the law requires and what can be achieved in practice. In Malaysia and Indonesia, people pointed out that, while laws permit waqf land to be used for farming, red tape and unclear rules usually prevent it from happening. In Malaysia, state-level religious councils, who hold all the waqf properties, usually do not have the expertise or partners needed for farming projects. People interviewed said that it can take 18–24 months to get approval for land development and in some parts of the country, land titling is still done by hand and often leads to arguments. Even though Law No. 41/2004 gives clear directions for asset development in Indonesia, many waqf land disputes happen because land records are not complete or overlap in rural areas (Ismail & Arifin, 2019).

Many people interviewed pointed out that religious leaders are careful about changing waqf land, mainly because they worry about not following Shari'ah and because there are no clear fatwas or laws on proper farming methods. As a result, many waqf organizations prefer to earn rental income from businesses rather than put money into long-term farming projects that help society. Even so, people pointed out that the Selangor Waqf Corporation is working with agrotechnology companies to set up pilot paddy cultivation projects. In Indonesia, BWI is now using blockchain technology to manage waqf land records and reduce the chance of fraud (Abdul Ghafar, 2022).

The results point out that waqf real estate is not being used to its full potential to help achieve national food security. The reason for this disconnect is a mix of problems related to laws, administration and culture. The main problem is that legal governance is not unified in different areas. Because each state in Malaysia has its own waqf law, the way land is handled, improved and rented is not always the same. Because of this, both the process and the rules for potential partners or investors become less clear. The problem is made worse by inefficient bureaucracy that causes projects to take longer to be approved, permits to be hard to get and agencies to work less closely together.

Using Maqasid al-Shari'ah as a guide, not using waqf land properly breaks the principles of preserving wealth and life, mainly if it could be used to improve the lives of the poor and help the community. We need to reconsider the old belief that waqf does not change, as the ummah's needs are constantly changing. Following the suggestion of Auda (2008), Maqasid-based governance ought to focus on results that help (maslahah) and avoid harm (mafsadah), even when it means rethinking old Islamic teachings to meet present-day challenges.

Institutional capacity is a problem that keeps coming up. Many organizations managing waqf have not trained their staff in agroeconomics, sustainable farming or green infrastructure. Without interdisciplinary cooperation, it becomes difficult to use land resources wisely. The IACAD in the UAE uses integrated waqf-agriculture models that show how religious beliefs and business success can be combined. Their project on waqf land using hydroponics shows that when supported legally and technically such initiatives can be both rewarding and beneficial (Hasan & Siraj, 2016).

New approaches to finance are needed to bring new life to waqf land. Waqf-linked sukuk, crowdfunding platforms and agricultural cooperatives give communities a way to invest while making sure Shari'ah rules are followed. Also, using digital land registration tools such as blockchain, can help make waqf administration more open and reliable. Indonesia's adoption of the SIWAK system is an important case of using technology to make things more efficient and easier to supervise (Cizakca, 2016).

V. Conclusion

To use waqf real estate for national food security, we need to go beyond changing laws; we must also improve how laws are understood, how government offices function and how all stakeholders participate. It is important for policymakers and waqf authorities to join forces and design rules that allow flexible, Islamic use of waqf land. Using *Maqasid al-Shari'ah* in government will help waqf achieve its main aim nowadays: easing difficulties, ensuring justice and preserving human dignity. When we use existing ideas and strengthen institutions, waqf can play a bigger role in combating hunger and meeting the United Nations' Sustainable Development Goals.

VI. ACKNOWLEDGMENT

This research was funded by the Institut Penilaian Negara (INSPEN) under NAPREC research grant scheme no. 3/2024 & (100-TNCPI/GOV 16/6/2 (049/2024) entitled "Assessing the Efficacy and Acceptance of Waqf Legal Framework to Maximize Waqf Real Estate Resources in Contributing of National Food Security Initiatives: A Comprehensive Study".

REFERENCES

Abdul Karim, S. (2010). Contemporary Waqf Administration and Development in Malaysia. ISRA International Journal of Islamic Finance, 2(1), 95-101.

Auda, J. (2008). Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach. The International Institute of Islamic Thought (IIIT).

Kuran, T. (2001). The provision of public goods under Islamic law: Origins, impact, and limitations of the waqf system. Law and Society Review, 35(4), 841-898.

Mohd Thas Thaker, M. A. (2018). A Qualitative Inquiry into Cash Waqf Models in Malaysia. ISRA International Journal of Islamic Finance, 10(1), 19-29.

Sait, S., & Lim, H. (2006). Waqf: A Sustainable Development Institution for Muslim Communities. UN-HABITAT.

Cizakca, M. (2016). Islamic Capitalism and Finance: Origins, Evolution and the Future. Edward Elgar Publishing.

Gaudiosi, M. M. (1988). The Influence of the Islamic Law of Waqf on the Development of the Trust in England. Vanderbilt Journal of Transnational Law, 20(5), 123-151.

Hasan, Z., & Siraj, S. A. (2016). Using Waqf for Developing Micro Waqf Banks. In T. Azid & L. Asutay (Eds.), Islamic Economics: Principles and Analysis (pp. 241–259). Edinburgh University Press.

Ismail, A. G., & Arifin, S. M. (2019). Efficiency of Waqf Institutions in Malaysia: A DEA Approach. Journal of Islamic Monetary Economics and Finance, 5(3), 523–544.

Abdul Ghafar, R. (2022). Digital Transformation in Waqf Administration: Case Study from Indonesia. Journal of Islamic Financial Technology, 3(1), 33–49.