

THE WAKAF BENEFITS OF SHARIA SHARES AS PRODUCTIVE WAQF MODERNIZATION: COMPARATIVE STUDY OF INDONESIA AND MALAYSIA

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Article Info

Received: 2023-08-12

Revised: 2024-02-21

Accepted: 2024-06-31

Keywords:

Wakaf, Saham,
Indonesia, Malaysia,
Syariah.

Abstract

Waqf, as an important form of financial worship, has significant economic potential and has evolved from traditional forms such as land and buildings to innovations like cash waqf, which is more flexible for developing productive enterprises. Although the potential for cash waqf in Indonesia is very high, reaching Rp180 trillion per year according to the Indonesian Waqf Board, its management is not yet optimal. The aim of this research is to analyze and compare the development of Sharia stock benefit waqf as a form of productive waqf modernization in Indonesia and Malaysia, and to identify its development potential to increase the effectiveness and benefits of waqf in the context of modern Islamic economics. This research uses normative legal research methods with statutory and conceptual approaches, focusing on analyzing regulations and legal concepts related to Sharia stock benefit waqf in Indonesia and Malaysia. Legal sources include primary, secondary, and tertiary materials, with data collection techniques through literature study and data analysis using a comparative qualitative approach. The research results show that stock waqf has been implemented in Indonesia and Malaysia in accordance with applicable regulations, with differences in the institutional structure of its management. In Indonesia, stock waqf is regulated by the Ministry of Religion, the Indonesian Waqf Board, and the National Sharia Council, while in Malaysia it is managed by the State Islamic Religious Council in each state. Indonesia focuses on Sharia stock waqf or its profits, while Malaysia raises funds through share offerings to finance specific programs. Nevertheless, the potential for stock-based waqf in both countries has not been optimally maximized. Factors influencing development in Indonesia include stock waqf literacy, nazir capacity, and inefficient digitalization, while in Malaysia it is constrained by regulatory inconsistencies between states, lack of a transparent and accountable regulatory framework, and



limited regulations on mechanisms for collecting and distributing cash waqf including shares.

I. Introduction

Wakaf (endowment) is one of the important financial acts of worship and has a very significant economic potential. Engaging in wakaf means developing productive assets for future generations in accordance with the purposes of wakaf, which may include benefits, services, and the utilization of its outcomes. This wakaf becomes shares, and parts or units of investment funds.

In the past, waqf was usually associated with immovable objects, such as land or buildings. Now, waqf has started to innovate and be developed in other forms, such as cash waqf, whose use can be flexibly utilized for the development of productive businesses. The main characteristic of waqf that distinguishes it from others is that when waqf is performed, there is a shift in ownership from private ownership to the ownership of Allah SWT, which is expected to be eternal and provide continuous benefits. (Hazami, 2016)

Given the large number of Muslims in Indonesia, the potential for collecting waqf funds is very high. According to data from the Waqf Information System (SIWAK) of the Ministry of Religious Affairs accessed on September 29, 2021, the potential for cash waqf according to the Indonesian Waqf Board (BWI) reaches IDR 180 trillion per year. However, it is very unfortunate that despite this great potential, the management of cash waqf is not yet optimal. In fact, with such a large amount of funds, cash waqf can make a significant contribution to Indonesia's economic development.(siwak.kemenag.go.id, 2024)

Cash waqf is the act of endowing assets in the form of money, which is given to a nadzir (waqf manager) and managed so that its profits can be later donated. This process must ensure that the principal amount is not diminished, thus making the cash waqf productive by investing it in various sectors. However, there are still many areas that need improvement in the management of cash waqf, such as a lack of transparency, unclear regulations known by the nadzir, lack of professional managerial skills, and insufficient in-depth analysis of

business and investment feasibility. The great potential that is not being utilized to its fullest is a significant concern. (Aziz, 2017)

Investment of Cash Waqf in Government Regulation Number 46 of 2006 Article 48 explains that the management and development of cash waqf assets can only be done through investments in LKS (Islamic Financial Institutions) products and/or Islamic financial instruments. According to this article, cash waqf investment instruments consist of two sectors: investment in Islamic financial institutions and other Islamic instruments. Waqf shares are an example of investment in Islamic financial instruments. However, it should be understood that investment always comes with risks. Therefore, in this study, the author attempts to describe cash waqf in the Islamic stock system, addressing issues related to the utilization of cash waqf in the form of shares, the benefits derived from waqf shares, and a legal comparison with Malaysia regarding Islamic waqf shares.

II. Research Method

This research employs the normative legal research method, focusing on the analysis of legislation and legal concepts related to waqf (Islamic endowment) of Sharia-compliant shares in Indonesia and Malaysia. The approach includes both statutory analysis, examining all regulations and legislation pertaining to the issue in both countries, and conceptual analysis to understand the legal concepts underlying the practice of waqf of Sharia-compliant shares as a form of productive waqf modernization.

The legal resources used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislative regulations related to waqf (Islamic endowment) and Islamic capital markets in Indonesia and Malaysia. Secondary legal materials comprise textbooks, scientific journals, articles, and relevant research findings on the research topic. Tertiary legal materials include legal dictionaries and encyclopedias that provide guidance or explanations for primary and secondary legal materials.

The data collection technique in this research is conducted through library research. The researcher will gather, study, and analyze various literature, documents, and other written sources related to waqf of sharia stocks in Indonesia and Malaysia. Additionally, the researcher will also search legal materials via the internet to obtain current information regarding the development of productive waqf in both countries.

The data analysis technique used is qualitative analysis with a comparative approach. The collected data will be systematically analyzed by comparing the regulations, concepts, and implementation of Shariah-compliant stock benefit endowments in Indonesia and Malaysia. This analysis aims to identify similarities, differences, advantages, and disadvantages of Shariah-compliant stock benefit endowment practices in both countries. The results of the analysis will then be interpreted to draw conclusions and provide recommendations regarding the development of Shariah-compliant stock benefit endowments as a form of productive waqf modernization in Indonesia.

III. Results and Discussion

Share Waqf in Indonesia

Based on previous research by Lokot Zein, it is explained that productive waqf (endowment) has great potential for development in Indonesia. However, its current implementation is still not well understood by the general public, and there is a lack of scholarly understanding, particularly in managing productive waqf through stock investment instruments. The Indonesian Ulema Council (MUI) issued a fatwa in 2002 regarding the permissibility of waqf in the form of cash and securities. Government regulations and waqf for movable property are covered under Law No. 41 of 2004. Nevertheless, there are still disputes over the Sharia legality of waqf using movable property (Abdullah, 2018).

Indonesia is a country with a Muslim majority population of 207.2 million people, equivalent to 87.18 percent (Ministry of Religious Affairs, 2024). The practice of waqf among Indonesian society is relatively significant. Data from 2016 shows that there were 435,768 plots of land endowed with a total area of 4,359,443,170 square meters. As of December 2017, the monetary assets endowed in Indonesia amounted to 400 billion Indonesian Rupiah.

TABLE 1

THE CONCEPT OF STOCK WAQF IN INDONESIA

Numb	Potency	Share Waqf Scheme	Benefits of Share Waqf
1.	Stock index Indonesian Sharia (ISSI) and Syariah	Here's the translation: There are two schemes of	Every market participant who conducts transactions

	Online Trading System (SOTS) were launched in 2011, as for investment data as follows 1. 2012 (531 investors); 2. 2013 (803 investors); 3. 2014 (2,705 investors); 4. 2015 (4,908 investors) 5. 2016 (9,508 investors); 6. 2017 (23,207 investors); 7. 2018 (44,536 investors)	waqf shares proposed by the Indonesia Stock Exchange (BEI): 1. The first scheme is waqf funded by the profits of stock investors, and the second scheme is waqf where Shariah-compliant stocks are the waqf object. 2. Waqf shares originate from Shariah-compliant stocks purchased by Shariah investors to be subsequently waqf. Therefore, the waqf instrument is not the profit from Shariah-compliant stocks as in the first scheme, but Shariah-compliant stocks that are purchased.	and derives benefits from capital market transactions may consider it permissible and will be deemed as waqf money due to the utilization of their own funds, only utilizing or dedicating the benefits or results obtained.
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Source: managed by the author himself

According to Regulation of the Minister of Religious Affairs of the Republic of Indonesia Number 73 of 2013 concerning Procedures for Endowment of Immovable Objects and Movable Objects Other Than Money, the endowment objects are described in Article 11 as movable objects, including:

- a. Negotiable instruments;
- b. Rights to intellectual property; and
- c. Rights to other movable objects.

Furthermore, Article 12 specifies Sharia securities as including:

- a. Shares/Sharia shares;
- b. State Bonds/Sharia State Bonds;
- c. Bonds in general/Sharia bonds; and
- d. Other Sharia securities that can be valued in monetary terms.

Article 13 explains the categories of shares as follows:

- 1) Endowment shares/Sharia shares as referred to in Article 12:
 - a. Shares/Sharia shares of Limited Liability Companies;
 - b. Shares/Sharia shares of Publicly Listed Companies.
- 2) AIW/APAIW shares/Sharia shares of Limited Liability Companies as referred to in paragraph (1) letter a must be submitted to the respective company to be recorded as an endowment in the name of the Nazhir.
- 3) AIW/APAIW shares/Sharia shares of Publicly Listed Companies as referred to in paragraph (1) letter b must be submitted to the securities company as a sub-registry performing custodial activities and managing Sharia shares to be recorded as an endowment in the name of the Nazhir.

In addition to the aforementioned legal provisions, there is also a Fatwa from the National Sharia Council of the Indonesian Ulema Council No: 135/DSN-MUI/V/2020 regarding Stocks, stating that Stocks are evidence of ownership in a Company whose ownership share (Hishshah Sya'i'ah) cannot be determined, and have equal value. This concerns the rules for managing waqf stocks (Nazhir) and their registration as outlined in the Government Regulation of the Republic of Indonesia No. 42 Year 2006 concerning the Implementation of Law No. 41 Year 2004 concerning Waqf.

Share Waqf in Malaysia

The institution of waqf in Malaysia continues to evolve alongside the rapid pace of modernization, both in terms of its gathering and distribution procedures. Waqf assets have been meticulously organized to maximize their utility for public benefit. Therefore, various development efforts are undertaken to transform waqf funds into sustainable investment and financing alternatives, aiming to empower the economy. This significantly supports national policy goals and economic objectives. (Indah Sulistya, dkk, 2020)

Generally, in every endowment of waqf assets in Malaysia, it is based on policies set by each state determined by the trustees and Nazhir. Among these policies are guidelines for managing waqf properties regulated under the Wakaf Control Regulations 1959 of the State of Perak. It includes rules ranging from the registration mechanism of waqf assets, Trustee Custodian, General Committee (Waqf Supervision Committee), District Waqf Supervision Department, Zakat Fund Utilization, Land Purchase, Administration or Correspondence, and

so forth. These provisions form the basis of the state's general policy in regulating waqf endowments (Mahsun, 2011).

The management of endowments in Malaysia involves three types of objects: physical asset endowments, cash endowments, and perpetual corporate endowment funds. The first type, physical asset endowments, includes land and buildings used for public facilities such as mosque construction, schools, and commercial buildings that generate income, such as office rentals, and so on. The second type, cash endowments, typically support social education needs and business development financing through endowment funds. The third type is perpetual corporate endowment funds derived from managed corporate stock assets, with proceeds distributed to beneficiaries (Ramli, 2019).

The management of waqf funds, including their administration, is under the authority of the State Councils to grant permission. However, in this case, other private institutions can also manage and collect funds after obtaining operational approval from the authorized institution, thereby complying with the regulations and laws applicable in the states of Malaysia. (Mahamood, 2007)

As for the payment methods in implementing wakaf shares in Johor, the goal is to facilitate donors in contributing their assets in the form of wakaf shares. The Johor Islamic Religious Council (MAINJ), through the Wakaf Shares Johor Board (SWJ), has provided several conveniences for the community to carry out wakaf in the form of shares, including:

1. Calculation of SWJ

MAINJ has provided a wakaf payment counter, using mobile services with buses in several places such as public areas in front of the Lembaga Tabung Haji Building, EPF buildings, and shopping centers in the state of Johor.

2. Infaq Scheme via Salary Deduction

The salary deduction method is the easiest way to make wakaf contributions every month for those who wish to do so.

3. Johor Wakaf Stock Agents

MAIJ has appointed several agents to provide information about Johor Wakaf Stocks and is authorized to collect revenue.

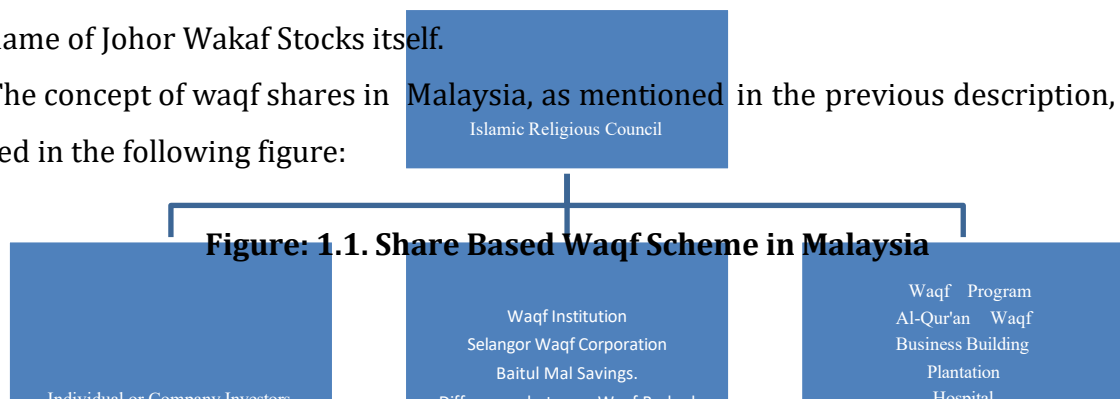
4. Through Website

Purchasing wakaf stocks through this method enables the community to wakaf anytime and anywhere. To purchase Johor Wakaf Stocks through the website www.ewakafJohor.com.my. If you wish to buy stocks through this method, the first step for the wakif is to make a purchase via FPX method.

5. Bank-in/Cheque

Purchasing Johor Wakaf Stocks can also be done through banks by transferring to specific accounts such as Bank Islam account number 01014010059989 under the name of Johor Wakaf Stocks itself.

The concept of waqf shares in Malaysia, as mentioned in the previous description, is illustrated in the following figure:



Source: managed by the author himself

Based on the picture above, it shows a scheme of stock-based waqf where investors purchase shares offered by the State Islamic Religious Council assisted by trusted waqf institutions. After the waqf funds collection is done, it will be distributed to support several ongoing programs or projects.

TABLE 2
COMPARISON OF SHARE-BASED WAQF IN INDONESIA AND MALAYSIA.

Numb	Profile	Indonesia	Malaysia
1	History	On Thursday, November	The management of waqf

		14, 2019, in Jakarta, the Ministry of Religious Affairs of the Republic of Indonesia expanded the diversification of waqf development to enter the stock market. This was marked by the launch of a cooperation program in waqf shares by Samuel Sekuritas Indonesia with PPPA Daarul Quran as the manager or trustee.	shares based on the Selangor State Waqf Enactment 1999 as one of the first policies to regulate it in Malaysia, however, Johor started introducing it since 1973. However, this policy was incorporated into the Administration of Islamic Law Enactment 1978 and replaced with the Administration of Islamic Law Enactment (State of Johor) 2003, which has been in effect since 2003 until now.
2	Regulations	a) Law of the Republic of Indonesia Number 41 Year 2004 b) Government Regulation of the Republic of Indonesia No. 42 Year 2006 Regarding the Implementation of Law No. 41 Year 2004 Concerning Waqf. c) Regulation of the Indonesian Wakaf Agency Number 2 Year	1. Wakaf Enactment (State of Selangor) 1999 2. Wakaf Enactment (State of Negeri Sembilan) 2005 3. Wakaf Enactment (State of Melaka) 2005 4. Enactment 9/2015 Wakaf Enactment Perak 2015 5. Enactment 1/2016 Wakaf Enactment Terengganu 2016 6. Fatwa of the National Council for Islamic Religious Affairs Malaysia no. 77

		2010 Concerning the Procedure for Registering Nazhir of Cash Waqf d) Regulation of the Minister of Religious Affairs of the Republic of Indonesia Number 73 Year 2013 Concerning the Procedures for Endowment of Immovable Property and Movable Property Other Than Cash e) Compilation of Islamic Law f) Fatwa of the National Sharia Board of the Indonesian Ulema Council No: 135/DSN MUI/V/2020 Regarding Shares	7. International Fatwa AAOIFI no. 33 numbered 3/4/4/2
3	Institution	1. Ministry of Religion 2. Indonesian waqf board 3. DSN-MUI	State Islamic Religious Council
4	Realization	The realization of waqf shares is aimed at economic, social, educational, and other	Waqaf An-Nur Clinic Kotaraya in Johor Bahru, Waqaf An-Nur Hospital, Waqaf An-Nur Clinic of the

		general religious needs.	State Islamic Religious Council of Negeri Sembilan (MAINS) in Seremban.
5	Obstacle	1. Mindset and lack of literacy about stock endowments in the broader community. 2. The weak position of stock endowments in the Islamic financial ecosystem is influenced by inadequate regulations. 3. Digitalization of endowments is not yet efficient. 4. Low capacity of trustees (nazhir).	1. Lack of comprehensive legislation due to the inconsistency of waqf laws among states. 2. Lack of transparent and accountable governance. 3. Lack of regulations on the mechanisms for collecting and distributing cash waqf.
6	Nazir	Global Wakaf, Dompot Dhuafa, Indonesian Waqf Board and other recognized Waqf Institutions.	1. Selangor waqf agency 2. Sarawak Baitulmal Tube 3. Waqf corporation berhad 4. MAIWP Waqf Center Sdn. Mr
7	Nazir Capacity	Nazir capacity in Indonesia is not yet optimal and evenly distributed.	Nazir capacity in several states of Malaysia still requires training
8	Wakif Profile	Individuals and Companies	Individuals and companies such as: Johor Corporation Berhad
9	Object of waqf	The objects of share waqf are shares listed on the	Funds collected from the sale of shares offered by the

		Indonesian Stock Exchange and included in the Indonesian Sharia Stock Index (ISSI).	state religious councils in each state
10	Collection Scheme	1. Direct share waqf 2. Share waqf from investment profits	Cash Waqf, Infaq Scheme, Corporate Friends, Johor Waqf Shares

IV. Conclusion

The implementation of stock endowments in Indonesia and Malaysia has been carried out in accordance with regulations governing both the collection and management processes. In Indonesia, the institutional bodies overseeing stock endowments include the Government through the Ministry of Religious Affairs, the Indonesian Waqf Board (BWI), and the National Shariah Council (DSN-MUI). Meanwhile, in Malaysia, the State Islamic Religious Councils in each state regulate all types of equity-based endowments.

Stock endowments developed in Indonesia involve Shariah-compliant stocks or their proceeds (capital gains/dividends), which are then distributed by the trustee for social and religious programs. The trustee institution must be a legally registered entity with the Indonesian Waqf Board. In Malaysia, equity-based endowments are collected and managed by the State Islamic Religious Councils, with practical assistance from local waqf institutions like the Selangor Waqf Corporation, Sarawak Baitulmal Fund, Waqf Corporation Berhad, and MAIWP Waqf Center Sdn. Bhd. Funds are raised by offering shares to interested parties, and the accumulated funds are used to finance predetermined programs.

The potential of equity-based endowments in Indonesia and Malaysia has not yet been fully realized, evident from their relatively insignificant development. In Indonesia, factors affecting this besides regulatory aspects include literacy about stock endowments, capacity of trustees, and inefficient digitalization. Meanwhile, in Malaysia, obstacles include the lack of comprehensive regulations due to legal inconsistencies across states, lack of transparent and accountable regulatory frameworks, legal limitations, government intervention, and corruption within waqf institutions. Furthermore, there is a lack of regulations on the

mechanisms for collecting and distributing cash and stock endowments, hindering their growth and development.

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