

The Productive Waqf Land Utilization Agreements in Indonesia: Legal Status and Financial Scheme

Nurjamil, Tajul Arifin,, Hasan Bisri
UIN Sunan Gunung Djati Bandung Indonesia
kankjameel@gmail.com

Article Info

Received: 2025-02-18

Revised: 2025-03-14

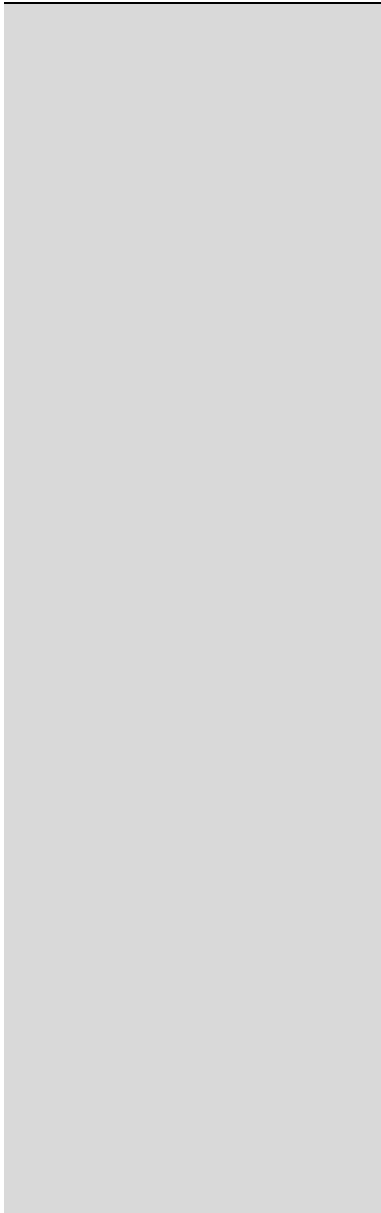
Accepted: 2025-03-16

Keywords:

**Productive Waqf Land;
Utilization; Financing
Scheme; Sharia Non-Bank
Financial Industry.**

Abstract

This research was conducted to determine the legal status, funding schemes and benefit sharing of the active waqf land use agreement in Indonesia. This research adopts a normative juridical approach, examining the legal dimensions of the subject matter based on statutory norms, particularly those related to waqf. It also employs an analytical descriptive method, whereby the collected data is analyzed to provide a comprehensive depiction of the utilization of productive waqf land in Indonesia. Data collection was conducted through literature review and in-depth interviews with commissioners of the Indonesian Waqf Board and practitioners in the Islamic financial services sector. The findings were then analyzed using qualitative data analysis techniques. The agreement on the use of beneficial waqf land in Indonesia is in accordance with both Islamic law and positive law. In large-scale ventures, investors can include financial institutions in the Sharia Non-Bank Financial Industry, such as sharia venture capital with mudarabah or musyarakah, or cooperate with sharia financial technology company via a crowd-funding agreement. This study is particularly valuable for waqf managers and scholars, as it can aid in developing contract-based utilization arrangements and financing schemes grounded in financing rules. Furthermore, the study highlights the potential of sharia venture capital and sharia financial technology as promising funding schemes for waqf-based ventures, offering innovative solutions for the sustainable growth of waqf land utilization



I. Introduction

In Islam, two main wealth distribution structures are established. First, industrial disruption and follow-up of market processes through economic practices and second distribution, focused on the social justice aspects of society through the principle of *zakat*, *infaq*, *shadaqah*, and *waqf*¹ and inheritance.² *Waqf* has been a unique institution introduced by Islam. According to general opinion of Muslim scholars, there was no *waqf* in Arabia before Islam.³ *Waqf* was recognized as one of the economic sources that has made a significant contribution to growth. In the 8th and 9th *Hijriah* centuries, *waqf* became the main capital for the building of educational schools, libraries, teachers' wages, scholarships, hospital facilities, medical salaries, nurses and even medicines, so that the poor obtained primary health services free of charge⁴ Likewise, *waqf* during the Ottoman Empire was used to fund large-scale social facilities to mitigate the effects on economic growth.⁵ *Waqf* was also considered to be of significant importance to the Indonesian people, as indicated by the legalization of Law No 41 of 2004 on *Waqf* (hereinafter referred to as the Indonesian *Waqf* Law). The capacity of *waqf* as one of the sources of religious social funds in the Medium Term Development Plan (MDP) 2020-2024 (Minister of National Development Planning of Republic of Indonesia, 2019) and alternative ways for financing the Sustainable Development Goals.⁶ The Indonesian *waqf* law is consistent with the principle of efficient *waqf* management (see Article 43(2), which, in its trade, *waqf* is not only in the form of property, but also continues to evolve and expand with rapid economic development, so that it is later known as cash *waqf*, *waqf* shares, company endowments, Cash *Waqf* Linked

¹ Euis Amalia, *Distibutive Justice in Islamic Economy Regarding to the Empowerment of Micro Finance Institution and Small Business in Indonesia*, 1st ed. (Jakarta: Rajawali Press, 2009).

² Dian Berkah and Tjiptohadi Sawarjuwono, "Inheritance Wealth Distribution Model and Its Implication to Economy," *Humanities and Social Sciences Reviews*, 2019, <https://doi.org/10.18510/hssr.2019.731>.

³ Mochammad Budiman, "The Significance of Waqf for Economic Development," *Equilibrium*, 2014.

⁴ et.all Munrokhim Misanam, *Islamic Economic*, 1st ed. (Jakarta: Rajagrafindo Perssada, 2007).

⁵ Shehu Usman Rano Aliyu and Bayero University Kano, "A Treatise on Socioeconomic Roles of Waqf," *Munich Personal RePEc Archive*, 2018, <https://doi.org/10.1227/01.NEU.0000349921.14519.2A>.

⁶ Mohammad Abdullah, "Waqf, Sustainable Development Goals (SDGs) and Maqasid Al-Shariah," *International Journal of Social Economics*, 2018, <https://doi.org/10.1108/IJSE-10-2016-0295>.

Sukuk,⁷ which then became a major economic force and expected to re-enact.⁸

Waqf has recently been developed for modern and competent management. In a number of Islamic countries, such as Saudi Arabia, Egypt, Bangladesh and Malaysia, the *Waqf* has been so badly controlled by ministries that directly administer the endowments.⁹ The Zam-zam tower, a skyscraper, near the haram mosque, designed with hotels, offices and shopping centers for sale, is a real example of a *waqf*-based commercial building. In Malaysia, The Waqf Manager have created opportunities for the improvement of waqf institutions and revitalize the potentials of these waqf assets to yield greater benefits to the society¹⁰ waqf also can be the alternative model of source of financing which is known as integrated cash waqf micro enterprises investment (ICWME-I) model for micro enterprises,¹¹ while the Singapore Ugama Islamic Council (MUIS) manages *waqf* land with hundreds of very high economic value assets operated by Warees Investment Pte Ltd.¹²

As a country with a majority Muslim population, Indonesia has a huge potential of cash *waqf* and so *waqf* land which has reached 268,653.67 hectares, spread over 366,595 sites.¹³ Theoretically, it should be able to generate surpluses and have a significant multiplier impact on national growth, even though some modern *waqf* managers, such as the Indonesian *Waqf* Board, Rumah Wakaf, Sinergi Foundation, etc. recognized by the *Nazir* with online based *waqf* management system.¹⁴ These institutions apply the idea of efficient *waqf*, but generally the *waqf* institutions are

⁷ Khairunnisa Musari, "The Evolution of Waqf and Sukuk toward Sukuk-Waqf in Modern Islamic Economy," *International Journal of Umranic Studies*, 2019.

⁸ Rifki Ismal et al., "Awqaf Linked Sukuk to Support The Economic Development," *Occasional Paper*, 2015.

⁹ Nasrul Fahmi Zaki Fuadi, "Wakaf Sebagai Instrumen Ekonomi Pembangunan Islam," *Economica: Jurnal Ekonomi Islam* 9, no. 1 (July 31, 2018): 151–77, <https://doi.org/10.21580/economica.2018.9.1.2711>.

¹⁰ Norma Md Saad, "Best Practices of Waqf: Experiences of Malaysia and Saudi Arabia," *Journal of Islamic Economics Lariba* 2, no. 2 (November 20, 2016): 57–74, <https://doi.org/10.20885/jielariba.vol2.iss2.art5>.

¹¹ Mohamed Asmy Bin Mohd Thas Thaker et al., "Developing Cash Waqf Model as an Alternative Source of Financing for Micro Enterprises in Malaysia," *Journal of Islamic Accounting and Business Research* 7, no. 4 (2016): 254–67, <https://doi.org/10.1108/JIABR-09-2014-0029>.

¹² Nia Kurniati and Helza Nova Lita, "Pengembangan Wakaf Tanah Dan Rumah Susun Berdasarkan Asas Pemisahan Horizontal," *Sosiohumaniora* 21, no. 2 (July 10, 2019), <https://doi.org/10.24198/sosiohumaniora.v21i2.9901>.

¹³ Aam S Rusydiana, "Analysis Of Cash Waqf Development In Indonesia Using Interpretive Structural Modeling (ISM)," *Journal of Islamic Economics Lariba*, 2018.

¹⁴ Nurul Iman, Adi Santoso, and Edi Kurniawan, "Online Based Waqf Management System in Indonesia: A New Model in Management of Waqf Administration," *International Journal of Innovation, Creativity and Change*, 2020.

managing *waqf* as conservative and traditional way. *Waqf* land is currently being used mostly for social care, schooling, burial areas and roads that have not been economically able to generate value-added.

Some of the *Waqf* institutions mentioned above are developing some commercial properties on *waqf* property, such as shopping malls, offices and multipurpose buildings, even on a small scale. Some of them made *waqf* land-based flats construction projects.¹⁵ The dilemma faced by *waqf* administrators is how the projects funded? For this reason, *waqf* managers then collaborate with the investor and the financial institution for financing the projects. The research sought to examine the validity of the model of the *Waqf* Land Use Agreement in Indonesia between *Waqf* administrators, investors and financing institutions. More precisely, the study is aimed at exploring the most preferred financing schemes to be implemented in *waqf* land use agreements in compliance with Islamic principles through Sharia Non-Bank Finance Industry.

Previous research on the use of *waqf* land has explored various models and applications. Rubiati¹⁶ examined the use of *waqf* land for constructing flats for low-income communities, emphasizing proof of ownership through a Certificate of Ownership for Flats (SKBG Sarusun). Kurniati & Nova Lita¹⁷ analyzed the management of *waqf* land using the horizontal separation concept, focusing on cooperative arrangements with third parties to develop flats. While both studies addressed *waqf* land management, they did not consider financing schemes involving Sharia Non-Bank Financial Institutions or financial technology.

Ahmad Syafiq¹⁸ discussed the utilization of cash *waqf* for infrastructure development, emphasizing its legality and alignment with Islamic economic principles. Study by Syafuq conclude that it is possible to make use of the project's goal of achieving people's wellbeing by prioritizing the precautionary principle as the main objective of the Islamic economy to achieve true happiness. However, the study did not explore

¹⁵ Betty Rubiati, Yani Pujiwati, and Mulyani Djakaria, "Asas Pemisahan Horizontal Dalam Kepemilikan Hak Atas Tanah Dan Bangunan Satuan Rumah Susun Bagi Masyarakat Berpenghasilan Rendah (MBR)," *Sosiohumaniora* 17, no. 2 (August 2, 2015): 94, <https://doi.org/10.24198/sosiohumaniora.v17i2.7295>.

¹⁶ Rubiati, Pujiwati, and Djakaria.

¹⁷ Kurniati and Nova Lita, "Pengembangan Wakaf Tanah Dan Rumah Susun Berdasarkan Asas Pemisahan Horizontal."

¹⁸ Ahmad Syafiq, "Pemanfaatan Dana Wakaf Tunai Untuk Pembiayaan Pembangunan Infrastruktur," *ZISWAF: Jurnal Zakat Dan Wakaf* 4, no. 1 (February 15, 2018): 25, <https://doi.org/10.21043/ziswaf.v4i1.3029>.

financing schemes for productive waqf land.

Similarly, Fathonih et al.¹⁹ investigated Islamic venture capital as a financing option for Muslim entrepreneurs but did not consider its application to waqf-based ventures. Fathonih et al.²⁰ found that Muslim entrepreneurship uses various models in the framework of agreements with capital-funding institutions based on the principles of Sharia, depending on their priorities and needs for obtaining financing. Sharia venture capital is an alternative financing that allows Muslim entrepreneurs the opportunity to grow their business on the basis of the Islamic culture, without worrying about the conditions that must be met in order to gain access to financing. However, it seems that this scheme still has relatively little interest, particularly from Muslim entrepreneurs, because they do not know the details and procedures of Sharia venture capital. The study concerned the efficacy of Islamic venture capital as a general, it has not yet been discussed its ability to fund *waqf*-based ventures.

Shaikh et al.²¹ highlighted waqf's potential as a social finance institution, capable of providing intermediation services for social and developmental purposes. The study concludes that the institution of waqf can fill the gap as a social finance institution by providing intermediation services for effectively utilizing perpetual social savings. Flexibility in the rules of waqf enables it to serve beneficiaries directly or through financial institutions and to provide a wide range of social services. However, the study focused on social services rather than waqf-based ventures. Therefore, the writers focused the research to the function of waqf for social services through the finance institution.

Study by Pitchay²² found that the proposed model is unique because the new dimension of membership is incorporated in the *waqf* concept. It considers donors to be members of the *waqf* initiative, which is financed through the cash *waqf* received, and thus gives donors the privilege of obtaining benefits from commercialized projects

¹⁹ Ah Fathonih, Grisna Anggadwita, and Sadudin Ibraimi, "Sharia Venture Capital as Financing Alternative of Muslim Entrepreneurs: Opportunities, Challenges and Future Research Directions," *Journal of Enterprising Communities*, 2019, <https://doi.org/10.1108/JEC-11-2018-0090>.

²⁰ Fathonih, Anggadwita, and Ibraimi.

²¹ Salman Ahmed Shaikh, Abdul Ghafar Ismail, and Muhammad Hakimi Mohd Shafiai, "Application of Waqf for Social and Development Finance," *ISRA International Journal of Islamic Finance*, 2017, <https://doi.org/10.1108/IJIF-07-2017-002>.

²² Anwar Allah Pitchay et al., "Cooperative-Waqf Model: A Proposal to Develop Idle Waqf Lands in Malaysia," *ISRA International Journal of Islamic Finance* 10, no. 2 (2018): 225–36, <https://doi.org/10.1108/IJIF-07-2017-0012>.

built on *waqf* land. The research is very similar to the subject of the study, but the idea did not hit the possibility of funding institutions, such as venture capital.

Research made by Nienhaus²³ concluded that decisions on comprehensive *waqf* development schemes should be taken in a participatory environment that is consistent with the regional scope of *waqf*-based social benefits and gives a coordinated voice to *waqf* beneficiaries. Support for revitalization initiatives can be funded by cash *waqf*, which can raise funds from citizens of all kinds. Further resources may be mobilized if the laws of fiqh and *waqf* recognize usufructs and financial rights as the basis for *waqf*. The authors expand on the origin of fiqh in order to legalize the new definition and intent of the *waqf* scheme. It's not the way to fund *waqf*-based ventures.

Study made by Azmi et al.²⁴ found that people are beginning to be conscious of and looking for remedial action. In many Muslim countries, including Malaysia, efforts are being made to revive the *waqf* institution and restore its reputation by embarking on a range of socio-related development projects using *waqf* resources. The study elaborates on the pattern of the chosen *waqf* model. It did not address the idea on how it funded.

Research of *waqf* and fintech written by Ryandono²⁵ concluded that *waqf* could be a solution to the capital challenges faced by start-up companies that are largely non bankable. On the other hand, it is hoped that it will inspire *nazir* to be active in the growth and development of youth entrepreneurship, beginning with the establishment of a start-up business. It still does not explain the role of fintech to fund the *waqf* project.

Research Fintech as a forum for crowd-funding written by Piliyanti²⁶ showed that, along with other types of crowd-funding platforms, Islamic crowd-funding has disrupted sharia financing in Indonesia, but this significant development has not been addressed by the relevant financing law. It explains the role and regulation of fintech, but still does not explain the engagement of fintech as a funding scheme for *waqf*-based ventures.

²³ Volker Nienhaus, "Awqāf: Social Spending, Development Strategy and Financing," *Journal of King Abdulaziz University, Islamic Economics*, 2018, <https://doi.org/10.4197/Islec.31-2.7>.

²⁴ Ahmad Shazrin Mohamed Azmi, Noor Rosly Hanif, and Siti Mashitoh Mahamood, "Conceptualising the Development Model for Waqf Properties : Preliminary Overview," in *Proceedings of The Muktamar Waqf Iqlimi III 2016 (IQLIMI2016)*, 2016.

²⁵ Muhamad Nafik Hadi Ryandono, "Fintech Waqaf: Solusi Permodalan Perusahaan Startup Wirausaha Muda," *Jurnal Studi Pemuda* 7, no. 2 (February 19, 2019): 111, <https://doi.org/10.22146/studipemudaugm.39347>.

²⁶ Indah Piliyanti, "Fintech Achieving Sustainable Development: The Side Perspective of Crowdfunding Platform," *Shirkah: Journal of Economics and Business*, 2019, <https://doi.org/10.22515/shirkah.v3i2.207>.

2. Research Method

Indonesia is a state law in which every person must be subject to the law²⁷. Centered on the legal theory of the construction of Mochtar Kusuma Atmadja, influenced by Rocoue Pound 's idea, the law has functioned as a means of collective renewal. In this case, the law was established as the protector of the development process for the establishment of order and the welfare of the community.²⁸ The legislation must continue to be implemented in such a way that it is consistent with development objectives, including the Indonesian *waqf* legislation, which is necessary to accommodate the creation of the *waqf* management phenomenon that leads to a trend of efficient *waqf* financing models involving financial institutions in the Sharia Non-Bank Financial Industry and financial technology.

This study was conducted with literature studies in the Library of Universitas Padjadjaran and through an in-depth interview with Muhammad Lutfi, Member of the Research and Development Cooperation Division of the Jakarta *Waqf* Board, Soleh Hidayat, Director of *Waqf* House in Bandung, Adhy Suryadi, Chairman of the Management Board of KSPPS BMT ITQAN in Bandung, as a *waqf* manager who cooperates with Fintech company. In-depth interviews were also conducted with the Commissioner of the Financial Services Authority, who expanded on potential collaboration between *waqf* managers and the Non-Sharia Financial Industry in the financing of *waqf*-based ventures.

This research is a futuristic qualitative study based on legal and economic approaches. Various experts define qualitative research on the basis of where the point of view is. Qualitative research as an iterative process in which better understanding of the scientific community is achieved by making new and significant distinctions as a result of getting closer to the phenomenon studied.²⁹ This research is futuristic to represent the importance of a range of research

²⁷ Ahmad Irwan Hamzani, "Towards Indonesia As a State Law Be Happiest People," *International Journal of Business, Economics and Law* 6, no. 4 (2015): 152–57.

²⁸ Andi Wahyu Wibisana, "Teori Mochtar Kusumaatmadja. Tentang Hukum Sarana Pembangunan Masyarakat Sebagai Teori Jalan Tengah Antara Aliran Mazhab Positivisme Dengan Mazhab Sejarah," *Jurnal Hukum Themis*, no. 1 (2017).

²⁹ Patrik Aspers and Ugo Corte, "What Is Qualitative in Qualitative Research," *Qualitative Sociology* 42 (2019): 139–60.

outcomes that can complement future concepts, theories and practices. The Hukum approach is used because the issues examined are more normative, which refers to the *Waqf* laws and regulations that apply in Indonesia. The economic approach is used to bridge the *waqf* hukum reforms needed to support *waqf* productivity so that it becomes an economic force that has a significant impact on development.

3. Results and Discussion

Land Utilization Agreement

A Contract or an agreement is very closely related to the promise³⁰. The promise made by the party should be enforced by the law which later developed into contract law. The moral foundations of contract law, Most theories of contractual obligation agree that contract law has something to do with enforcing promises.³¹ The first requirement for the formation of a contract is that the parties should have reached agreement.³² The agreement (some scholars compare it to the *verbinten*) is set out in the third volume, *Burgelijk Wetboek* (The Dutch Civil Code Legacy, which is currently being used in Indonesia recognized as a BW). Pursuant to Article 1313 of the BW, Agreement is an act by which one or more persons commit themselves to one or more other persons. Such a commitment can emerge from an arrangement or on the basis of the provisions of the Act. Contract arrangements are most frequently listed. According to the Black Laws Dictionary³³ the contract is defined as follows:

"Agreement between two or more parties establishing obligations that can be imposed or otherwise recognized by statute"

The land use arrangement was known as an arrangement between the land rights holder and the owner who owns the property. In this situation, the owner of the property rights grants the investor the concession rights (property management) within the time limit decided. In several models of land management agreements

³⁰ Gregory Klass, "Promise, Agreement, Contract" (Georgetown Law Faculty Publications and Other Works. 2224., 2020).

³¹ Anthony J. Bellia, "Promises, Trust, and Contract Law," *The American Journal of Jurisprudence* 4 (2002): 25–40.

³² Martin Hogg, "Agreement," in *Reimagining Contract Law Pedagogy: A New Agenda for Teaching*, 2019, <https://doi.org/10.4324/9781315178189>.

³³ Black's Law Dictionary, "Black's Law Dictionary - Free Online Legal Dictionary," Black's Law Disctionary, 2019.

known to date, such as Build Operate and Transfer, see³⁴, the time period defined is between 20 and 30 years and may be extended in accordance with the current rules.³⁵ During this time, the owner of the land rights shall be paid in the form of the rental fee agreed in the agreement. Practical land use arrangements can be made in many models of public private partnership (PPP)³⁶ as shown in the following map³⁷:

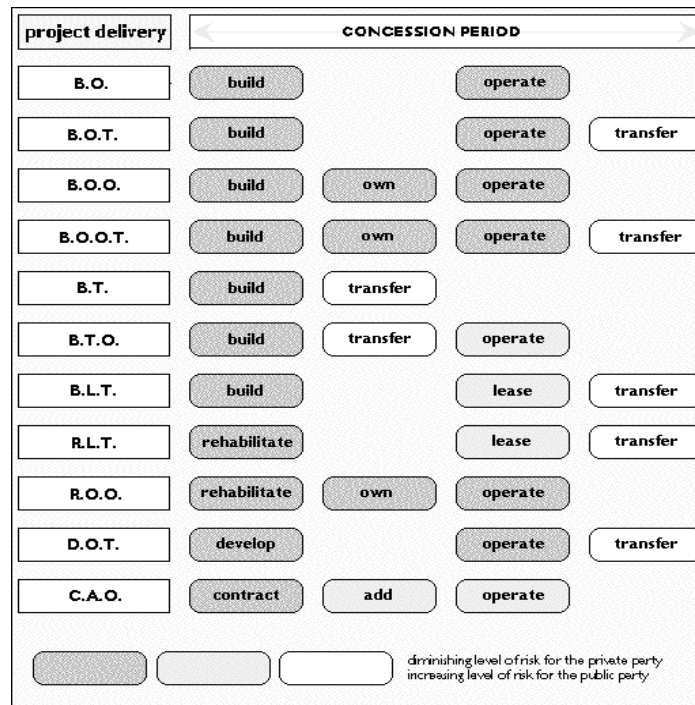


Figure 1. Land Utilization Agreement Models

Source : Sebastian C.M. Manheere and Spiro N. Pollalis³⁸

Land Waqf

Waqf, as part of Islamic philanthropy, is continuously changing from the traditional to the modern concept of meaning, object, management model with its dynamics

³⁴ Xiaoling Zhang et al., "A Model for Determining the Optimal Project Life Span and Concession Period of BOT Projects," *International Journal of Project Management*, 2016, <https://doi.org/10.1016/j.ijproman.2016.01.005>.

³⁵ Muhammad Dzikirullah H. Noho, "Politik Hukum Pengaturan Build Operate Transfer (BOT) Di Indonesia: Di Masa Lalu, Saat Ini, Dan Akan Datang," *Jurnal Hukum Media Bhakti* 3, no. 1 (May 25, 2019): 88–99, <https://doi.org/10.32501/jhmb.v3i1.51>.

³⁶ Ke Feng et al., "Balancing Public and Private Interests through Optimization of Concession Agreement Design for User-Pay PPP Projects," *Journal of Civil Engineering and Management*, 2018, <https://doi.org/10.3846/jcem.2018.455>.

³⁷ Sebastian C.M. Manheere and Spiro N. Pollalis, *Case Studies on Build Operations and Transfers* (Netherlands: Delft University of Technology, Faculty of Architecture, 1996).

³⁸ Sebastian C.M. Manheere and Spiro N. Pollalis.

³⁹. Etymologically, *Waqf*, in Arabic, is hold, confinement or prohibition ⁴⁰. In North and West Africa, *Waqf* (pl. *Awqaf*) is also called *Habs* (pl. *Ahbas* or *Hubus*). The word *Waqf* is used in the Islamic Law in the meaning of holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition of it outside its specific objective ⁴¹. Pursuant to Article 1(1) of the Indonesia *Waqf* Rule, the definition of *waqf* is as follows:

"*Waqf* is an endowment act to divide and/or forfeit part of its property indefinitely or for a certain period of time in accordance with its interests or for the purposes of worship for the benefit of worship and/or general welfare under Sharia law"

In order to ensure the people prosperity, the Government of Indonesia, by means of Law No. 5 of 1960 on the Basic Regulations on Agrarian Principles (hereinafter referred to as the UPPA), governs land rights, one of which is land for religious and social purposes, so that *waqf* land rights are recognized and covered by law in Indonesia. Article 49 (1) of the UUPA notes that with its privileges or for the purposes of worship for the benefit of worship and/or the protection of the public according to Sharia law:

"The land rights of religious and social bodies are recognized and protected in so far as they are used for business in the religious and social spheres. They are also assured to obtain ample land for buildings and businesses in the religious and social spheres."

Article 49 Paragraph 3 of the UUPA also specifies that Residential land ownership shall be covered and governed by the Government Regulations. As mentioned below, the assets to be represented are governed in Article 16 of the *Waqf* Act:

1. The property of *Waqf* consists of Inanimate objects and Moving things, please
2. The immovable objects referred to in paragraph (1) of the letter that include:
Land rights in compliance with the provisions of the relevant legislation, including those which have not been registered; . House or part of a building

³⁹ N. Oneng Nurul Bariyah, "Dinamika Aspek Hukum Zakat Dan Wakaf Di Indonesia," *AHKAM : Jurnal Ilmu Syariah*, 2016, <https://doi.org/10.15408/ajis.v16i2.4450>.

⁴⁰ Abdul Hamid Mar Iman and Mohammad Tahir Sabit Haji Mohammad, "Waqf as a Framework for Entrepreneurship," *Humanomics*, 2017, <https://doi.org/10.1108/H-01-2017-0015>.

⁴¹ Monzer Kahf, "The Role of Waqf In Improving The Ummah Welfare," *The International Seminar on "Waqf as a Private Legal Body"*, 2003.

on the ground as alluded to in letter a; Plants and other soil based objects; the right of possession of apartment units in compliance with the terms of the relevant laws and regulations; Such immovable objects in compliance with the rules of the Sharia law and the laws and regulations in effect.

With regard to land rights which may be defined as governed in Government Regulation No 42 of 2006 on the implementation of Law No 41 of 2004 on endowments, that is, as follows:

1. Ownership rights to land whether registered or not;
2. HGB, HGU, or Right of Use on State Land;
3. Right of Use or Right of Use over HPL or Ownership Rights, obtained from Government Departments, Regional Governments, BUMN, BUMD, Village Government shall obtain written permission from HPL or HM holders;
4. Proprietary privileges to flat systems

Sources of the Rule of *Waqf* (Islamic Law)

The teachings on philanthropy in Islam can be found in the Al-Quran, Hadith and *Ijma'* (consensus) of the ulema⁴² Where one of them is *waqf*.⁴³ The most important source of Islamic law with *waqf* is the hadith narrated by Ibn Umar of the Holy Prophet, see to ⁴⁴:

"It has been stated from Ibn 'Umar that Umar Bin al-Khattab had a plot of land in Khaibar, then he came to the Prophet to seek advice on the treasure and said: O Messenger of God, in truth, I have obtained a plot of land in Khaibar, which I have never got a land like that. The Messenger of Allah said: "If you want, give the land and give the results," Ibn Umar said: "Umar gave the land the sense that the land could no longer be sold, given and legacies. Umar offered the land to the poor, the family, the slaves, the way of Allah, the homeless and the visitors. It is not sinful for the person who takes care of it (*Nazir*) to eat part of the treasury."

⁴² Dani Muhtada, "Islamic Philanthropy and the Third Sector: The Portrait of Zakat Organizations in Indonesia," *Islamika Indonesiana*, 2014, <https://doi.org/10.15575/isin.v1i1.43>.

⁴³ Adib Susilo, "Kontribusi Waqf Gontor Terhadap Kesejahteraan Masyarakat Desa Gontor," *Islamic Economics Journal*, 2016, <https://doi.org/10.21111/iej.v2i1.967>.

⁴⁴ Salwa Amirah Awang et al., "The Concept of Charity in Islam: An Analysis on the Verses of Quran and Hadith," *Journal of Usuluddin*, 2017, <https://doi.org/10.22452/usuluddin.vol45no1.6>.

Sources of the Rule of *Waqf* (Positive Law)

The legal basis for the representation of land in Indonesia is different with others, so with neighboring countries or within a single field, such as what regulated in Singapore.⁴⁵ Here are basic of Indonesian *waqf* regulation includes:

1. Part 49 (3) of Law No. 5 of 1960 on basic regulations on agricultural principles;
2. It's Law Number. 41 of 2004 on endowments;
3. Government Regulation No 42 of 2006 on the application of Law No 41 of 2004 on endowments;
4. Government Regulation No. 28 of 1977 concerning the possession of residential land;
5. Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law (KHI) Book III of the *Waqf* Code;
6. Minister of Home Affairs Regulation No. 6 of 1977 on Land Registry Procedures Relating to Land Property Representation;
7. Minister of Religion Regulation No. 1 of 1978 on Government Regulation No. 28 of 1977 on land tenure; and
8. Joint Declaration of the Minister of Religion of the Republic of Indonesia and Head of National Land Agency No. 422 of 2004 and No. 3 / SKB / BPN/2004 on Endowment Land Certificates.

Discussion

Legal status of the *Waqf* Land Use Agreement

In agrarian law there are two (two) principles which contradict each other, namely the principle of vertical attachment (*verticale accessie beginsel*) and the principle of horizontal separation (*horizontale scheiding beginsel*).⁴⁶ The theory of vertical attachment is the theory of colonial land law set out in Articles 500, 571 and 601 of the BW, which is based on the possession of the land and of all the objects attached to it as a unit embedded in one. In other words, land ownership requires possession

⁴⁵ R Sari Pertiwi et al., "Regulations and Management of Waqf Institutions in Indonesia and Singapore: A Comparative Study," *KnE Social Sciences*, 2019, <https://doi.org/10.18502/kss.v3i13.4246>.

⁴⁶ Devina Maya Ganindra and Faizal Kurniawan, "Kriteria Asas Pemisahan Horizontal Terhadap Penguasaan Tanah Dan Bangunan," *Yuridika* 32, no. 2 (August 24, 2017): 228, <https://doi.org/10.20473/ydk.v32i2.4850>.

of the buildings that are on it, since the houses are part of the land and the houses that are constructed on land held by other parties will become property of the landowner.⁴⁷ The principle of horizontal separation is the traditional principle of Indonesian land law that ownership of land and objects on land should be distinct, so that who has the right to land should be different from the owner of the building above.⁴⁸ Thus, the concept of horizontal separation is the legal basis for all kinds of legal action to use property, including *waqf* land, whether infrastructure or agriculture, on behalf of *waqf* rights holders or on behalf of other parties, on the basis of agreements.

Article 1320 of the BW Agreement is considered to be valid if it meets the following conditions: 1. The partnership between those who bind themselves, 2. The willingness to reach an agreement, 3. There's one certain thing and 4. This is a legitimate cause. The Article states that someone who satisfies the substantive conditions of the agreement and the relevant law can enter into an agreement on terms not contrary to public order, norms and decorum, which later became known as the concept of freedom of contract.

Effective *Waqf* land use agreement is an arrangement made by the holder of the *waqf* land rights, which is named *Nazir* (*waqf* manager) with an investor with potential in the fields of infrastructure development, commercial building management and business premises, such as hotels, residences, offices, shopping malls, tourist attractions and others.

On the basis of Islamic law (*Fiqh*)

The agreement on the use of valuable *waqf* land is a new thing not previously established in Islamic law. This sub-chapter discusses some of the basics on the validity of an act carried out in the language of Islamic law as follows:

1. The Prophetic Hadith narrated by Imam At-Tirmidzi ⁴⁹:

الحلال ما أحل الله في كتابه والحرام ما حرم الله في كتابه وما سكت عنه فهو مما عفا عنه

It means, "What is lawful is what God permits in His book, what is unlawful is

⁴⁷ Ganindra and Kurniawan.

⁴⁸ Rubiati, Pujiwati, and Djakaria, "Asas Pemisahan Horizontal Dalam Kepemilikan Hak Atas Tanah Dan Bangunan Satuan Rumah Susun Bagi Masyarakat Berpenghasilan Rendah (MBR)."

⁴⁹ Farid Nu'man Hasan Hafizhahullah, "All World Affairs Is Changeable As Long as There Is No Evidence Against It," n.d.

what God forbids in His book, and whatever He silences, that includes forgiveness" (At-Tirmidzi No. 1726).

2. Jurisprudence recognized under Islamic law

والأصل في العقود والمعاملات الصحة حتى يقوم دليل على البطلان والتحريم

It means that "the original rule in the various treaties and the Mamalat is applicable until there is a claim that demonstrates its ignorance and illegality"⁵⁰

The two legal norms set out above are the basis for allowing a legal subject to take legal action in the field of *muamalah* (daily acts outside the sense of worship of *mahdhah*/Adoration defined by the time and procedure in sharia) as long as they do not conflict with the law which specifically prohibits them. Mainly, the agreement on the efficient use of *waqf* land is an attempt to add to the advantages of *waqf* land. This is an act that Umar bin Khattab carried out on the basis of the order of Prophet Muhammad. On the basis of the two legal grounds set out above and the principle of Hadith that *Waqf* is to maintain the origin and to take advantage of the results Hazami⁵¹ compare with Kahf ⁵². It can be argued that, from the point of view of Islamic law (*fiqh*), an agreement on the use of productive *waqf* land is acceptable (*mubah*) as long as the contents of the agreement do not clash with the Sharia statement.

Pursuant to constructive law

Pursuant to Article 43 (1) of the *Waqf* Rule, the management and production of *waqf* land must not be in conflict with the principles of sharia. This was supported by Article 45 (2) PP No 42 of 2006 on the application of Law No 41 of 2004 on endowments, which states:

"In the management and production of *waqf* properties as referred to in paragraph (1), *Nazir* can cooperate with other parties in accordance with the principles of Sharia law"

The models for the creation of the productive management of *waqf* property are defined in the description provided for in Article 43(2) of the *Waqf* Law, which

⁵⁰ Khaidir Hasram, "Al-Qawaid Al-Ushuliyah Al-Tasyri'iyah Sebagai Basis Metodologi Fikih Kontemporer," *Mazahibuna: Jurnal Perbandingan Mazhab* 1, no. 2 (2019): 146–65, <https://doi.org/10.24252/mh.v1i2.11127>.

⁵¹ Bashlul Hazami, "Peran Dan Aplikasi Wakaf Dalam Mewujudkan Kesejahteraan Umat Di Indonesia," *Analisis*, 2016.

⁵² Kahf, "The Role of Waqf In Improving The Ummah Welfare."

provides that:

“Management and development of *waqf* property shall be carried out productively, inter alia, by means of collection, acquisition, investment, production, collaboration, trade, agribusiness, mining, manufacturing, technological creation, building, houses, apartments, supermarkets, stores, offices, educational facilities or health facilities which are not in conflict with sharia.”

On the basis of some of the above norms, it can be concluded that the agreement on the use of productive *waqf* land is a kind of legal security for the management of productive *waqf* land, as stipulated in the laws and regulations concerning *waqf*, where *waqf* land must be managed productively and clearly in relation to *waqf* land built on it by houses, residences, residences, supermarkets. In the event that *Nazir* does not have sufficient funds, it is appropriate to keep investors when the cooperation of the parties is bundled in an arrangement that does not clash with Sharia law and fulfills the legal specifications of the arrangement as laid down in Article 1320 of BW.

Financing Scheme

Islamic Venture Capital

Waqf land use agreements made between *Nazir* and developers with commercial land and property that are objects require very large funds. Several models of agreement should be extended to the production of productive *waqf* land in strategic locations and with a high economic value, compare with Amarodin⁵³, namely:

1. *Nazir* has ample capital, which ensures that *Nazir*'s partnership with investors is only carried out in the property management sector in accordance with its qualifications.
2. *Nazir* does not have sufficient capital, so *Nazir* cooperates with investors in the production and management of land. Investors shall be granted management rights within the negotiated period. One kind of agreements usually chosen is Build Operate and Transfer Agreement (BOT) which has the length of the

⁵³ Muchamat Amarodin, “Optimalisasi Pemberdayaan Wakaf Produktif Di Indonesia,” *Jurnal Eksyar (Jurnal Ekonomi Syariah)*, 2019.

concession between 20 and 30 years and may be extended. While *Nazir* shall be compensated for the expense of the *waqf* land rental in accordance with the agreement or the property maintenance fees in accordance with the agreement of the parties.

3. Investors do not have sufficient funds to construct assets, so investors are partnering with financial institutions in the financial sector, both banking and non-Islamic banking sectors. This research was carried out in order to examine the financing schemes to be developed in the management of *waqf*, so that the value of the benefits (surplus) of the productive *waqf* land can be optimally obtained.

Financial institutions affiliated with financing institutions are entities whose business activities put more focus on the financing role in the form of the procurement of funds or capital goods by not withdrawing funds directly from the public.⁵⁴ Pursuant to Article 1 of Presidential Regulation No 9 of 2009 Concerning Financial Institutions⁵⁵, financing institutions are business entities which carry out financing activities in the form of the provision of funds or capital goods. Financial institutions in this case fall within the framework of the Non-Bank Financial Sector, which conducts undertakings on a traditional basis and based on principles of sharia, such as anti *maisir*, *gharar*, *riba*, *dzalim*, honesty and mandate, etc.⁵⁶

The non-bank financial industry is a non-bank financial sector that provides financial products to the public and receives indirect (non-depositary) public funds, such as insurance, lending companies, pension funds and other financial services that operate their business on the basis of the Sharia principles.⁵⁷ A non-bank financial industry business entity may be formed: Full-Sharia, a company whose entire business activities are based on the principles of Sharia or Sharia Business Units, which are companies whose business activities are based on the principles of Sharia.⁵⁸ Institutionally, the non-bank financial industry is subject to

⁵⁴ Sunaryo, *Legal Institution of Financing*, 1st ed. (Jakarta: Sinar Grafika, 2008).

⁵⁵ President of Republic of Indonesia, "Presidential Regulation No 9 of 2009 Concerning Financial Institutions," Pub. L. No. 9 (2009).

⁵⁶ Renny Supriyatni B. and Asep Ahmad Fauji, "Penerapan Prinsip Syariah Pada Lembaga Jasa Keuangan Perasuransian Di Indonesia," *Jurnal Jurisprudence* 7, no. 1 (2017): 29–39, <https://doi.org/10.23917/jurisprudence.v7i1.4352>.

⁵⁷ Luqman Nurhisam, "Kepatuhan Syari'ah (Sharia Compliance) Dalam Industri Keuangan Syari'ah," *Ar-Raniry, International Journal of Islamic Studies* 3, no. 1 (June 30, 2016): 23, <https://doi.org/10.20859/jar.v3i1.75>.

⁵⁸ Directorate of Sharia Non-Bank Financial Industry (IKNB) OJK, "Material Training of Trainers of Islamic

the Financial Services Authority (hereinafter OJK) Regulation as the regulatory and supervisory body of financial institutions in Indonesia, including the Islamic financial sector, which also has the role and authority to incorporate the policy direction, strategy and growth phases of the Sharia financial sector, including.

Generally speaking, the practices of the Islamic Non-Bank Financial Industry do not vary from those of the Traditional Non-Bank Industry ⁵⁹, although there are some unique characteristics, with goods and transaction processes based on Sharia principles such as those run by Islamic Financial Institutions (LKS) based on the fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN MUI), namely *Mudharabah* Financing, *Musyarakah* Financing, *Ijarah* Financing, *Wakalah*, *Musyarakah Mudharabah* and *Kafalah* Agreement.⁶⁰

Mainly, there is a possibility for an investor, as a *waqf* land management company based on an arrangement with *Nazir*, to keep together the Sharia non-bank financial institutions of the financial industry and should be Islamic Venture Capital. This funding model is a high-risk investment model.⁶¹ As is understood, Venture Capital does not channel funding in the form of bonds or securities, such as banks, but provides investments to businesses directly financed.⁶² Islamic venture capital typically has the same activities as venture capital, the only difference being that the necessary company should be based on Islamic values. In its business, Islamic venture capital companies are based on OJK Regulation No 35 / POJK.5/2015 on the business operations of venture capital companies.

An agreement between an investor and Islamic Venture Capital is an arrangement by which an investor, as a customer of Islamic Venture Capital, makes an application to fund the Islamic Venture Capital Business. The Organization offers lending services to investors or business partners (then published as a PPU). These financing arrangements can be concluded in four forms of arrangements, namely: equity participation, purchase of convertible *sukuk* or sharia bonds, purchase of *sukuk* or sharia bonds issued by start-up companies and financing based on the

Venture Capital" (Bandung, 2018).

⁵⁹ Ernawati Ernawati, "Jaringan Pengelolaan Zakat Untuk Pertumbuhan Industri Keuangan Non Bank Syariah," *Jurnal Ilmiah Ekonomi Islam*, 2018, <https://doi.org/10.29040/jiei.v4i03.310>.

⁶⁰ OJK, "Material Training of Trainers of Islamic Venture Capital."

⁶¹ Dorian Proksch et al., "Risk Management in the Venture Capital Industry: Managing Risk in Portfolio Companies," *The Journal of Entrepreneurial Finance*, 2016.

⁶² OJK, "Material Training of Trainers of Islamic Venture Capital."

principles of benefit sharing,⁶³ meanwhile it still has a low interest from the moslem people itself.⁶⁴

The financing schemes applicable to the management of efficient *waqf* land are recommended to implement the concept of benefit sharing by one of the three contracts, namely *mudharabah*, *musyarakah* or *mudharabah musytarakah* contracts. The *mudharabah* contract is one form of *syirkah* agreement that is the owner of the assets (money) that surrenders money to the entrepreneur to exchange the capital, and the profits are split between the two on the basis of the agreed terms, see Sapuan.⁶⁵ While *musyarakah* or *syirkah* is the term of a transaction (contract) between two persons who are allied with the principle of assets and income.⁶⁶ *Mudharabah musytarakah* contract is a *mudharabah* contract in which the fund manager (*mudharib*) also participates in the relationship, where the benefits and costs will be shared together in accordance with the agreement of the parties.⁶⁷

The financing arrangement through Islamic venture capital companies is focused on general financing agreements where venture capital which include capital in investors (companies which have the right to manage *waqf* land on the basis of *waqf* land management agreements concluded with *Nazir*) within a certain period of time. On the basis of the Law, the initial investment period is 10 years which can be expanded by a further extension of 10 years. During the agreement period, Islamic venture capital companies received a variety of fees, such as management fees, marketing fees and consulting fees. After the end of the capital participation era, the Islamic venture capital company has taken a range of steps, as follows: compare with Jeong⁶⁸.

1. Public offerings through the capital market (Initial Public Offering).

⁶³ OJK.

⁶⁴ Fathonih, Anggadwita, and Ibraimi, "Sharia Venture Capital as Financing Alternative of Muslim Entrepreneurs: Opportunities, Challenges and Future Research Directions."

⁶⁵ Noraina Mazuin Sapuan, "An Evolution of Mudharabah Contract: A Viewpoint From Classical and Contemporary Islamic Scholars," *Procedia Economics and Finance* 35 (2016): 349–58, [https://doi.org/10.1016/S2212-5671\(16\)00043-5](https://doi.org/10.1016/S2212-5671(16)00043-5).

⁶⁶ Panji Adam, *Jurisprudence, Concept, Regulation and Implementation*, ed. Anna, 1st ed. (Bandung: Refika Aditama, 2017).

⁶⁷ OJK, "Material Training of Trainers of Islamic Venture Capital."

⁶⁸ Jihye Jeong et al., "The Role of Venture Capital Investment in Startups' Sustainable Growth and Performance: Focusing on Absorptive Capacity and Venture Capitalists' Reputation," *Sustainability (Switzerland)*, 2020, <https://doi.org/10.3390/SU12083447>.

2. In this scenario, the investor handling the *waqf* land resale of the shares to a business partner company (PPU).
3. Selling of the company to other businesses
4. Selling the firm to new buyers.

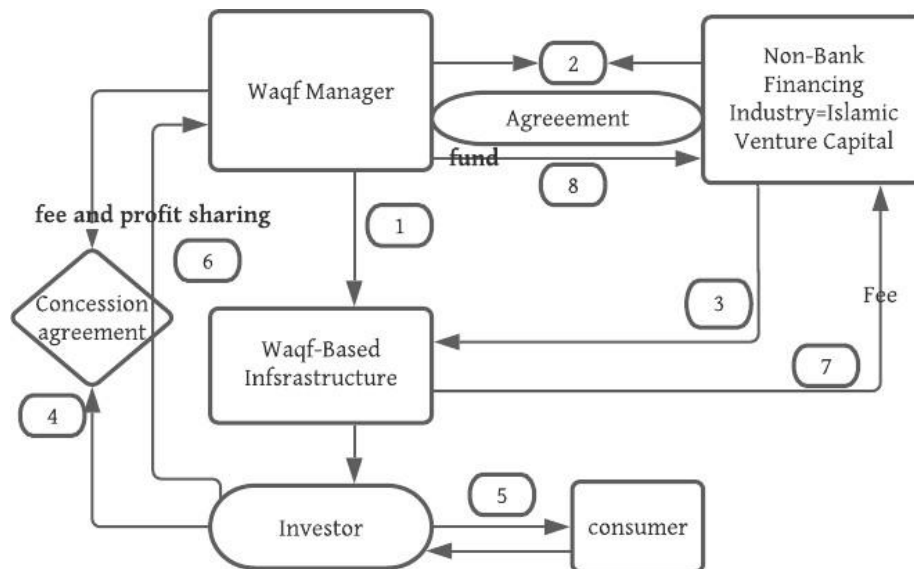


Figure 2. *Waqf*-based infrastructure funding scheme by Sharia non-bank financial sector

Sources: in-depth interview result processed by the author

Information:

1. *Nazhir* (waqf manager) carries out infrastructure development projects (hospitals, schools, hotels, apartments) on waqf land.
2. *Nazhir* cooperates with financial institutions in the non-Sharia financial sector (Sharia funding institutions or Sharia venture capital) to fund *waqf* infrastructure projects under *mudharabah* or *musyarakah* (yield-share) agreements.
3. Financing institutions in the non-Islamic financial sector are providing financing for the breeding of *waqf*-based projects
4. *Nazhir* works with infrastructure management investors so that investors have

the ability to operate infrastructure with a return-sharing arrangement.

5. Investors devote infrastructure to customers where consumers pay leasing fees, etc.
6. Investors send income and lease funds to *Nazhir*.
7. Financial industry shall be charged a share of sales and fee management.
8. *Nazhir* returns the loan the time and scheme agreed.

Financial Technology

What's a Fintech? At its heart, fintech is the use of technology to provide new and enhanced financial services. Fintech is described by the Financial Stability Board (FSB) as "technically allowed financial innovation that could result in new business models, applications, processes or products with a significant impact on financial markets and institutions and the provision of financial services."⁶⁹ Fintech is part of the Fintech Association (AFTECH) in Indonesia. AFTECH was formally named as a Group of Digital Financial Innovation Operators by the Financial Services Authority (OJK) on the basis of POJK No. 13/2018. AFTECH currently has more than 350 members, including 359 Fintech firms, 24 financial institutions, 13 academic partners and six technology partners.⁷⁰ One of its offerings is crowd-funding, which is a fund raised to support a project.⁷¹

The latest trend in the use of fintech, in particular crowd-funding platforms, is not only used for stock-based investment, but also for social and religious philanthropy sectors, such as fundraising *waqf* capital or more generally known as cash *waqf*.⁷² The Fundraising collaboration with Sharia Fintech firms is another scheme to be extended to *waqf*-based infrastructure financing. In this case, *Nazir*, as land management rights holder of *waqf*, cooperated with Sharia Fintech companies through a crowd-funding platform focused on a project developed by *Nazir*. Although the laws regulating crowdfundering in the social field are still being

⁶⁹ Anjan V. Thakor, "Fintech and Banking: What Do We Know?," *Journal of Financial Intermediation*, 2020, <https://doi.org/10.1016/j.jfi.2019.100833>.

⁷⁰ Aftech Indonesia, "Fintech Indonesia," 2020.

⁷¹ Yue Ma and De Liu, "Introduction to the Special Issue on Crowdfunding and FinTech," *Financial Innovation*, 2017, <https://doi.org/10.1186/s40854-017-0058-9>.

⁷² Nur Aqidah Suhaili and Mohd Rizal Palil, "Crowdfunding : A Collaborative Waqf Based Internet Platform," in *Kuala Lumpur International Islamic Studies and Civilisations Conference -: Al Maqasid As -Syariah as the Guiding Principles of the Past, Present and Future Life*, 2017.

established, the crowdfunding rules in Indonesia only cover the inclusion of shares.⁷³

The fundraising method is to finance cash *waqf* funds from the public via fintech websites such as kitabisa,⁷⁴ or through the internal websites of *waqf* managers such as Dompot Dhuafa, Rumah Zakat and many more.⁷⁵ Another institution which uses a specific application namely itqanmobile is sharia lending and financing cooperatives of Itqan Bandung West Java Indonesia. Through this application, people, in particular members, can make transactions such as checking balance details, making transfers, payments, purchases and payment. They spend money on philanthropy, like cash *waqf* to finance a *waqf*-based project. The procedure is described below:

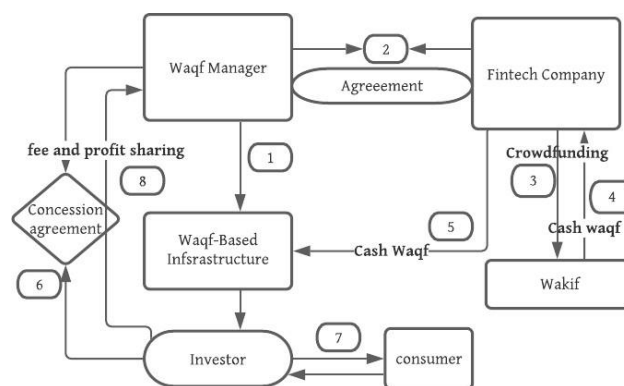


Figure 3. *Waqf*-based infrastructure funding scheme by Fintech Crowd-funding Program

Sources: in-depth interview result processed by the author

Information:

1. *Nazhir* (*waqf* manager) carries out infrastructure development projects (hospitals, schools, hotels, apartments) on *waqf* land.

⁷³ (Peraturan Otoritas Jasa Keuangan Republik Indonesia No 37 /POJK.04/2018 Tentang Layanan Urut Dana Melalui Penawaran Saham Berbasis Teknologi Informasi (Equity Crowd-funding), 2018)

⁷⁴ Suad Fikriawan, "Crowdfunding Dalam Perspektif Hukum Islam (Analisis Skema Akad Sewa Pada Website Kitabisa.Com)," *El-Barka: Journal of Islamic Economics and Business* 1, no. 2 (March 21, 2018): 181, <https://doi.org/10.21154/elbarka.v1i2.1449>.

⁷⁵ Abdul Azis and Ating Sukma, "Strategi Penghimpunan Dana Zakat Lima Lembaga Pengelola Zakat Di Indonesia," *Jurnal Syarikah : Jurnal Ekonomi Islam* 2, no. 1 (2016), <https://doi.org/10.30997/jsei.v2i1.269>.

2. *Nazhir* cooperates with fintech firms to fund *waqf*-based infrastructure projects with a yield-share system.
3. Fintech company is introducing the fundraising program of the *waqf* fund (cash *waqf*) through its crowd-funding service.
4. *Waqif* (donor) handed over money from *waqf* via the crowd-funding services of fintech companies.
5. The *waqf* funds raised are then used to finance the construction of a *waqf* infrastructure.
6. *Nazhir* works with infrastructure management investors so that investors have the ability to operate infrastructure with a return-sharing arrangement.
7. Investors devote infrastructure to customers where consumers pay leasing fees, etc.
8. Investors send income and lease funds to *Nazhir*.

4. Conclusion

The study concluded that according to the constitution, according to Islamic law (*fiqh*), an agreement on the use of *waqf* land was acceptable (*mubah*) on the basis of the principle of *fiqh* "The rule of origin in the various treaties and *muamalah* is valid until there is an argument that shows its sleaze and illegality." According to the positive law, the agreement on the use of productive *waqf* land was concluded. In this case, the Sharia Venture Capital Company (PMV) would provide financing cooperation through the Sharia Non-Bank Financial Industry. The financing schemes that can be introduced are *mudharabah* (profit sharing) contracts where investors become *mudharib* (business actors) or business partners (PPU) and financial institutions become *sohibul maal* (financial) or *musyarakah* (cooperation) contracts where investors and financial institutions work together as capital owners. After disbursement, the PMV shall receive a share of management fees, marketing fees, consultancy fees or project maintenance fees and capital gains. Another scheme to be developed is cooperation with Fintech to collect cash *waqf* through a crowd-funding platform based on a *waqf*-related project.

This study is related to the legal status of financing work carried out by *waqf*

managers with non-Islamic financial institutions such as Sharia venture capital and the use of fintech applications in *waqf*-based project financing. Further research on models of the cooperation agreement on the management of *waqf* funds in the construction of social infrastructure with the government should be explored in order to achieve a broader economic impact.

References

- Abdullah, Mohammad. "Waqf, Sustainable Development Goals (SDGs) and Maqasid Al-Shariah." *International Journal of Social Economics*, 2018. <https://doi.org/10.1108/IJSE-10-2016-0295>.
- Adam, Panji. *Jurisprudence, Concept, Regulation and Implementation*. Edited by Anna. 1st ed. Bandung: Refika Aditama, 2017.
- Aftech Indonesia. "Fintech Indonesia," 2020.
- Aliyu, Shehu Usman Rano, and Bayero University Kano. "A Treatise on Socioeconomic Roles of Waqf." *Munich Personal RePEc Archive*, 2018. <https://doi.org/10.1227/01.NEU.0000349921.14519.2A>.
- Amalia, Euis. *Distributive Justice in Islamic Economy Regarding to the Empowerment of Micro Finance Institution and Small Business in Indonesia*. 1st ed. Jakarta: Rajawali Press, 2009.
- Amarodin, Muchamat. "Optimalisasi Pemberdayaan Wakaf Produktif Di Indonesia." *Jurnal Eksyar (Jurnal Ekonomi Syariah)*, 2019.
- Aspers, Patrik, and Ugo Corte. "What Is Qualitative in Qualitative Research." *Qualitative Sociology* 42 (2019): 139–60.
- Awang, Salwa Amirah, Fidlizan Muhammad, Joni Tamkin Borhan, and Mohammad Taquiuddin Mohamad. "The Concept of Charity in Islam: An Analysis on the Verses of Quran and Hadith." *Journal of Usuluddin*, 2017. <https://doi.org/10.22452/usuluddin.vol45no1.6>.
- Azis, Abdul, and Ating Sukma. "Strategi Penghimpunan Dana Zakat Lima Lembaga Pengelola Zakat Di Indonesia." *Jurnal Syarikah : Jurnal Ekonomi Islam* 2, no. 1 (2016). <https://doi.org/10.30997/jsei.v2i1.269>.
- Azmi, Ahmad Shazrin Mohamed, Noor Rosly Hanif, and Siti Mashitoh Mahamood. "Conceptualising the Development Model for Waqf Properties : Preliminary Overview." In *Proceedings of The Muktamar Waqf Iqlimi III 2016 (IQLIMI2016)*, 2016.
- Bariyah, N. Oneng Nurul. "Dinamika Aspek Hukum Zakat Dan Wakaf Di Indonesia." *AHKAM: Jurnal Ilmu Syariah*, 2016. <https://doi.org/10.15408/ajis.v16i2.4450>.

- Bellia, Anthony J. "Promises, Trust, and Contract Law." *The American Journal of Jurisprudence* 4 (2002): 25–40.
- Berkah, Dian, and Tjiptohadi Sawarjuwono. "Inheritance Wealth Distribution Model and Its Implication to Economy." *Humanities and Social Sciences Reviews*, 2019. <https://doi.org/10.18510/hssr.2019.731>.
- Black's Law Dictionary. "Black's Law Dictionary - Free Online Legal Dictionary." Black's Law Disctionary, 2019.
- Budiman, Mochammad. "The Significance of Waqf for Economic Development." *Equilibrium*, 2014.
- Ernawati, Ernawati. "Jaringan Pengelolaan Zakat Untuk Pertumbuhan Industri Keuangan Non Bank Syariah." *Jurnal Ilmiah Ekonomi Islam*, 2018. <https://doi.org/10.29040/jiei.v4i03.310>.
- Farid Nu'man Hasan Hafizhahullah. "All World Affairs Is Changeable As Long as There Is No Evidence Against It," n.d.
- Fathonih, Ah, Grisna Anggadwita, and Sadudin Ibraimi. "Sharia Venture Capital as Financing Alternative of Muslim Entrepreneurs: Opportunities, Challenges and Future Research Directions." *Journal of Enterprising Communities*, 2019. <https://doi.org/10.1108/JEC-11-2018-0090>.
- Feng, Ke, Shouqing Wang, Nan Li, Chunlin Wu, and Wei Xiong. "Balancing Public and Private Interests through Optimization of Concession Agreement Design for User-Pay PPP Projects." *Journal of Civil Engineering and Management*, 2018. <https://doi.org/10.3846/jcem.2018.455>.
- Fikriawan, Suad. "Crowdfunding Dalam Perspektif Hukum Islam (Analisis Skema Akad Sewa Pada Website Kitabisa.Com)." *El-Barka: Journal of Islamic Economics and Business* 1, no. 2 (March 21, 2018): 181. <https://doi.org/10.21154/elbarka.v1i2.1449>.
- Fuadi, Nasrul Fahmi Zaki. "Wakaf Sebagai Instrumen Ekonomi Pembangunan Islam." *Economica: Jurnal Ekonomi Islam* 9, no. 1 (July 31, 2018): 151–77. <https://doi.org/10.21580/economica.2018.9.1.2711>.
- Ganindra, Devina Maya, and Faizal Kurniawan. "Kriteria Asas Pemisahan Horizontal Terhadap Penguasaan Tanah Dan Bangunan." *Yuridika* 32, no. 2 (August 24, 2017): 228. <https://doi.org/10.20473/ydk.v32i2.4850>.
- Hamzani, Ahmad Irwan. "Towards Indonesia As a State Law Be Happiest People." *International Journal of Business, Economics and Law* 6, no. 4 (2015): 152–57.
- Hasram, Khaidir. "Al-Qawaid Al-Ushuliyah Al-Tasyri'iyah Sebagai Basis Metodologi

- Fikih Kontemporer." *Mazahibuna: Jurnal Perbandingan Mazhab* 1, no. 2 (2019): 146–65. <https://doi.org/10.24252/mh.v1i2.11127>.
- Hazami, Bashlul. "Peran Dan Aplikasi Wakaf Dalam Mewujudkan Kesejahteraan Umat Di Indonesia." *Analisis*, 2016.
- Hogg, Martin. "Agreement." In *Reimagining Contract Law Pedagogy: A New Agenda for Teaching*, 2019. <https://doi.org/10.4324/9781315178189>.
- Iman, Abdul Hamid Mar, and Mohammad Tahir Sabit Haji Mohammad. "Waqf as a Framework for Entrepreneurship." *Humanomics*, 2017. <https://doi.org/10.1108/H-01-2017-0015>.
- Iman, Nurul, Adi Santoso, and Edi Kurniawan. "Online Based Waqf Management System in Indonesia: A New Model in Management of Waqf Administration." *International Journal of Innovation, Creativity and Change*, 2020.
- Ismal, Rifki, Dadang Muljawan, Mega Chalid, Jhordy Kashoogie, and Suminto Sastrosuwito. "Awqaf Linked Sukuk to Support The Economic Development." *Occasional Paper*, 2015.
- Jeong, Jihye, Juhee Kim, Hanei Son, and Dae Il Nam. "The Role of Venture Capital Investment in Startups' Sustainable Growth and Performance: Focusing on Absorptive Capacity and Venture Capitalists' Reputation." *Sustainability (Switzerland)*, 2020. <https://doi.org/10.3390/SU12083447>.
- Kahf, Monzer. "The Role of Waqf In Improving The Ummah Welfare." *The International Seminar on "Waqf as a Private Legal Body"*, 2003.
- Klass, Gregory. "Promise, Agreement, Contract." Georgetown Law Faculty Publications and Other Works. 2224., 2020.
- Kurniati, Nia, and Helza Nova Lita. "Pengembangan Wakaf Tanah Dan Rumah Susun Berdasarkan Asas Pemisahan Horizontal." *Sosiohumaniora* 21, no. 2 (July 10, 2019). <https://doi.org/10.24198/sosiohumaniora.v21i2.9901>.
- Ma, Yue, and De Liu. "Introduction to the Special Issue on Crowdfunding and FinTech." *Financial Innovation*, 2017. <https://doi.org/10.1186/s40854-017-0058-9>.
- Muhtada, Dani. "Islamic Philanthropy and the Third Sector: The Portrait of Zakat Organizations in Indonesia." *Islamika Indonesiana*, 2014. <https://doi.org/10.15575/isin.v1i1.43>.
- Munrokhim Misanam, et.all. *Islamic Economic*. 1st ed. Jakarta: Rajagrafindo Persada, 2007.
- Musari, Khairunnisa. "The Evolution of Waqf and Sukuk toward Sukuk-Waqf in Modern

- Islamic Economy." *International Journal of 'Umranic Studies* , 2019.
- Nienhaus, Volker. "Awqāf: Social Spending, Development Strategy and Financing." *Journal of King Abdulaziz University, Islamic Economics*, 2018. <https://doi.org/10.4197/Islec.31-2.7>.
- Noho, Muhammad Dzikirullah H. "Politik Hukum Pengaturan Build Operate Transfer (BOT) Di Indonesia: Di Masa Lalu, Saat Ini, Dan Akan Datang." *Jurnal Hukum Media Bhakti* 3, no. 1 (May 25, 2019): 88–99. <https://doi.org/10.32501/jhmb.v3i1.51>.
- Nur Aqidah Suhaili, and Mohd Rizal Palil. "Crowdfunding : A Collaborative Waqf Based Internet Platform." In *Kuala Lumpur International Islamic Studies and Civilisations Conference -: Al Maqasid As -Syariah as the Guiding Principles of the Past, Present and Future Life* , 2017.
- Nurhisam, Luqman. "Kepatuhan Syari'ah (Sharia Compliance) Dalam Industri Keuangan Syari'ah." *Ar-Raniry, International Journal of Islamic Studies* 3, no. 1 (June 30, 2016): 23. <https://doi.org/10.20859/jar.v3i1.75>.
- OJK, Directorate of Sharia Non-Bank Financial Industry (IKNB). "Material Training of Trainers of Islamic Venture Capital." Bandung, 2018.
- OJK RI. Peraturan Otoritas Jasa Keuangan Republik Indonesia No 37 /POJK.04/2018 Tentang Layanan Urut Dana Melalui Penawaran Saham Berbasis Teknologi Informasi (Equity Crowdfunding) (2018).
- Piliyanti, Indah. "Fintech Achieving Sustainable Development: The Side Perspective of Crowdfunding Platform." *Shirkah: Journal of Economics and Business*, 2019. <https://doi.org/10.22515/shirkah.v3i2.207>.
- Pitchay, Anwar Allah, Mohamed Asmy Mohd Thas Thaker, Al Amin Mydin, Zubir Azhar, and Abdul Rais Abdul Latiff. "Cooperative-Waqf Model: A Proposal to Develop Idle Waqf Lands in Malaysia." *ISRA International Journal of Islamic Finance* 10, no. 2 (2018): 225–36. <https://doi.org/10.1108/IJIF-07-2017-0012>.
- President of Republic of Indonesia. Presidential Regulation No 9 of 2009 concerning financial institutions, Pub. L. No. 9 (2009).
- Proksch, Dorian, Wiebke Stranz, Andreas Pinkwart, and Michael Schefczyk. "Risk Management in the Venture Capital Industry: Managing Risk in Portfolio Companies." *The Journal of Entrepreneurial Finance*, 2016.
- Rubiati, Betty, Yani Pujiwati, and Mulyani Djakaria. "Asas Pemisahan Horizontal Dalam Kepemilikan Hak Atas Tanah Dan Bangunan Satuan Rumah Susun Bagi Masyarakat Berpenghasilan Rendah (MBR)." *Sosiohumaniora* 17, no. 2 (August 2, 2015): 94.

<https://doi.org/10.24198/sosiohumaniora.v17i2.7295>.

- Rusydiana, Aam S. "Analysis Of Cash Waqf Development In Indonesia Using Interpretive Structural Modeling (ISM)." *Journal of Islamic Economics Lariba*, 2018.
- Ryandono, Muhamad Nafik Hadi. "Fintech Waqf: Solusi Permodalan Perusahaan Startup Wirausaha Muda." *Jurnal Studi Pemuda* 7, no. 2 (February 19, 2019): 111. <https://doi.org/10.22146/studipemudaugm.39347>.
- Saad, Norma Md. "Best Practices of Waqf: Experiences of Malaysia and Saudi Arabia." *Journal of Islamic Economics Lariba* 2, no. 2 (November 20, 2016): 57–74. <https://doi.org/10.20885/jielariba.vol2.iss2.art5>.
- Sapuan, Noraina Mazuin. "An Evolution of Mudarabah Contract: A Viewpoint From Classical and Contemporary Islamic Scholars." *Procedia Economics and Finance* 35 (2016): 349–58. [https://doi.org/10.1016/S2212-5671\(16\)00043-5](https://doi.org/10.1016/S2212-5671(16)00043-5).
- Sari Pertiwi, R, M Nafik Hadi Ryandono, K Rofiah, and . Anita. "Regulations and Management of Waqf Institutions in Indonesia and Singapore: A Comparative Study." *KnE Social Sciences*, 2019. <https://doi.org/10.18502/kss.v3i13.4246>.
- Sebastian C.M. Manheere and Spiro N. Pollalis. *Case Studies on Build Operations and Transfers*. Netherlands: Delft University of Technology, Faculty of Architecture, 1996.
- Shaikh, Salman Ahmed, Abdul Ghafar Ismail, and Muhammad Hakimi Mohd Shafiai. "Application of Waqf for Social and Development Finance." *ISRA International Journal of Islamic Finance*, 2017. <https://doi.org/10.1108/IJIF-07-2017-002>.
- Sunaryo. *Legal Institution of Financing*. 1st ed. Jakarta: Sinar Grafika, 2008.
- Supriyatni B., Renny, and Asep Ahmad Fauji. "Penerapan Prinsip Syariah Pada Lembaga Jasa Keuangan Perasuransian Di Indonesia." *Jurnal Jurisprudence* 7, no. 1 (2017): 29–39. <https://doi.org/10.23917/jurisprudence.v7i1.4352>.
- Susilo, Adib. "Kontribusi Waqf Gontor Terhadap Kesejahteraan Masyarakat Desa Gontor." *Islamic Economics Journal*, 2016. <https://doi.org/10.21111/iej.v2i1.967>.
- Syafiq, Ahmad. "Pemanfaatan Dana Wakaf Tunai Untuk Pembiayaan Pembangunan Infrastruktur." *ZISWAF : Jurnal Zakat Dan Wakaf* 4, no. 1 (February 15, 2018): 25. <https://doi.org/10.21043/ziswaf.v4i1.3029>.
- Thaker, Mohamed Asmy Bin Mohd Thas, Mustafa Omar Mohammed, Jarita Duasa, and Moha Asri Abdullah. "Developing Cash Waqf Model as an Alternative Source of Financing for Micro Enterprises in Malaysia." *Journal of Islamic Accounting and Business Research* 7, no. 4 (2016): 254–67. <https://doi.org/10.1108/JIABR-09-2014-0029>.
- Thakor, Anjan V. "Fintech and Banking: What Do We Know?" *Journal of Financial*

Intermediation, 2020. <https://doi.org/10.1016/j.jfi.2019.100833>.

Wibisana, Andi Wahyu. "Teori Mochtar Kusumaatmadja. Tentang Hukum Sarana Pembangunan Masyarakat Sebagai Teori Jalan Tengah Antara Aliran Mazhab Positivisme Dengan Mazhab Sejarah." *Jurnal Hukum Themis*, no. 1 (2017).

Zhang, Xiaoling, Haijun Bao, Hongdi Wang, and Martin Skitmore. "A Model for Determining the Optimal Project Life Span and Concession Period of BOT Projects." *International Journal of Project Management*, 2016. <https://doi.org/10.1016/j.ijproman.2016.01.005>.