

Optimization of Potential Asset of Waqf Land as a Market to Prevent Poverty and Promote Prosperity



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動産・不動産を公平に分配し、かつ有効に活用するためにイスラム法で定められた仕組みの1つが“waqf”。現状ではモスクや学校などの建設に土地を無償提供する例が多いが、そうした土地を市場に組み込んで貧困解消につなげる道を探る。

Abstract

Waqf is one of the instruments in Islamic finance that emphasize the value of social and economic justice. In Indonesia, waqf has been developed by a state institution named Badan Waqf Indonesia (BWI). Based on data collected by the Ministry of Religious Affairs of Indonesia, 2017, Indonesia has a potential waqf land with a total area of 4.3 billion square meters. More than 90% of proven waqf land is only used for non-productive purposes such as mosques, cemeteries, school, and orphanages. Therefore we propose the optimization of waqf land through building a market. As a market, waqf land opens wide-opportunity for people to earn a living income without illegal levies. Besides, any nation, including Indonesia, can get some benefits through declining of unemployment rate, rising prosperity in its society, and more dynamic economic activities. Actually anyone who owns waqf land does not take any profits. Although waqf is an institutionalized form of charity, its beneficial effects may well be common to all, irrespective of one's belief system, which may be characterized by the creation of peaceful and mutually beneficial conditions. The psychological condition of a giver who gladly give without expecting any reward is usually called altruism. This research uses method of literature review which is taken from literature sources related to waqf issues in Indonesia. Afterwards, this current study also attempt to provide an alternative way of waqf land development which can be applied in the field as an effort to improve the productive management of waqf land for social welfare.

Keywords waqf land; optimization; market; prosperity

Introduction

Waqf is one of the instruments in Islam to achieve the economic goals of Islam manifesting prosperous life in the world and in the afterlife. Muslim countries such as Egypt, Saudi Arabia, Jordan, Turkey, Bangladesh, Egypt and Malaysia, develop and implement endowments as a tool to assist various activities of people and address the problems of people like poverty. [1]

Waqf can be in the form of immovable and movable property, one of them is waqf land. Waqf land has very high potential

to be developed, as its wide availability in Indonesia. Based on data obtained from the Badan Waqf Indonesia (BWI) in March 2016, there are 435,768 land listed waqf with total area of 435,944.317 acres throughout Indonesia.

Here is the data we get from the Directorate of Waqf Empowerment of the Ministry of Religious Affairs of the Republic of Indonesia:

Table 1. Utilization of Waqf Land Data in Indonesia

Utilization	Percentage
Mosque	44.90%
Musholla	28.40%
School	10.57%
Other Social	8.37%
Graveyard	4.61%
Pesantren	3.15%

Based on these data, more than 90% of the land use of waqf is used to develop non-productive sectors. The use of waqf land in Indonesia is still synonymous with mosques or tombs. In fact, waqf can be managed into economic assets that generate financial benefits. In New Zealand for example, the land of waqf is managed as a sheep farm that the results can be enjoyed by the community. Regardless of one's belief, this waqf system becomes one of the interesting and unique potential solutions to fulfill the society's economy.

But there are some obstacles in the development of waqf land into the market, because only 65% of waqf land in Indonesia are certified (only 287,160 of the total 435,768). So feared the occurrence of land disputes, besides the existence of irresponsible elements who blackmail and do illegal levies to market traders.

Since the enactment of Law no. 5 of 1960 on Basic Regulation of Agriculture and Government Regulation No.28/1977 on Land Owned Donation, Law no. 41 of 2004 on Waqf and Government Regulation No.42 of 2006 on the Implementation of Waqf, donation ranging continue to be addressed by the reforms in the field of management and understand the general waqf (Directorate of Waqf, 2008). [2]

Regardless of the theory of belief, the reason someone donates the land they have for free to the state is for their own happiness that they will feel psychological. This theory is one of the psychological theories called altruism.

Based on the above explanation, this research tries to discuss Implementation of waqf land potential to be developed into a productive sector in the form of market. The scope of the discussion consists of supporting theories, the flow of thought along with the system schemes related to referring to the development of waqf land existing and in the future.

Definition of Waqf

Waqf is a word from Arabic وَقْفٌ – يَقِفُ – وَقْفًا which means hold, confinement, prohibition. It is issued 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. Usually, waqf relates to land and buildings. And sometimes there are books, agricultural machinery, cash money, etc. [3] From the history of Islam, we can know how the concept of waqf has evolved. Long time ago, in Madinah, Muhammad SAW asked for someone to buy the well of Bayruha' and designated it as free public utility for drinking water. Waqf in that case serve the welfare of the society in all and their different aspects. One day, Umar, as a friend of Muhammad SAW asked him how he has to manage his land in Khaibar. Then Muhammad SAW advised Umar to assign his land in Khaibar as a waqf for the poor and needy. [4]

Encyclopedia Britannica described waqf as a peculiarly Islamic institution whereby the founder relinquishes his ownership of real property, which belongs henceforth to Allah, and dedicates the income or usufruct of the property in perpetuity to some charitable purposes, which may include settlement in favour of the founder's own family. Also, the ownership of waqf cannot be transferred. Only its benefits are to be used for the specific purposes which are maintained as charitable in nature. Waqf is a voluntary charity characterized by perpetuity. The institution of waqf may be usefully utilized in an organized and deliberate manner to provide education, health care, and physical facilities to the target groups of people in a poverty-alleviation program.

According to Rifyal Ka'bah, waqf is one of Islamic Law that requires state power for its implementation. Without any implementation rules, will not receive proper and effective acceptance in the community. The state can regulate this waqf through legislation to be managed and developed productively, so that waqf is not only useful for worship activities to God, but also as an alternative to tackling poverty. [5]

Waqf in Islam has the pillars and the conditions. The first pillar is there must be a person who provided waqf (*al-Waqif*), the second one is the property represented (*al-Mawquf*), the third is the receiver of the property or the benefit of the waqf (*al-Mawquf 'alaih*), the fourth is that the handover of the waqf

must use lafaz akad through words or writing (*al-Sighah*). Then the conditions applicable to those who provide waqf are free (not slave), adults, have a conscious mind, worthy of providing waqf, and voluntary (not forced). [6]

Altruism Effect Cause of Giving

Happiness is not a thing that can be defined. Every person has their own definition of happiness. Because the thing called happiness has no numerical measurement, and there is no certain standard can determine if the person happy or not, and which level someone's happiness on. There is a research in the field of positive psychology about happiness. That thing, happiness, well often define a happy person as someone who experiences frequent positive emotions, such as joy, interest, pride, and infrequent negative emotions, such as sadness, anxiety, and anger. Happiness has also been said to relate to life satisfaction, appreciation of life, moments of pleasure, but overall it has to do with the positive experience of emotions. [7]

Philosophers sometimes use 'happiness' differently, notably to denote the kind of well-being or flourishing that in the ancient Greek of Aristotle and Plato went by the name of eudaimonia. [8] Aristotle defined that "happiness is a final end or goal that encompasses the totality of one's life. It is not something that can be gained or lost in a few hours, like pleasurable sensations. It is more like the ultimate value of your life as lived up to this moment, measuring how well you have lived up to your full potential as a human being." [9] People who evaluate their lives negatively would likely be motivated to improve the conditions of their lives, and those who evaluate their lives positively would be motivated to maintain or further improve these conditions. Thus, happiness and related constructs are thought to signal how well a person's life is going, which should mean that as a person's life improves, so should the happiness that person reports.

Again, happiness is a thing that we can't count and define how it works in every person. Because Happiness can change, and happiness does change — during a single day and during a lifetime. What makes happiness interesting is genetic and environmental factors. Genetic factors contribute primarily to stability in happiness; environmental factors predominantly contribute to short- and long-term change. Social contexts that are consistently thwarting of our needs can greatly limit our

ability to be fully functioning and well and thus expectably are also associated with less positive and more negative affect. [10]

Market as a Place of Productive Waqf

Market is a place where goods and services exchange as a result of buyers and sellers being in contact with one another. According to Kotler, "the Market is made up of all customers potentials that possess the same specific needs or wants, which are may be willing and able to execute an exchange to satisfy needs and wants".

Sudarman said the market has five main functions; a.) the market sets the value (sets value). In the market economy, the price is size of value, b.) markets organize production. Factor price of production at market will encourage the producer (entrepreneur) to choose the efficient-method production, c.) the market distributes goods. The ability of a person to buy goods depending on their income, d.) market has a function to organize rationing. Allotment is the point of the price, e.) the market maintains and prepares the necessities in the future come. [11]

Problems faced by developing country are quite the same, namely poverty, unemployment, abandoned children. In Indonesia those problems also exist, including poverty, and the saddest part is there are still large number of poor people in Indonesia, the following data on the number of poor people from 2013 to 2017:

Table 2. Number of Poor People in Indonesia (2013-2017)

Year	Number of Poor People
2013	28,553.93
2014	27,727.78
2015	28,513.57
2016	27,764.32
2017	26,582.99

In the year of 2017 Statistic Central Bureau data shows that 26.58 million Indonesian still live in poverty. On the other hand, the government keeps trying to alleviate poverty. Indonesia is a country with a majority Muslim population and the largest in the world, poverty is still the case that we see in this country. Reflecting from the history, to create social and economic justice in the society, waqf instrument is one of the solution that considered able to answer all of social economic problem faced

by Indonesia, that poverty alleviation.

Waqf can act as a tool to support the economic development of society. Waqf is one of the instruments in Islam to achieve the economic goals of Islam manifesting prosperous life in the world and in the afterlife. Muslim countries such as Egypt, Saudi Arabia, Jordan, Turkey, Bangladesh, Egypt and Malaysia, develop and implement endowments as a tool to assist various activities of people and address the problems of people like poverty. [12]

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Table 3. Waqf Land in March 2016

Waqf Land	Area
Total	435,768
Certified Waqf	287,160
Not Yet Certified Waqf	148,447
Total Area (acres)	435,994.317

Based on data obtained from the Badan Waqf Indonesia (BWI) in March 2016, there are 435,768 land listed waqf with total area of 435,944.317 acres throughout Indonesia.

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Land Market

A land market is said to exist when land rights are exchanged for consideration (Robert Mahoney et al, 2007). A land market can be basic, advanced and highly advanced. It can be formal and informal. The formal land market is one that is incorporated by the government in the Land Administration System, a legal framework and a financial system. The Land Administration System will manage property rights, the legal systems will define them, and the property institution will generally measure market operations (see Williamson et al, 2007).

A waqf property not only needs advanced land market but also formalized. At the moment, it is questionable whether or not waqf lands are fully capable to be offered in the basic land market, as the main infrastructure of land administration i.e. the National Land Code, excludes waqf law, the legal framework provided by the State laws for the waqf land indicate only that it can be used and enjoyed, leased and rented and put to crop sharing.

Other forms of dealings such as disposal by sale, charge and bequeath, are not applicable, for they will not be registered, and recognized by courts. As such one may even discount the possibility of an informal land market, for a land market to exist there must be a legal framework to define the rights of parties and a land administration to recognize them. Only then the land market can function with confidence and security (Williamson, 2000).

A market confidence in waqf properties is possible when the land administration system is capable to fully protect the rights

of landholders and the landholders have the freedom to enter transactions. Less than that a reform is needed (See Malcolm Childress et al, 2004). It is clear that the Malaysian legal framework does not give such freedom to waqf landholders and does not protect them if such a transaction is ever entered.

Waqf land is not a commodity in sale and purchase land market, while in leasing and rental markets, it is treated discriminatively; they are rented often below market price (Jasni, M.Z, 2006).

Research Method

Type and Objective of Research

The type of research used in this research is literature study and quantitative descriptive. Descriptive research can be done in a quantitative way, so that statistical analysis can be performed (Sulistyo-Basuki, 2006). The object of research can be expressed as the social situation of research to know and what happens in it. In the research object, the researchers were able to observe in depth activity people as actors that existed at the specific place (Sugiyono, Educational Research Methods [Quantitative Approach, Qualitative, and R&D], 2007). Object of this study is the management of Productive Waqf. [13]

Data

i. Primary Data

According to Umar (2003), primary data is data obtained directly in the field by researchers as the object of writing. Interviews conducted by researchers is the use of the interview guide, intended for a more in-depth interviews with focus on issues that will be examined. [14]

ii. Secondary Data

According to Sugiyono (2005), secondary data is data that does not directly provide data to researchers, such as research should be through another person or looking through documents. [15]

Technical Analysis

To analyze the data collected in this study using descriptive analysis techniques Data derived from the quantitative data in the form of collection and fund distribution of financial

statements then analyzed which describe the reality of the phenomenon, as it is, apart from a subjective perspective. [16]

Table 5. The Different Concepts of Waqf Between Traditional and Productive

No	Concept	Traditional	Productive
1	Object of Waqf	Pledge (still) limited to fixed assets such as land, buildings, and other.	Manqul (moving) not only fix assets but other/ moving assets used as an object Waqf, such as Waqf of money, securities and other.
2	Allocation	For social, such as education, health, etc.	Not only the social side but a greater focus and effort directed at the welfare of the people, such as working, capital, investment, construction of business center and so on.
3	Development of Object	Management is static without any attempt to develop further.	Managers want growth, not only in terms of asset waqf but expansion of the value of benefits to be received by the community is expected to continue to be sustainable.

Result

Sticking to the waqf management objectives above, nadzir and wakif also need to consider the impact of each selected management alternatives in order to maintain the existence of waqf assets and improve the outcome of these arrangements, which include Directorate General of Islamic Community Guidance and Implementation Hajj (2003):

1. Effect "Good Deed".

Waqf management should refer to the order of priorities and benefits for many parties. This is not only empowering, but also pay attention to the impact on the expected goals.

2. Effect "Free Rider".

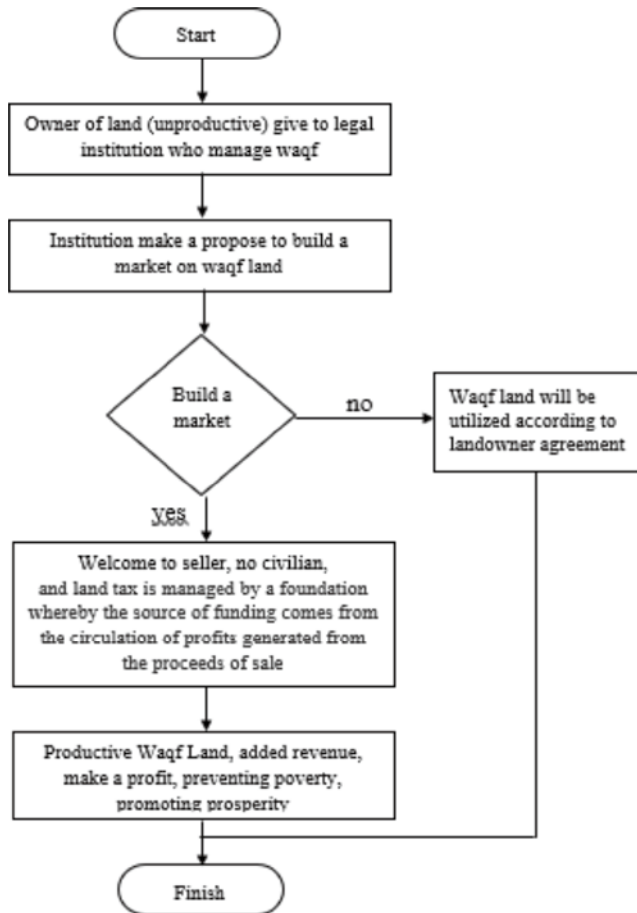
According to Islamic economic theory, this "free rider" effect will occur when the initial donation worth Rp. 100.000, -for example, it decreases in value when utilized. This condition should be avoided, because that will lower motivation to contribute.

3. Effect "Income Redistribution".

Waqf management should be done carefully with attention by using the operation to provide significant income distribution from one group to the other income.

Simply, the process of utilizing waqf land for market management as the central of people's economy is as follows in Figure 1.

Fig. 1. Flow of Waqf Land Process



Conclusion

We should pay more attention to waqf assets by making regulations that can minimize risks or issues that may cause problems. Because as we all know that the regulations of the government is not specific enough to support the productive waqf, so we need to review the regulation.

This paper argued for inclusion of waqf lands in Land Administration System, and to treat them equal to any other land in the sense of formalization, marketability, valuation, and collateralization, as far as such is in accordance to the principles of Islamic law. To support this idea the legal framework must be revised and accordingly both State and Federal laws need to be amended. This current study also attempt to provide the alternative way of waqf land development which expected to apply it in the field as an effort to improve the management of productive

waqf for social welfare.

These efforts are still relevant as the institution of waqf is rich and promising aiding us to reach the Promised Land of a sustainable community.

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