

An Analysis Towards Legal Challenges and Strategic Approaches in Utilizing Waqf Real Estate for Sustainable Food Security

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ABSTRACT

Issues relating to national food security is crucial, as Malaysia reported a food trade deficit rose to RM31 billion in 2022 as Malaysia fails to provide basic food for itself despite has lot of agro-food land. Hence, waqf real estate has a potential as a strategic asset for ensuring sustainable food security. However, inconsistent strategic management has reduced in utilizing waqf's real estates towards food security benefits. Therefore, this study examines the legal challenges associated with utilizing Waqf properties and proposes strategic approaches to enhance their efficacy in this context. The study employs a qualitative and descriptive cross-sectional analysis, utilizing existing legal frameworks and data obtained from relevant administrative bodies. This research research found that by integrating Islamic legal principles with modern sustainability practices, the research can provide a comprehensive framework for utilizing Waqf real estate in addressing food security concerns in Muslim-majority countries.

Keywords: Waqf Real Estates, National Food Security, Malaysia, Legal Challenges, Strategic Approach.

INTRODUCTION

Islamic endowments like waqf have funded public goods including education, healthcare, and food security. Waqf real estate is becoming recognised as a source of sustainable food security, especially in Muslim-majority countries. However, legal and administrative issues prevent asset utilisation. Waqf real estate's ability to improve food security is underutilised due to inconsistent legal frameworks and strategic management. Existing legal arrangements generally do not meet modern needs, reducing waqf's land food security benefits. This paper examines how current waqf legal frameworks enable sustainable food security using real estate assets. It also proposes strategic solutions to legal and operational issues. This research is significant in

offering a dual contribution: first, it enhances the academic understanding of waqf's role in modern sustainable development, and second, it provides practical recommendations for policymakers and waqf administrators to utilize these assets in addressing critical issues like food security.

METHODOLOGY

This study employs a qualitative research approach, combining doctrinal legal analysis with case studies. The doctrinal analysis involves an examination of existing waqf laws in various Muslim-majority countries, focusing on their capacity to support the utilization of waqf real estate for sustainable food security. The case studies are drawn from countries with notable waqf practices, such as Malaysia, Turkey, and Egypt. Additionally, this study reviews secondary data sources, including academic papers, legal documents, and reports on waqf and food security initiatives. Apart from that, data collection was also conducted with the State Religious Islamic Councils (SRIC) of Perlis, Penang, Perak, Kedah, Malacca, Negeri Sembilan, Pahang, Terengganu, and Johor from November 2024 to December 2024.

LITERATURE REVIEW

Malaysia's population is estimated at 33.7 million, up 100,000 from 32.7 million in 2022 and 32.6 million in 2021 at 0.2 percent each year (DOSM, 2023). Since population grows annually, this quantity is needed for food security. Hazim (2022) in the Malaysian Reserve, reported a deficit of RM25 billion in 2021 due to agrofood imports of RM64 billion compared to RM39 billion exports in 2021. The food trade deficit rose to RM31 billion in 2022 due to imports of RM75.6 billion and exports of RM44.6 billion (The Star, 2024).

The Malaysia commerce Statistic Review 2023 (MTSR 2023) reported a 31.8% increase in food commerce to RM120.2 billion in 2022. Due to empty agricultural land and fragmented regulatory frameworks, the country cannot produce enough food so it is proposed that new projects to grow food using idle government land can reduce food imports if they are executed properly (Lee, 2024). These issues can be addressed by using waqf land for food production, exploiting the country's huge yet underutilised waqf resources.

Waqf is a religious endowment in Islamic law, often used to fund public goods and services. The classical legal texts emphasize the permanence and inalienability of waqf properties, which are to be managed in a way that benefits society (Kahf, 2003). Traditionally, waqf has funded mosques, schools, and public fountains, but its application to modern challenges like food security is a relatively new area of exploration (Cizakca, 2000).

Waqf laws vary widely in Muslim-majority nations. Some governments incorporate waqf within their legal systems, while others treat it separately (Mohsin, 2013). Some countries have had more success using waqf real estate for sustainable development than others.

Recent studies have shown that waqf can help achieve the UN's Sustainable Development Goals (SDGs) in poverty, education, and food security (Sadeq, 2002). However, transparency, governance, and legal limits make it difficult to align traditional waqf management practises with modern sustainability needs (Ahmed, 2007).

Old and outdated legal frameworks, poor strategic management, and socio-political hurdles hinder waqf real estate utilisation for food security. These concerns often underutilise assets that could provide food security (Obaidullah & Shirazi, 2015). The rigidity of ancient waqf restrictions may also prevent modern uses of waqf properties.

Scholars and industry experts have studied food safety from food science, agricultural, and economics viewpoints. Climate change research on agricultural production is important for food security. Chen Khee et al. (2011) emphasise climate change programs, showing that people will pay more for rice without subsidies. Solaymani (2018) demonstrates that climate variability shocks reduce consumption and welfare, especially in rural areas. Malaysia's food security is threatened by low agricultural investment and export crops.

Food security has been a topic since the 1974 World Food Conference. The concept and meaning of food security have changed dramatically. The first concept inspired worldwide conversations, but it wasn't refined until the World Food Summit 1996 to properly reflect the complexities and problems of food security for all. Food security is "a situation that exists when all people, at all times, have physical, social, and economic access to sufficient, safe, and nutritious food that meets their dietary needs and food preferences for an active and healthy life" ((World Food Summit, 1996). This definition emphasises food availability, accessibility, safety, nutritional quality, and socio-economic issues that affect food access. FAO et al. (2018) define food security as availability, access, use, and stability. Atmanti (2010) divides food security into availability, distribution, consumption, and supporting subsystems, emphasising daily food availability and sufficiency (Wildana & Alhabshi, 2018).

Food security has four dimensions: availability, access, utilisation, and stability (FAO, 2006). This comprehensive categorisation implies that true food security requires food to be available and conveniently accessible at all times. It must also meet daily dietary needs in quality and quantity. These four dimensions are interrelated, thus the government must provide food security for its inhabitants. The government improves public health, well-being, and state strength by doing so.

Food availability is the consistent supply of suitable food in quantity and quality to meet population demands. To guarantee food sufficiency, national food production, distribution, and stock are monitored. Food stability means long-term access to food without sudden disruptions from economic crises, natural disasters, or conflicts. Food should always be available without shortages, according to stability. Food access occurs when everyone, regardless of socioeconomic class, can afford enough food to meet their nutritional needs. Finally, food utilization—the body's ability to correctly assimilate and metabolise food—is affected by food quality, diet, and individual health. It can be measured by nutrition and health. These four factors are interconnected and constitute the basis of a holistic food security approach.

Climate change threatens paddy farming and food security (Alam et al., 2010). The stalling manufacturing sector in emerging nations like Malaysia is connected to decreased food investment, leading calls for more food investment (Siwar et al., 2014). Malaysia may fail to meet self-sufficiency goals without proper production and climate change research (Arshad et al., 2015). According to Razak et al. (2014), Federal Agricultural Marketing Board's (FAMA) food supply chain extension activities have helped overcome food production problems.

Abdullah et al. (2020) emphasise ruminant agricultural innovation for food security. Abdullah et al. (2021) found that most households change their food sources and shopping habits to preserve food security during the Movement Control Order (MCO). Preserving forests is crucial to rural food security and poverty reduction (Abdullah et al. 2021). Some groups, like Kedah paddy farmers' households, experience challenges that reduce food consumption (Ibrahim, 2021).

Socioeconomic, political, and ethical factors complicate global food security and sustainability policy (FAO, 2018). Waqf is one of the best food security alternatives (Abdelhadi, 2012). It must be managed and used beyond mosque-related activities to maximise local economic advantages. Waqf mismanagement highlights the necessity for expert administration and payout (FAO et al., 2018).

Malaysian government programs have promoted sustainable agriculture in recent years. Sharing Prosperity Vision 2030 (Wawasan Kemakmuran Bersama 2030; WKB) aims to make Malaysia a nation with sustainable growth and equitable wealth distribution across income categories, ethnicities, regions, and supply chains. WKB proposes smart, high-value farming as a KEGA. It uses drones and IoT to merge environmentally friendly and high-tech farming. This policy supports circular economy to reduce waste.

October 2021 saw the debut of Dasar Agromakanan Negara 2.0. The policy is based on economy, society, and environment. The goal is to promote sustainable food consumption and production. This policy will keep Malaysia's agro-food sector competitive, boosting economic growth and environmental sustainability. Both measures can motivate the national livestock business to become sustainable. Thus, this industry may grow to meet demand and SSR without harming the environment.

Malaysia has rising food insecurity. Malaysia scored significantly for hunger in the 2022 Global Hunger Index, rising from 10.9 in 2014 to 12.5 in 2022, mainly due to the pandemic. The Ukraine-Russia conflict might disrupt the global supply chain, cause price swings, and deplete vital commodities like wheat, affecting Malaysia's food prices and availability (The Malaysian Reserve, 2022).

Malaysia fails to provide basic food for itself despite 800,000 hectares of agro-food land (Hazri, 2022). Former Agriculture and Agro-Based Industry Deputy Minister Sim Tze Tzin proposes a transparent and flexible agricultural land reform with longer occupancy leases for farmers to increase food production (The Malaysian Reserve, 2022). Institute for Democracy and Economic Affairs (Ideas) CEO Tricia Yeoh highlighted that idle agricultural land and abandoned properties persist (Hazri, 2022). Third World Network Executive Director Chee Yoke Lin calls for rational state policies that prioritise food production, including local agriculture support, incentives for small-scale farmers, rights protection, and sustainable farming regulations (Povera, 2022).

To address these challenges, several strategic approaches have been proposed, including the modernization of waqf laws, the adoption of public-private partnerships, and the integration of Islamic finance principles (Chowdhury et al., 2011). These strategies aim to make waqf real estate more adaptable to current socio-economic conditions while preserving its Islamic integrity.

FINDINGS AND DISCUSSION

Waqf laws vary widely, reflecting their historical and cultural backgrounds. Waqf laws in many countries have not changed with modern times. In some countries, waqf properties cannot be redeveloped or reallocated to solve food security challenges (Mohsin, 2013).

A limitation is the waqf legal framework's inflexibility for innovative real estate uses. In Malaysia, waqf properties can be developed, however bureaucratic processes sometimes slow food security programs (Chowdhury et al., 2011). State and religious bodies share jurisdiction, complicating decision-making and underutilising these assets.

Case studies from Turkey and Malaysia show different ways to overcome legal and administrative obstacles. Waqf properties in Turkey can now be used for agricultural initiatives to ensure food security due to updated waqf rules (Cizakca, 2000). Legal reforms allowed waqf assets to be repurposed for modern societal purposes, supported by government incentives and corporate partnerships.

Malaysian cash waqf has been successful in pooling money for large-scale agricultural initiatives. These projects use Islamic financial tools like Sukuk to turn Wwqf lands into productive agricultural land to enhance food security (Obaidullah & Shirazi, 2015). Islamic finance and waqf management have aligned traditional Islamic ideals with current economic processes, improving food security.

Istibdal, or waqf property substitution, involves selling or exchanging a property for one of equal or greater worth that better serves its original purpose. When the original waqf property is underutilised or in a non-strategic agricultural area, this technique works. Istibdal helps swap underperforming waqf assets to maximise resource utilisation. Food security and agricultural growth may benefit. Istibdal generates more valuable and productive properties, improving economic returns and sustainability (Yediyildiz, 2009). Istibdal helps waqf administrators adapt to shifting socioeconomic situations (Kahf, 1998). Research shows that Istibdal has revitalised and enhanced waqf property output in several Islamic countries. Istibdal has been used in Turkey to convert unproductive waqf estates into productive agricultural regions, enhancing food production and security (Çizakça, 2000). Due to Shariah and managerial difficulties, istibdal is not practiced in Malaysia (Noor, 2023).

Modern waqf crowdfunding uses internet channels to raise donations from many people for property development. This strategy democratises waqf establishment and facilitates large-scale project resource pooling. Crowdfunding allows many little contributions to raise large amounts of money (Ratten, 2019). Digital crowdfunding platforms frequently have transparency elements to build donor trust and guarantee

money are handled properly (Belleflamme, Lambert, & Schwienbacher, 2014). Scalable crowdfunding can quickly raise cash for big agricultural projects and infrastructure development (Massolution, 2015). Many global projects have used waqf crowdsourcing. The “Waqf for Food Security” crowdfunding campaign in Indonesia enhanced food production and security by sponsoring agricultural development (Zulkhibri, 2019).

Strategic relationships between waqf institutions and commercial or public enterprises can improve property management and productivity. These agreements can provide waqf institutions with experience, technology, and funding. Waqf institutions and their partners can spend more in agricultural projects, enhancing production and sustainability (Hassan & Shahid, 2010). Waqf institutions may lack specialised knowledge and contemporary agricultural technologies, but partners can boost land productivity (Kahf, 2003). Partnerships with private enterprises can improve agricultural product market access, providing fair prices and stable demand (Zain et al., 2014). Strategic partnerships between waqf institutions and private agricultural enterprises have developed waqf lands for rice and vegetable farming in Bangladesh, improving food security (Ahmed, 2007). Malaysia can apply similar methods to maximise food production on waqf holdings.

Agricultural waqf banks finance waqf land agriculture. These banks can offer capital, manage funds, and utilise agricultural activity. Continuous and focused funding for agricultural projects is provided by agricultural waqf banks, alleviating financial constraints (Çizakça, 2011). Professional managers in agriculture, finance, and waqf administration can improve project outcomes for these banks (Sadeq, 2002). Agriculture can help waqf banks stay afloat and support more agricultural projects (Shirazi, 2014). Islamic finance conferences have recommended agricultural waqf banks in Indonesia and Turkey as pilot initiatives. These institutions provide farmers with low-interest loans and technical help to maximise waqf land utilisation for agriculture (Ariff, 1998).

Waqf land management and cultivation using contemporary technology can boost agricultural output and efficiency. Precision farming, drone surveillance, and blockchain for waqf management can transform. Precision farming with soil sensors and Global Positioning System (GPS) can maximise agricultural production and resource use (Zaroug & Taha, 2016). Drones and satellite photography can monitor huge waqf land tracts in real time for crop health and land conditions (Adam et al., 2017). Blockchain technology can improve waqf management transparency and accountability, ensuring finances and resources are managed properly (Al-Khoury, 2020). Precision farming on waqf properties in Egypt has increased agricultural productivity and efficiency (Abdelhadi, 2018). The UAE is exploring blockchain applications in waqf management to enable transparent and efficient endowment fund use (Al-Khoury, 2020).

In addition, Wakaf Pertanian Bersepadu (WATANI) is making headway in using idle waqf land for agriculture. This Yayasan Waqaf Malaysia (YWM) initiative aims to increase food production and minimise food imports. WATANI empowers local communities and improves food security through nationwide projects. The plan is expected to boost socio-economic empowerment and food security (Ahmad, 2022). However, recent WATANI success rates and effect data must be detailed to adequately evaluate this effort.

Waqf land can grow food. Land and rent competition has increased in Malaysia due to rapid industrial expansion and limited land resources. Muhammad (2021) Rising food prices are inevitable. The people will benefit from planting food crops and cattle on idle waqf grounds. Muzara'ah (share-cropping) on Indonesian waqf properties may increase rice yield and stock (Puspitasari, 2017). The waqf agency may distribute waqf lands and grant capital to farmers to share production in a predetermined ratio. Selling the fruit to a local institutional partner will manage the price and prevent speculation.

Despite these successes, major challenges persist. Some waqf laws are stringent, and administrators lack professional management abilities, resulting in poor asset usage (Ahmed, 2007). Even when waqf law does not serve the community's best interests in modern times, religious institutions often fight change.

Apart from that, the development of waqf khas for food security in Malaysia faces several legal and regulatory challenges that impose restrictions on its utilization. One significant legal constraint is the restrictive interpretation of waqf khas, which limits its potential contribution to sustainable food security. This restriction prevents the redevelopment of idle or underutilized waqf khas lands, which could otherwise be utilized for

agricultural or economic purposes. However, the Pahang Waqf Enactment 2022 (Enactment 29) provides a progressive legal framework that permits the development of idle waqf khas lands for productive purposes, including agricultural and economic activities that align with the objectives of waqf, as outlined in Section 28. This approach demonstrates the potential for state enactments to facilitate the strategic utilization of waqf khas in addressing food security challenges, provided that regulatory reforms are introduced to harmonize legal frameworks across different states.

However, these challenges also present opportunities. For instance, the adoption of public-private partnerships in the management of waqf properties can introduce the necessary expertise and efficiency required to utilize these assets for food security purposes. Additionally, there is growing interest in digitalizing waqf management, which could lead to more transparent and efficient processes, ultimately enhancing the effectiveness of waqf in addressing food security issues.

The findings suggest that significant policy reforms are needed to unlock the potential of waqf real estate for sustainable food security. These reforms should focus on modernizing waqf laws to allow for more flexible use of assets, fostering public-private partnerships, and promoting the integration of Islamic finance tools in waqf management. Additionally, capacity-building initiatives for waqf administrators are essential to ensure that they have the necessary skills to manage these assets effectively in the context of contemporary challenges.

CONCLUSION

This research examined the legal and strategic obstacles of using waqf real estate to ensure food security. The investigation shows that outdated legislative frameworks and poor administration limit waqf properties' potential. Successful case studies from Turkey, Indonesia and Malaysia show that waqf can help solve food security challenges with legal reforms and strategic methods.

Modernise legislative frameworks, apply creative management practices, and incorporate Islamic finance to maximise waqf real estate potential. These initiatives will improve waqf's ability to contribute to sustainable food security and ensure that these assets are administered in accordance with Islamic values and modern socio-economic requirements, notably for food security.

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