

Family Waqf and Joint-Benefit Rights: Exploring Innovations in FELDA's Succession for Sustainable Family Wealth in Malaysia

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ABSTRACT

Joint-benefit arrangements in waqf assets and co-owned assets on FELDA property are subject to certain restrictions, even though both provide benefits to their beneficiaries. Co-owned assets generally require unanimous consent from all owners for transactions, whereas waqf dealings in Malaysia must be approved by the sole trustee, the Islamic Religious Council of the respective state. Such limitations often lead to underutilization, leaving properties unproductive and financially stagnant. It is estimated that approximately 40 million properties remain “frozen” due to the combined challenges of co-ownership and ineffective management. This study seeks to align the parallels between joint-benefit arrangements in waqf family property and co-owned assets on FELDA land, where beneficiaries have the ultimate right to utilize and preserve the property's economic value. The analysis is based on the historical achievements of waqf practices in promoting socio-economic development and sustaining wealth. Using a qualitative methodology, this study draws upon Islamic legal theory, current legislation, and comparative experiences from selected Islamic countries. The findings indicate that restrictions preventing property fragmentation are intended to safeguard the rights of heirs and beneficiaries, thereby preserving the property's corpus and long-term economic value. However, these constraints need not hinder productivity if administrators adopt innovative and proactive strategies. Assets achieve their optimal value when effectively managed, whereas poor planning or weak administration diminishes returns and adversely affects beneficiaries. Sustainable property management and wealth preservation therefore require prudent wealth planning, consensus-building, and regular family engagement, ensuring heirs' needs are met while maintaining the asset's value and productivity for future generations.

Keywords: joint-benefit, co-ownership, waqf, heirs, property, inheritance, sustainability.

INTRODUCTION

The sole management of a property is different in nature and challenges when compared to the management of jointly owned property, or administering a family waqf property. Both types of properties have garnered increasing interest lately when it involves the development as well as the management. We often hear about co-owned property in FELDA's land and nearly RM90 billion in land assets have remained idle over the years as a result of inadequate management foresight (Ismail, Salim, & Hanafiah, 2015; Aminah & Sabit, 2011). Moreover, in administering waqf property, barriers abound from restrictions on buying and selling, transfer of ownership, and so on. Commercial activities are not permitted, and the government must maintain the waqif's original intent (Ismail, Salim, & Hanafiah, 2015). Meanwhile, in FELDA land, the restriction of succession to only two nominated individuals, while the remaining heirs receive joint benefits, has limited the productivity of land management if the heirs fail to cooperate and conflicts arise among them. Nevertheless, this view has taken on a new outlook, as perspectives on the administration of waqf property as well as joint ownership have evolved towards a more positive spectrum. Innovative solutions concerning both types of properties have motivated many Muslims to enhance their Islamic capital in each state/country, and people have started to view waqf assets as competitive with other properties.

In Malaysia, the subject matter of waqf is under state jurisdiction, as it is a religious matter, while land matters also fall under state authority (Yusoff, 2022). In the case of FELDA land, regulatory authority is outlined at the federal level, despite land matters and state decisions retaining legal capacity in granting approval. Both areas are listed under the State List in the Ninth Schedule of the Federal Constitution. The State Islamic Religious Council acts as the sole trustee in managing waqf assets, while joint ownership of land is administered by the state land office under the National Land Code (Ismail, Salim, & Hanafiah, 2015). These officials rely on procedural powers under the Code, with substantive administration governed by state land laws. Consequently, for waqf land, the Council is assisted by the State Mufti Department in resolving Islamic law issues, whereas land and district offices hold practical authority over property management. Therefore, in matters of innovation and management of those assets, both agencies have their respective authority.

WAQF FAMILY AND ITS MANAGEMENT

Family waqf is a term modified from Arabic, waqf ahli, where ahli refers to family (al-Sharbini, 997H). It was also known as waqf dhurri, is a form of special endowment where the benefits are designated explicitly for the waqif's descendants or family members. The connection with the family in the name of waqf portrays that they are the recipients of its benefits. This instrument has been used historically and in contemporary practice as a means of preserving family wealth across generations, ensuring that assets remain intact and provide ongoing support to future heirs (Sanusi, 2023). This contrasts with waqf 'ām (general waqf), where the benefits of endowment are allocated for public welfare purposes such as education, healthcare, or religious institutions (Sanusi, 2023).

The word waqf originates from the Arabic word waqf, a derivative noun from the verb waqafa. In English, it is known as an endowment. According to Ibn Manzur (1990), waqf is defined as stop (السكن), forbid (المنع) and hold (الحبس). According to Dewan Bahasa and Pustaka (2016), waqf is something given for the use of the public or something allocated for needs related to Islam. For example, a person endowed land for building a mosque or graveyard for the public. The endowment offers many benefits to others, allowing any person the right to pray and be buried in the cemetery on the endowed land. Based on the above, waqf refers to property utilization for all Muslims without involving individual property. In this case, once an asset becomes a waqf, the transaction on the property changes and cannot be transferred, sold or mortgaged like other properties.

In a meantime, the term family in “family waqf” corresponds to the Arabic term ahl (أهل) or 'ā'ilah (عائلة), but in the context of waqf, the more precise term is dhurri (ذري), derived from dhurriyyah (ذرية), meaning “offspring,” “progeny,” or “descendants.” In Qur'anic usage, dhurriyyah refers to a person's lineage or posterity, as in dhurriyyatan ba'duhā min ba'd (offspring, one from another) in Q3:34. The term emphasizes a bloodline connection, typically extending to children, grandchildren, and successive generations. In the legal context of waqf dhurri, this linguistic nuance is significant because it restricts the waqf's beneficiaries to individuals within the founder's direct or extended lineage, distinguishing it from waqf 'ām where the beneficiaries are the general public (Kahf, 1999; Kamali, 2008).

In this understanding, al-Nawawi (1992) agreed to define waqf as al-ḥabs (withholding), emphasizing its role as a form of perpetual and enduring philanthropy dedicated to preserving the property for the sustained benefit of others. The Prophet (PBUH) often uttered the word al-ḥabs in some of his hadiths, which means:

“Endow the land and give the fruit as alms”.

The expression al-ḥabs here means that when a property has been made into a waqf asset, it has changed from the possession of an individual to Allah S.W.T., for the benefit of Muslims, either directly (mubāsyarah) or indirectly (ghayr mubāsyarah). Therefore, there cannot be any more transactions on that asset. Instead, in general, Muslims have the right to use the benefits provided by the waqf property. In order to ensure the endowed property is long-lasting, the property must be maintained in good condition so that the benefits remain. At the same time, the intentions of the person who initiates a waqf will still be honored. Therefore, the reward from Allah S.W.T. for the good deeds of charity giving will continue to thrive (al-Khatib, 1997).

Al-Dusuqi (1980) shared Ibn Qudamah's (1972) view that the fundamental principle that governs a waqf is the benefit of safeguarding the corpus but sharing the profits. The waqf asset will become perpetual capital, and it will be maintained for the recipients' benefit. In other words, waqf is to withhold things that belong to the wāqif and donate its benefits in the way of Allah S.W.T. Al-Zuhayli (2015) stressed that maintaining the property needs to consider its essence of being a charitable entity. Based on the definition given, we can conclude that waqf is the practice of handing over part of the property owned to benefit the community and get closer to Allah S.W.T. Meanwhile, the other parts can be left for the purpose of inheritance, gift or will. This act of waqf is a form of donation accomplished voluntarily (tabarru'). The reward of waqf will be continuously given to the wāqif as long as the property and benefits of the alm remain. Therefore, to ensure the continued use of the property, it must be physically permanent and cannot be sold, gifted, or mortgaged.

In Islamic law, waqf is typically categorized into two principal types namely, waqf 'ām (general endowment) and waqf khās (specific endowment). A waqf 'ām is dedicated to the general welfare of the community, without stipulating specific beneficiaries or purposes, thus serving public interest broadly (Hassan, 1984; Kamarubahrin, 2019). In contrast, a waqf khās is established for a clearly defined purpose or beneficiary group such as building a mosque, supporting an educational institution, or aiding the needy as explicitly specified in the waqf deed (Hassan, 1984; Hassan, 2019). In Malaysia, this distinction remains significant and State Islamic Religious Councils (MAIN) act as sole trustees for both types of waqf, managing assets under appropriate Shariah-compliant frameworks (Yusoff, 2022; Hassan, 2019)

THE POSITION OF WAQF IN ISLAM

The position of waqf in Islam is strongly encouraged as a recommended (sunnat) practice that continuously benefits others. The evidence for this encouragement, and for the practice of waqf since the Prophet's era, can be drawn from the Qur'an and al-Hadith, which constitute the primary legal sources in Islamic law. In the Qur'an, many verses encourage Muslims to do good deeds. These deeds include practices involving property to seek the pleasure of Allah SWT and draw closer to Him, such as the practice of giving alms, hibah, gifts, donations, and so similar charitable acts. All those rituals are voluntary and free, hence the term tabarru'. Moreover, these charitable acts can be done openly or secretly, as Allah SWT decrees in Surah al-Baqarah verse 271, which means:

"If you give charity openly, it is good, and if you hide (it) and give it to the poor, it is better for you; and this will cover some of your evil deeds. And Allah is Well-Acquainted with what you do."

Allah SWT's proclaim in Surah al-Baqarah verse 274 indicates that there are promised rewards for those who give in the name of charity:

"Those who spend their property by night and by day, secretly and openly, now for them is their reward with Allah, and there is no fear on them, nor shall they grieve".

While in Surah al-Baqarah verse 261, Allah SWT likens the rewards for contributing to charity will multiply and continue to grow:

"The likeness of those who expend their substance in the way of Allah is as the likeness of a grain that growth seven ears and in each ear one hundred grains: and Allah multiplied unto whomsoever He listed. Allah is Bounteous, Knowing".

In explaining the meaning of this verse, this parable given by Allah SWT will provide multiplication of rewards for people who seek His pleasure. Some commentators such as Ibn Kathir (n.d.) and Al-Zuhayli (2006) state that this verse narrates a charitable act done by two Companions of the Prophet SAW, namely Abd al-Rahman bin Auf dan Uthman bin Affan. The best virtue in the sight of Allah SWT is that a person gives the property he loves the most as alms (Ali Imran, 92). All the verses of the Qur'an cited above refer

indirectly to waqf and the encouragement to perform it. The motivation and promises of multiplied rewards are given so that Muslims compete with each other to be charitable.

Based on a hadith, the waqf act is also referred to as *ṣadaqah jariyah* or donation that is rewarded continuously by Allah SWT as long as the corpus of the property remains intact. Therefore, many series of hadith have encouraged Muslims to give alms, assistance or any good deeds, such as making a waqf. Abu Hurairah r.a narrated that the Prophet (PBUH) which means (Bukhari, n.d.):

“When a man dies, his deeds come to an end except for three things, *sadaqah jāriyah* (ceaseless charity); a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased).”

The scholars agree that waqf is a form of *ṣadaqah jāriyah* prescribed in Islam; as long as the physical asset remains intact, its benefits will continue, thereby generating ongoing reward from Allah. Therefore, the Companions’ acceptance and preference to perform a waqf cannot be denied (al-Asqalani, 2001). Several narrations convey the practice of the Companions to give alms in the form of waqf, as witnessed through the actions of Umar al-Khattab, who endowed his land in Khaybar. Based on the narration of Ibn Umar r.a.:

When ‘Umar got a piece of land in Khaibar, he came to the Prophet (PBUH) saying, “I have got a piece of land, better than which I have ever got. So what do you advise me regarding it?” The Prophet (PBUH) proclaims, “If you wish you can keep it as an endowment to be used for charitable purposes.” So, ‘Umar gave the land in charity (i.e. as an endowment on the condition that the land would neither be sold nor given as a present, nor bequeathed, (and its yield) would be used for the poor, the kinsmen, the emancipation of slaves, jihad, and for guests and travelers; and its administrator could eat in a reasonably just manner, and he also could feed his friends without intending to be wealthy by its means..” (Riwayat Sahih al-Bukhari: Hadis no. 2532, 2565)

Based on this hadith, Saidina Umar al-Khattab had performed waqf instead of an ordinary alm. There are many records on the generosity of the Companions of the Prophet (PBUH), for example, Abu Talhah. He had endowed his land in Bairuha ‘upon hearing verse 92 of Surah Ali Imran. According to the narration of Anas bin Malik, Abu Talhah was an Ansar who had the most date orchards in Medina. His date orchard in Bairuha’ was his most beloved date orchard, and he endowed that orchard as waqf after being visited by the Prophet (PBUH). Apart from Abu Talhah, other Companions such as Saidina Abu Bakr, Umar, Uthman, and Saad Bin Abi Waqqas also endowed their properties in the form of waqf. This importance of giving alms is based on the words of the Prophet (PBUH), as narrated by Abu Hurairah (Muslim, 2007), which mean:

“A dinar you spend in the cause of Allah, a dinar you spend on (freeing) a slave, a dinar you give in charity to a needy person, and a dinar you spend on your family; the greatest in reward is the one you spend on your family”.

Based on this hadith, alms given to family members are preferred, so do the waqf. Even though there are sanctions in managing waqf property (al-Syawkani, n.d.), such as waqf property cannot be sold, gifted (*hibah*), and inherited, the allocation through waqf can still be made to benefit them in a general manner. It was known as *waqf khāṣ*, which was for the benefit of particular beneficiaries. The hadith also discussed the management of waqf property. Waqf property managers are known as *mutawalli*, who are responsible for managing the waqf asset. Apart from the *mutawalli*, a *nāẓir* is responsible for managing waqf properties so that the goal and objective remain to benefit the public. They do not manage it as their asset but on behalf of all Muslims and the State. In Islamic history, the portfolio always involves *bayt al-māl* and the Islamic finance division.

FORMS OF OWNERSHIP AND JOINT-BENEFIT IN WAQF

As we know, in waqf *dhurri*, the asset itself is held as an inalienable endowment dedicated to the waqif’s (founder’s) descendants or specified family beneficiaries, even though they do not hold legal ownership of the property. In waqf ‘*ām*, the benefit is extended to all Muslims as well as non-Muslims, as long as it is in line

with the intention of the waqf. Thus, they possess only beneficial rights, deriving income or utility from the asset, while the underlying title remains perpetually reserved as waqf (Mohamad et al., 2022). The philanthropic nature of this arrangement ensures that the waqif's intention to benefit his family members is maintained across generations, in accordance with Shariah principles (Mohamad et al., 2022). They can fully enjoy the joint benefits of the intended property as long as the asset endures.

Generally, once an asset is dedicated as waqf, its ownership is permanently transferred from the donor (waqif) to Allah (tamlik lillah ta'ala). Family members then become joint-benefit holders with usufruct rights (haqq al-intifa') to the benefits or income generated by the asset. In a meantime, the authorities are responsible for ensuring the continuity of this religious ownership by appointing a person to manage it, known as the mutawalli. The mutawalli (trustee) manages the asset to preserve its value and ensure benefits are distributed according to the waqif's stipulation and Shariah principles. Therefore, no one neither an individual nor the government owns the property, and it becomes inalienable, meaning it cannot be sold, inherited, or given away; only the right to use and benefit (manfa'ah) remains for the specified beneficiaries (Kahf, 2003; Mohamad et al., 2022). They share the benefits much like joint owners of the asset, even though they do not hold legal ownership.

This kind of shared benefit establishes an authorized limited relationship between heirs and the waqf property, only on the benefit not the management (Al-Zuhayli, 2015). The management is held by the authorities, under their responsibility as religious authorities and as the caliphs of Allah SWT. Their role is carried out through a collective committee, ensuring that decisions serve the interests of the ummah rather than individual interests. For family waqf, their rights are bound by blood relations, and they bear the responsibility to act if the waqf management contravenes the waqif's intention. In this position, the family members have a duty to ensure that the waqf asset is sustainably managed and properly maintained. Moreover, in certain regions, the management of family waqf is carried out by the family members themselves through appointments as branch mutawallis, who hold delegated authority from the main mutawalli (government). This arrangement facilitates smoother management, as family waqf is often scattered and difficult to handle if placed entirely under government supervision. However, their reports must be submitted to the religious authority for endorsement and approval (Sanusi, 2023).

The equitable distribution of waqf benefits among family members underscores one of the defining virtues of family waqf (waqf ahli). When a waqf is established for family purposes, scholars affirm that beneficiaries must receive their share fairly and uniformly; gender, birth order, or other differences should not distort the distribution (Sadique, 2016). The principle of equity ensures that the benefits from the waqf such as revenue from farm produce are allocated equally, based not on arbitrary criteria but on genuine need and appropriateness, fostering social justice and cohesion among heirs. This equitable model resonates with the broader Islamic ethos of philanthropy, where waqf functions as a perpetual resource for collective welfare, preventing wealth concentration and ensuring sustainable benefits for future generations (Sadique, 2016; Mohamad, 2018). In fact, waqf under Islamic law is designed not only to safeguard the corpus but to ensure that its benefits endure equitably, safeguarding against misuse or unequal distribution among heirs (Mohamad, 2018).

THE CONCEPT OF JOINT-OWNERSHIP ON FELDA LAND

In contrast to waqf or family waqf, FELDA land under the Group Settlement Areas Act 1960 (Act 530) grants all legal heirs proprietary rights to their respective shares as recognized by Shariah through farā'id distribution. This kind of proprietary right is similar to joint ownership, in which the beneficiaries share the benefits proportionately. However, the specific portion to which they are entitled is not designated in any particular area, and they are not permitted to sell or transfer the title unless they relinquish their right altogether.

According to Fabra-Crespo and Rojas-Briales (2015), the system of joint management is widely known in several European countries, such as Ireland, Italy (Povellato & Vanni, 2017), and Slovenia (Šmid Hribar et al., 2018). Today, this joint management system still exists when there is joint property ownership, either

through a new contract or ownership established by law or customary practice. Many factors govern the application of joint management, including historical, customary, political, and geographical backgrounds of certain countries. However, the current development of human civilization and the reform of laws related to land and ownership have introduced changes in joint management (Black's Law Dictionary, 2019). This type of coordination exists in all forms of joint management, where all parties collaborate as co-administrators, administering a property together.

In the case of FELDA, the beneficiaries hold an undivided interest in the property, although they are bound by certain shared management obligations. As a form of joint ownership over the property, their beneficial rights extend to the entire FELDA land, even though legal title is vested solely in the registered nominees. In this arrangement, only two heirs may be nominated to hold the registered title. However, these nominees act solely as administrators on behalf of all heirs, who remain entitled to benefits proportionate to their legal shares. Notably, the Federal Land Development Authority (FELDA), established in 1956, is a Malaysian statutory body mandated to resettle rural landless individuals into organized agricultural settlements. This initiative forms part of a broader socioeconomic development strategy as provided under the Land (Group Settlement Areas) Act 1960 (Act 530) (Abd Aziz et al., 2012; Group Settlement Areas Act 1960).

Under this Act, a "conditional holding" regime applies in which only two heirs can be registered as nominees to manage a settler's land, and the property cannot be subdivided or transferred without prior approval from FELDA authorities (Nor Muhamad et al., 2020). Despite this statutory restriction, all legal heirs retain beneficial rights proportionate to their inheritance shares under *fara'id*, which makes them indirect co-owners in terms of usufruct while lacking legal title (Nasrul Hisyam & Mat Hussain, 2021). This arrangement creates a dual framework that combines statutory control through FELDA with Islamic inheritance entitlements. In practice, it often leads to administrative complexity, prolonged estate settlements, and disputes among heirs, particularly when there is limited understanding of the interaction between civil land law and Islamic law principles (Nasrul Hisyam & Mat Hussain, 2021; Nor Muhamad et al., 2020).

Therefore, all other heirs by virtue of their inheritance rights are effectively co-owners of the FELDA property, sharing an undivided interest in every part of the land. Since FELDA land cannot be individually alienated, no co-owner may unilaterally claim a specific portion or transact over it independently. In accordance with the Group Settlement Areas Act 1960 (Act 530), any dealings involving such land require the prior approval of the FELDA Director (Group Settlement Areas Act 1960, s. 12). This statutory requirement significantly limits the scope of management and restricts a co-owner's capacity to engage in transactions affecting the property without institutional consent. Consequently, within the family, any intended action concerning the FELDA land should be preceded by consultation and consensus among the heirs. This includes operational matters requested by FELDA, such as replanting, soil enrichment, or fertilization, all of which require financial contributions. Such coordination ensures that the costs and responsibilities are equitably shared and that decisions reflect the collective interest of all beneficiaries. Neither party gets more nor has the least voice in decision making (Adnan, 2023). All parties enjoy joint rights to benefit from the property and act through mutual agreement to achieve a collective profit (Taha, Mohamad & Sulong, 2019).

Aside from land, joint management can also apply to buildings where multiple residents share the same property, such as settler's house, flats, condominiums, and similar housing complexes. If heirs co-own such a building in the form of joint ownership, the same principles of shared decision-making and management apply. Similarly, in neighbourhood settings, residents collectively share the surrounding environment, facilities, and access to common property. This management partnership applies to many places nowadays especially at the city centre where the human population is growing too fast and land becoming deficient and expensive. Therefore, developers have no others measures except to build multilevel residential and all house owners need to carry joint management to sustain the safety and convenient (A. Tayyab et al., 2017).

In sum, based on the explanations above, the differences in joint ownership between FELDA land and family waqf land are as follows:

Table 1: Comparison of Co-owned Property vs. Family Waqf Models

Category	Co-owned Property (FELDA)	Family Waqf (Waqf Ahli/Dhurri)
Ownership	Held jointly by heirs (faraid shares)	Owned by Allah, inalienable (waqf corpus)
Decision Making	Requires unanimous consent among co-owners	Decisions by MAIN as a sole trustee
Management Authority	Administrators (2 nominees)	Managed by MAIN
Transferability	Restricted transfer, FELDA approval needed	Cannot be sold, inherited, or mortgaged
Beneficiaries	All heirs with proportional rights	Descendants (dhurriyyah) as beneficiaries
Challenges	Disputes, frozen assets, fragmentation risk	Underutilization, reliance on MAIN
Potential Innovation	Family company, administrator, consensus, takharruj	Professional management, corporate waqf, joint-benefit innovation

The constraints inherent in both forms of property ownership should be approached constructively, serving as drivers for innovative and effective solutions. Such an approach is crucial to prevent valuable assets from remaining stagnant and to ensure they continue to generate sustainable benefits.

INNOVATIONS IN MANAGING JOINT-OWN FELDA LAND

Limiting the transfer of FELDA land ownership to only two nominees has effectively created a form of joint ownership, similar to that found in waqf assets, particularly for settlers with numerous heirs. As stipulated under the Group Settlement Areas Act 1960 (Act 530), the land may be transferred to only two designated individuals. All of this leads to conflicts in the management of jointly owned property, making administration difficult and potentially resulting in the property becoming frozen. Accordingly, this study proposes several innovations, such as establishing a family waqf, promptly appointing an administrator, engaging in harmonious internal negotiations, or forming a family company, to ensure that FELDA property owned by a family continues to generate optimal benefits for all heirs.

Innovating A Family Waqf

As the family waqf concept operates on the principle of joint benefit, a similar approach can be applied to FELDA land, as both share comparable practices in this regard. FELDA land can be likened to waqf khās, which is intended to benefit specific beneficiaries namely, the family of the FELDA settlers. In terms of transactions, FELDA land resembles waqf property in that it cannot be sold or transferred without the permission of FELDA management. Similarly, the appointment of an administrator to manage FELDA land parallels the appointment of a mutawallī in waqf administration. This administrator plays a crucial role in facilitating cooperation among co-owners to jointly develop the land and enhance revenue. Without such coordination, managing and cultivating 10 to 12 acres of farmland solely between two heirs, while sustaining its productivity, can be highly challenging (Ramli & Ahmad, 2014).

The main technical distinction lies in the registration requirements that waqf land must be registered with the State Islamic Religious Council (MAIN), whereas FELDA land cannot be designated as waqf. However, if FELDA land were to be transformed into a family waqf, the beneficiaries would collectively enjoy its benefits in the same manner as joint owners of the asset, sharing in the proceeds while preserving its corpus (Zaki, 1995; Manual Pengurusan Tanah Wakaf, 2006). Suhaimi (2018) found that the practice of family waqf is not very popular in Malaysia, as it often takes place among wealthy families. Therefore, the numbers are not many compared to waqf am. Furthermore, this kind of waqf practice only happened in the past, for example, in Kelantan in 1921 (Kelantan, 2015) and Terengganu in 1961 (Terengganu, 2014). Based on these two cases, the beneficiaries of the waqfs enjoy the benefit as they are the joint-owners.

The formation of family waqf has declined significantly in recent years, with 34.6% of waqf properties remaining underutilized (Suhaimi, 2018). However, Ismail et al. (2016) found that when waqf land is managed effectively, it has the potential to generate high revenue, reaching millions of ringgits, which can greatly benefit the beneficiaries (Terengganu, 2014). Thus, innovation in orderly waqf management will provide a return of the waqf's capital property. This return is not in the form of continuous reward to the waqf creator only but also provides multiplied benefit to the descendants as well as all Muslims. For example, in the history of waqf in Singapore (Karim, 2000) donated by Arab Muslims or Hadrami, such as the waqf of Omar Mosque (Said, 1977), Al-Kaff Garden and arcade buildings (Talib, 1997). Most of these waqf lands are in perfect locations (Hashim & Omar, 2007), which yield lucrative returns. The benefit goes to their descendant's education fund and covers the operating cost of the free clinics open to the public. Based on this experience, it can be concluded that family waqf has the potential to be an instrument for financing either for family matters or beyond the realm of the family circle.

The success of waqf property management was evident as early as the first century of Islamic rule. Innovation in its implementation operates outside the usual context of being limited to mosques and cemeteries. In the 10th and 11th centuries, the Abbasid Empire pioneered waqf for health by establishing hospitals. Caliph Sallahuddin al-Ayubi started waqf for education in the 12th and 13th centuries A.D. Al-Ayubi's Waqf (1171-1249) in Egypt and Mamalik's Waqf (1249-1517) in Palestine are among the examples of educational waqf that contributed significantly to the local community (Kahf, 2011). Among the waqf-based educational institutions currently well-known worldwide are Madrasah Nizamiyah in Iraq, Madrasah al-Nuriyah Damascus in Syria and al-Azhar University, Cairo in Egypt. In addition, the Fatimid Empire in Egypt was renowned for its waqf water lines that supplied water to the people in the 13th and 14th centuries.

Referring to the history of waqf during the Ottoman Empire in Turkey (1299-1453), the results of waqf had helped develop various infrastructures such as mosques, schools, libraries, hospitals, official residences, water systems, sewerage, and others. In the 14th and 15th centuries, the Ottoman government began to pioneer the establishment of many university endowments in Turkey. The government had also enacted legal provisions for waqf, which contains a comprehensive system of registration as well as the administration and management of waqf property. The result is sustainability in managing waqf property, so much so that many of the waqf properties are still in use to this day (Saduman & Aysun, 2009). All of these success stories provide evidence that good governance and wise planning can yield flourishing and excellent gains for the community and the ummah.

Estate Administrator and Negotiation Flexibility

The appointment of an estate administrator allows for coordinated decision-making among heirs, while providing flexibility for negotiations to ensure fair and practical asset management. The administrator must manage the farm and distribute the proceeds to the heirs according to farāid law or as agreed earlier by the heirs (Wan Harun, 2012). In order to ensure the management of the asset in an orderly manner, cooperation of all heirs is essential to provide assistance, capital sharing, and moral support (Nor Muhamad and Mat Hussain, 2014). At the same time, an administrator should possess not only relevant information but also practical experience as well as preparation, not necessarily in the academic sense, but in the management of farms or family-owned property to ensure the asset is handled effectively and responsibly.

In this regard, the innovation is to promptly appoint an estate administrator and grant them full authority to manage the family assets efficiently. To strengthen the fairness of the co-ownership management, the appointment of the administrator must also get the consent of heirs and consideration by the Land Administrator (Circular of the Director-General of Federal Lands and Mines No. 12/2009). They shall be trustworthy in administering the deceased's estate and distribute the profit equitably to the other heirs. Mohamad (2007) stressed that consensus among the heirs regarding the appointment of an administrator, the project, cost reimbursement, and profit distribution including special allocations for the managerial team will proceed smoothly if the leader provides good guidance. Therefore, even if there are certain restrictions in the transfer of title, they can still agree in determining the continuation of cultivating the land and enjoying the

profit together. Furthermore, all issues should be handled with transparency to prevent the misuse of land as the ownership has been given by the government to the settlers (Awang, 1994; Mohamad, 2007).

Thus, joint ownership arising from the application of Surah al-Nisā', verses 11, 12, and 176, can be managed effectively by promptly appointing a good leader. In the Qur'anic verses on inheritance, Islam prescribes only the specific shares for each heir without stipulating who should lead the process. However, this omission carries wisdom, as it provides flexibility for the heirs in managing the estate, identifying the right leader, and preventing rigidity in the distribution process (Wan Ali & Ahmad, 2014). Most importantly, it should be understood that property is, in fact, entrusted to human beings as a vital resource for their sustenance, and heirs should manage it properly to ensure good returns. Therefore, it is imperative to manage it with honesty and fairness, especially in jointly owned property, for the good of the families' future generation (Ahmad & Ibrahim, 2006).

As we know, the provision of inheritance grants compulsory rights to the legal heirs. However, they may willingly (*tarādin*) relinquish those rights and this act of renunciation is known as *takharruj* (Wan Ali & Ahmad, 2013; Wan Ali, 2016; Jamalludin, 2016). *Takharruj* refers to an heir's voluntary rejection of his share of the inheritance and the transfer of that share to another heir, either without any financial consideration or through replacement (Ibn Manẓūr, 1990). Al-Ḥaṣārī (1992) defines *al-takharruj* as a reconciliation among the heirs, whereby one heir partially or completely withdraws from claiming his inheritance. They may also agree to distribute the estate equally by mutual consent (*muāfakat*) after understanding their respective rights, in order to benefit female heirs, especially when females are in the minority. This understanding aligns with the descriptions provided by Shalabī (1978) and al-Jabūrī and Ḥāmis (2007). In the context of FELDA land, legal heirs entitled to inherit may also apply *takharruj* by either selling their rights or relinquishing them freely to more needy heirs, or by finding the most effective way to manage the family property through mutual consensus (Sulong & Taha, 2021).

This consensual agreement is essential for managing co-owned property, as it facilitates the administration of the inheritance and ensures the efficient distribution of assets. According to Ahmad (2017), the practice of *muāfakat* and *takharruj* in relation to this type of property fosters tolerance among the heirs (Ahmad & Laluddin, 2010). The concept of peaceful settlement is a traditional societal practice (Ahmad, 2017) that has been widely adopted in many nations throughout the world (Cohen, 1978). It is often overseen by one's own family or by competent and respected community leaders, such as imams, village heads, and kadis (Ahmad, 2017).

Therefore, innovation is needed to resolve conflicts between co-owners of property if a conflict arises. Islam has a method of *sulh* (peace) in dealing with conflicts, to satisfy every need and right. It is best that a consensus is reached so that each co-owners has peace of mind (Ibn Manzur, 1990). According to al-Isfahani (1961), *sulh* is the best mechanism in ending disputes between human beings. Ibn al-Humam (n.d.) and al-Kasani (1986) mentioned that any agreement that undergoes *sulh* becomes a contract that everyone must abide. Similarly, al-Nawawi (n.d.) opined that the method of *sulh* resolves disputes and avoids the damage that often occurs, such as deterioration of land value. Meanwhile, Majallat al-Ahkam al-'Adliyyah (1968) explained that *sulh* is an engagement to solve disputes voluntarily through an agreement. There are verses of the Qur'an that recommend *sulh* to be applied (al-Nisa', 128; al-Hujurat, 9). However, the only *sulh* that is recognized is the one that complies with Islamic law. Therefore, any settlement or consensus that violates Islamic law is considered invalid.

The Islamic religious authorities in Malaysia also resolve solutions for FELDA land inheritance. Based on the 38th Muzakarah of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia, which convened on 21 June 1995, proposed a method for property inheritance in the FELDA Land. Among the results that have been submitted are: all heirs agree to appoint one of them as a representative to manage the estate. If there is no agreement, the deceased's property shall be sold with priority given to the heirs as the buyer. The proceeds are divided among the heirs according to *faraid*. Surplus property is handed over to the Baitulmal if no heirs are entitled to inherit. The first proposal is reasonable and manageable, but number two

is challenging to implement because most heirs of FELDA settlers do not have a high financial ability. Usually, they appoint one of them as an administrator to manage it as family property (Fathullah & Sulong, 2017).

Establishing A Family Company

Establishing a family company or family foundation, based on jointly owned capital is among the best innovations, especially when the partners are members of the same family. According to Coulter (2001) and Scarborough (2011), a family company or family foundation is a company that involves one, two, or more members of the same family who manage and control the finances of a business. The family company is established by a family member and then taken over by heirs, such as wives, children, or relatives. As a result, family members are responsible for making decisions based on their ownership and roles, and the decision involves other family members in the company (Dean, 2005; Hashim et al., 2012). In other words, a company is owned, controlled, and operated by members of the same family.

Based on the definition, Lee (2006) has clarified that a family company results from a combination of two institutions, namely the family and the company jointly running a business. The size of a family company depends on its size, ownership, and management structure (Rosli, 2010). The function of a family company is like any other business that aims to make a profit and shares it with the owners and employees. The uniqueness of a family company is that family members will inherit it, and it can be passed from one generation to another. Therefore, a family company is essential to the national economy and the income of family members (Kuratko, 2009). Successors who take over a family business need to understand the company's goals for the welfare of all heirs, and the management must be carried out professionally.

The study found out that China is the country with the most registered family companies (167), followed by the United States (121) and then India (108). Malaysia ranks at 7th place after France (4th), Hong Kong (5th), and Korea (6th). Therefore, Muslims in Malaysia should take the opportunity to create more family companies through co-ownership in inheritance as well as through FELDA's inheritance. The co-ownership to inheritance is inevitable, and innovation is required to ensure survival. This is to ascertain that the property can function effectively, allowing the heirs to generate income as well, either locally or globally (Frederick and Kuratko, 2010). According to Alexis (2014), the only common problem faced by family companies is dissatisfaction among family members themselves. This is due to several factors such as management quality, planning, profit distribution, age factors, lack of communication, envy, greed, and conservatism (Lee 2006; Yusof & Yusof 2004). All this may lead to cases of fights, breach of trust, selling shares to outsiders, and so on. However, the prosperity of the family company will last long if those negative attitudes can be professionally managed (Frederick and Kuratko, 2010).

In addressing the challenges of managing a family-owned company, both FELDA and the heirs of the settlers should be provided with appropriate information and advisory services to ensure the continuity of the efforts undertaken. If good management can be implemented, the plantation will be well managed, workers will receive timely payments, and heirs holding shares will enjoy increased profits. Even though past studies have shown that only thirty percent of family companies are successfully passed on to the second generation (Deraman, 2010), the impact is positive for the sustainability of family assets. In addition, tactful measures need to be implemented to ensure that a family business runs smoothly (Yusof & Yusof, 2004; Frederick, O'Connor, & Kuratko, 2013).

Nor Muhamad and Mat Hussain (2014) have suggested another solution for heirs by giving a permanent transfer of ownership to one of the heirs only. All co-owners sell their share of the faraid portion or give it away for free for the chosen heir. Hence, the property becomes well-managed under sole ownership, and the other heirs will get their portion based on the rights purchased. The transfer can be done for a specific price according to the agreed value among legal heirs. By doing this, the family property is still intact by the members of the family. The income of family members also remained the same as before, except under the new leadership, which should be more productive and competitive (Ahmad, 2017).

CONCLUSIONS

Understanding the spirit of waqf is essential in ensuring that assets benefit the heirs without relinquishing ownership, much like the government's intention to preserve the physical assets of FELDA for the long-term economic sustainability of a family. Both properties have the same constraints, especially involving a number of owners or beneficiaries. All these constraints grant an advantage to the property, i.e. it cannot be abused arbitrarily. In the case of the waqf land, its restrictions are stricter because its management is also sanctioned by religion. However, this joint ownership, when approached with mutual understanding and proper management, need not lead to conflict; rather, it offers numerous opportunities for collective benefit. Historical precedents of joint property in waqf assets demonstrate the positive outcomes such arrangements have brought to Muslim communities.

For FELDA land, heirs should safeguard these assets and collaborate harmoniously to enhance productivity and generate sustainable returns. The main innovation that needs to be prioritized is not the activities or programs, as the property's functions are often apparent, but instead, the focus should be given to the competitive and robust management of the property. These factors are essential to ensure prosperity, sustainable success, and there is no mismanagement. Three innovative approaches can be proposed: first, establishing a family waqf to ensure that the physical asset is preserved while profits are sustained; second, promptly appointing an administrator to oversee the land while enabling heirs to coordinate through muāfakat or takharuj for effective management; and third, forming a family company to provide a long-term framework that generates employment and strengthens the family economy for future generations. By adopting these measures, FELDA heirs can uphold the legacy of the land while ensuring its continued economic and social contribution

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