



Legal Analysis of Cash Waqf-Based Real Estate Development in Indonesia: Integrating Sharia Principles with Contemporary Business Law

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ABSTRACT

This study provides a comprehensive legal analysis of the regulatory framework governing cash waqf-based real estate development projects in Indonesia. It critically examines the integration of Sharia principles with contemporary Indonesian business law, focusing on the legal challenges and opportunities that arise from this intersection. The research employs a normative legal approach, analyzing statutory provisions, recent jurisprudence from 2022-2024, and relevant fatwas from the National Sharia Council (DSN-MUI). Key findings reveal significant regulatory gaps, including overlapping institutional authorities, weak enforcement mechanisms, and a lack of harmonization between Law No. 4 of 2004 on Waqf and Law No. 2 of 2008 on Islamic Banking. The study further explores the role of innovative financial instruments, such as Cash Waqf-Linked Sukuk (CWLS), and the impact of recent OJK regulations on the participation of Islamic banks in waqf-based projects. By offering a detailed analysis of these legal dynamics, the research proposes a multi-faceted strategy to enhance legal certainty, strengthen governance, and unlock the full potential of cash waqf for sustainable and inclusive real estate development in Indonesia. The paper concludes with actionable recommendations for policymakers, regulators, and practitioners to foster a more robust and Sharia-compliant ecosystem for waqf financing.

Keyword: Indonesian Business Law, Islamic Banking, Real Estate Development, Legal Certainty, Financial Regulation.

1. Introduction

The urgency of this research is underscored by Indonesia's pressing need for sustainable infrastructure development, a critical engine for economic growth and social equity. The Indonesian government has outlined ambitious development goals, yet faces a significant financing gap that conventional funding sources alone cannot bridge.¹ In this context, Islamic social finance instruments, particularly cash waqf, have emerged as a potent alternative, aligning with the national strategy to

¹ Qadri, R. A., Pratama, R. H., Khabibi, A., & Pratama, R. S. (2024). Refining the Cash-Waqf Blended Finance Model for Infrastructure Development. *Management and Accounting Review*. <https://doi.org/10.24191/mar.v23i01-09>

leverage the Islamic economy for achieving the Sustainable Development Goals (SDGs).² Cash waqf, with its principles of perpetuity and community benefit, offers a unique, Sharia-compliant mechanism to mobilize untapped public funds for long-term, productive investments in real estate and infrastructure, thereby fostering inclusive economic development and social welfare.³ The effective mobilization of these funds, however, is contingent upon a robust and clear legal framework that can inspire public trust and ensure professional management, making a comprehensive legal analysis not just timely, but imperative for unlocking this potential.

The primary gap in the existing literature lies in the fragmented analysis of the legal and regulatory ecosystem governing cash waqf for real estate development in Indonesia. While numerous studies have highlighted the potential of waqf,⁴ and others have examined the legal framework of Islamic finance in general,⁵ there is a lack of research that holistically investigates the critical intersection of waqf law, Islamic banking law, and contemporary business practices in the context of large-scale development projects. Existing scholarship often points to regulatory weaknesses and institutional challenges,⁶ but falls short of providing an integrated analysis of the specific legal disharmonies between Law No. 41 of 2004 on Waqf and Law No. 21 of 2008 on Islamic Banking. This disconnect creates a legal vacuum, leaving key questions unanswered regarding risk allocation, investor protection, and the enforceability of complex financial contracts, thus deterring the full participation of institutional players like Islamic banks.

This study aims to address these critical gaps by providing a comprehensive legal analysis of the regulatory framework for cash waqf-based real estate development in Indonesia. The primary

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- ² Alam, N., Gupta, L., & Shanmugam, B. (2017). *Islamic Finance*. Springer International Publishing. <https://doi.org/10.1007/978-3-319-66559-7>; Mohammad, M. T. S. H. (2011). Towards an Islamic Social (Waqf) Bank. *International Journal of Trade, Economics and Finance*, 381–386. <https://doi.org/10.7763/ijtef.2011.v2.135>
- ³ Dirie, K. A., Alam, Md. M., & Maamor, S. (2023). Islamic social finance for achieving sustainable development goals: a systematic literature review and future research agenda. *International Journal of Ethics and Systems*, 40(4), 676–698. <https://doi.org/10.1108/ijoes-12-2022-0317>; Kuanova, L. A., Sagiyeveva, R., & Shirazi, N. S. (2021). Islamic social finance: a literature review and future research directions. *Journal of Islamic Accounting and Business Research*, 12(5), 707–728. <https://doi.org/10.1108/jiabr-11-2020-0356>; Qadri, R. A., Pratama, R. H., Khabibi, A., & Pratama, R. S. (2024). Refining the Cash-Waqf Blended Finance Model for Infrastructure Development. *Management and Accounting Review*. <https://doi.org/10.24191/mar.v23i01-09>
- ⁴ Kayani, U. N. (2022). Islamic Finance an alternative mode for short term financing – working capital management. *International Journal of Islamic and Middle Eastern Finance and Management*, 16(2), 310–322. <https://doi.org/10.1108/imefm-07-2021-0290>; Elmahgop, F., Alsulami, F., Mohammed, M. G. A., Abdel-Gadir, S., & Elhassan, T. (2025). The Socio-Economic Impacts of Waqf Investment Funds as a Model for Sustainable Financing in Saudi Arabia. *Sustainability*, 17(9), 3805. <https://doi.org/10.3390/su17093805>; Ab Shatar, W. N., Hanaysha, J. R., & Tahir, P. R. (2021). Determinants of cash waqf fund collection in Malaysian Islamic banking institutions: empirical insights from employees' perspectives. *ISRA International Journal of Islamic Finance*, 13(2), 177–193. <https://doi.org/10.1108/ijif-06-2020-0126>
- ⁵ Kamal, I. (2025). Islamic finance and welfare economics: normative Islamic welfare state versus positive Islamic finance mechanisms. *Qualitative Research in Financial Markets*. <https://doi.org/10.1108/qrfm-03-2025-0092>; Hoque, H., & Liu, H. (2021). Impact of bank regulation on risk of Islamic and conventional banks. *International Journal of Finance & Economics*, 28(1), 1025–1062. Portico. <https://doi.org/10.1002/ijfe.2462>
- ⁶ Syamlan, Y. T., & Purba, A. (2025). Business-Industry Collaboration in Developing Waqf Deposit Prototypes and SOPs in Islamic Financial Institution. *Tazkia Islamic Finance and Business Review*, 19(1), 213–241. <https://doi.org/10.30993/tifbr.v19i1.419>; Asni, F., Mohammed Noor, A., & Hasbulah, M. H. (2023). Management of cash waqf fund generation through the implementation of istibdal in Kedah. *Qualitative Research in Financial Markets*, 16(1), 60–86. <https://doi.org/10.1108/qrfm-03-2022-0048>; Jalili, I., Firdaus, M., & Fahm, A. O. (2024). The Role of Qawā'id Fiqhiyyah in Strengthening Waqf Law: A Review of Challenges and Solutions in Indonesia. *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan*, 11(2), 226–250. <https://doi.org/10.32505/qadha.v11i2.9424>

objective is to critically examine the integration of Sharia principles with contemporary Indonesian business law, identifying the legal challenges and opportunities that arise from this dynamic. The research specifically seeks to: (1) analyze the regulatory disharmony between the Waqf Law and the Islamic Banking Law; (2) evaluate the role and limitations of Islamic banks as Nazir (waqf managers) in profit-oriented development projects; (3) assess the adequacy of existing financial instruments, such as Cash Waqf-Linked *Sukuk* (CWLS), in mitigating legal and financial risks; and (4) propose a cohesive legal strategy to enhance regulatory certainty and strengthen the governance framework. By achieving these objectives, the study aspires to provide a clear roadmap for policymakers, regulators, and practitioners.

The novelty of this research lies in its integrated, multi-disciplinary approach that synthesizes normative legal analysis with insights from financial engineering and institutional economics. Unlike previous studies that focus on singular aspects of waqf, this paper constructs a holistic view by analyzing the interplay between religious principles (*Sharia*), national law, and market practices. It is the first to systematically map the legal inconsistencies between the two primary statutes governing waqf and Islamic banking in the context of real estate development. Furthermore, it introduces a novel framework for analyzing the legal viability of waqf-based financing models, moving beyond a purely descriptive account to offer prescriptive, actionable recommendations. The proposed multi-faceted strategy for legal reform, which harmonizes regulatory oversight, institutional roles, and financial innovation, represents a significant and original contribution to the field.

This study is subject to certain limitations. The research primarily employs a normative legal approach, focusing on the analysis of statutes, regulations, and legal doctrines. While this method is essential for understanding the legal framework, it does not capture the full spectrum of on-the-ground implementation challenges, which would require extensive empirical data from a wide range of stakeholders. The availability of public data on large-scale, completed cash waqf real estate projects is limited, which restricts the ability to conduct a quantitative impact assessment.⁷ Additionally, the legal and regulatory landscape for Islamic finance in Indonesia is dynamic and continuously evolving. Therefore, while the analysis is based on the most current laws and regulations available up to 2024, future reforms could alter the context and applicability of some findings. These limitations, however, do not diminish the study's core contribution but rather highlight avenues for future empirical research.

Recent studies have explored the intersection of Islamic finance and cash waqf, highlighting its potential as a source of alternative financing.⁸ Researchers emphasize the unique capacity of waqf funds to create perpetual benefits for communities while adhering to ethical investment principles.⁹ However, these studies also reveal significant challenges in operationalizing cash waqf for building development projects, particularly in ensuring compliance with Sharia principles and achieving effective integration with conventional financial systems.¹⁰ Legal clarity is critical in addressing these challenges, as it affects investor confidence and the credibility of waqf-based financial models.¹¹

⁷ Altay, B., & Bulut, M. (2025). Determinants of cash waqf finance capital in the Ottoman Empire: an empirical investigation. *International Journal of Islamic and Middle Eastern Finance and Management*, 18(5), 1198–1218. <https://doi.org/10.1108/imefm-05-2024-0241>

⁸ Kayani, U. N. (2022). Islamic Finance an alternative mode for short term financing – working capital management.

⁹ Elmahgop et al. (2025). The Socio-Economic Impacts of Waqf Investment Funds as a Model for Sustainable Financing in Saudi Arabia

¹⁰ Mohd Thas Thaker, M. A., Amin, M. F., Mohd Thas Thaker, H., Khaliq, A., & Allah Pitchay, A. (2020). Cash waqf model for micro enterprises' human capital development. *ISRA International Journal of Islamic Finance*, 13(1), 66–83. <https://doi.org/10.1108/ijif-08-2018-0091>; Alam & Shanmugam (2017). *Islamic Finance*.

¹¹ Kamaruzaman, N. R., & Ishak, M. S. I. (2023). Waqf institutions: a systematic literature review on governance, financial models, and socio-economic impact in islamic social finance. *Advanced International Journal of Business, Entrepreneurship and SMEs*, 5(18), 134–151. <https://doi.org/10.35631/aijbes.518014>

One key area of scholarly focus is the development of regulatory frameworks that reconcile the moral obligations of waqf with the practical demands of modern finance. Legal scholars and practitioners have debated the appropriate treatment of waqf funds within Islamic banking systems, particularly regarding their use in long-term investments such as real estate and infrastructure.¹² Furthermore, the lack of standardized guidelines has led to inconsistent practices across jurisdictions, complicating efforts to scale waqf-based development initiatives.¹³

Another important line of inquiry relates to the role of Islamic banks in facilitating cash waqf transactions.¹⁴ Studies suggest that Islamic banks can act as intermediaries, ensuring that waqf funds are managed in accordance with Sharia principles while maximizing their economic and social impact. Despite this potential, the involvement of Islamic banks in waqf financing remains limited due to regulatory uncertainties¹⁵ and operational challenges.¹⁶ Bridging this gap requires a nuanced understanding of both Islamic jurisprudence and financial engineering.¹⁷

While these studies provide valuable insights, they also highlight significant gaps in the existing literature and practice. First, there is a lack of comprehensive legal structures to govern the application of cash waqf in building development projects.¹⁸ Second, the integration of waqf principles with banking systems remains underexplored, leaving unanswered questions about how Islamic banks can effectively support waqf-based development.¹⁹ These gaps underscore the need for further research²⁰ into the legal and financial mechanisms that can ensure transparency, accountability, and Sharia compliance in cash waqf financing.

2. Research Method

This study adopts a normative legal research approach,²¹ emphasizing the examination and interpretation of statutory provisions, legal precedents, and Sharia principles relevant to cash waqf

¹² Mohammad, M. T. S. H. (2011). Towards an Islamic Social (Waqf) Bank; Edris, M. M. A. M., Elsharif, M. S. B., Abubakar, Y. S., Farag, S. A. S., & Bzeirat, S. K. S. A. (2024). Investment of Waqf funds in Malaysia: A Descriptive Study of Cultivating Uncultivated Land from Public Interest Perspective. *International Journal of Religion*, 5(11), 821–839. <https://doi.org/10.61707/f4f1av14>

¹³ Yusof, M. A. bin. (2024). Waqf-Driven Inclusive Prosperity Exploring the Intersection of Islamic Finance, Fintech, and Sustainable Development Goals. *Digitalization of Islamic Finance*, 303–334. <https://doi.org/10.4018/979-8-3693-5653-1.ch012>

¹⁴ Ab Shatar et al. (2021). Determinants of cash waqf fund collection in Malaysian Islamic banking institutions: empirical insights from employees' perspectives.

¹⁵ Hoque & Liu. (2021). Impact of bank regulation on risk of Islamic and conventional banks.

¹⁶ Syamlan & Purba. (2025). Business-Industry Collaboration in Developing Waqf Deposit Prototypes and SOPs in Islamic Financial Institution.

¹⁷ Alkhan, A. M., & Hassan, M. K. (2024). Islamic commercial law in action: a look into AAOIFI's Sharī'ah standard on Waqf. *Qualitative Research in Financial Markets*, 17(4), 794–804. <https://doi.org/10.1108/qrfm-06-2024-0166>

¹⁸ Asni et al. (2023). Management of cash waqf fund generation through the implementation of istibdal in Kedah.

¹⁹ Mikail, S. A., Djafri, F., & Ahmad, M. (2024). Waqf and Microfinance Integration for Enabling Sustainable Financial Inclusion: Analysis of Sharī'ah Compliance. *International Journal of Islamic Finance and Sustainable Development*, 16(3). <https://doi.org/10.55188/ijifsd.v16i3.901>; Taifur, M. A., & Ab Rahman, A. (2025). Waqf as a driven source for human capital development: a comparative analysis of Bangladesh and Malaysia. *Journal of Emerging Economies and Islamic Research*, 13(2), 6181. <https://doi.org/10.24191/jeeir.v13i2.6181>

²⁰ Hasan, R., Ahmad, A. U. F., & Bt. Siraj, S. A. (2020). Building trust in waqf management — implications of good governance and transparent reporting. *The Singapore Economic Review*, 67(01), 459–475. <https://doi.org/10.1142/s0217590820420059>

²¹ Rohman, Moh. M., Mu'minin, N., Masuwd, M., & Elihami, E. (2024). Methodological Reasoning Finds Law Using Normative Studies (Theory, Approach and Analysis of Legal Materials). *MAQASIDI: Jurnal Syariah dan Hukum*, 204–221. <https://doi.org/10.47498/maqasidi.v4i2.3379>

and its application in building development projects. The analysis is grounded in primary and secondary legal materials,²² including national laws, Islamic banking regulations, and authoritative fatwas. This approach ensures a robust understanding²³ of the regulatory and doctrinal underpinnings²⁴ of cash waqf financing within the Indonesian legal system and its compatibility with Sharia principles.

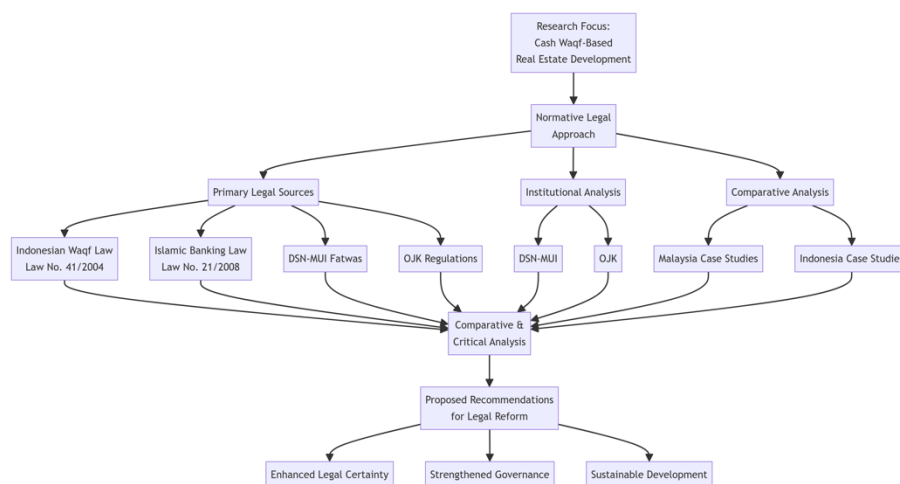


Figure 1. Research Design Framework

The flowchart illustrates the comprehensive research design, mapping the normative legal approach from primary source analysis through to the formulation of policy recommendations. Figure 1 outlines the research design, which systematically connects the study's focus on optimizing cash waqf for real estate development with a normative legal methodology. This approach is grounded in the critical analysis of primary Indonesian legal sources, including the foundational Waqf Law and the Islamic Banking Law, as well as the regulatory instruments issued by the Financial Services Authority (OJK) and the religious guidance provided through fatwas from the National Sharia Council (DSN-MUI). To contextualize this legal examination, the research incorporates practical insights from domestic and international case studies on cash waqf projects, alongside a structured comparative analysis with jurisdictions like Malaysia. This multi-faceted methodology—integrating doctrinal review, institutional analysis, practical case examples, and cross-jurisdictional benchmarking—enables a comprehensive identification of regulatory gaps and operational inefficiencies. The synthesis of these diverse strands ultimately leads to the formulation of targeted, actionable recommendations aimed at enhancing legal certainty and strengthening the operational framework for cash waqf financing in Indonesia's development sector.

3. Results

The study reveals significant gaps in Indonesia's regulatory framework governing the application of cash waqf for building development projects. Although the Indonesian Waqf Law (Law No. 4 of 2004) provides a general legal foundation, it lacks detailed provisions for integrating waqf funds into

²² Khasanah, K., & Mohd Salleh, M. M. (2025). Legal Frameworks for Consumer Protection in Digital Sharia Banking. *El-Qist: Journal of Islamic Economics and Business (JIEB)*, 15(1), 45–65. <https://doi.org/10.15642/elqist.2025.15.1.45-65>

²³ Ghazali, N. M., & Mamat, N. (2023). Discrepancy of Cash Waqf Meaning: A Critical Review with Special Focus on Selected Shariah Resolutions. *International Journal of Academic Research in Business and Social Sciences*, 13(7). <https://doi.org/10.6007/ijarbss/v13-i7/17670>

²⁴ Güney, N. (2024). Maqāsid al-Sharī'a in Islamic Finance: A Critical Analysis of Modern Discourses. *Religions*, 15(1), 114. <https://doi.org/10.3390/rel15010114>

large-scale, profit-oriented projects such as real estate development.²⁵ Similarly, while the Law on Islamic Banking (Law No. 2 of 2008) regulates Sharia-compliant financial institutions,²⁶ it does not comprehensively address the treatment of waqf funds within the banking sector. This regulatory disconnect leads to legal uncertainties, particularly concerning the management, protection, and utilization of waqf funds in commercial ventures.²⁷

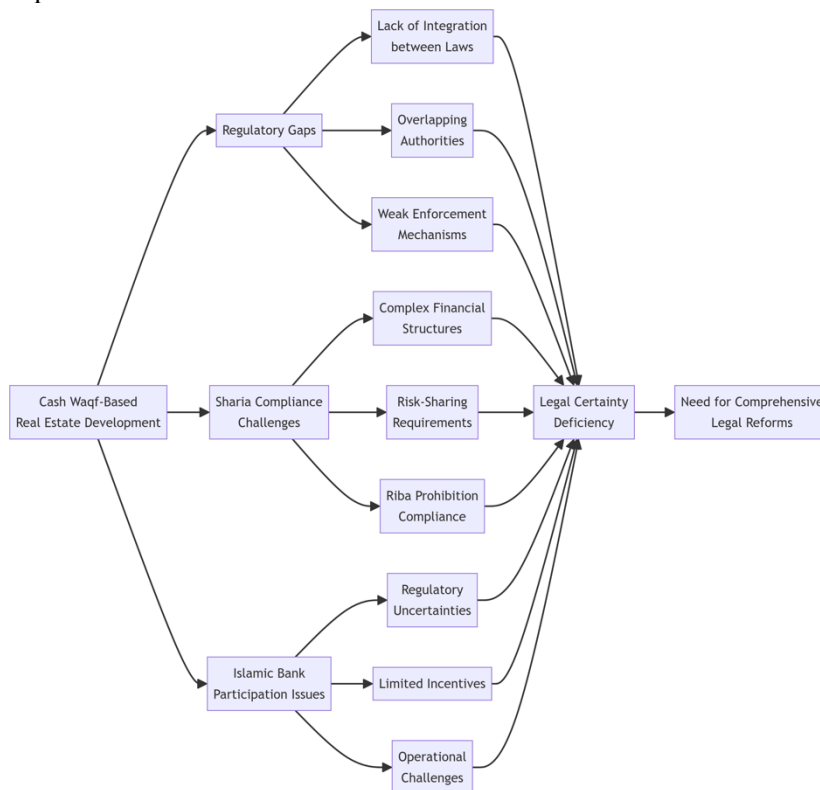


Figure 2. Key Challenges in Cash Waqf-Based Development

Figure 2 outlines the interconnected challenges hindering the effective implementation of cash waqf for real estate development, highlighting regulatory, compliance, and institutional issues. The study highlights the crucial role of Sharia principles in guiding cash waqf projects, particularly in emphasizing risk-sharing, the prohibition of *riba* (usury), and the commitment to social welfare. However, ensuring Sharia compliance in large-scale development projects presents challenges, especially in structuring financial instruments that align with both Islamic jurisprudence and national legal requirements.²⁸ For instance, mixed-use real estate projects often involve complex financial arrangements that may be difficult to reconcile with Sharia principles without undermining their feasibility or legal enforceability. Fatwas issued by the National Sharia Council (DSN-MUI) serve

²⁵ Iskandar, I., Kurlillah, A., Munadiati, M., & Nirwana AN, A. (2025). Exploring Waqf Management Models in Turkey: Implementation Potential and Adaptation Barriers in Indonesia. *AZKA International Journal of Zakat & Social Finance*, 21–48. <https://doi.org/10.51377/azjaf.vol6no2.209>

²⁶ Alam et al. (2017). *Islamic Finance*.

²⁷ Daoud, Y. (2025). Funding, risk and regulatory framework in Islamic banking: Organizational perspectives on an evolving financial landscape. *International Journal of Multidisciplinary Research and Growth Evaluation*, 4(3), 39–46. <https://doi.org/10.54660/ijmor.2025.4.3.39-46>

²⁸ Adams, O. A.-, Azubuike, C., Sule, A. K., & Okon, R. (2023). Innovative Approaches to Structuring Sharia-Compliant Financial Products for Global Markets. *International Journal of Multidisciplinary Research and Growth Evaluation*, 4(1), 615–624. <https://doi.org/10.54660/ijmrge.2023.4.1.615-624>

as an essential guide but lack the binding authority to fully resolve these challenges within Indonesia's regulatory landscape.

Islamic banks are well-positioned to facilitate cash waqf financing through mechanisms such as *sukuk* (Islamic bonds) and profit-sharing models. However, the research identifies limited participation from Islamic banks due to insufficient regulatory incentives and unclear legal provisions governing waqf-based investments. While Islamic banking institutions have the expertise to develop innovative financial products that comply with Sharia, the lack of a harmonized framework integrating waqf principles with banking regulations discourages their active involvement. This underutilization of Islamic banks represents a missed opportunity to leverage their potential in advancing sustainable and inclusive development through cash waqf financing.

Legal certainty emerges as a critical factor for the success of cash waqf-based building projects. The study emphasizes the need for harmonized and comprehensive legal provisions to align the interests of key stakeholders, including donors, investors, developers, and beneficiaries.²⁹ Clear guidelines for the management and allocation of waqf funds would enhance transparency, accountability, and trust in waqf-based financing mechanisms.³⁰ Such reforms would also support the integration of cash waqf into mainstream financial and legal systems,³¹ ensuring that Sharia-compliant development projects can achieve both their ethical and economic objectives.

Despite its significant contributions, the study acknowledges certain limitations. The lack of empirical data on large-scale implementation of cash waqf financing³² limits the generalizability of findings. Additionally, the evolving legal landscape surrounding waqf in Indonesia means that ongoing reforms could impact the relevance of some conclusions. Future research should include primary data from stakeholders such as waqf managers, financial institutions, and policymakers to provide deeper insights into practical challenges and opportunities.

This study bridges the gap between theoretical and practical aspects of waqf financing, offering actionable recommendations for addressing regulatory and operational challenges. By harmonizing waqf laws with Islamic banking regulations, policymakers can create a conducive environment for cash waqf financing.³³ The study advocates for the active involvement of Islamic banks, guided by robust legal and Sharia-compliant frameworks, to maximize the social and economic impact of waqf-based development.³⁴ These findings are particularly relevant for Indonesia,³⁵ where cash waqf holds immense potential to support sustainable and inclusive development initiatives.

²⁹ Kaasch, A., & Wilmsen, B. (2024). 9 Global Development Actors and Country Ownership in Indonesian Social Policy Making. *Emerging Trends in Social Policy from the South*, 209–229. <https://doi.org/10.56687/9781447367925-013>

³⁰ Ayub, M., Khan, K., Khan, M., & Ismail, M. (2025). Management and governance of Awqāf as social finance institutions. *Qualitative Research in Financial Markets*. <https://doi.org/10.1108/qrfm-01-2025-0013>

³¹ Samrat, S. R., & Nabi, A. (2025). Integrating Cash Waqf into Islamic Microfinance: A Sustainable Funding Solution for Economic Development in Bangladesh. *International Journal of Research and Innovation in Social Science*, IX(II), 4496–4505. <https://doi.org/10.47772/ijriss.2025.9020355>

³² Altay, B., & Bulut, M. (2025). Determinants of cash waqf finance capital in the Ottoman Empire: an empirical investigation. *International Journal of Islamic and Middle Eastern Finance and Management*, 18(5), 1198–1218. <https://doi.org/10.1108/imefm-05-2024-0241>

³³ Saidu, O. S., Cizacka, M., & Wilson, R. (2021). Removing the Cog in the Waqf Wheels: A Policy Formulation for Nigeria. *Share: Jurnal Ekonomi Dan Keuangan Islam*, 10(2), 275–306. <https://doi.org/10.22373/share.v10i2.10947>

³⁴ Kamaruzaman & Ishak. (2023). Waqf institutions: a systematic literature review on governance, financial models, and socio-economic impact in islamic social finance.

³⁵ Nofianti, L., Mukhlisin, M., & Irfan, A. (2024). Cash waqf innovation in Islamic financial institutions and its governance issues, case studies: Indonesia, Malaysia, Türkiye. *Journal of Islamic Accounting and Business Research*. <https://doi.org/10.1108/jiabr-12-2023-0420>

This study underscores the potential of cash waqf as a transformative financial instrument for building development projects, particularly in Indonesia. While the Indonesian Waqf Law (Law No. 4 of 2004) and the Law on Islamic Banking (Law No. 2 of 2008) provide foundational frameworks, significant gaps in their integration and implementation limit the effective utilization of waqf funds.³⁶ Challenges in ensuring Sharia compliance, particularly in complex financial arrangements for large-scale projects, further complicate the operationalization of cash waqf.³⁷ The limited engagement of Islamic banks, coupled with a lack of regulatory clarity,³⁸ highlights the need for comprehensive reforms to align legal, financial, and Sharia principles.

The findings emphasize that legal certainty is essential to build trust among stakeholders, including donors, investors, and developers, while ensuring that waqf funds are utilized in a transparent, accountable, and Sharia-compliant manner.³⁹ Addressing the existing gaps is crucial to fully harnessing the potential of cash waqf as a sustainable and inclusive financing model for development.⁴⁰ Effective implementation of targeted solutions is necessary to bridge these disparities, enabling cash waqf to benefit communities and contribute to broader economic objectives, as prescribed in Table 1.

Table 1. Key Provisions of OJK Regulations Affecting Islamic Banking and Waqf Financing

Regulation	Year	Key Provisions	Impact on Waqf Financing
POJK No. 2/2022 (Revised 2024)	2022-2024	Establishes minimum capital requirements (IDR 10 trillion) for Sharia bank establishment; mandates Sharia board composition.	Increases barriers to entry for new Islamic banks; strengthens Sharia governance requirements.
POJK No. 26/2024	2024	Expands permissible banking activities; allows transfer and acceptance of receivables; permits broader financing structures.	Creates flexibility for Islamic banks to structure waqf-based financing; enables securitization of waqf-funded projects.
OJK Islamic Banking Roadmap	2023-2024	Strengthens Islamic banking sector; promotes product innovation; enhances digital transformation.	Provides strategic framework for waqf integration; encourages banks to develop waqf-specific products.
DSN-MUI Fatwas	2000-2024	Fatwa on Mudharabah; Fatwa on Cash Waqf; Guidance on <i>sukuk</i> structures; Clarifications on profit-sharing models.	Provides Sharia-compliant framework for waqf financing; authorizes innovative instruments like CWLS.

As shown in the table 1 policymakers must prioritize harmonizing waqf-related laws with Islamic banking regulations to establish a cohesive framework for cash waqf financing.⁴¹ This harmonization

³⁶ Mikail et al. (2024). Waqf and Microfinance Integration for Enabling Sustainable Financial Inclusion: Analysis of Shari'ah Compliance.

³⁷ Naadia M.F., P. N. F. and Rashid, K. A. (2021). Shariah Compliance Risk Management in the Provision of Wakaf-Zakat Housings. *International Journal of Islamic Thought*, 19(1), 102–109. <https://doi.org/10.24035/ijit.19.2021.200>

³⁸ Jaradat, H., & Oudat, M. S. (2025). Enhancing clarity and transparency in Islamic financial practices: the role of regulatory influence. *Journal of Financial Reporting and Accounting*. <https://doi.org/10.1108/jfra-07-2024-0479>

³⁹ Himmawan, M. F., Ninglasari, S. Y., & Mirzal, H. (2025). A systematic literature review on waqf governance: stakeholder analysis. *International Journal of Ethics and Systems*. <https://doi.org/10.1108/ijoes-03-2025-0137>

⁴⁰ Samrat & Nabi. (2025). Integrating Cash Waqf into Islamic Microfinance: A Sustainable Funding Solution for Economic Development in Bangladesh.

⁴¹ Mohamad, N. A. (2024). Developments in harmonisation of shari'ah and law on waqf.

should clarify the legal treatment of waqf funds in commercial projects and provide clear,⁴² actionable guidelines for their management and allocation, particularly in large-scale developments.⁴³ Such reforms are essential to ensure legal certainty, enhance transparency, and facilitate the effective integration of waqf principles into modern financial and development practices.⁴⁴

Then, Islamic banks play a crucial role in advancing cash waqf initiatives, yet their participation remains limited due to insufficient regulatory support and a lack of incentives.⁴⁵ Policymakers should encourage greater involvement of Islamic banks by developing favourable regulations and enhancing their capacity to handle waqf-based projects.⁴⁶ Financial mechanisms such as *sukuk* (Islamic bonds)⁴⁷ and profit-sharing investment⁴⁸ models should be further refined and promoted, offering banks practical tools to facilitate Sharia-compliant waqf investments.⁴⁹ This active engagement of Islamic banks is essential for creating a robust ecosystem that bridges traditional waqf principles with modern financial practices.⁵⁰ To ensure the effective integration of cash waqf into the financial sector, institutional oversight must be strengthened.⁵¹ Collaboration between key entities such as the National Sharia Council (DSN-MUI) and the Financial Services Authority (OJK) is vital to provide consistent guidance on the application of Sharia principles in waqf financing.⁵² These institutions should issue binding regulations or guidelines to address the unique challenges of managing waqf funds, ensuring that all stakeholders adhere to standardized practices.⁵³ This collaborative oversight

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- ⁴² Mohd Roslan, N. R. I., & Nor Muhamad, N. H. (2024). Waqf Reporting Standardization: Towards a Comprehensive Governance Framework. *International Journal of Academic Research in Business and Social Sciences*, 14(1). <https://doi.org/10.6007/ijarbs/v14-i1/20610>
- ⁴³ Woltering, L., Valencia Leñero, E. M., Boa-Alvarado, M., Van Loon, J., Ubels, J., & Leeuwis, C. (2024). Supporting a systems approach to scaling for all; insights from using the Scaling Scan tool. *Agricultural Systems*, 217, 103927. <https://doi.org/10.1016/j.agsy.2024.103927>
- ⁴⁴ Mohamad Yunus, M. H. S., Muwazir, M. R., Noordin, K., & Ishak, S. N. (2024). Enhancing waqf governance for sustainable development: a critical review. *International Journal of Law, Government and Communication*, 9(35), 89–96. <https://doi.org/10.35631/ijlgc.935008>
- ⁴⁵ AlJaber, A., Martinez-Vazquez, P., & Baniotopoulos, C. (2023). Barriers and Enablers to the Adoption of Circular Economy Concept in the Building Sector: A Systematic Literature Review. *Buildings*, 13(11), 2778. <https://doi.org/10.3390/buildings13112778>
- ⁴⁶ Musyaffa, A. N., Luthfi, A., & Amijaya, R. N. F. (2025). The Role of Government, Islamic Banks, And Waqf in Inclusive Economic Development in Indonesia. *Maliki Islamic Economics Journal*, 5(1), 39–55. <https://doi.org/10.18860/miec.v5i1.32459>
- ⁴⁷ Ulfah, I. F., Sukmana, R., Laila, N., & Sulaeman, S. (2023). A structured literature review on green sukuk (Islamic bonds): implications for government policy and future studies. *Journal of Islamic Accounting and Business Research*, 15(7), 1118–1133. <https://doi.org/10.1108/jiabr-10-2022-0255>
- ⁴⁸ Ben Amar, A., & El Alaoui, A. O. (2022). Profit- and loss-sharing partnership: the case of the two-tier mudharaba in Islamic banking. *International Journal of Islamic and Middle Eastern Finance and Management*, 16(1), 81–102. <https://doi.org/10.1108/imefm-12-2020-0630>
- ⁴⁹ Taufik Syamlan, Y., Wahyuni, S., Heruwasto, I., & Hamsal, M. (2025). Exploring sharia compliance parameters in marketing to foster innovation and collaboration within Islamic finance. *Journal of Islamic Marketing*. <https://doi.org/10.1108/jima-04-2024-0172>
- ⁵⁰ Mohamed, A., & Akande, A. E. (2025). Waqf-led buildings and green infrastructure role in environmental sustainability: understanding critical gaps in current research landscape. *Management & Sustainability: An Arab Review*. <https://doi.org/10.1108/msar-09-2024-0152>
- ⁵¹ Ayub et al. (2025). Management and governance of Awqāf as social finance institutions.
- ⁵² Baianda, A. (2024). Implementation of Sharia Principles in Micro Waqf Bank Financing Products at Minhadrul'ulum Islamic Boarding School (Based on the National Sharia Board Fatwa of the Indonesian Ulema Council Number 19 of 2001). *KnE Social Sciences*. <https://doi.org/10.18502/kss.v9i16.16247>
- ⁵³ Mikail et al. (2024). Waqf and Microfinance Integration for Enabling Sustainable Financial Inclusion: Analysis of Shari'ah Compliance.

would enhance the credibility and accountability of waqf-based projects, fostering greater trust among donors, investors, and beneficiaries.⁵⁴

Building the capacity of stakeholders and increasing public awareness are also pivotal in expanding the reach and impact of cash waqf.⁵⁵ Waqf managers,⁵⁶ financial institutions,⁵⁷ and policymakers need training on best practices for managing waqf funds in compliance with both Sharia principles and national laws.⁵⁸ Additionally, public awareness campaigns can play a transformative role in encouraging community participation and contributions to waqf initiatives.⁵⁹ By educating the public about the benefits and mechanisms of cash waqf, these campaigns can foster a culture of philanthropy and social responsibility that aligns with Islamic values.⁶⁰

Finally, future research and data collection are essential to address the practical challenges and refine strategies for implementing cash waqf in large-scale projects. Conducting empirical studies, such as surveys, interviews, and case studies, will provide valuable insights into the experiences of stakeholders and the operational dynamics of waqf-based financing. These findings can guide policymakers and practitioners in formulating targeted recommendations to enhance the effectiveness and sustainability of waqf initiatives. Together, these measures create a comprehensive roadmap for leveraging cash waqf as a tool for inclusive and sustainable development.⁶¹

4. Discussion

The foundational impediment to unlocking cash waqf's potential in Indonesia is the profound regulatory dissonance between its core governing statutes. The Waqf Law (No. 41/2004) and the Islamic Banking Law (No. 21/2008) were conceived with divergent paradigms—the former for static, charitable assets and the latter for dynamic financial intermediation.⁶² This has created a legal lacuna where sophisticated, commercial waqf-financed real estate ventures operate, lacking clear

⁵⁴ Musyaffa et al. (2025). The Role of Government, Islamic Banks, And Waqf in Inclusive Economic Development in Indonesia.

⁵⁵ Asyari, A., Hoque, M. E., Susanto, P., Begum, H., Awaluddin, A., Marwan, M., & Mamun, A. A. (2024). Online cash waqf behavioral intention: the role of knowledge of cash waqf and trust. *Journal of Islamic Marketing*, 15(11), 2864–2890. <https://doi.org/10.1108/jima-07-2023-0224>

⁵⁶ Rusli, R. K., Hafidhuddin, D., Bahruddin, E., & Tamam, A. M. (2023). Existing Curriculum Management in Enhancing Nazhir's Professionalism; Analysis Network Process. *Al-Tanzim: Jurnal Manajemen Pendidikan Islam*, 7(2), 678–692. <https://doi.org/10.33650/al-tanzim.v7i2.4695>

⁵⁷ Sugianto, S., Soemitra, A., Yafiz, M., Dalimunthe, A. A., & Ichsan, R. N. (2022). The implementation of waqf planning and development through Islamic financial institutions in Indonesia. *JPPPI (Jurnal Penelitian Pendidikan Indonesia)*, 8(2), 267. <https://doi.org/10.29210/020221430>

⁵⁸ Sano, M. A. A., & Kassim, S. (2021). Waqf governance in the Republic of Guinea: legal framework, issues, challenges and way forward. *ISRA International Journal of Islamic Finance*, 13(2), 194–210. <https://doi.org/10.1108/ijif-03-2020-0064>

⁵⁹ Mohd Ali, S. N., Arshad, H., Fauzi, N. S., & Ghonim, S. M. A. A. (2023). Synergizing Community Empowerment: Unveiling the Holistic Framework of Waqf Zakat and Infaq-Funded Agricultural Mosque Projects. *Environment-Behaviour Proceedings Journal*, 8(26), 131–136. <https://doi.org/10.21834/e-bpj.v8i26.5146>

⁶⁰ Thaidi, H. A. A., Ab Rahman, M. F. & Salleh, A. Z. (2023). Addressing Challenges, Unleashing Potentials: Towards Achieving Impactful Islamic Social Finance. *Ulum Islamiyyah*, 35(02), 63–85. <https://doi.org/10.33102/uij.vol35no02.554>

⁶¹ Tahiri-Jouti, A. (2022). Cash Waqf Shukūk Meeting Sustainable Development Goals. *Financial Instruments and Cash Waqf*. Springer. 161–173. https://doi.org/10.1007/978-3-031-04337-6_11

⁶² Jalili et al. (2024). The Role of Qawā'id Fiqhiyyah in Strengthening Waqf Law: A Review of Challenges and Solutions in Indonesia.

rules on fiduciary duty, asset classification, and profit-distribution mechanisms.⁶³ Such ambiguity is a primary deterrent to capital, as investor confidence is intrinsically linked to legal predictability and enforceable contracts.⁶⁴ Consequently, the regulatory framework itself becomes the most significant barrier to scaling waqf from a philanthropic activity into a mainstream developmental tool.

Compounding the legislative disharmony is a critical divergence in institutional governance between Indonesia and Malaysia. Indonesia's model is characterized by multiple overlapping authorities—the Indonesian Waqf Board (BWI), the Financial Services Authority (OJK), and the National Sharia Council (DSN-MUI)—creating a tripartite regulatory burden that inflates compliance costs and generates jurisdictional confusion.⁶⁵ In stark contrast, Malaysia's framework, centered on State Islamic Religious Councils and a clear hierarchy under Bank Negara Malaysia (BNM), offers a more coherent and streamlined structure. This comparative analysis reveals that Indonesia's institutional fragmentation directly undermines operational efficiency and accountability, whereas Malaysia's integrated approach provides a more stable environment for stakeholder engagement and project execution.

Table 2. Comparative Analysis of Cash Waqf Implementation Models in Indonesia and Malaysia

Aspect	Indonesia	Malaysia	Key Differences & Implications
Legal Framework	Law No. 41/2004 (Waqf); Law No. 21/2008 (Islamic Banking); OJK Regulations (2022-2024).	Waqf Act 1995 (Federal); State-specific waqf laws; BNM Shariah Governance Framework.	Indonesia has more recent regulatory updates but a more fragmented framework; Malaysia has a more developed state-level waqf governance.
Institutional Framework	Indonesian Waqf Board (BWI); OJK; DSN-MUI; Ministry of Religion (overlapping authorities).	Waqf Corporation; BNM; Shariah Advisory Council; State Islamic Religious Councils (clearer hierarchy).	Indonesia has multiple overlapping authorities, creating confusion; Malaysia's model offers a clearer institutional structure.
Cash Waqf Instruments	Cash Waqf-Linked <i>Sukuk</i> (CWLS) - Government-issued; Emerging digital platforms; Limited private sector involvement.	Waqf-linked <i>Sukuk</i> (more established); Waqf-based mutual funds; Waqf endowment insurance products.	Malaysia has more diverse instruments and stronger private sector participation; Indonesia's CWLS is innovative but government-centric.
Real Estate Development	Limited large-scale projects; High regulatory uncertainty; Few completed case studies.	More established track record; Clearer legal precedents; Multiple successful projects.	Malaysia has more practical experience, offering a model for Indonesian reform; Indonesia has high growth potential but faces more legal barriers.

⁶³ Abd. Wahab, N., Mohd Yusof, R., Zainuddin, Z., Shamsuddin, J. N., & Mohamad, S. F. N. (2022). Charting future growth for Islamic finance talents in Malaysia: a bibliometric analysis on the Islamic finance domains and future research gaps. *Journal of Islamic Accounting and Business Research*, 14(5), 812–837. <https://doi.org/10.1108/jiabr-02-2022-0045>

⁶⁴ Kamaruzaman & Ishak. (2023). Waqf institutions: a systematic literature review on governance, financial models, and socio-economic impact in Islamic social finance; Kasim, N. M., & Kamba, S. N. M. (2024). The Application of the Principle of Legal Expediency Through Cash Waqf in Improving the Welfare of the People of Gorontalo. *Proceedings of the 4th International Conference on Social Sciences and Law (ICSSL 2024)*, 1075–1088. https://doi.org/10.2991/978-2-38476-303-0_96

⁶⁵ Mohammad. (2011). Towards an Islamic Social (Waqf) Bank; Ab Shatar et al. (2021). Determinants of cash waqf fund collection in Malaysian Islamic banking institutions: empirical insights from employees' perspectives.

Aspect	Indonesia	Malaysia	Key Differences & Implications
Regulatory Challenges	Overlapping authorities; Weak enforcement; Limited institutional capacity; Sharia-law harmonization gaps.	State vs. federal coordination; Varying standards across states; but generally a more coherent framework.	Indonesia faces more acute coordination problems; both nations require significant capacity building for <i>nazhirs</i> and regulators.
Innovation & Digital	Rapid digitalization initiatives (2023-2024); Blockchain-based waqf platforms; Mobile payment integration.	Established digital infrastructure; More mature fintech ecosystem; Waqf-specific apps are fully operational.	Indonesia is catching up rapidly, leveraging its large digital-savvy population; Malaysia currently holds a first-mover advantage.

Indonesia's innovative Cash Waqf-Linked *Sukuk* (CWLS) as shown in Table 1 exemplifies a paradoxical advancement: a technically brilliant instrument constrained by the very system it seeks to transcend. While CWLS successfully leverages sovereign credit to mobilize retail waqf for social projects, it is a government-centric solution that bypasses, rather than resolves, underlying private-sector legal hurdles. Conversely, Malaysia has cultivated a more diverse ecosystem of waqf-linked *sukuk*, mutual funds, and endowment insurance, demonstrating stronger private-sector participation. This indicates that while financial engineering is necessary, it is insufficient without concurrent legal-structural reforms. Indonesia's focus on a single, state-backed instrument highlights a market where innovation is channeled to circumvent systemic flaws rather than to build upon a robust foundational framework.

application of Sharia principles within complex, profit-driven real estate projects presents a formidable operational challenge. Indonesia relies heavily on non-binding fatwas from DSN-MUI, which, while providing essential guidance, lack statutory enforceability and cannot definitively resolve contractual disputes.⁶⁶ This creates a reliance on self-regulation and goodwill, increasing perceived risk. Malaysia's model, where Shariah Advisory Council rulings carry greater legal weight within a more integrated regulatory system, offers a more secure compliance pathway. The Indonesian experience underscores that doctrinal soundness of instruments like *Mudarabah* or *Musharakah Mutanaqisah* is neutralized without a legal framework that explicitly codifies risk-sharing arrangements, dispute resolution mechanisms, and the fiduciary responsibilities of all parties in a commercial waqf venture.⁶⁷

The regulatory and Sharia-compliance ambiguities generate a cascade of tailored risks for each stakeholder, stifling collective action. For the *waqif* (donor), there is risk of mismanagement with limited recourse.⁶⁸ The *nazhir* (manager) faces unmitigated liability for capital impairment without equivalent "safe harbor" protections.⁶⁹ Islamic financial institutions confront a triad of regulatory, credit, and reputational risks, making waqf assets difficult to justify on their balance sheets under OJK prudential rules.⁷⁰ Developers and investors, meanwhile, face contractual uncertainty. This

⁶⁶ Ghazali & Mamat. (2023). Discrepancy of Cash Waqf Meaning: A Critical Review with Special Focus on Selected Shariah Resolutions.

⁶⁷ Rohman et al. (2024). Methodological Reasoning Finds Law Using Normative Studies (Theory, Approach and Analysis of Legal Materials); Nofianti et al. (2024). Cash waqf innovation in Islamic financial institutions and its governance issues, case studies: Indonesia, Malaysia, Türkiye; Naadia and Rashid. (2021). Shariah Compliance Risk Management in the Provision of Wakaf-Zakat Housings.

⁶⁸ Yusof (2024). Waqf-Driven Inclusive Prosperity Exploring the Intersection of Islamic Finance, Fintech, and Sustainable Development Goals.

⁶⁹ Ab Shatar et al. (2021). Determinants of cash waqf fund collection in Malaysian Islamic banking institutions: empirical insights from employees' perspectives.

⁷⁰ Kuanova et al. (2021). Islamic social finance: a literature review and future research directions.

pervasive risk environment, absent in more mature jurisdictions like Malaysia, explains the scarcity of private capital and professional expertise in Indonesia's waqf-based real estate sector.

Islamic banks in Indonesia remain a critically underutilized channel for waqf mobilization, representing a major systemic failure. Ideally positioned as professional *nazhirs* and financial intermediaries, their engagement is hamstrung by the misalignment between waqf's social-perpetual nature and banking's commercial-prudential regulations.⁷¹ The risk-weighting and treatment of waqf funds remain unclear under OJK regulations, discouraging significant capital allocation. This contrasts with environments where regulatory clarity enables banks to design bespoke products. Therefore, unlocking this sector requires not just new instruments, but a foundational regulatory shift that recognizes and mitigates the unique risks of waqf-intermediated finance, transforming banks from reluctant observers into central catalysts.⁷²

The real estate sector serves as the ultimate litmus test for the efficacy of the cash waqf ecosystem, revealing a stark performance gap between Indonesia and Malaysia. Indonesia's track record is limited, hampered by high regulatory uncertainty and few completed case studies. Malaysia, benefiting from clearer legal precedents and a more coherent framework, boasts multiple successful large-scale projects. This disparity is not due to a lack of Indonesian demand or capital, but rather to the legal-institutional barriers that prevent the translation of potential into practice. Malaysia's experience provides a actionable model, demonstrating that clear title management, standardized project vehicles, and defined revenue-sharing models are prerequisites for success—elements currently missing in Indonesia.

In the realm of digital innovation, Indonesia displays a dynamic potential to leapfrog existing hurdles. Its rapid digitalization initiatives and large tech-savvy population are driving blockchain-based platforms and mobile payment integration for waqf. However, this technological momentum operates within the same flawed legal infrastructure. Malaysia currently holds a first-mover advantage with a mature fintech ecosystem and fully operational waqf-specific apps. The critical question is whether Indonesia can harness its digital agility to build new systems that compel regulatory modernization, or if digital platforms will merely automate existing inefficiencies. True innovation requires digital tools to be built in tandem with, not in lieu of, legal and governance reforms.

The Malaysia-Indonesia comparison yields not just contrasts but clear imperatives for Indonesian reform. Malaysia's relative success stems from its integrated regulatory approach, stronger legal enforceability of Sharia governance, and active private-sector role fostered by clearer rules. For Indonesia, the path forward involves deliberate steps towards harmonization: legislatively bridging the Waqf and Islamic Banking laws, clarifying the hierarchical authority among BWI, OJK, and DSN-MUI, and creating specialized legal vehicles for waqf projects. This necessitates moving from a fragmented, top-down model exemplified by CWLS to a holistic, enabling environment that incentivizes private institutional participation.

Theoretically, this analysis extends Islamic finance discourse beyond doctrine into the realm of institutional economics, demonstrating that faith-based financial instruments fail or thrive based on the quality of their supporting legal-regulatory infrastructure. Practically, it mandates a paradigm shift for all stakeholders. Policymakers must prioritize legislative harmonization. Regulators like OJK and BWI must develop detailed, waqf-specific prudential and management guidelines. Islamic financial institutions must advocate for and help design these new frameworks. Ultimately, for cash

⁷¹ Hoque & Liu. (2021). Impact of bank regulation on risk of Islamic and conventional banks; Syamlan & Purba. (2025). Business-Industry Collaboration in Developing Waqf Deposit Prototypes and SOPs in Islamic Financial Institution.

⁷² Alkhan & Hassan. (2024). Islamic commercial law in action: a look into AAOIFI's Shari'ah standard on Waqf; Qadri et al. (2024). Refining the Cash-Waqf Blended Finance Model for Infrastructure Development.

waqf to fulfill its transformative potential in Indonesia, it must transition from being perceived as a charitable alternative to being recognized as a sophisticated asset class requiring—and deserving—a equally sophisticated, integrated, and certain governance ecosystem.

4.1. A Multi-Pronged Strategy for Systemic Legal and Regulatory Reform

The profound legal and regulatory dissonance inhibiting cash waqf in Indonesia necessitates a systemic overhaul, not incremental tweaks. A transformative, multi-pronged strategy must be deployed, targeting the foundational pillars of legislation, institutional governance, market architecture, and human capital. This integrated approach is essential to transition from a fragmented, risk-averse ecosystem to a cohesive and enabling environment for waqf-based real estate finance.

The cornerstone of this reform is legislative harmonization, which requires surgically amending the core conflicting statutes. The Waqf Law (No. 41/2004) must be expanded to formally recognize and govern "Productive and Commercial Waqf," providing legal clarity for using waqf funds as equity and establishing a "business judgment rule" to shield diligent *nazhirs* from liability for prudent investment risks. Concurrently, the Islamic Banking Law (No. 21/2008) must be amended to legally define "Waqf Funds under Management" as distinct trust assets, thereby empowering OJK to create bespoke prudential regulations for their treatment. This dual legislative action is critical to bridging the conceptual chasm between perpetual social endowment and modern financial intermediation.

Parallel to legislative action, a definitive clarification of institutional mandates is non-negotiable. The current tripartite overlap among BWI, OJK, and DSN-MUI creates debilitating inefficiency. A recalibration is required: BWI should be empowered as the supreme registrar and compliance auditor for waqf assets; OJK must act as the exclusive prudential regulator for all waqf-involved financial instruments and institutions, ideally through a dedicated Islamic social finance unit; and DSN-MUI's authority should be strengthened by formalizing a mechanism to codify its key fatwas into binding OJK regulations. This creates a clear, hierarchical oversight chain—Sharia compliance (DSN-MUI), financial integrity (OJK), and endowment purpose fidelity (BWI).

Strategic market incentives are the third pillar, designed to catalyze private sector participation beyond government-led models like CWLS. To attract capital, the state must deploy fiscal policy, offering full tax deductibility for cash waqf donations and tax holidays for certified waqf-based development projects. From a regulatory perspective, OJK can provide preferential treatment, such as assigning lower risk-weights to waqf-financed assets in bank capital adequacy calculations. These measures recalibrate the risk-reward equation, making waqf projects commercially viable for Islamic banks, developers, and investors, thus shifting the model from state-dependent to market-driven.

Finally, the strategy's efficacy hinges on capacity building and digital transformation. The professionalization of *nazhirs* through a rigorous BWI-led certification program is paramount to build trustee competency in finance and project management. Simultaneously, leveraging digitalization is crucial for transparency and scale. Supported by the government, integrated digital platforms for collection, monitoring, and reporting can enhance accountability and provide critical data for policymaking. This fourth pillar ensures that a robust legal framework is operationalized by capable actors using efficient, transparent systems, completing the transition to a mature ecosystem.

4.2. Strategic Recommendations for an Enabling Ecosystem

In conclusion, cash waqf stands as a formidable yet structurally constrained instrument for sustainable development in Indonesia. This analysis unequivocally demonstrates that the primary impediment is not a lack of financial concepts or demand, but a critically fragmented legal-regulatory architecture. The disharmony between the Waqf Law and Islamic Banking Law, exacerbated by overlapping institutional authorities and an absence of specialized legal vehicles, generates pervasive uncertainty that deters essential private sector actors. While innovations like Cash Waqf-Linked *Sukuk* (CWLS) prove concept viability, they also reveal the system's dependency on sovereign credit,

underscoring the unmet need for a framework enabling private, commercial-scale waqf real estate ventures.

Consequently, a paradigm shift from a fragmented to an integrated governance model is imperative. This shift demands targeted, actionable interventions from all stakeholders. For the Indonesian government and legislature, the highest priority must be the deliberate harmonization of the core laws governing waqf and Islamic finance, as detailed in the reform strategy. This must be coupled with the enactment of clear fiscal legislation to provide tax incentives for donors and developers, creating the initial economic impetus for market formation.

For regulators, specific and proactive measures are required. The Financial Services Authority (OJK) must issue dedicated regulations defining the prudential treatment of waqf funds and formally integrating codified DSN-MUI fatwas into its regulatory framework to dissolve Sharia-compliance ambiguities. Concurrently, the Indonesian Waqf Board (BWI) must accelerate its mandate by launching a mandatory national certification program to professionalize *nazhirs*, building essential human capital for trustworthy asset management.

The onus also extends to industry practitioners and scholars. Islamic financial institutions must collaboratively develop standardized Sharia-compliant product templates and contractual models for waqf real estate projects to reduce transaction costs and legal complexity. Simultaneously, the academic community must pivot towards empirical research, generating quantitative data on the financial performance and social impact of existing projects to inform evidence-based policy refinement and risk assessment.

Ultimately, by executing this comprehensive agenda—spanning legislative reform, regulatory clarity, market incentives, and capacity building—Indonesia can systematically dismantle the existing barriers. This will transform its legal landscape from a source of risk into a catalyst for investment, unlocking the transformative potential of cash waqf to drive inclusive, Sharia-based prosperity and establish Indonesia as a leader in the practical application of Islamic social finance.

5. Conclusion

This study underscores the potential of cash waqf as a transformative financial instrument for building development projects, particularly in Indonesia. While the Indonesian Waqf Law (Law No. 4 of 2004) and the Law on Islamic Banking (Law No. 2 of 2008) provide foundational frameworks, significant gaps in their integration and implementation limit the effective utilization of waqf funds. Challenges in ensuring Sharia compliance, particularly in complex financial arrangements for large-scale projects, further complicate the operationalization of cash waqf. The limited engagement of Islamic banks, coupled with a lack of regulatory clarity, highlights the need for comprehensive reforms to align legal, financial, and Sharia principles. The findings emphasize that legal certainty is essential to build trust among stakeholders, including donors, investors, and developers, while ensuring that waqf funds are utilized in a transparent, accountable, and Sharia-compliant manner. Addressing the existing gaps is crucial to fully harnessing the potential of cash waqf as a sustainable and inclusive financing model for development. Effective implementation of targeted solutions is necessary to bridge these disparities, enabling cash waqf to benefit communities and contribute to broader economic objectives.

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