

# Obstacles of *Waqf* Institutions *vis-à-vis* Sustainable Oil Palm Management in Malaysia

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## ABSTRACT

*The total area of waqf land in Malaysia reached 11 091.82 hectares comprising general waqf and special waqf. The total land area of general waqf covered 4836.5 ha and the remaining 6255.32 ha were special waqf land as recorded by JAWHAR. In Malaysia, the administration and management of waqf property fall under the jurisdiction of the respective State Islamic Religious Council (SIRC). Realistically, to become a high-income nation by 2025, Malaysia requires waqf land in the context of the oil palm industry through the Shared Prosperity trajectory. The main problems facing the oil palm industry are the declining condition of the economy, nutritional deficiencies, decreasing productivity levels, and the unstable financial position of smallholders. To address these challenges, it is necessary to identify the obstacles faced by the waqf institutions in preserving the role of waqf as an Islamic financial instrument that provides financial assistance to those who are qualified. The question here is whether the government is only responsible to care for the oil palm industry in Malaysia. Hence, the objective of this study is to assess the strategy of waqf institutions in the development of the oil palm industry in Malaysia and to propose the methods of implementation. The findings showed that governance and sharing of responsibilities between the waqf institutions and the government are able to preserve the management of waqf land in Malaysia, especially in the care of their oil palm plantations.*

**Keywords:** oil palm, *waqf*, management, plantation, smallholder.

## INTRODUCTION

Islamic social finance tools have been instrumental in the alleviation of poverty and the promotion of socio-economic development for over 1400 years. Some of these instruments have been adopted and applied even outside the Islamic world. One instrument in particular – *waqf* (endowment) – has been utilised

even for the establishment of Oxford University's Merton College in 1264. Although a significant number of *waqf* institutions exist globally, the success of these institutions relies on efficient governance, regulations, supervision mechanisms, and effective management. As most countries and regions have no authorised *waqf* regulations or monitoring processes, the value

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and output of *awqaf* assets are mostly on the decline. The potential, however, is enormous. Malaysia, for example, has *waqf* land valued at RM1.2 billion (Yayasan Waqaf Malaysia, 2016), with research suggesting that only 2% of the total acreage has actually been developed.

Malaysia, in fact, has a considerable *waqf* land reserve. The development of these *waqf* lands will definitely generate the economy of Muslims in the country. The *waqf* land area in Malaysia was 11 091.82 ha, in which 4836.50 ha were the general *waqf* land and the remaining 6225.32 ha were the special *waqf* land (Jabatan Wakaf Zakat dan Haji, 2013). The state of Johor has the largest *waqf* land area, followed by Terengganu and Sabah. The Wakaf, Zakat and Haji Department (JAWHAR) collected data of the total *waqf* land area in Malaysia, as shown in following Tables 1 and 2:

Based on the data from JAWHAR, a few of the *waqf* lands are of high value, very spacious, and located in different states. There are a few states could not be ascertained due to the low values of the lands. In addition to being a trustee of the *waqf* lands, the State Islamic Religious Council also has the power to appoint a corporation under them to assist in furthering the development and management of the *waqf* lands in Malaysia. However, a problem exists where the *waqf* lands could not be fully utilised to generate billions of revenues. Properly developed land can provide various benefits

to the community and nation, including smallholders in order to overcome the rising cost of living. Based on the stated problem, this study seeks to devise strategies that could be used to raise funds for the development of *waqf* property in the oil palm sector.

The smallholders include those who participate in collective landowner schemes (Vermeulen and Goad, 2006), supported smallholders, and independent smallholders (Ismail *et al.*, 2003; Vermeulen and Goad, 2006; Rahman *et al.*, 2008; Omar and Dahari, 2009; Dahari *et al.*, 2010). In Malaysia, almost 11% of the oil palm plantations were managed by independent smallholders, while approximately 30% were under a 'scheme' or 'Organised' out of the total 4.49 million hectares in 2008. The independent smallholders are those who are self-financed and self-organised and have more autonomy to decide on how to use their land, which crops to plant, as well as how to manage them.

## LITERATURE REVIEW

In Malaysia, there are thousands of acres of inactive *waqf* land (Omar, 2019). This is due to the unequal treatment of laws and market power in the real estate market. All this while, *waqf* land has been developed traditionally (Sabit, 2008). In addition, the SIRC, which play the sole role in the management of *waqf* in Malaysia, have not been proactive and are considered to be the cause of productive state of *waqf* property

(Saleem, 2009). The fact is that many lands are left abandoned with shrubs and bushes growing, not cultivated or optimised for the purpose of yielding agricultural produce. Therefore, it is imperative for all parties to take action to overcome this wastage of land to help the government reduce food imports and thus, make Malaysia a food exporting country.

Hassan and Shahid (2010) stated that many potentially useful *waqf* assets are not maintained and appropriately managed. The main cause of this problem is the lack of funding. Funds need to be raised in the effort to maintain and improve the management and maintenance of existing and future *waqf* property (Ismail and Arshad, 2009; Ramli, 2005). Among the obstacles in implementing a high-impact *waqf* are the integration of the intentions of the waiter in a common *waqf* project (for the purpose of proper construction and cost-effective management), the need for liquidity for the development, management of funds, administration, and the use of financing instruments for the purpose of enhancement or rehabilitation of agriculture.

Meanwhile, the smallholders receive direct support from the government or the private sector in setting up farms, input supply, and so on (Ismail *et al.*, 2003). In Malaysia, referring to Omar and Dahari (2009) and Dahari *et al.* (2010), supporting independent smallholders to do everything by themselves with minimal government assistance. Meanwhile, Rubber Industry Smallholders Development Authority (RISDA), Federal Land Consolidation and Rehabilitation Authority (FELCRA), and Federal Land Development Authority (FELDA) are the agencies that aid the smallholders in the oil palm sector by providing support programmes and agricultural schemes.

**TABLE 1. TYPES OF WAQF'S AND LAND AREA IN MALAYSIA 2013**

Types	Number	Area (ha)	Value (RM)
General <i>waqf</i>	1 012	4 836.50	19 282 885.01
Special <i>waqf</i>	3 512	6 255.32	80 046 285.68
Total	4 524	11 091.82	99 329 170.69

Source: Jabatan Wakaf Zakat dan Haji (JAWHAR).

**TABLE 2. STATISTICS OF WAQF LAND BY STATE 2013**

States	Waqf land area (ha)		Total area (ha)	Value waqf land (RM)
	General	Special		
Johor	1 422.80	1 729.50	3 152.30	7 000 500.00
Kedah	158.62	1 086.25	1 244.88	* 1997.00
Kelantan	16 01	157.63	173.65	56 703 373.00
Melaka	11.65	21.60	33.25	* 66.50
Negeri Sembilan	1.01	14.49	15.50	* 36.00
Pahang	0.00	723.82	723.82	18 000 000.00
Perak	116.12	0.00	116 12	* 383.00
Perlis	2.74	14.49	17.23	1 337 998.00
Pulau Pinang	220.03	559.23	779 26	850 000 000.00
Sabah	2 062.88	32.07	2 094.95	* 98.00
Sarawak	6.86	4.04	10.90	1 416 781.90
Selangor	235.63	31.82	267.45	200 000 000.00
Terengganu	581.66	1 878.58	2 460.24	42 623 196.19
W. Persekutuan	0.49	1.59	2.08	* 16.00
<b>Total</b>	<b>4 836.50</b>	<b>6 255.32</b>	<b>11 091.82</b>	<b>1 177 084 449.59</b>

Note: \* to date cannot be ascertained due to low values).

Source: Jabatan Wakaf Zakat dan Haji (JAWHAR).

Smallholders tend to have low productivity (Abdullah, 2013). The potential yield capacity of 10 tonnes of oil per hectare is far higher than the amount of production by these smallholder, whereby only between 3 and 4 tonnes per hectare (Murphy, 2014). However, the study argued that output might increase if these smallholders utilise their inputs more efficiently. Several steps can be taken to increase the income and yield of the smallholders. These steps include integrating oil palm with other crops in rotation, livestock integration, providing training for smallholders, using quality inputs and managing inputs properly, and reducing the cost of production, among others.

Meanwhile, the creation of *waqf* requires certain conditions. First, the development of efficient *waqf* land should benefit Muslims (Hasan and Abdullah, 2008). Physical property or other assets that are perpetuity in nature is the primary condition. Some jurists allow the practice of temporary *waqf*, but it is limited to family *waqf* only. The *waqf* founder should also be able to take such actions and is legally fit. A child, an insane person or a person without assets cannot form a *waqf*. Other than that, in accordance with the Shariah requirement, the purpose of *waqf* should be for charity. Lastly, the beneficiaries or *mauquf ilaihi* must be legitimate and alive. *Waqf* for the

dead is not permissible. Essential characteristics of *waqf* assets are perpetuity, irrevocability and inalienability (Osman, 2012).

In the Islamic world, Imam Zulfar approved the first cash *waqf* in the eighth century. Chowdhury *et al.* (2011) stated that cash *waqf* should be invested through the *Mudarabah* principle and the returns received should be distributed to the poor as charity. Scholars have different opinions on cash *waqf*. Cash *waqf* without any conditions is allowed by Imam Zulfar, and the majority of the Malikis permit cash and food as *waqf* although some consider them as *makruh*. The Hambalis deem that cash is not accepted as *waqf*. According to Ibn Taymiyah, the numerous verdicts on the invalidity of cash *waqf* are based on the opinions of al-Khiraqi and his followers. Today, a large amount of cash *waqf* is still being contributed by Muslims due to the flexibility in the amount of funds that they may donate, though there are issues on the legality of cash *waqf* among Shariah scholars.

The conclusion that can be drawn from the above literature is that most of the studies are related to weak management systems and insufficient funding, resulting in many idle and inactive assets. The lack of funds can be overcome by establishing a *waqf* fund out of cash *waqf*. However, the existence of such funds is still insufficient. By engaging the *waqf* institutions and smallholders, *waqf* land can be effectively used to create sustainable agricultural land. Special provisions should be made in order to enhance the role of land development in the effort to fulfil the national economic development agenda.

#### THE EMERGENCE OF WAQF INSTITUTIONS

In the history of Islam, the institution of *waqf* is recognised as playing an essential role in the

socio-economic development of the Muslim community. The institution of *waqf* in the past functioned and flourished and was accepted by the people as one of the factors in building civilisation, especially in providing basic needs and infrastructures free of charge. The history of the practice of *waqf* in Islam dates back to the time of Prophet Muhammad (SAW). Salarzahi *et al.* (2010) stated that *waqf* is seen as a tool for distributing wealth through social entrepreneurs. However, the institution of *waqf* is often regarded as a religious practice. The emphasis on the role of *waqf* institutions as agents of socio-economic development is a new phenomenon.

In the current aspect of the *waqf* discussion, three main elements must be taken into account even in the process of innovation due to the modernisation of change. First, *waqf* is about property given to Allah SWT indefinitely for the sake of benevolence where the benefit is to be distributed to the *waqf* recipients, and the *waqf* property is detained from destruction, sale or otherwise given to others. The absolute submission in the name of Allah Almighty cannot be withdrawn or revoked. Second, the concept of the property being held forever means that the property is generally permanent. Third, the benefits of the property should also be consistent with the original purpose of the property.

As a country inhabited by a majority of the Muslim population, *waqf* is believed to have been around for hundreds of years. At that time, the management of the *waqf* property was not as complicated as the undefined property. Most of the assets that were leased are immovable property, such as land and mosques. The administrators of the *waqf* property also consisted of many respected individuals including pious scholars, priests,

village leaders, chieftains, and members of the mosque committee. Since there were no clear amendments to the *waqf* law at that time, the *waqf* account could not be properly recorded (Zakaria *et al.*, 2014). This includes when a *waqf* property is not registered as a *waqf*, the waiter is still a nominee in the *waqf* grant, or the *waqf* holder is registered as the owner of the *waqf* property.

Not all the previous *waqf* assets and related problems could be recorded or resolved well when each state in Malaysia introduced its own *waqf* enactment and law. As such, today, some of the *waqf* assets are still not administered by the SIRC. The trustee of the *waqf* property, known as mutawalli, can also be identified by a variety of functions including as the manager and administrator of the *waqf* property. According to Saleem (2009) and Mutalib and Maamor (2016), four categories can be related to the mutawalli's tasks. The first category is the waitress. The second category is the Nazir (supervisor/inspector) and sole trustee. The third category is the *waqf* property manager, and the last category is the institution that manages the *waqf* property.

Based on Mahamood (2017), mutawalli or more easily referred to as the *Waqf* Property Administrator can generally be appointed among individuals or institutions including the heirs, beneficiaries, family members of the heirs, executors, qadhi, and trust bodies. According to the author, in the Malaysian context, the qualifications that enable a person to be appointed as the administrator of a *waqf* property are integrity and reliability, the ability to handle the affairs on his own or through his representatives, having physical and mental abilities, and possessing sound knowledge of *waqf*. If it is an institution, the entity must be established by law,

obtain permission from the SIRC, has good management records, and has proper planning for the *waqf* property.

Indeed, the practice of *waqf* has long been in existence and is a part of life for the Muslim community. The practice of *waqf* in Malaysia is believed to have existed for more than eight hundred years (Syed Othman, 1986). Most economic development projects implemented in Malaysia today utilise *waqf* property, derived from the return of the property itself or from the *waqf* stock fund (Rahman, 2009). In this regard, the formation of a *waqf* fund for oil palm in the agriculture sector is necessary to meet the needs of the poor without leaving anyone behind.

## OBSTACLES FACED BY WAQF INSTITUTIONS vis-à-vis THE OIL PALM SECTOR

### Public Awareness

Low levels of awareness among the community can affect the management of the *waqf* institution. This is because the community does not fully understand the dynamic nature of *waqf* (Mohamad *et al.*, 2012). Most people think that *waqf* can only work in religious and educational matters. This suggests that the concept of *waqf* has not yet reached a clear understanding among the people.

Furthermore, the community considers *waqf* only applies to Muslims (Puad *et al.*, 2014). This perception is a misunderstanding that exists in society due to the lack of knowledge on the true concept of *waqf*, as *waqf* is also allowed for non-Muslims. People need to be aware of the immense role that *waqf* plays in shaping the economy and even beyond that, it is not just to reduce the gap between the rich and the poor. According to Kahf (2002), the contribution of *waqf* is widespread in all aspects of social

welfare although some politicians and economists explain that the matter of social welfare is the responsibility of the government, for example, in education, health, and safety.

### Knowledge

Most smallholders still have little knowledge about sustainable oil palm cultivation. They do not understand the negative environmental impacts and are also unaware of good practices in oil palm cultivation. Independent smallholders have limited knowledge of agronomic management skills, thus preventing them from achieving higher yields (Euler, *et al.*, 2016). It is also challenging for them to access trustworthy information on market opportunities, pricing policies, the technical aspects of site management and production, as well as other fundamental rights and options under national laws or formal agreements (Vermeulen and Goad, 2006).

In addition, the Ministry of Primary Industries (MPI) has targeted Malaysia's palm oil industry to achieve 100 per cent Malaysian Sustainable Palm Oil (MSPO) certification by 2020. MSPO is a certification that certifies the palm products produced through sustainable practices that do not pollute the environment and are in compliance with Good Agricultural Practices (GAP). In fact, the government has mandated the MSPO certification by 1 January 2020. Moreover, Malaysia also faces the challenge of increasing the market direction and ensuring that the palm oil produced is of high quality and globally recognised.

### Cost of Production

A major problem among the smallholders is the use of low-quality seedlings (Thongrak *et al.*, 2011). They also do not adhere

to the fertilisation schedule. Moreover, the use of pesticides is not properly controlled. They face problems such as lack of knowledge on soil and fertiliser management, low soil fertility, and other costs, including the high fertiliser prices (Thongrak *et al.*, 2011). Consequently, independent smallholders are perceived to be inefficient and unproductive in this industry (Rahman *et al.*, 2008).

Mandatory stipulation shows the government's high commitment in ensuring that Malaysia's palm oil production is able to meet the nation's goals towards sustainable palm oil production, fulfilling international market demand for sustainable palm oil products, and ensuring Malaysia's palm oil accepted by global markets. However, it is important to note that all the hard work and incentives taken to achieve the goals will fail without full cooperation from the industry players, which consisting of manufacturers and oil palm smallholders. The most significant example is that only 36% of the 5.85 million hectares of oil palm plantations and 39% of the 451 palm oil mills in the country have MSPO certification, as of 31 May 2019 (The Borneo Post, 2019).

### Lack of Funds

Funding is an important foundation in property development and insufficient funds for a project will hamper the planned construction process. Most of the *waqf* property or assets involve the development of *waqf* land. Developing a *waqf* land involves huge costs and requires a huge fund. Nevertheless, many of the *waqf* land development projects are high impact projects that will benefit the public.

However, the *waqf* institutions in Malaysia is facing insufficient funds to develop the *waqf* property. The funds available at the *waqf*

institutions are not enough to cover the required costs. Failure to provide sufficient funds for the development and construction of the *waqf* land will impede its progress (Mohamad *et al.*, 2012; Iman and Mohamad, 2014; Azha *et al.*, 2013). This has led to the existence of uninhabited and abandoned lands.

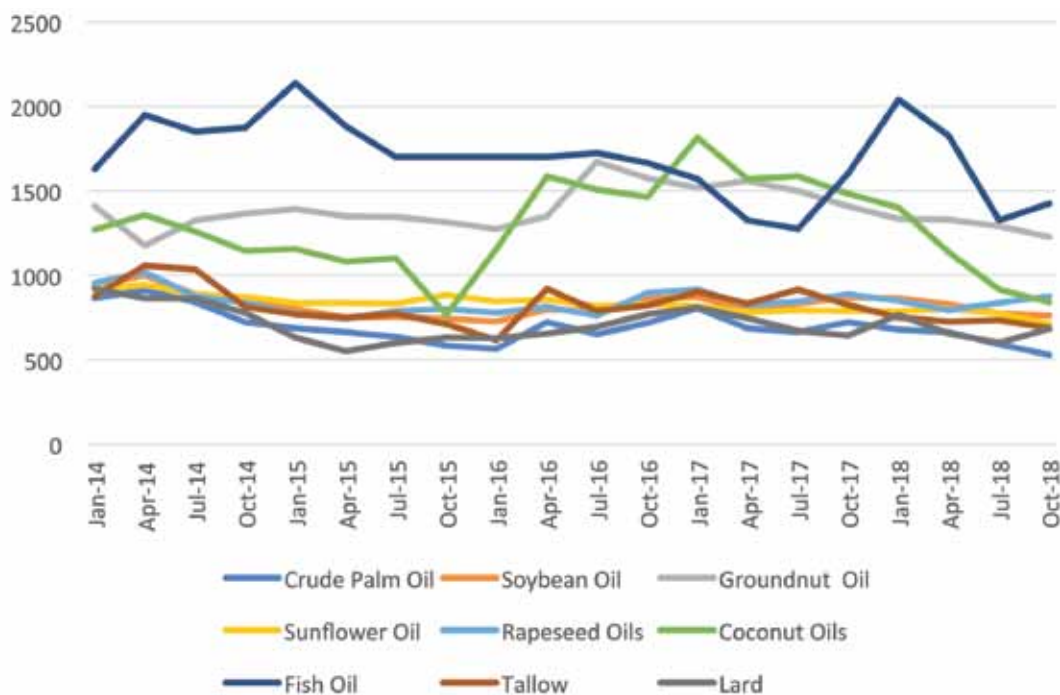
### Global Market Condition

Malaysia remains as the world's leading palm oil producer besides its neighbouring country, Indonesia, with the combined production of both countries dominating 80% of the global market. It shows that the commodity industry is still crucial for the country's development, economic growth, and socio-economic situation. Exports of palm oil and material-based products accounted for more than half or 52.82% of the country's export earnings, representing a value of RM67.5 billion in 2018 (Mohamad, 2019).

Although the figure is lower than the RM78 billion achieved in 2017, the commodity's contribution remains high for Malaysia. Malaysia's experience in serving this industry makes it a country with a competitive edge in the market. However, it is undeniable that the oil palm industry, which is the cornerstone of the country's commodity sector, faces many challenges, including market price volatility, insufficient manpower, low productivity, sustainability, and nutrition issues. Moreover, the abundant supply of substitute crops and oils depress demand and has caused price fluctuations in palm oil products (*Figure 1*).

In addressing this challenge, the government has doubled its efforts to mitigate these impacts through the MPI and set up an incentive plan to promote more sustainable industry growth in line with the current needs. One of





Source: MPOB Statistics.

Figure 1. Prices of selected oils and fats (North-West Europe Market US\$/t).

their latest efforts is that Malaysia is working closely with Indonesia to challenge the EU Representative Act (EU), which restricts the use of palm oil in biofuels, through the World Trade Organisation (WTO) Dispute Resolution Body and other appropriate channels. Due to the competition from the world's major palm oil producing countries such as Indonesia and the rise in other vegetable oil production, it is imperative that Malaysia continues to remain resilient.

### STRATEGY OF WAQF LAND DEVELOPMENT IN MALAYSIA

The main problem in developing *waqf* land is the lack of cash. To overcome this problem, a *waqf* fund was established to raise funds for the development of *waqf* land. The source of income for the *waqf* fund is from the cash *waqf*. All the cash *waqf* collections will be deposited into an account known as the *taslim* fund as deposits. The cash in the *taslim* fund is a permanent

form of property. The money raised in this fund will be divided into two sections, where the first section is to be channelled to any profitable investments and the second section is to buy immovable property such as land or buildings as well as for various social projects. Profits from the investments and projects will be channelled into account 2 (*tawzi'* funds). These funds will be used to create community projects that the smallholders can take advantage. The funds have been professionally managed, as shown in *Figure 2*.

However, the amount of funds generated in the *waqf* fund is minimal and insufficient. Nevertheless, the government has begun to recognise the importance of *waqf* property in the development of the country's economy by establishing several institutions that are thought to be able to manage the *waqf* property more efficiently, effectively, and professionally. Among these institutions are JAWHAR and the Malaysian Wakaf Foundation (YWM). To meet the needs of the

fund, the government has allocated funding under the 10<sup>th</sup> Malaysia Plan and introduced a new financing mechanism for financial assets under the 11<sup>th</sup> Malaysia Plan to manage the property.

In this regard, through a comprehensive study, *waqf* entities can identify private companies that perform well in Malaysia and have been proven to provide investors with competitive and consistent returns as among the companies that have the potential to invest. In addition, emphasis should be placed on the classification of the investment assets of the *waqf* property in the Shariah-compliant sector only as it has been offered in the Islamic capital market sector in Malaysia. The Islamic capital market industry in Malaysia has been recognised to have a comprehensive financial and legal landscape, regulated by the Malaysian Securities Commission Advisory Council through dynamic Islamic financial resolutions in line with the current requirements and guidelines adopted by all financial institutions in the country.

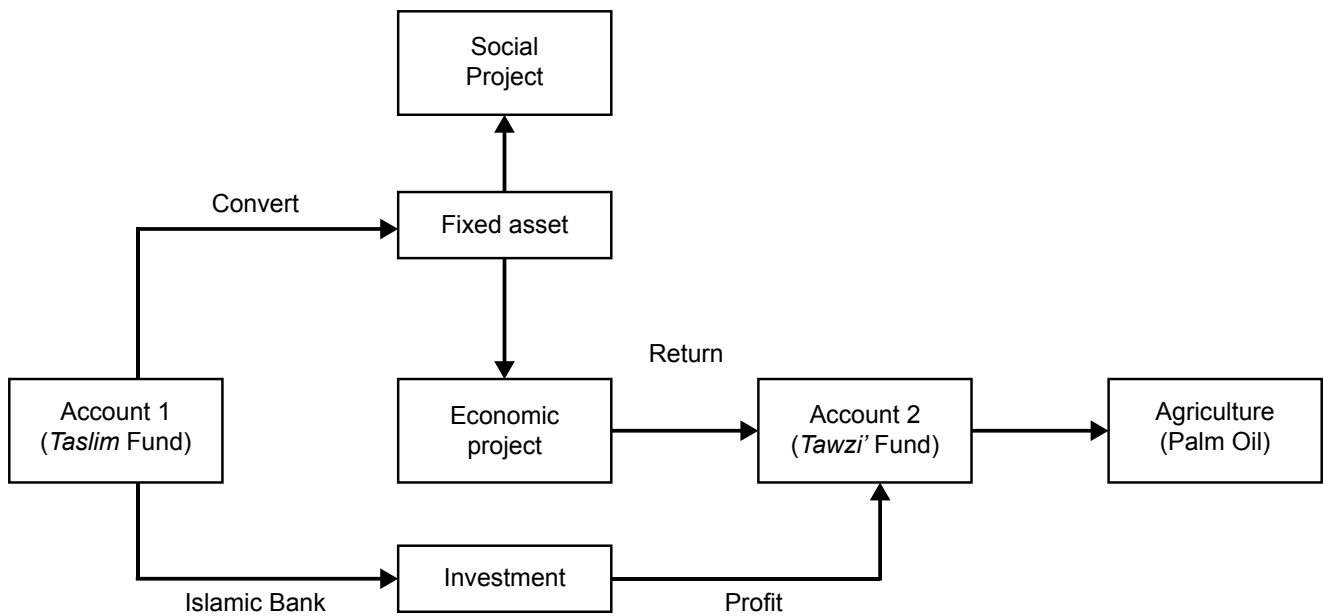


Figure 2. Flow of waqf fund.

## CONCLUSION

This study aims to examine the obstacles and roles of *waqf* institutions in the context of oil palm development. The amount of *waqf* land available is vast and has the potential to be developed. Given that the government has set up a special department to deal with JAWHAR and financial institutions, the *waqf* institutions will be able to operate professionally in accordance with the current demands. Furthermore, the government has provided a specific framework for the development of the *waqf* institutions, so the organisations are expected to play a more effective role in the development of the country's economy especially in the future development of the smallholder economy.

In line with the purpose of this study to identify the barriers to the development of oil palm crops, it is hoped that it will serve as a guide for lawmakers in setting standards for *waqf* strategy and reporting. In addition, the introduced *waqf* schemes should fulfil the aspiration of the community to

contribute to the development of a more advanced Islamic economic system for the welfare and well-being of the smallholders. Shared prosperity and a developed nation status are irrelevant if the people of any region or group are excluded from the mainstream development and civilisation of the nation.

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