

The Potential of Waqf in Activating Idle Agricultural Land (Potensi Wakaf dalam Mengusahakan Tanah Pertanian yang Terbiar)

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ABSTRACT

This paper attempts to analyse the possibility of collaboration of waqf in agricultural land development realizing the farmers' financial problems in developing their land. The early Muslims made contracts among themselves as individuals without banks, self-regulated by their adherence to shariah. However, it can be argued that these days the money lenders or banking institutions have established themselves as the most easily accessible source of financing. Therefore, the fruits of transaction in the real world depend very much on the religious sincerity of the bankers. Unfortunately, the bank is an institution, not an individual, and is unlikely to favour transactions involving mutual trust and risk. Accordingly, it seems that another practical way to ensure the implementation of Islamic instruments that would really help rural economies like agriculture in developing countries would be to establish Islamic trusts (waqf) specifically designed for the purpose. It is believed, eventually, that appropriate charitable institutions could be approached to create, administer and develop trust property to be utilized to cater specific needs of Islamic societies.

Keywords: Waqf; Islamic financing; agricultural land

ABSTRAK

Menyedari adanya masalah kewangan yang dialami oleh petani dalam membangunkan tanah mereka, maka kertas ini menganalisis peluang kerjasama dalam membangunkan tanah pertanian dengan menggunakan konsep wakaf. Masyarakat Islam pada zaman dahulu akan membuat kontrak antara mereka secara individu iaitu tidak melibatkan pihak bank dan ianya dikawal selia oleh mereka sendiri berdasarkan prinsip syariah. Walau bagaimanapun, pada masa kini dengan tertubuhnya institusi perbankan dan pemberi pinjaman wang berlesen, maka ianya menjadi sumber pembiayaan yang paling mudah kepada masyarakat. Oleh itu, segala transaksi dalam realiti sebenar dunia banyak bergantung kepada ketelusan pihak bank. Namun, bank adalah merupakan sebuah institusi dan bukannya sebagai individu dan tidak mungkin terlibat dalam urus niaga yang melibatkan kepercayaan dan risiko bersama. Oleh itu, terdapat cara yang praktikal bagi memastikan pelaksanaan instrumen Islam yang dapat membantu meningkatkan ekonomi luar bandar terutamanya aktiviti pertanian di negara-negara membangun iaitu dengan menubuhkan amanah Islam (wakaf) yang direka khusus untuk tujuan tersebut. Kajian ini mendapati bahawa institusi kebajikan yang bersesuaian boleh mencipta, mentadbir dan membangunkan harta amanah yang akan digunakan bagi menampung keperluan khusus masyarakat Islam.

Kata kunci: Wakaf; pembiayaan Islam; tanah pertanian

INTRODUCTION

Since the first few centuries of Islam, according to Kuran (2009), Islamic scholars have addressed various economic issues which are dealing fairly with the daily lives of Muslims. One of the instruments is the waqf, which can be regarded as a form of organization conducive in sheltering wealth and supplying public goods (Kuran 2009). Thus, as mentioned by Tuyll (2006), this marks the use of waqf in entrusting the management of certain property in perpetuity to others for the benefit of Muslims in general. Since then, waqf has prospered to become a Muslim tradition and contributed significantly to various agendas for Ummah like schools, hospitals and universities.

This paper reviews the background of idle agricultural land in Malaysia since it is regarded as a waste of

economic resources if neglected, and will eventually be unable to generate any income either for the landowner or the farmer. The main argument of this paper is that waqf has a great potential to be used as one of the Islamic instruments in activating idle agricultural land in Malaysia, as well as for agricultural development. The waqf has a potential to accumulate idle agricultural land and thus shape the structure of Islamic agricultural finance through the combination with other contracts namely, *al-muzara'a* and *al-musaqa*.

In addition, by using descriptive analysis, this study applies the inductive and deductive methods from the available literature to propose or answer how Islamic finance mechanisms and instruments can activate idle agricultural land and improve socio economic welfare to the ummah (society).

IDLE AGRICULTURAL LAND IN MALAYSIA

DEFINITION OF IDLE LAND

In general, the Department of Agriculture in Malaysia (DOA) defines idle land as land that used to be cultivated but is now in a status of disuse, or abandoned land, or land fallow for two consecutive years. Based on the National Land Code of Malaysia, Vincent and Ali (2010) pointed out that idle land can be defined as land with freehold title or a temporary occupation license that meets any of the following criteria (Vincent & Ali 2010):

1. Paddy land that has not been cultivated or used for grazing purposes for three consecutive years;
2. Paddy land that was provided with the physical infrastructure for double cropping but was single cropped only;
3. Paddy land that was planted with crops other than paddy;
4. Rubber and other tree-crop land that was either abandoned or not fully utilized such as being tapped rarely.

Meanwhile, Mustapha and Alam (1985) stated that the concept of idle paddy land refers to alienated paddy land that has been neglected, unused or abandoned for at least three consecutive years. As for the case of idle non-paddy land, it refers to alienated land for cultivation that is being neglected or not productively utilized to the extent that the land has gone out of production or has a very low productivity per hectare. In addition, Noor (2003) has divided idle land in Malaysia into four categories which are non-cultivation of land immediately after alienation, non-cultivation of land within land settlement schemes, non-cultivation of existing land for permanent crops and non-cultivation of paddy land.

CAUSES OF IDLE LAND IN MALAYSIA

According to Hitam (1986), based on the parameters of theoretical literature, land utilization takes place within a physical, economic and social framework. The physical limits to agriculture dictate that land use must conform to the climate, soil and topography. The economics of production guide owners to the best use of the land to apportion the factors of production so as to obtain the highest returns from the land. Finally, land utilization is influenced by social and institutional factors (Hitam 1986: 198). For these reasons, land is useless unless it is worked to make it productive; therefore, resources such as labour, tools, capital and seeds are crucial. Sometimes, due to the lack of one or more of these factors of production, or under circumstances when the landowner cannot cultivate his land due to reasonable limiting factors such as prolonged illness or ageing, the subsequent neglect may result in idle land.

Based on the analysis by the Economic Planning Unit (EPU), during the Ninth Malaysian Plan (2006-2010), it was reported that 163,000 hectares of agricultural land

were left uncultivated officially. At the same time, based on a survey by the Ministry of Agriculture and Agro Based Industry in 2006, it was estimated that 6.6 million hectares of land were being utilized in the agricultural sector. As the total land area of Malaysia is 33 million hectares, approximately 20% of this was being used for agriculture.

However, while it was believed that there were huge areas of idle land, this could not be accurately measured due to inaccessible information, and also because different figures were quoted from one institution to another. For instance, the data from the Department of Agriculture (DOA) listed in Table 1, which shows the statistics of idle agricultural land in Malaysia in 2002, 2009 and 2012, varies from the data from the EPU. It shows that the largest areas of idle land in Malaysia are located in the East Malaysia in Sarawak and Sabah. Yet, information for 2002 is not available for these two states.

On the other hand, there are three main reasons, as argued by the government officials in agencies related to agriculture such as the Ministry of Agriculture and Agro-Based Industry, why the government should be urgently concerned about the phenomena of idle land in Malaysia (Vincent & Ali 2010).

Firstly, the occurrence of idle land symbolizes a loss to the economy since land is a productive resource, and it was not being fully utilized. Secondly, there is a link between idle land and the high incidence of poverty in rural areas. Thirdly, the existence of idle land sheds doubt on the wisdom of continuing to develop new land.

Officially, in the Ninth Malaysian Plan (2006-2010), the government of Malaysia through the Economic Planning Unit (2006), declared that the constraints contributing to the idle land problems include absentee landlords, ageing landowners and farmers, as well as constraints from the Malaysian land law, particularly difficulties in consolidating native and customary land. Some of the clauses in the Malaysian land law such as the rules of Tanah Adat (customary law) and Malay Reserves make the development of this type of land more complicated.

Furthermore, based on the surveys from the researchers in this field, there are also several constraints which lead to idle land in Malaysia. Mustapha and Alam (1985) mentioned that the main cause of idle land in Malaysia is outmigration. This phenomenon can be divided into three parts; youth, small farmers and tenants. The outmigration of small farmers is because of the small size of their farms compounded by the increasing population pressure, large household size and increasing labour-land ratios that are also being aggravated by the Islamic law of inheritance. Meanwhile, the outmigration of small tenants is because of their difficulties in renting more land, insecurity of tenure and unfair or unprofitable sharecropping or fixed rental agreements.

Research done by Hitam (1986) found that land abandonment in the Peninsular Malaysia occurred because of the factors of topography, land distance, off-farm

TABLE 1. Statistics of idle land in Malaysia, 2002, 2009 and 2012

States	2002	2009	2012
	Areas (hectares)		
Sabah	n.a	73,731	8,110.94
Sarawak	n.a	428,474	59,959.57
Perlis	n.a	52	63.21
Kedah	2,180	2,255	2,255.54
Pulau Pinang	453	127	20.49
Perak	4,384	1,379	1,111.56
Selangor	1,094	247	246.76
Negeri Sembilan	2,161	4,684	4,683.54
Melaka	1,871	819	1,028.06
Johor	3,311	6,118	5,884.40
Pahang	10,732	6,522	6,522.50
Terengganu	3,950	1,895	1,894.47
Kelantan	4,226	5,494	5,494.19
Total	34,362	531,797	97,275.19

Note: na, not available

Source: Report of idle land in Malaysia, the Department of Agriculture, Malaysia 2002-2012.

employment, age of trees and the method of acquisition. This study was made in the district of Hulu Selangor among the Malay rubber smallholders (Hitam 1986: 201-202). Meanwhile, Sivalingam (1993) found that idle land exists due to inferior land, difficulty of access because of poor transportation, high cost of production, labour scarcity and inability to afford to buy machines, poor quality of soil, drainage and irrigation, and the movement of labour to the booming modern sector of the Malaysian economy (Sivalingam 1993: 41-42).

Buang (2001) identified the four main factors causing idle agricultural land in Malaysia as unfavourable physical attributes including climate, topography, soil type, water supply, and accessibility (land factor), lack of technical know-how (skills), constraining economic and social conditions such as uneconomic size of holdings, severe shortage of manpower and machinery, costly inputs, uncertain market prospects and unequal competition from the non-agricultural and urban based sectors (economy), and negative attitudes and behaviour in the farming communities, such as distrust, disputes, and lack of cooperation among landowners.

Furthermore, the land was left idle because landowners did not have sufficient financial incentives to cultivate their land. In addition, the immediate cause of idle land was because of the outflow of labour from the traditional smallholder agriculture to other sectors such as manufacturing and services that offer average wages above those in agriculture (Vincent & Ali 2010).

Moreover, Omar and Azima (2009) divided the factors into formal and informal constraints. Under formal factors, there are three major reasons which include the rules of tanah adat or customary land (sisterhood and

multiple sisterhoods), financial support conditions and loss of renting agreement. As for informal constraints, there are more prevailing factors such as the syndrome of 'absenteeism,' financial incapability, inferior location, old age and fear of risk, limited land for rent, and a passive attitude of 'let's wait and see.'

Research done by Anem (2009) discovered that the factors contributing to idle land are small, scattered, fields uneconomically sized for crop development, farmers' lack of interest, no access road and basic facilities, soil quality problem (peat soil), high initial cost of development (more RM20,000/ha), difficult to verify the land owner and limited government assistance and subsidy programs.

In brief, it can be summarized that the significant constraints to developing agricultural land include; financial incapability due to farmers' low incomes, low price of output and costly input such as seed and fertilizers (Buang 2001; Sivalingam 1993; Omar & Azima 2009), the physical and geographical factors of land such as inferior location, soil type, topography, water supply, inadequate drainage and irrigation facilities, and accessibility (Hitam 1986; Sivalingam 1993; Mustapha & Alam 1985) and economic and social conditions such as uneconomically sized holdings, costly input, shortage of manpower and tools (Buang 2001; Sivalingam 1993; Mustapha & Alam 1985).

WAQF: POTENTIAL SCHEME IN THE ACTIVATION OF IDLE AGRICULTURAL LAND

In mainstream economic the utilization of an undeveloped land grants the buyer a right, but not an obligation, to make follow-on investments to maximise potential returns from its use in the future. In short, agricultural

land essentially represents an option to profit from investments in its highest and best potential use. If market prospects later turn out to be not as promising, the landowner has the option to either defer the follow-on investments or terminate the project entirely by disposing the land to another party (Khalid 2013). On the other hand, Cizakca (1998) described that the origins of waqf can be explained from two dimensions; historical and economic. According to the study, the system of waqf is not originated in Islam, not specifically mentioned in the Quran, yet it was embraced and developed significantly throughout centuries. Conversely, Gil (1998) described that the origin of waqf can be traced back to the days of the Prophet Muhammad when he built Quba' Mosque on waqf land. Meanwhile, during the time of Caliphate, Umar al-Khattab dedicated a piece of land in Khaybar as waqf and devoted the benefits of the land to all Muslims in the name of God.

According to Ahmed (2007), one of the important aspects of waqf is that the idea of doing charity was out of goodness. The objective of waqf may be for the society including the provision of religious services, socio economic relief to the needy, the poor, education, scientific and any other purposes. In addition, it was also found that the waqf has been used specifically for research in science, astronomy and medicines. Likewise, there were also waqf of grain to be used as seeds, and form of waqf to provide loans to persons who need financing.

As for economic explanation, for instance, Jalil and Ramli (2008) proposed the waqf contract can be utilized to attract more public funds for construction industries. Their suggestions are based on the scenarios of increasing cost of production and limited sources of funds especially to be used for financing the development of several educational institutions like universities and research centres. Then, Cizakca (1998) mentioned that the waqf system can provide the most essential social services without any cost to the government.

Furthermore, Sadeq (2002) described waqf as perpetual charity to alleviate poverty and it can be used to enhance capabilities of the poor to take care of themselves by providing access to education, health and physical facilities.

Consequently, there are various studies on waqf instruments as part of the dynamic progress of Islamic economics discourse. For instance, Ampalavanar (2008) argued that the waqf system which is promoting both religious social goals and profit or revenue creation can be considered as ethical capitalism. The study also mentioned that the economic activity of the waqf in Singapore is also assisting the accumulation of land and real estate and also in determining the specific role of Islamic finance in the formation of a vibrant sub-economy.

In addition, Ab Rahman (2009) mentioned that, some organizations and state governments in Malaysia have taken steps in invigorating waqf instruments for various economic activities including agriculture for the sake of Muslims development. For instance, in agriculture,

the state governments in Johor and Terengganu have placed significant areas of agricultural land as waqf and the benefits from it will be utilized for the Muslims. Mohammad (2011) suggests establishing a waqf bank as a non-profit social bank to meet the needs of the poor Muslims when these people are considered as non-credit worthy by current banking system. The study proposes cash waqf instruments to be applied to create the capital of the bank. The proposal is dedicated mainly to the social welfare, provision of micro-financing and economic development of the poor.

From another perspective regarding the studies on waqf instruments, according to Kuran (2001), there are four major motives for founding a waqf which are piety, status, politics or to spread an ideology and, to shelter wealth. Therefore, this diversity of motives for instituting a waqf gave rise to a distinction between the charitable waqf (*waqf khayri*) and the family waqf (*waqf ahli*). The founder of charitable waqf retained little and, by contrast, a family waqf bestowed the main benefits on his/her own family.

In brief, it can be argued that the waqf instruments, especially family waqf, have a possibility to be utilized for the development of agriculture as well as for activation of idle land. Yet, it cannot be stand-alone with some other instruments due to the 'rigidity of rules' in the waqf instruments.

According to Koehler (2010), a typical waqf would have served to achieve distinct purposes; to ensure that a donor would determine what happened to his properties after he died, and the second for protection against interference and abuse from third parties. In addition, Layish (1997) also argued that the founder used waqf for circumventing the compulsory of Islamic inheritance rules. The creation of waqf makes it possible to keep property intact and prevent its division among heirs. Then, it can be said that another way of avoiding the rules of inheritance is by using family waqf.

The utilization of waqf in the current situation is also mentioned by Kahf (1999) who has attempted to present a few examples regarding the waqf where there is a terrible need to revise the classical fiqh that helps in promoting the establishment of new waqf and improving the benefits derived from existing ones. One of the areas that emphasized by Kahf is that the issue of public and private waqf (family waqf).

COMBINATION OF CONTACTS: WAQF AND AGRICULTURAL PRODUCT AND LOSS SHARING (APLS)

Omar and Azima (2009) as quoted in Mustapha et al. (2013) asserted that agricultural sector is undoubtedly important as it saves billions of dollars on imports of products. The concern lies in the existing agriculture idle land and low productivity which should be addressed to overcome the shortage of domestic production. Referring to the DOA report, about 1.44 thousand hectares of agriculture lands in Peninsular Malaysia are categorized

as idle agricultural land (DOA 2009). Meaning that about 35 per cent of the total agriculture land in the country that have opportunity for immediate cultivation with high market oriented crops would directly benefit the country. Their findings show that efforts initiated by government often meet with limited success (Mustapha et al. 2013)

Meanwhile on the other side, the Islamic financial system needs innovative and hybrid financial products to meet the requirements of its customers in order to compete with the global financial system. Therefore, current shariah scholars these days have been innovating Islamic financial instruments by combining and renovating traditional Islamic contracts. In general, according to Arbouna (2007), the combination of contracts may be defined as an agreement between two or more parties to put together two or more contracts with different features and legal consequences to achieve a desired viable transaction.

This was also reviewed by Nagaoka (2010) who mentioned that, for instance, the traditional shariah principles such as *al-ijara* and *al-murabaha* have been renovated in the modern era with a new design of the current banking structure. Additionally, Schoon (2009) mentioned that it has been witnessed that Islamic banking institutions are not implementing only one-sided *al-mudaraba* as in classical theory, but are inclined more to two-tiered *al-mudaraba*. The banks accumulate deposits from their customers and invest them with third parties based on this principle (Schoon 2009: 60).

Furthermore, Ayub (2007) has argued that the non-profit and loss sharing techniques provide flexibility of choice to meet the needs of different sectors and economic agents in society. For instance, *al-murabaha*, with less risk, can be helpful in meeting the needs of risk-averse investors. Moreover, *al-ijara* or leasing is very much conducive to the formation of fixed assets and has a large potential in financing productive activities such as agriculture and the rural economy as a whole (Ayub 2007: 468).

In the case of waqf instruments, Cizakca (1998) proposes a model of cash waqf to serve the social objectives in the community like poor people. It is envisaged that two elements in the Islamic financial instruments, the cash waqf and the contract of *al-mudaraba* need to be combined within the framework of Islamic banks. According to the study, the gradual elimination or reduction of interest through the waqf system should be given serious consideration.

Mustapha et al. (2013) asserted that the society can easily join the cash waqf as they are only required to donate their money by way of cash or make the payment through bank accounts via e-waqf facility. The fund collected from the society will be managed by the nazir who acted as an agent to the waqif based on the wakalah contract where the nazir route the fund for the identified projects and any balance will be reverted back to the fund for future undertakings. Practically, the wakalah contract is applied in the implementation of cash waqf because the waqif permission is not required to run the

activities and projects under the waqf agreement (Jalil & Ramli 2008).

In addition, as mentioned by Ab Rahman, Ahmad and Marhaini (2011), there is also the application of waqf in an Islamic insurance product practicing in Malaysia. The pioneer takaful operator in Malaysia, Syarikat Takaful Malaysia Berhad, has combined the concept of waqf and takaful to develop and offer a takaful product known as the *Takaful-Waqf Plan*. Customers who participate in such a takaful plan will contribute to it regularly and, at the end of the policy, will bequest all benefits from it to the appointed beneficiaries as a waqf endowment.

Therefore, based on the abovementioned arguments, there is a big possibility to combine the waqf instruments with other contracts for developing agricultural land and also for activating idle land. Therefore, this study recommends the implementation of the waqf instruments combined with the principle of agricultural product and loss sharing rooted in the contracts of *al-muzara'a* and *al-musaqa*. This is important to ensure that this alternative scheme may offer a fully comprehensive scheme of Islamic agricultural finance.

In brief, *al-muzara'a* and *al-musaqa* are contracts between the landlord and the farmer in which payment or profit is paid not as a fixed amount, but as a proportion of the yield. The crop is not yet harvested when the contract is made between both parties. In economic terms, these contracts are similar to the contract of sharecropping. Then, according to scholars who have invalidated them, a sharecropping contract can implicitly involve gharar (excessive uncertainty) and the possible for unjustified profit for only one party.

From the classical Islamic jurists' debates, the principles of *al-muzara'a* and *al-musaqa* were split into two main ideas; leasing and sharecropping (partnership). However, it can be said here that these principles are strongly associated with the partnership contract, i.e., both contracts resemble the contracts of *al-mudaraba* and *al-musharaka*. This resemblance is based on the arguments that the contracts of *al-muzara'a* and *al-musaqa* are partnerships between property and work.

However, the similarity of *al-muzara'a* and *al-musaqa* to *al-mudaraba* and *al-musharaka* is not in the substance of the contract. This is because the *al-muzara'a* contract focuses on agriculture, while *al-mudaraba* is more suited to trade contracts and industrial or commercial operations. Consequently, *al-muzara'a* and *al-musaqa* principles can be defined as contracts which are based on sharing the product or output rather than sharing the profit. Therefore, *al-muzara'a* and *al-musaqa* can be identified as "agricultural product and loss sharing" (aPLS), as opposed to the *al-mudaraba* and *al-musharaka* which are known as "profit and loss sharing" (PLS) (Shafiai 2012: 158-160).

Fundamentally, a financing arrangement based on *al-muzara'a* and *al-musaqa*, which can be named as a PLS contract, can be the initiated subject to joint partnership in the mobilization of land, other physical inputs and labour. For instance, Gulaid (1995) classified how *al-muzara'a*

can take various forms in financing. As a basis, a contract based on this principle can specify that land and other physical factors of production for the partnership could come from one party while labour could be supplied by the other party (Gulaid 1995: 46).

On the other hand, only land can originate from one party while other factors, including labour, could come from the other party in the contract. Yet, another alternative of *al-muzara'a* is that land and labour could come from one of the contracting parties, while all other factors of production may be provided by the other party

in the contract. Incidences of a three-party *al-muzara'a* partnership in which the first party provides land, the second provides a combination of the required physical inputs, and the third provides labour, are common in the contemporary agriculture.

Ibrahim and Ibrahim (2013) pointed that development of waqf is not confined to immovable property such as land. Steps should be taken to introduce more contemporary waqf development. Hence we propose a model to boost the development of waqf land by applying the Islamic finance instrument as shown in Figure 1:

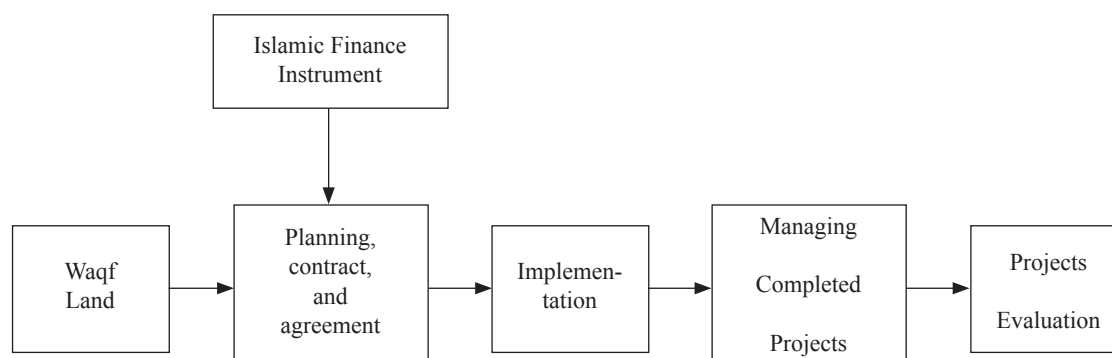


FIGURE 1. Propose model to boost the development of waqf

In short, the mechanisms, waqf and agricultural idle land is a new innovation in waqf development in the contemporary era. Nevertheless, the applications of these mechanisms are not without controversies. It is important to mention that waqf utilization in the waqf system received a lot of debates among the fiqh scholars and modern scholars alike. The government and the Muslim society should be involved in finding the best way to develop waqf in activating idle land in Malaysia. Waqf system not only involve the changes to its administration and implementation of the waqf lands, but also need to combine, all parties' effort in finding the best policy that can be applied to the existing way of their waqf management.

CONCLUSION

It is commonly accepted, especially in the developing countries in many regions, that the agricultural sector is one of the main elements contributing to the economy, as well as supporting the existence of humankind in terms of the supply of food. Accordingly, there is extensive literature on agricultural economics as well as agricultural financing. On the other hand, since Islamic economics is regarded by its proponents to be an alternative to other economic systems, particularly to capitalism, it is highly recommended that Islamic economists put greater emphasis on research for agricultural development.

Consequently, there must be a mechanism for farmers to have access to finance. This can be done either by Islamic banks, since Islamic banking and finance currently seems

to be the only flagship of Islamic economics discourse, that open specific schemes for financing farmers, or by establishing Islamic trusts (waqf) specifically designed for the purpose. By using waqf as one of the possible instruments in activating idle agricultural land, there are two major scopes needed to be highlighted which are; the first is making endowment of waqf to cater idle land problem and secondly is the administration of waqf for agricultural development.

Therefore, in brief, it is necessary to make further empirical studies to clarify the prospects of waqf instruments for the development of agriculture in order to build a comprehensive theoretical and practical framework. It is also essential to compare all the opinions and views of scholars and experts either Islamic or conventional, and if all of these elements could be combined effectively, a workable framework of study can be proposed for the betterment of targeted societies.

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