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Strengthening the Governance of Cash Waqf-Linked *Sukuk*: Legal Recognition, Regulatory Challenges, and Harmonization

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Abstract

Cash Waqf-Linked *Sukuk* (CWLS) is a strategic instrument for developing productive waqf and national social financing. However, its regulation is still administrative and relies on delegated regulations, thus not fully guaranteeing transparency, efficiency, and accountability. Therefore, this research aimed to analyze the regulations governing *CWLS* in Indonesia and identify structural gaps in the normative hierarchy that trigger regulatory fragmentation, information asymmetry, and accountability deficits in multi-actor governance. Adopting normative juridical methods and philosophical, statutory, and conceptual approaches, this study finds a crucial misalignment between current waqf law and fundamental sharia values, particularly *maṣlaḥah* (public benefit) and justice. This study offers a conceptual reconstruction of Cash Waqf Linked *Sukuk* governance through the integration of *maqaṣid al-syari'ah* and Critical Legal Studies.The proposed reforms emphasize a strong harmonization agenda by elevating core protections such as corpus preservation, standardized rollover protocols, and digital-based information disclosure to a higher legal regulatory mandate. In conclusion, this research shows that a reorientation of the legal framework bridging the gap between legal certainty and substantive justice is an absolute prerequisite for ensuring public trust and the sustainable socio-economic impact of waqf-based state finance, both nationally and globally.

KEYWORDS: Cash Waqf Linked Sukuk; Maqaṣid al-syari'ah; Regulatory; Waqf governance**.**

Abstrak

Cash Waqf Linked Sukuk (CWLS) merupakan instrumen strategis dalam pengembangan wakaf produktif dan pembiayaan sosial nasional. Namun, pengaturannya masih bersifat administratif dan bergantung pada regulasi delegatif, sehingga belum sepenuhnya menjamin transparansi, efisiensi, dan akuntabilitas. Penelitian ini menganalis regulasi pengelolaan Cash Waqf Linked Sukuk di Indonesia serta mengidentifikasi celah struktural dalam hierarki norma yang memicu fragmentasi pengaturan, asimetri informasi, dan defisit akuntabilitas dalam tata kelola multi-aktor. Dengan mengadopsi metode yuridis-normatif dan pendekatan filosofis, perundang-undangan dan konseptual penelitian ini menemukan adanya ketidakselarasan krusial antara undang-undang wakaf saat ini dengan nilai fundamental syariah, terutama maṣlaḥah dan keadilan, yang memicu terjadinya defisit akuntabilitas serta asimetri informasi dalam rantai tata kelola multi-aktor. Penelitian ini menawarkan rekonstruksi konseptual tata kelola Cash Waqf Linked Sukuk melalui integrasi maqaṣid al-syari'ah dan Critical Legal studies. Reformasi yang diusulkan memprioritaskan agenda harmonisasi yang kuat dengan mengangkat perlindungan inti seperti pelestarian pokok aset (corpus preservation), protokol keberlanjutan (rollover) yang standar, dan keterbukaan informasi berbasis digital ke dalam mandat peraturan hukum yang lebih tinggi. Penelitian ini menegaskan bahwa reorientasi kerangka hukum yang menjembatani celah antara kepastian hukum dan keadilan substantif merupakan prasyarat mutlak untuk menjamin kepercayaan publik dan

dampak sosial-ekonomi yang berkelanjutan dari keuangan negara berbasis wakaf, baik di tingkat nasional maupun global.

KATA KUNCI: *Cash Waqf Linked Sukuk; Maqaṣid al-syari'ah; Regulasi; Tata Kelola wakaf.*

Introduction

Historically, waqf was considered a traditional charity, but has experienced a significant paradigm shift, evolving as a strategic foundation in Islamic social finance to promote sustainable socio-economic development. [1] This evolution is primarily driven by the advent of cash waqf, which affords greater agility in mobilizing capital for productive investments while meticulously upholding Sharia principles regarding asset preservation and public utility. [2] In the Indonesian context, this trajectory is further solidified through the implementation of Cash Waqf-Linked *Sukuk (CWLS)*. The innovative hybrid mechanism synergizes cash waqf with sovereign bonds to provide alternative financing for critical public sectors, including education, healthcare, and social infrastructure.[3] However, the transformative potential of CWLS remains constrained by a tenuous regulatory framework. The legal foundation is currently insufficient, relying primarily on the Ministry of Religious Affairs Regulation (PMA) No. 1/2022 and various inter-agency memoranda.[4]

Despite growing empirical evidence of CWLS's success in mobilizing

[1] Mohammad Abdullah, "Waqf and Trust: The Nature, Structures and Socio-Economic Impacts," *Journal of Islamic Accounting and Business Research* 10, no. 4 (July 2019):512–527, https://doi.org/10.1108/JIABR-10-2016-0124.

[2] Smatul Maula, "Cash Waqf in Normative and Economic Linkages," *International Journal of Science and Society* 4, no. 4 (December 27, 2022): 710–721, https://doi.org/10.54783/ijsoc.v4i4.683

[3] Magda Ismail Abdel Mohsin, "Financing through Cash-Waqf: A Revitalization to Finance Different Needs." *International Journal of Islamic and Middle Eastern Finance and Management* 6, no. 4 (2013): 304–21. https://doi.org/10.1108/IMEFM-08-2013-0094.

[4] Muhajirin Tohir, I Gusti Ketut Ayu Rachmi Handayani, and Hartwiningsih, "Problems of Waqf Management in Indonesia: A Review of Positive Law," *International Journal of Religion* 5, no. 11 (September 2, 2024): 8285–8294, https://doi.org/10.61707/zpgxej88.

funds, such as the retail series SWR005[5] and SWR006,[6] the supporting legal framework remains insufficient. Key provisions of PMA No. 1/2022, such as vague investment placement guidelines, limited disclosure standards, and a lack of comprehensive supervisory authority,[7] create vulnerabilities in governance. These systemic vulnerabilities inevitably compromise asset security, institutional oversight, and transparency, which in turn erodes public confidence and diverges from the foundational identity of waqf as a trust-reliant institution.[8] Accordingly, comprehensive legal reform is necessary to ensure both legal certainty and rigorous Sharia compliance, thereby enabling CWLS to realize its full socio-economic potential.[9]

Previous research on Cash Waqf Linked Sukuk (CWLS) has shown a strong tendency to explore the economic dimension, Islamic philanthropy, and sustainable development—for example, Muh. Idhiel Fitriawan Rahman et al. (2021) positioned CWLS as a strategic instrument for post-pandemic economic recovery through the productive mobilization of socio-religious funds.[10] Ibrahim Ari and Muammer Koc (2021) constructed an alternative

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[5] DJPPR, Kementerian Keuangan RI, *Hasil penjualan Cash Waqf Linked Sukuk (CWLS) Ritel Seri SWR005* (16 October 2024): total volume pemesanan Rp147.373.000.000, https://www.kemenkeu.go.id/informasi-publik/publikasi/berita-utama/SWR005-dukung-wakaf-produktif

[6] DJPPR, Kementerian Keuangan RI, *Hasil penjualan CWLS Ritel Seri SWR006* (20 October 2025): total volume pemesanan Rp306.281.000.000, https://media.kemenkeu.go.id/getmedia/dcacc8fb-4314-49df-bb76-5c386be846f7/KP_Hasil_Penjualan_SWR006_v3?ext=.pdf

[7] Leny Nofianti, Murniati Mukhlisin, and Andi Irfan, “Cash Waqf Innovation in Islamic Financial Institutions and Its Governance Issues: Case Studies—Indonesia, Malaysia, Türkiye,” *Journal of Islamic Accounting and Business Research* (2024), https://doi.org/10.1108/JIABR-12-2023-0420.

[8] Hidayatul Ihsan and Shahul Hameed Hj. Mohamed Ibrahim, “WAQF Accounting and Management in Indonesian WAQF Institutions: The Cases of Two WAQF Foundations,” *Humanomics* 27, no. 4 (November 1, 2011): 252–269, https://doi.org/10.1108/08288661111181305.

[9] Ismal, Rifki. “Identifying the Optimal Cash Waqf Linked Sukuk: Indonesian Experience.” *Hamdard Islamicus* 45, no. 3 (September 30, 2022). https://doi.org/10.57144/hi.v45i3.500.

[10] Muh Idhiel Fitriawan Rahman, Nurwahidin Nurwahidin, and Naif Adnan. "Analisis Model Cash Waqf Linked Sukuk (CWLS) Sebagai Instrumen Pembiayaan Pemulihan Dampak Pandemi Covid-19: An Analysis of Cash Waqf Linked Sukuk (CWLS) Model as a Financing Instrument for Economic Recovery from Covid-19 Pandemic Impact." *Jurnal Bimas Islam* 14, no. 1 (2021): 77-102..

waqf-based financing model for renewable energy investments oriented toward sustainability and inequality reduction.[11] From a sociolegal perspective, Minlib Dallh (2023) emphasized the urgency of waqf as a welfare distribution mechanism in the modern context,[12] while Raditya Sukmana (2020) observed that waqf literature remains dominated by a financial approach and inadequately examines its legal foundations and governance.[13] More specifically, Laila et al. (2024) provided a critical assessment of CWLS practices in Indonesia[14], but failed to evaluate the effectiveness of its legal structure and normative hierarchy. Similarly, Yumna and Ihsan (2024) examined the impact of the CWLS empowerment program on community welfare,[15] but did not comprehensively examine the regulatory challenges and accountability design.

In particular, issues concerning normative hierarchy, enforceability of ministerial regulations, supervision by the Indonesian Waqf Board (BWI), inter-agency coordination, and public transparency mechanisms have not been systematically analyzed. Moreover, limited attention has been paid to how CWLS aligns with classical waqf doctrines, specifically the principles of perpetuity and asset protection, within Indonesia's positive legal system.[16]

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[11] Ibrahim Ari & Muammer Koc, "Towards Sustainable Financing Models Proof-of-concept for a Waqf-based alternative Financing Model for Renewable energy Investments", *Borsa Istanbul Review*, Vol. 21 (1), 2021, https://www.sciencedirect.com/science/article/pii/S2214845021000296.

[12] Minlib Dallh, Accumulate but Distribute: Islamic Emphasis on the Establishment of Waqf (Pious Endowment), *Religion and Development BRILL*, Vol. 2 (1), 2023, https://brill.com/view/journals/rnd/2/1/article-p21_2.xml

[13] Raditya Sukmana, "Critical Assessment of Islamic Endowment Funds (Waqf) Literature: Lesson for Government and Future Directions", *Heliyon*, Vol. 6 (10), 2020, https://doi.org/10.1016/j.heliyon.2020.e05074

[14] Laila, Nisful, Raditya Sukmana, Dwi Irianti Hadiningdyah, and Indah Rahmawati. "Critical assessment on cash waqf-linked sukuk in Indonesia." *Qualitative Research in Financial Markets* 17, no. 4 (2025): 849-879. https://doi.org/10.1108/QRFM-11-2023-0291.

[15] Yumna, Mohammad, and Hidayatul Ihsan. "The Impacts of Cash Waqf Linked Sukuk Empowerment Programs." *Journal of Islamic Monetary Economics and Finance* 12, no. 1 (2024): 56-75. https://doi.org/10.21098/jimf.v10i1.1940.

[16] Muchtar Anshary Hamid Labetubun and La Ode Angga, "The Implications of Islamic Law Related to the Implementation of Cash Waqf/Money," *Jurnal Akta* 9, no. 2 (July 10, 2022): 205–215, https://doi.org/10.30659/akta.v9i2.21148.

This research gap has resulted in an incomplete understanding of CWLS not only as a financial instrument, but also as a legal institution whose legitimacy depends on robust regulatory architecture and compliance with both Sharia and national law.

This research aimed to address the regulatory and doctrinal deficiencies in the governance of CWLS in Indonesia by critically analyzing the existing legal framework. Specifically, it analyzed the legal and regulatory framework governing CWLS in Indonesia, while also evaluating the implementation and regulatory challenges of CWLS issuance, including issues of Sharia compliance, risk management, and integration with capital markets. In addition, this research explored the harmonization of waqf law, capital market regulations, and sukuk regulations to ensure efficient, transparent, and Sharia-compliant governance. The achievements are crucial because CWLS comprises the simultaneous management of public trusts, religious waqf assets, and state financial instruments, making regulatory clarity and alignment with Sharia principles crucial.

Methods

This research adopted a normative juridical method with a philosophical, legislative, and conceptual approach.[17] Primary legal sources include regulations on CWLS, including Law No. 41/2004 concerning Waqf, Government Regulation No. 25/2018, Law No. 19/2008 concerning State Sharia Securities (SBSN), and Regulation of the Minister of Religious Affairs (PMA) No. 1/2022, to identify normative gaps in legal substance, regulatory authority, transparency obligations, and accountability mechanisms. Meanwhile, secondary legal materials include official institutional sources, namely documents, reports, press releases, and publicly available digital publications issued by the Ministry of Religious Affairs, the Indonesian Waqf Board (BWI), the Ministry of Finance (specifically the Directorate

[17] Alysia Blackham, "When Law and Data Collide: The Methodological Challenge of Conducting Mixed Methods Research in Law," *Journal of Law and Society* 49, no. S1 (September 18, 2022), https://doi.org/10. 1111/jols.12373.

General of Islamic Finance), and Sharia Financial Institutions Receiving Cash Waqf (LKS-PWU). The analytical framework combines *maqaṣid al-syariʿah* (with an emphasis on *ḥifẓ al-mal* and *maslahah*) and Friedman's legal system theory to uncover governance weaknesses and structural limitations within the legal framework. Prescriptive analysis methods with deductive legal reasoning are used to formulate legal reforms that strengthen accountability, transparency, and legal certainty in the governance of CWLS.

Discussion

Legal Framework and Governance of Cash Waqf-Linked *Sukuk*

Within the framework of Islamic legal thought, waqf transcends the simplistic notion of a charitable act, but represents a profound social institution rooted in the ontological perception of wealth as a divine mandate (*amanah*).[18] By invoking the principle of *khalifah fi al-arḍ*, the tradition redefines human agency from absolute ownership to one of stewardship, thereby anchoring an ethical obligation to use resources for collective flourishing rather than only individual accumulation.[19] In this context, waqf serves as a crucial normative bridge, effectively converting private assets into a legacy of sustained public welfare.[20]

The regulatory architecture governing CWLS in Indonesia is characterized by a multi-layered structure, though the substantive strength of the legal norms remains uneven. This is consistent with Hans Kelsen theory of hierarchical law (*Stufenbaulehre*), stating that legal norms are structured hierarchically, in layers and in tiers, where lower norms are

[18] Ahmad Jafar, Hafsa Ibrahim, and Rizwan Malik. "Waqf: from classical charitable system to modern financial tool." *International Journal of Ethics and Systems* (2025).https://doi.org/10.1108/IJOES-10-2024-0354

[19] Hafas Furqani, and Abdelghani Echchabi. "Who is Homo Islamicus? A Qurʾānic perspective on the economic agent in Islamic economics." *ISRA International Journal of Islamic Finance* 14, no. 2 (2022): 206-220.https://doi.org/10.1108/IJIF-05-2021-0102

[20] Muhammad Bilal Zafar, and Ahmad Jafar. "Waqf over a century: innovation and tradition in shaping social equity and sustainable development." *International Journal of Sociology and Social Policy* (2025): 1-25.https://doi.org/10.1108/IJSSP-12-2024-0625

derived from and are based on higher norms. [21]At the statutory level, Law No. 41/2004 serves as the primary legal anchor, redefining waqf as a strategic instrument for public welfare that mandates rigorous institutional governance over both *nazhir* and waqf assets. This framework is strategically integrated with Law No. 19/2008 concerning State Sharia Securities (SBSN), which provides the requisite legal platform for sovereign sukuk issuance, the backbone of the contemporary CWLS model.

Government Regulation No. 25/2018 introduces crucial revisions to Law No. 41/2004, thereby strengthening the administrative safeguards within the waqf management system. The operationalization of CWLS is further delineated in Ministerial Regulation No. 1/2022, which categorizes cash waqf as either perpetual or time-bound and outlines the distribution channels involving BWI, *nazhir* partners, and LKS-PWU. However, a critical gap remains because Minister of Religion Regulation No. 1/2022 functions primarily as an administrative instrument that delegates regulatory duties, lacking the rigor of a comprehensive statutory 'asset-protection' regime necessary to guarantee corpus preservation and high-level accountability.

Table 1. *Legal instruments of Cash Waqf-Linked Sukuk within the Indonesian legal hierarchy*

Level in legal hierarchy	**Instrument**	**Relevance to *Cash Waqf-Linked Sukuk***	**Key implications for legal certainty**
Statute (Undang-Undang)	Law No. 41/2004 on Waqf	Establishes waqf objectives, governance of waqf assets, and nazhir; provides legal room for cash waqf mobilization and nazhir	Strong binding force for waqf principles, but *Cash Waqf-Linked Sukuk* -specific safeguards (rollover, disclosure, audit standards) are not explicit.

[21] Monika Zalewska,. "Empowerment and the Act of Will in Hans Kelsen's General Theory of Norms." In *Legal Power and Legal Competence: Meaning, Normativity, Officials and Theories*, pp. 305-316. Cham: Springer International Publishing, 2023.https://doi.org/10.1007/978-3-031-28555-4_15

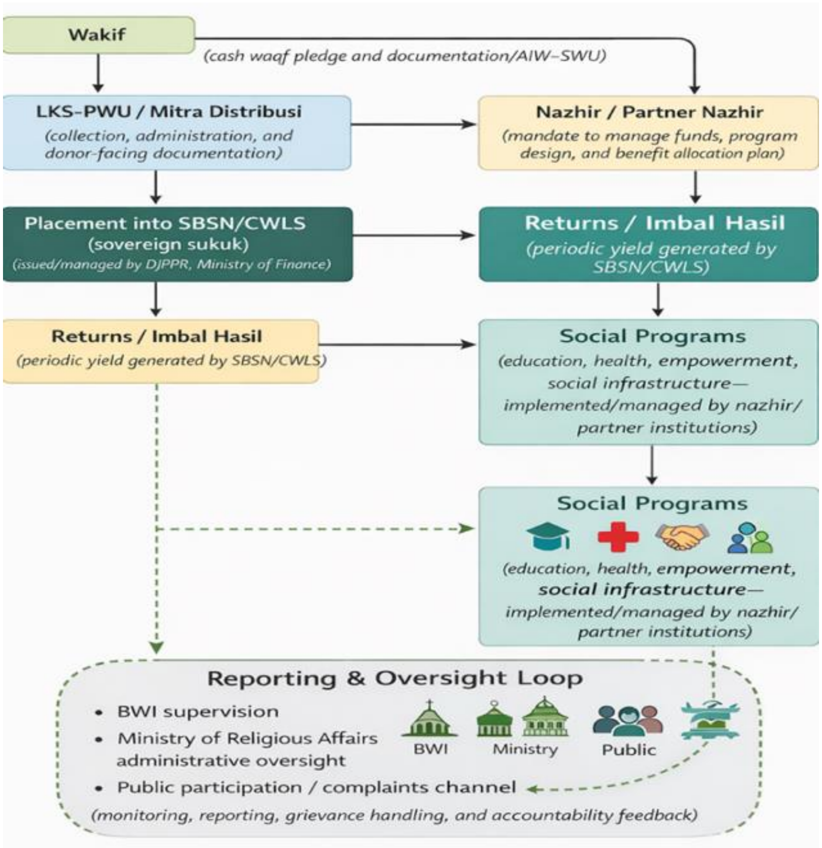
Level in legal hierarchy	Instrument	Relevance to *Cash Waqf-Linked Sukuk*	Key implications for legal certainty
Statute (Undang-Undang)	Law No. 19/2008 on SBSN	Enables sovereign sukuk issuance as the underlying instrument for *Cash Waqf-Linked Sukuk* placement	Strong basis for sukuk issuance; does not automatically regulate waqf perpetuity/corpus protection mechanisms.
Government Regulation	PP No. 25/2018 (amending PP 42/2006)	Implements administrative governance and safeguards for waqf execution	Strengthens the implementation framework and can host stronger supervisory mechanics, but remains general (not *Cash Waqf-Linked Sukuk* -specific)
Ministerial Regulation	PMA No. 1/ 2022	Provides operational rules for the *Cash Waqf-Linked Sukuk* channel, roles, and minimum reporting lines	Enables *Cash Waqf-Linked Sukuk* implementation; the binding force is delegated/administrative, and enforcement tends to be procedural unless elevated into higher norms
Sharia governance (non-hierarchical)	DSN–MUI fatwas/opinions (relevant to *Cash Waqf-Linked Sukuk* structure)	Confirms sharia compliance parameters for CWLS design	Enhances sharia legitimacy, but operates outside the state regulatory hierarchy; needs alignment with enforceable state oversight

Source: *Analysis of Cash Waqf-Linked Sukuk Regulations*

Table 1 shows that although CWLS is legally recognized, its enforcement center of gravity remains concentrated within delegated administrative instruments rather than explicit statutory guarantees. From a hierarchy-of-norms perspective, the operational validity of CWLS is firmly anchored in Law No. 41/2004 on Waqf and Law No. 19/2008 concerning State Sharia Securities (SBSN). However, specific protective mechanisms crucial for legal certainty, such as the non-diminution of the waqf corpus, standardized rollover procedures at maturity, and rigorous auditability standards, have not been entrenched within higher-level legal norms. This discrepancy creates a structural vulnerability where the long-term resilience of CWLS depends more on administrative permissibility and policy discretion than on binding legal protection. Consequently, there is an urgent necessity to transform governance through higher-level regulations to secure accountability and asset preservation duties beyond only procedural compliance.

Minister of Religion Regulation No. 1/2022 can also be considered an attempt to safeguard waqf assets through administrative requirements and role allocation, which is consistent with the *maqaṣid* objective of *ḥifẓ al-mal*. However, administrative safeguards do not automatically translate into a strong asset-protection regime unless paired with enforceable standards on rollover at maturity, standardized public disclosure, and auditable reporting. In other words, administration is a necessary condition for *ḥifẓ al-mal*, but it is not sufficient where CWLS operates through multi-actor intermediation and financial structuring.

Figure 1. CWLS *Institutional Roles and Governance Flow*



Source: *Minister of Religion Regulation No. 1 in 2022*

Figure 1 consolidates the descriptive results by visualizing how CWLS operates through a sequential, multi-actor governance chain. The flow starts with the wakif, whose cash waqf pledge is formalized through documentary administration (AIW/SWU), and proceeds to LKS-PWU as the collection and donor-facing administrative gateway. The funds are then managed by *Nazhir*/partner *Nazhir*, who holds the mandate to plan programs and allocate benefits, before being placed into sovereign SBSN/CWLS administered through the state sukuk framework (DJPPR, Ministry of Finance).

Periodic returns generated by the sukuk are subsequently channelled to social programs implemented by Nazhir and partner institutions, while accountability is reinforced through a dedicated reporting and oversight loop involving BWI supervision, Ministry of Religious Affairs administrative oversight, and public participation/complaints mechanisms. By synthesizing institutional roles within the return-to-benefit pathway, the conceptual framework shows that CWLS transcends product-legality issues and instead represents a complex, governance-dependent arrangement.

Governance and disclosure data from institutional documents show that CWLS relies on multi-actor coordination and reporting channels, but the public-facing transparency layer remains uneven.[22] CWLS materials from Indonesian Waqf Boards emphasize that *nazhir* should prepare distribution programs and reports for multiple stakeholders, including the Ministry of Religious Affairs, the Ministry of Finance, and *wakif*. The board also records that CWLS retail has received Sharia conformity confirmation from DSN–MUI through formal correspondence for structuring.[23] At the same time, PMA No. 1/2022 places periodic reporting duties on *Nazhir*, but

[22] Hendriansyah Joe,, and Hendri Tanjung. "Integrating Cash Waqf into Indonesia's Free Meal Program Using the Business Model Canvas (BMC)." *AL-FALAH: Journal of Islamic Economics* 2, no. 10 (2025): 213-228.https://doi.org/10.29240/alfalah.v2i10.14737

[23] Syaugi Mubarak, Yusuf Asyahri, Faqih El Wafa, and Hanief Monady. "The Role of Cash Waqf In Community Empowerment Through Cash Waqf Linked Sukuk Instruments." In *2023 Brawijaya International Conference (BIC 2023)*, pp. 670-682. Atlantis Press, 2024.https://doi.org/10.2991/978-94-6463-525-6_74

it does not presently function as a robust digital-disclosure regime that compels standardized publication of *sukuk* terms, realized returns, distribution outcomes, and audit results in an easily verifiable format. This gap has empirical importance because the credibility of a waqf-based instrument is strongly shaped by public verifiability, specifically when corpus preservation and benefit distribution occur through a financial intermediary structure.

Peer-reviewed research data show that CWLS is institutionally feasible and socially promising, but its sustainability depends on resolving legal-structural issues and governance frictions. A 2025 qualitative research in Financial Markets (based on literature review and in-depth interviews) concludes that CWLS can mobilize funds and support social projects, but it also underlines improvement needs in performance, implementation design, and broader adoptability.[24] In the broader waqf-governance literature, a meta-narrative review in the Journal of Islamic Accounting and Business Research maps recurring accountability challenges in waqf institutions, specifically disclosure and stakeholder accountability.[25] Meanwhile, a systematic review in the International Journal of Ethics and Systems emphasized stakeholder-based governance gaps and recommended frameworks to enhance transparency, accountability, and sustainability.[26] Collectively, this research provides external validation that CWLS success is not only a matter of product legality, but also of governance

[24] Muhamad Nafik Hadi Ryandono, Tika Widiastuti, Dian Filianti, Anidah Robani, Muhammad Ubaidillah Al Mustofa, Fitriah Dwi Susilowati, Ida Wijayanti, Eka Puspa Dewi, and Nikmatul Atiya. "Overcoming barriers to optimizing cash waqf linked sukuk: A DEMATEL-ANP approach." *Social Sciences & Humanities Open* 11 (2025): 101588.https://doi.org/10.1016/j.ssaho.2025.101588

[25] A.W. Ainol-Basirah and A. K. Siti-Nabiha, "Accountability in Waqf Institutions: A Meta-Narrative Review," *Journal of Islamic Accounting and Business Research* 14, no. 1 (2023): 181–201, https://doi.org/10.1108/JIABR-12-2021-0326.

[26] Fikri Himmawan, Sri Yayu Ninglasari, and Husnul Mirzal, "A Systematic Literature Review on Waqf Governance: Stakeholder Analysis," *International Journal of Ethics and Systems* (2025): EarlyCite/advance online publication, https://doi.org/10.1108/IJOES-03-2025-0137.

architecture, particularly stakeholder alignment, auditability, and transparent benefit reporting.

Beyond the elementary question of permissibility, the philosophical legitimacy of CWLS must be scrutinized through adherence to the foundational essence of waqf, namely *ḥabs al-ʿayn wa tasbil al-manfaʿah*, the perpetual preservation of the corpus for the continuous flow of public utility.[27] This ontological requirement resonates deeply with *maqaṣid al-syariʿah*, specifically regarding the protection of wealth (*ḥifẓ al-mal*) and the promotion of collective welfare (*jalb al-maṣlaḥah*).[28] However, a fundamental conceptual tension arises, showing that while waqf is inherently eternal, sukuk are temporal instruments with fixed maturities. This temporal mismatch prompts a critical inquiry of how the continuity of waqf can be safeguarded once the underlying sukuk expires without depleting the principal or halting the social benefits. Consequently, the legal formalization of CWLS demands more than only administrative approval but requires a normative architecture that institutionalizes rollover mechanisms and enforces auditable protection standards. Accordingly, the legitimacy of CWLS depends not only on the formal compliance with sharia principles but also on its capacity to preserve the waqf corpus, generate sustainable returns, and deliver enduring social benefits.

From the perspective of Islamic legal philosophy, CWLS reflects the classical principle of *ḥabs al-ʿayn wa tasbil al-manfaʿah*, in which the waqf corpus must be preserved while the benefits are continuously channeled to society in line with *maqaṣid al-syariʿah*.[29] The most relevant objectives are

[27]Ramdani, Tika Widiastuti, and Imron Mawardi. “Implementation of Islamic Values in Waqf Governance: A Systematic Literature Review.” *Journal of Islamic Marketing* 15, no. 8 (2024): 1925–41. https://doi.org/10.1108/JIMA-03-2023-0079.

[28] Faishal Agil Al Munawar, “‘Abd Al-Majīd Al-Najjār’s Perspective on Maqāṣid Al-Sharī’ah,” *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (December 15, 2021): 209, https://doi.org/10.31958/juris.v20i2.4281.

[29] Azwar Iskandar, Bayu Taufiq Possumah, Khaerul Aqbar, and Akhmad Hanafi Dain Yunta. "Islamic philanthropy and poverty reduction in Indonesia: The role of integrated Islamic social and commercial finance institutions." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16, no. 2 (2021): 274-301. https://doi.org/10.19105/al-lhkam.v16i2.5026.

ḥifẓ al-mal (protection of wealth) and *jalb al-maṣlaḥah* (generation of public benefit),[30] both of which require a governance system guaranteeing asset integrity, transparency, and sustainable returns.[31]

The perpetuity dilemma should also be examined within Indonesia's positive waqf law, which does not regard temporality as conceptually incompatible with waqf.[32] Government Regulation No. 42/2006 expressly regulates time-bound cash waqf by requiring that, once the specified period ends, the *nazhir* must return the principal to the wakif through LKS-PWU. This positive-law position provides a statutory bridge for CWLS structures that distinguish temporary and perpetual participation, but it simultaneously raises a doctrinal question within classical fiqh, namely, to what extent does time-boundedness alter the ontology of waqf as a perpetual endowment? Addressing this question requires engaging juristic views on temporary waqf and stakeholder reasoning on why temporality is used to maintain corpus protection without undermining the waqf's moral and legal character.

A fundamental philosophical challenge arises from the perpetuity dilemma.[33] Classical waqf is perpetual, while *sukuk* instruments[34] have a limited maturity period. This raises a legal question of how waqf perpetuity

[30] Murniati Mukhlisin, "Level of Maqāsid Ul-Shari'āh's in Financial Reporting Standards for Islamic Financial Institutions," *Journal of Islamic Accounting and Business Research* 12, no. 1 (January 18, 2021): 60–77, https://doi.org/10.1108/JIABR-03-2020-0090.

[31] M Kabir Hassan and Mustafa Raza Rabbani, "Sharia Governance Standards and the Role of AAOIFI: A Comprehensive Literature Review and Future Research Agenda," *Journal of Islamic Accounting and Business Research* 14, no. 5 (June 6, 2023): 677–98, https://doi.org/10.1108/JIABR-04-2022-0111.

[32] Dwi Retno Widiyanti, M. Pudjihardjo, Marlina Ekawaty, and Asfi Manzilati. "Perpetual Concept of Waqf in Southeast Asia." In *Brawijaya International Conference on Economics, Business and Finance 2021 (BICEBF 2021)*, pp. 259-264. Atlantis Press, 2022.https://doi.org/10.2991/aebmr.k.220128.034

[33] Rasius Makselis, "A Comparative Analysis of Plotinus' Conception of Eternity as the Life of Being and the Image of Aion in Chaldean Oracles," *Dialogue and Universalism* 30, no. 3 (2020): 141–56, https://doi.org/10.5840/du202030339.

[34]Lee, Eunkyoung, Jee Young Kim, and Yoon Lee. "A Comparative Analysis of Green Sukuk and Green Bonds." *International Journal of Islamic and Middle Eastern Finance and Management* 18, no. 6 (April 2025): 1353–73. https://doi.org/10.1108/IMEFM-12-2024-0609.

can be secured when the financial instrument eventually expires. Addressing this problem is essential for ensuring that CWLS does not contradict foundational fiqh principles. Therefore, operational mechanisms must be standardized to ensure the automatic continuation of the waqf corpus after sukuk maturity, the prohibition of principal reduction, and sufficient liquidity buffers to maintain uninterrupted social benefits.

The empirical governance structure of CWLS possesses significant potential to actualize *Maqasid Sharia*-oriented welfare objectives, provided that the operational and legal safeguards are rendered enforceable and subject to public verification. Within this framework, the standardization of rollover mechanisms upon maturity, fee governance, and digital disclosure is not only a technical refinement but rather constitutes fundamental prerequisites for preserving the waqf corpus (*ḥifẓ al-mal)* and ensuring the perpetual distribution of benefits. Consequently, elevating these core safeguards into higher-level legal norms and integrating transparent reporting systems would fundamentally transition CWLS from an administratively permitted program into a legally fortified waqf instrument, anchored in credible accountability and sustainable social impact.

Cash Waqf-Linked *Sukuk* Regulations: What are the Implementation Challenges?

Minister of Religious Affairs Regulation No. 1/2022 provides the formal administrative framework for implementing CWLS as a state-facilitated mechanism to mobilize cash waqf into sovereign sukuk placement. The regulation defines CWLS as an investment of cash waqf funds in state sukuk issued by the government and positions the instrument within the waqf administrative chain. Accordingly, CWLS transactions must be recorded in waqf documentation and channeled through designated institutions, including LKS-PWU and nazhir (or partner nazhir). In practice, implementation remains strongly governance-dependent, as program continuity and credibility depend less on the existence of PMA norms than on how effectively institutional actors translate these norms into standardized operational controls (placement, rollover continuity, disclosure, and auditability). This dependency becomes visible when the CWLS operational chain is considered together with issuance outcomes and institutional reporting practices.

Implementation data from the Ministry of Finance (DJPPR) show that CWLS can reach substantial fundraising outcomes, but the composition shows structural features crucial for regulation. For example, the official results for CWLS Retail Series SWR006 report total orders of Rp306.28 billion, reaching 799 wakif (783 individual; 16 institutional), with subscription value heavily concentrated in institutional wakif (Rp269.07 billion) compared to individuals (Rp37.21 billion).This distribution shows that, at least in SWR006, "market uptake" does not automatically reflect broad-based retail penetration; rather, fundraising performance may rely on institutional participation and distribution networks.[35] In regulatory terms, this concentration underscores the importance of enforceable governance safeguards, as the legitimacy of CWLS as a waqf instrument depends on protecting the waqf corpus and ensuring verifiable distribution of benefits, regardless of whether funds are sourced predominantly from individuals or institutions.

At the implementation level, institutional coordination is formally extensive but practically fragmented. SWR006 documentation by DJPPR shows that CWLS distribution proceeds through multiple LKS-PWU/mitra distribusi and Nazhir partners, with named pairings between distribution banks and Nazhir responsible for social programs. These include *Dompet Dhuafa,* Indonesian Waqf Board, *Bank Syariah Indonesia Maslahat, Baitulmaal Muamalat*, Al-Azhar Foundation, Indonesian Ulema Council

[35] Direktorat Jenderal Pengelolaan Pembiayaan dan Risiko (DJPPR), Ministry of Finance of the Republic of Indonesia, "Hasil Penjualan CWLS Ritel Seri SWR006 Meraih Rp306 Miliar untuk Dukung Wakaf Produktif" (2025), https://www.djppr.kemenkeu.go.id/hasilpenjualancwlsritelseriswr006meraihrp306miliaruntukdukungwakafproduktif

Waqf Institution, and *Muhammadiyah* Waqf bodies.[36] The structure is further reinforced by the SWR006 program documentation, which lists social programs funded by returns and identifies beneficiary-oriented themes (education, health, empowerment, environment/green waqf) as program destinations.[37] From a governance perspective, the multiplicity of actors increases the probability of information asymmetry. Even when fundraising and program lists are publicly announced, stakeholders still require standardized reporting on (i) sukuk terms and placement execution, (ii) realized returns and deductions/fees, (iii) distribution timing and outcomes, (iv) audit results to ensure public benefit claims are verifiable as a matter of accountability, not only institutional narratives.

A further implementation challenge is the "digitalization gap" and uneven compliance behavior among implementing institutions (legal culture). Several LKS-PWU provide procedural guidance and product pages, showing that CWLS distribution can be digitally assisted (e-channel requirements, investor identification steps, and customer onboarding).[38] On the other hand, this bank-facing digital readiness does not automatically produce public-facing transparency on waqf governance indicators. In practice, Islamic Financial Institutions/partner pages often emphasize subscription procedures and general product descriptions rather than standardized disclosure of post-issuance performance (realized returns vs expected returns, administrative deductions, undistributed balances, and

[36] Direktorat Jenderal Pengelolaan Pembiayaan dan Risiko (DJPPR.Ministry of Finance of the Republic of Indonesia, SWR006—Marketing Slide (Mengenal SWR006) (PDF), https://media.kemenkeu.go.id/getmedia/4fef2634-252b-4b71-b28e-e0db682c7b7a/SWR006-Slide-Marketing_3.pdf

[37] Direktorat Jenderal Pengelolaan Pembiayaan dan Risiko (DJPPR. Ministry of Finance of the Republic of Indonesia, SWR006—Program Sosial (PDF), https://media.kemenkeu.go.id/getmedia/e0492bd5-07e9-4de6-a985-05f71e558ee8/SWR006-Program-Sosial.pdf.

[38] Bank Syariah Indonesia, Terms & Conditions / Syarat & Ketentuan (CWLS/SWR006) (PDF), https://www.bankbsi.co.id/storage/file_manager/5K04sZGS24DcvOrGk0QnLs7s2KYsIsHcloprj9Tw.pdf

distribution evidence).[39] This unevenness is consequential because waqf governance is not satisfied by access to purchase but also requires traceability of benefits and demonstrable protection of the waqf corpus across the program lifecycle. When disclosure remains selective and non-standardized, public oversight is reduced to trust rather than verification, while Indonesia public law environment recognizes transparency as a key instrument for societal oversight of public-interest programs.

About supervision, CWLS management is executed by Nazhir, institutionally linked to BWI oversight within the waqf regime. PMA No. 1/2022 also recognizes public participation in monitoring through a complaint mechanism. However, the operative strength of supervision remains structurally limited because the framework has not mandated standardized digital disclosure, auditable reporting templates, or clear service standards for grievance handling across all implementing actors. Consequently, monitoring risks becomes reactive and fragmented, relying on institutional discretion rather than enforceable and interoperable governance controls.

Based on Lawrence M. Friedman's (1975) legal system theory, comprising the substance, structure, and culture of law.[40] The implementation of CWLS regulations shows that, structurally, a complete institutional network is in place (Ministry of Religious Affairs, Indonesian Waqf Board, Ministry of Finance/DJPPR, LKS-PWU, and Nazhir). However, coordination and standardization of supervision remain potentially fragmented. In reality, PMA No. 1/2022 provided an administrative basis and legal recognition for CWLS, but has not fully regulated the obligation for integrated digital reporting, audit standards, and post-placement disclosure in detail. In terms of legal culture,

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[39] Bank Muamalat Indonesia, "Cash Waqf Linked Sukuk (CWLS)" (product information page), https://www.bankmuamalat.co.id/index.php/investasi/cash-waqf-linked-sukuk.

[40] Lawrence M. Friedman, (tjm) M. Khozim, *Sistem hukum: Perspektif ilmu sosial*. Bandung: Nusamedia, 2019.

implementation practices remain trust-based, with participation relatively concentrated on institutions, preventing demands for transparency and public verification from developing optimally. Therefore, the effectiveness of CWLS is not only determined by the existence of norms, but by the simultaneous strengthening of institutional structures, deepening of regulatory substance, and increasing the culture of accountability in society

Table 2. *Challenges of Implementing CWLS Regulations within the Legal System Framework*

Dimension (Friedman)	Evidence from implementation sources	Typical challenge for CWLS governance	Regulatory implication
Legal substance	PMA defines CWLS and embeds CWLS in the documentation/administrative chain	Norms are largely administrative; core safeguards (standardized disclosure/auditability/continuity controls) depend on implementing practice.	Elevate substantive safeguards into stronger, more detailed norms and mandatory standards.
Legal structure	SWR006 results show multi-actor distribution: LKS-PWU + multiple Nazhir partners with mapped programs	Oversight and coordination risks: fragmented responsibilities, uneven monitoring intensity across actors	Clarify supervisory architecture and require interoperable reporting across institutions.
Legal culture	Bank distribution pages emphasize onboarding/procedures; public reporting of outcomes is not uniformly standardized.	Compliance tends to prioritize procedural access over lifecycle transparency of returns/distribution.	Require standardized public disclosure and audit trails; strengthen accountability incentives.

Source: *Author's analysis based on Friedman's Legal System*

Table 2 shows that the implementation of CWLS shows the relationship between the dimensions of the legal system as proposed by Lawrence M. Friedman, namely, legal substance, structure, and culture, as well as the regulatory challenges arising in governance practices. In terms of legal substance, the Minister of Religious Affairs Regulation has provided a normative basis that defines CWLS and integrates it into a clear documentation and administrative chain. However, implementation results show that existing norms remain administrative and procedural in nature, while substantive protections such as information disclosure standards, auditability mechanisms, and guarantees of sustainable waqf management are highly dependent on implementation practices on the ground. This situation raises regulatory implications in the form of the need to elevate administrative norms into more substantive and binding provisions by establishing mandatory standards related to transparency, auditing, and the sustainability of waqf fund management.

In terms of legal structure, data on the implementation of CWLS, including the issuance of the SWR006 series, shows a pattern of authority distribution comprising multiple actors, namely Sharia Financial Institutions Receiving Cash Waqf and various partner Nazhirs managing waqf utilization programs. This multi-actor structure reflects a collaborative effort in managing CWLS, but also presents challenges for coordination and oversight. The fragmentation of responsibilities between institutions can lead to imbalances in monitoring intensity and gaps in accountability. Therefore, the new regulatory implication is the need for a clearer definition of the supervisory architecture, including the division of authority roles as well as integrated and interoperable reporting obligations among institutions involved in managing CWLS.

In terms of legal culture, implementation evidence shows that distribution channels in banking and related institutions place greater emphasis on onboarding and waqif participation procedures, while public reporting on the results, impact, and distribution of CWLS benefits has not been standardized. This pattern reflects a culture of compliance that is still oriented toward fulfilling formal procedures, rather than comprehensive transparency throughout the waqf management cycle, from collection to distribution of proceeds. The challenge demands regulatory implications in the form of mandatory public disclosure standards and consistent audit trails, as well as strengthened accountability incentives for managers, ensuring that the legal culture developed is not only procedural but also substantive and oriented toward public trust.

The governance challenges of CWLS do not originate solely from regulatory deficiencies or gaps, but rather more fundamentally from the lack of synchronization between legal norms, institutional structures, and legal culture practices in implementation. Although CWLS has shown significant operational capacity, as reflected in the successful fundraising of the SWR006 series, its sustainability depends heavily on the extent to which governance standards can be consistently enforced, standardized across institutions, and publicly verified. Therefore, a comprehensive regulatory approach is crucial, not only by adding new rules, but also by strengthening the quality of governance obligations, including strengthening legal substance, structuring the supervisory architecture, and establishing a culture of transparency and accountability. These regulatory reforms need to explicitly operationalize the principles of waqf asset protection (*ḥifẓ al-mal*), management accountability, and sustainable benefit distribution. Consequently, CWLS will not cease to be an administratively activated program, but rather develop into a legally sound and socially credible Islamic public finance instrument within the Indonesian sharia financial system.

Harmonizing Regulations: A Strategy for Strengthening Cash Waqf-Linked *Sukuk* Governance

Strengthening the harmonization of CWLS governance needs to be directed not only at technical alignment between regulations, but also at establishing a substantive legal framework capable of integrating waqf law, capital market regulations, and sukuk governance in an integrated manner. From the perspective of *Maqaṣid al-Syari'ah,* regulatory harmonization must guarantee the protection of the principal waqf *(ḥifẓ al-mal*), the sustainability of benefits, transparency, and social justice as the main orientations of CWLS management. However, these goals are difficult to achieve if the legal structure remains based on a formalistic approach and fragmented regulations. In this context, Critical Legal Studies positions the law as an instrument that is not entirely neutral because it can reproduce fragmentation of authority, information asymmetry, and accountability deficits through the dominance of administrative procedures.[41] Therefore, CWLS legal harmonization must be directed at strengthening norms that explicitly regulate the protection of the waqf corpus, transparency of management, distribution of benefits, and cross-institutional oversight as enforceable legal obligations. This approach allows for the formation of a regulatory framework that not only provides legal certainty but also guarantees accountable, sustainable, and public welfare-oriented state waqf governance.

Governance within the CWLS ecosystem must be reconceptualized from a test of institutional efficiency to a fundamental challenge of normative integration. The prevailing inquiry should move beyond whether CWLS is administratively feasible under current conditions. Instead, the focus must shift to whether disparate legal regimes can be synthesized into a singular, coherent, and enforceable regulatory architecture. This necessitates a rigorous alignment of legal concepts and enforcement expectations across three overlapping, but often clashing domains, including waqf law, capital market regulations, and *sukuk* frameworks.

CWLS currently exists at a friction point between divergent legal ideologies.[42] Although waqf law is ontologically anchored in the perpetuity of the *corpus* and the *maqaṣid al-syariʿah* objective of *ḥifẓ al-mal*,

[41] Muchamad Ali Safa'at, and Milda Istiqomah. "Critical Legal Studies (Cls): An Alternative For Critical Legal Thinking In Indonesia." *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 7, no. 1 (2022): 11-20.https://doi.org/10.22373/petita.v7i1.122

[42] Eko Fajar Cahyono, and Sutan Emir Hidayat. "Cash waqf and the development: A case study of cash waqf-linked sukuk in Indonesia." *El-Barka Journal of Islamic Economics and Business* 5, no. 1 (2022): 150-182.https://doi.org/10.21154/elbarka.v5i1.3713

[43] Capital market regulations prioritize time-bound lifecycles and standardized risk discipline.[44] Consequently, a robust legal architecture must explicitly codify the principle as a protected waqf *corpus*, binding all actors to a non-diminution duty that precludes discretionary administrative interpretations.

The governance structure of CWLS requires a fundamental reconceptualization. The central issue is no longer whether the constituent institutions are functioning adequately, but whether the various legal regimes governing CWLS can be integrated into a coherent and internally consistent regulatory framework. In other words, the principal question is not simply whether CWLS operates effectively in practice, but how waqf law, capital market regulation, and sukuk frameworks can be harmonized within a unified legal regime that is coherent, enforceable, and institutionally credible.[45] Without an integrated framework, CWLS will continue to face difficulties arising from cross-cutting regulatory rationalities that operate in parallel rather than in synthesis.

The answer to this question becomes clear when one compares the foundational logic of waqf law with that of capital market regulation. Waqf law is based on the concept that assets passed on to children or others in perpetuity should never be consumed, aligning perfectly with *maqasid al-shariah*[46] (objectives of Islamic law), specifically ḥifẓ al-mal. Therefore, the normative orientation of waqf law emphasizes the preservation of the corpus as an inviolable asset dedicated to long-term social benefit. Capital

[43] Akhmad Hafandi, and Puji Handayati. "Is cash waqf linked sukuk (CWLS) less than ideal according to Islamic laws?." *Studies of Applied Economics* 39, no. 12 (2021).https://doi.org/10.25115/eea.v39i12.6207

[44] Connel Fullenkamp, and Céline Rochon. "Reconsidering bank capital regulation: A new combination of rules, regulators, and market discipline." *Journal of Economic Policy Reform* 20, no. 4 (2017): 343-359.https://doi.org/10.1080/17487870.2016.1181550

[45] Paul Schiff Berman, Global Legal Pluralism, *Southern California Law Review*, 80(6), (2012), 1155–1237. https://southerncalifornialawreview.com/wp-content/uploads/2018/01/80_1155.pdf

[46] Muhammad Umer Chapra, *The Islamic Vision of Development in the Light of Maqasid al-Shariah*, Islamic Research and Training Institute (IRTI-IDB), London, 2008, https://iiit.org/wp-content/uploads/The-Islamic-Vision-of-Development-in-the-Light-of-Maqasid-al-Shariah.pdf

market regulation, on the other hand, was designed for seasonal investment keeps, and low-risk but high-yield investment financial discipline is modeled as a principle. Accordingly, the integration of waqf law and capital market regulation cannot be assumed to occur automatically. The integration cannot be left to administrative discretion alone, but must be firmly based on legal rules that clearly recognize the principle as protected waqf property and bind all parties to a duty of ensuring none diminishes it.

Table 3. *Proposed Reforms for Harmonizing Regulatory Domains in CWLS Governance*

Reform axis	Harmonization target	Minimum reform output	Intended impact
Codify non-diminution and continuity safeguards	Waqf law *sukuk* regulation	Statutory/PP-level rules on (i) non-diminution of principal, (ii) standardized maturity continuity/rollover protocol, (iii) liquidity/continuity safeguards	Stronger legal certainty; enforceable *ḥifẓ al-mal* and continuity of benefit
Standardize disclosure as a legal safeguard.	Capital market regulation -- waqf governance -- *sukuk* terms	Mandatory disclosure minimum fields (series/tenor, expected vs realized returns, fees/deductions, undistributed balance, distribution timing/outcomes, audit summary)	Public verifiability; accountability beyond "program announcements."
Align supervision and reporting architecture across regimes	Cross-regime alignment (MoRA/BWI - market authorities-*sukuk* issuer governance)	Interoperable reporting templates; single series-level disclosure package; clear allocation of supervisory mandates and consequences	Reduced fragmentation; stronger oversight and auditability
Translate *shariʿah* compliance	*Shariʿah* governance, capital market	Placement criteria, documentation standards, lifecycle	Risk-managed governance without undermining waqf

Reform axis	Harmonization target	Minimum reform output	Intended impact
into enforceable risk controls	risk governance, and waqf safeguards	decision approvals, audit trails, conflict-of-interest, and fee governance rules	principles; consistent *shariʿah* compliance

Source: *Compiled by the author based on the results of literature analysis and synthesis (2026).*

Table 3 shows that the reform agenda to strengthen the integration between waqf law and sukuk regulations is based on four main directions. First, codification of the principles of non-diminution and continuity of benefits is needed in statutory or government regulation-level regulations to ensure firm legal certainty regarding the protection of principal and the continuity of benefit distribution. Second, transparency must be made a legal obligation through minimum disclosure standards that include information on series, tenor, yield, costs, undistributed balances, distribution timing, and audit summaries, ensuring accountability does not stop at program announcements. Third, the supervisory architecture needs to be harmonized through clear coordination between the Ministry of Religious Affairs of the Republic of Indonesia, the Indonesian Waqf Board, and the Financial Services Authority (OJK), to prevent fragmentation of reporting and supervisory mandates. Fourth, *shariʿah* compliance must be translated into enforceable risk controls, including documentation standards, placement criteria, audit trails, and conflict of interest governance. This will ensure that waqf principles are maintained within a modern, measurable, and auditable governance framework.

The necessity for normative integration is further amplified when considering the ontological shift of wealth within the Islamic legal tradition. Waqf should not be reduced to only a charitable gesture but a social institution grounded in a profound view of wealth as a divine trust. The concept of *khalifah fi al-arḍ* positions human beings as stewards rather than absolute owners, imposing an ethical duty to manage assets in ways that extend beyond private interests.[47] Consequently, the harmonization of CWLS governance acts as a normative mechanism for translating private resources into enduring public benefit, ensuring that the fiduciary duty of the state and *nazhir* is aligned with transcendental values.

In terms of practical implementation, the current landscape shows a significant reliance on administrative instruments that may lack long-term statutory resilience. Although Government Regulation No. 25/2018 has attempted to enhance administrative safeguards in waqf administration, and Ministerial Regulation (PMA) No. 1/2022 has operationalized CWLS by defining cash waqf channels, these frameworks remain predominantly administrative. The inherent risk is in the delegation of regulatory responsibilities to lower-level norms, which differ fundamentally from a robust statutory asset-protection regime. Without elevating these protections to a higher legal level, the preservation of the *waqf corpus* and the accountability of its managers remain vulnerable to shifts in political or administrative discretion.

The evolution of waqf into a key instrument of Islamic social finance also requires a move toward more flexible fund mobilization without compromising Sharia principles. The emergence of cash waqf has facilitated sustainable socio-economic development by providing the liquidity needed for productive investments.[48] However, the integration of cash waqf with sovereign sukuk to fund projects in education, healthcare, and infrastructure requires a legal center of gravity that can withstand market volatility.[49] Harmonization across waqf and capital market laws ensures

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[47] Moh Nazih Syifauddin, Bustanul Arifin, and Meri Piryanti. "Waqf as an Instrument of Social Ethics: A Study of Islamic Legal Philosophy on Altruism and Ownership." *At-Tahdzib: Jurnal Studi Islam dan Muamalah* 13, no. 1 (2025): 49-64.https://doi.org/10.61181/at-tahdzib.v13i1.531

[48] Nosratollah Nafar, "The investment of waqf properties and infrastructure development." In *Revitalization of Waqf for Socio-Economic Development, Volume I*, pp. 285-308. Cham: Springer International Publishing, 2019.https://doi.org/10.1007/978-3-030-18445-2_14

[49] Doddy Afandi Firdaus, and Masngudi. "Comparative Analysis of Waqf Link Governance of Sukuk to Finance Infrastructure in Indonesia." *Wealth: Journal of Islamic Banking and Finance* 2, no. 2 (December 8, 2023): 135–60.

that these hybrid instruments do not just function as temporary policy programs, but permanent fixtures of the national financial architecture.

The proposed harmonization ultimately aims to transform CWLS from a fragmented policy initiative into a waqf-based financial model with legal legitimacy, substantive accountability, and institutional coherence. The integration of *Maqaṣid al-Syari'ah* and Critical Legal Studies positions law not only as an instrument of formal certainty, but also as a means to realize welfare, social justice, and protect waqf assets from the distortions of fragmented regulatory structures. Within this framework, maqaṣid principles such as *ḥifẓ al-mal,* sustainability of benefits, and distributive justice are combined with CLS's critique of the dominance of administrative proceduralism, information asymmetry, and weak accountability in multi-actor governance. Therefore, the reconstruction of CWLS governance must move beyond product legality toward a governance model oriented toward substantive justice, public transparency, and enforceable oversight. This approach is crucial to ensure that capital market efficiency is not isolated from the *maqaṣid al syari'ah*-based social welfare objectives, but rather operates in a balanced manner within a unified legal framework. The affirmation of these high-level norms not only strengthens the protection of waqf assets but also establishes a global standard for the integration of Islamic social finance into sovereign debt markets through credible, equitable, and sustainable governance mechanisms.

Conclusion

Cash Waqf-Linked Sukuk (CWLS) represent a strategic innovation in the integration of Islamic social finance and state financing. However, its legal structure in Indonesia remains normatively fragile because its protection and enforcement mechanisms rely on administrative regulations, particularly the Minister of Religious Affairs Regulation

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https://doi.org/10.24090/wealth.v2i2.9676.

Number 1 of 2022, which does not fully reflect the force of binding legal norms. The conceptual tension between the temporary character of state sukuk and the principle of waqf perpetuity (ḥabs al-ʿayn) indicates that CWLS governance cannot be maintained solely through an administrative approach and formal product legality, but requires the reconstruction of a more integrated, systemic, and enforceable legal framework. From the perspective of Maqaṣid al-Syari'ah, strengthening governance must ensure the protection of the principal waqf (ḥifẓ al-mal), the sustainability of benefits, transparency, and distributive justice as the primary orientations of state waqf asset management. Meanwhile, through a Critical Legal Studies approach, formalistic and fragmented regulatory structures have the potential to reproduce information asymmetry, overlapping authority, and accountability deficits in multi-actor governance. Therefore, harmonisation of CWLS law needs to be directed at explicit codification of waqf corpus protection principles, standardisation of benefit sustainability mechanisms, implementation of auditable digital transparency, and integration of operational and credible cross-institutional oversight. The limitations of this research just uses the normative-doctrinal approach without the support of empirical data regarding the effectiveness of implementation, inter-institutional coordination, and quantitative evaluation of returns, liquidity risks, waqif perceptions, and the effectiveness of the digital reporting and audit system in CWLS governance. Therefore, future research needs to develop empirical and longitudinal approaches to comparatively test rollover designs, principal protection mechanisms, and the integration of cross-regime supervisory systems, both in national and international contexts. With this evidence-based strengthening, CWLS has the potential to evolve from only policy innovation into a waqf-based sovereign financing model that is legally robust, institutionally accountable, and socio-economically sustainable.

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