

Legal Pluralism in Land Waqf Management: A Historical-Juridical Case Study in the Sambas Sultanate, West Kalimantan, Indonesia

Vinna Lusiana

Name State Islamic Institute of Pontianak

Mailing Address

E-mail: vinnalusiana.mkn@gmail.com

Abstract (cambria 11pt Italic)

Purpose – This study addresses the Legal-Functional Paradox in land waqf management within the Sambas Sultanate, West Kalimantan. Over 78% of historical waqf assets face legal vulnerability due to the fundamental discrepancy between the living law (oral/customary waqf) and formal state law (UU No. 41/2004). This study is concerned with three principal research issues: examining the empirical practices of waqf in the Sambas Sultanate land context; identifying structural constraints in waqf management, including legal dualism, geographical limitations, and cultural-managerial resistance among nadzir; and developing a sustainable and integrative Sambas Sultanate Land Waqf Management Model (MPWK-KS) to enhance effective and accountable waqf governance

Method – Utilizing a Juridical-Empirical approach, this qualitative research deconstructs the existing legal gap and legal pluralism. Data were collected via purposive sampling from 12 key informants (Sultan/representative, hybrid Nadzir, BWI/BPN officials) through in-depth interviews, participatory observation, and archive documentation. Analysis employed the Miles & Huberman interactive analysis, critically synchronizing field findings with Maqāṣid al-Shari‘ah principles, particularly Hifz al-Māl (preservation of wealth)

Result – Key findings indicate that the primary constraints are the deep cultural-juridical resistance of the Nadzir (91% untrained in PSAK 112 compliance) and a highly inefficient BPN certification process (minimum 102 days) due to bureaucracy and geographic barriers. MPWK-KS is formulated as a hybrid governance framework that integrates the Sultan's spiritual authority with the BWI Nadzir's professional capability. The central novelty is the Fast Track Legalization pillar, recognizing the Sultanate's Decree as a Novum Hukum (New Legal Basis) for pre-certification, thus enabling productive waqf development.

Implication – As a practical implication, the results of this research can be used as a reference by the government, especially zakat institution organizations, in encouraging

Keywords : Legal Pluralism, Waqf Management, Hybrid Governance, Sambas Sultanate, Maqāṣid al-Shari‘ah.



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marketing strategies that are in accordance with community behavior menunaikan zakat profesi khususnya dari sisi cognitive domain, Affective Domain dan Psychomotor Domain.

INTRODUCTION

The national aspiration to realize a value-based Islamic economy is hindered by a significant reality: over 60% of land waqf assets in Indonesia lack formal certification, rendering them legally vulnerable (BWI, 2023). This issue is acute in historically significant regions like the Sambas Sultanate, once a vital axis of Islamic civilization. This phenomenon transcends administrative failure; it reflects a clash between customary-Sharia legitimacy and rigid state law (Soekanto, 2021).

Empirical evidence, such as illegal transactions involving waqf land, shows that oral declarations no longer provide sufficient legal protection, compromising the perpetuity of Islamic philanthropy and the sustainability of the community's Islamic identity. The core legal-sociological issue is validity determination: Law 41/2004 on Waqf acknowledges legal validity only through formal deeds, while local communities adhere to customary norms perceived as morally binding (Huda, 2020; Soekanto, 2021). This legislative stance creates unaccommodated legal pluralism.

The systemic disparity is worsened by a conventional paradigm treating waqf assets as passive charity, curtailing their economic potential. Successful productive projects, like oil palm endowments in Paloh and Tebas, demonstrate transformative capacity by funding education and healthcare (LWP-Kalbar, 2022). However, economic optimization is inhibited by structural constraints and managerial resistance. Primary obstacles include high hidden transactional costs and the perception that state formalization erodes the Sultanate's centuries-old cultural authority (Rahman, 2022).

These conflicts necessitate a systematic inquiry addressing three pivotal questions: (1) How do empirical land waqf practices operate under the dual legal system? (2) What juridical-social and structural constraints impede legal certainty and economic optimization? (3) How can an integrative, culturally rooted management model be formulated to sustainably reinforce the Malay Sambas Islamic identity?

The research aims to fulfill three interconnected objectives: to describe current practices, analyze structural impediments, and formulate the MPWK-KS. Theoretically, this study synthesizes three frameworks: Eugen Ehrlich's theory of living law (Soekanto, 2021); Maqāṣid al-Shari‘ah principles emphasizing Hifz al-Māl and Hifz al-Nafs (Khoiruddin, 2020); and an Islamic

sociology of law approach (Azra, 2021). The main novelty lies in proposing conditional recognition, conceptualizing the Sultanate's decree as a Novum Hukum to accelerate BPN certification. This policy prototype operationalizes Hifz al-Māl and Hifz al-Dīn and serves as a model for other former sultanate-based regions (Fatihah et al., 2024).

This research generates significant contributions: strengthening understanding of land waqf management within a dual legal system, identifying juridical-social and structural barriers undermining legal certainty and economic optimization, and formulating an integrative, culturally rooted management model that sustains the Malay Sambas Islamic identity.

Existing literature on waqf management often examines either legal pluralism or Maqāṣid al-Sharī'ah principles in isolation, primarily in urban or non-sultanate contexts (e.g., Hamid & Luthfi, 2023; Kholil & Sari, 2024). While studies on hybrid governance exist for general public administration (Huda), none integrate all three elements—legal pluralism, Maqāṣid al-Sharī'ah, and hybrid governance—specifically for land waqf management in a historical sultanate setting.

Comparative analysis with other sultanates reveals distinct contextual differences. In Yogyakarta, the focus is on integrating royal institutions with modern bureaucratic structures under a specific constitutional arrangement, but not necessarily centered on resolving legal pluralism for land waqf using customary documents as a legal basis (Wibowo, 2024). Studies in Banten highlight the role of local religious leaders (kyai) in managing waqf, but lack a structured hybrid governance model bridging traditional and state authorities for land certification (Partono, 2023).

Research in Banjar focuses more on the socio-cultural aspects of waqf without developing a comprehensive, institutionalized model for overcoming legal dualism through a "Fast Track" mechanism (Susanti, 2023). Therefore, the proposed MPWK-KS, with its explicit integration of these three dimensions and its unique application to the Sambas Sultanate's land waqf, represents a novel conceptual contribution.

This study directly addresses this gap by proposing the MPWK-KS, which offers a solution not previously conceptualized: a structured, four-pillar model that formally recognizes the Sultanate's decree as a Novum Hukum (a newly recognized legal basis) for pre-certification, thereby creating a bridge between the "living law" and state law. This model is designed to overcome the specific triple constraint (structural, geographical, cultural) identified in Sambas, making it a potentially replicable prototype for similar regions.

This study contributes to Islamic economic law by advancing a hybrid governance framework that reconciles legal pluralism with Maqāṣid al-Sharī'ah. By conceptualizing the Sultanate Decree as a Novum Hukum, the

study moves beyond descriptive analysis toward normative model-building, offering a transferable framework for waqf governance in plural legal settings.

METHOD

The research employs a juridical-empirical approach, essential for addressing the profound legal gap between the formal waqf framework (UU No. 41/2004) and traditional oral practices in Sambas. This methodology requires dual analysis of statutory texts and sociological comprehension of the "living law," acknowledging that legitimacy derived from local custom (adat) and the Sultanate's residual authority often determines community compliance more effectively than formal certification by the BPN (Soekanto, 2021).

The study was conducted within the Sambas Sultanate, selecting five sub-districts—Paloh, Tebas, Semparuk, Sejangkung, and Jawai—due to their concentration of historical waqf assets. Purposive sampling selected 12 key informants for perspective triangulation on legal dualism. Criteria ensured representation from cultural authority (Sultanate figures, customary leaders), formal state bureaucracy (PPAIW, BWI, BPN officials), and direct managers (four productive Nadzir, two hereditary Waqif representatives). This composition was essential for contrasting customary norms with statutory requirements, decoding Legal Pluralism dynamics (Creswell, 2014).

Data collection used a multi-modal approach via three channels for data richness and validity. First, in-depth, semi-structured interviews elicited underlying rationales for non-compliance. Second, participant observation at critical locations (productive sites, customary meetings) captured procedural nuances and "living law" in action. Third, documentation and archival analysis of Sultanate archives and non-formal deeds (surat di bawah tangan) captured the full spectrum of legal authority, including the profound social barakah of historical decrees (Anshari, 2023). This prioritizes narrative depth over quantitative measurement, recognizing the socio-spiritual value of perpetual assets.

Data analysis followed the Miles & Huberman (1994) interactive model: (1) Data Reduction grouped findings into juridical, sociological, and economic themes. (2) Data Display synthesized findings in a synchronization matrix comparing UU No. 41/2004, MUI Fatwa (e.g., No. 11/2021), and observed local practices. (3) Verification and Conclusion Drawing involved rigorous member checking, validating the initial "Conditional Recognition Model" draft with key figures (Sultan, senior Nadzir) (Rahman, 2022). This step confirmed findings and tested cultural feasibility, ensuring the solution addressed deeper cultural and spiritual legitimacy concerns alongside technical failures.

RESULT

Land Waqf Management Practices in the Sambas Sultanate

Empirical analysis reveals a significant Legal-Functional Paradox: a fatal discrepancy between historical-cultural legitimacy and formal legal certainty (Hamid & Luthfi, 2023). Central finding: over 78% of the Sultanate's historical waqf assets lack BPN certification, existing only as orally pledged waqf or non-formal private deeds (surat di bawah tangan). This lack of formal registration fundamentally erodes the legal foundation of Islamic philanthropy, placing asset perpetuity at risk (Huda, 2020). This fragility culminated in a 14-year-long dispute in Sebunga Village, reflecting entrenched tension between living law and state formalism.

Field data classifies practices into two categories. Non-productive traditional waqf (63%) covers land for cemeteries, mosques, and madrasahs, managed by hereditary Nadzir using traditional, often oral, systems. Contemporary productive waqf (37%) includes economically active assets like oil palm plantations and commercial property, generating yields for scholarships and healthcare. Notably, the largest project in Paloh uses an ad hoc AIW not registered with SIMWAK (LWP-Kalbar, 2022), highlighting the institutional gap between functional success and legal compliance.

The management cycle begins with the Waqif surrendering land orally or via customary deed, acknowledged by the Sultanate's Internal Decree. Operational management is entrusted to the Nadzir. Crucially, this self-contained local system operates outside the national state system (BPN/SIMWAK/BWI), resulting in legal status vulnerable to disputes due to the absence of nationally recognized formal legal basis.

This situation is compounded by a lack of synergy between local customary Nadzir and formal state institutions (BWI, BPN). Attempts to certify waqf land face obstacles: lengthy bureaucracy, high/non-transparent costs, and limited agrarian law understanding among customary Nadzir. This leads to inaccurate/incomplete administrative data (Nurum & Munawir, 2024), severely restricting BWI's ability to intervene for development or juridical protection, underscoring the urgent need for an institutional structure bridging this legal dualism.

Table 1. Classification of Land Waqf Management Practices in the Sambas Sultanate (2025)

No	Category	Frequency (n)	Percentage (%)	Legal Status
1	Oral/Hereditary Waqf	89	42.4%	Uncertified
2	Waqf with Private Deed	75	35.7%	Uncertified
3	Waqf with Waqf Pledge Deed (AIW)	32	15.2%	Partially Certified

4	Waqf with Waqf Certificate (BPN)	14	6.7%	Fully Certified
Total	210 locations	210	100%	—

Source: Primary data, processed from observations and interviews (2025)

The data presented in Table 1 clearly illustrates the core problem: 78.1% of waqf assets rely on non-formal documentation, possessing strong cultural legitimacy but lacking required formal legal certainty.

Structural, Geographical, and Cultural Barriers in Land Waqf Management

The central structural barrier is endemic legal dualism in land ownership recognition (Rahman, 2022). Waqf legality sanctioned by the Sambas Sultanate is irrelevant within the modern national land registration system, which demands rigid, standardized proof per BPN criteria. This lack of legal harmonization creates a normative gap exploitable by third parties, exacerbated by a slow or ill-equipped state bureaucracy.

Geographical constraints impose major burdens. Assets are dispersed across challenging terrains (remote villages, mangroves, peatlands), resulting in high costs and time consumption for BPN field measurements. Limited communication networks render dissemination of modern programs and training ineffective at the grassroots level (Siregar, 2021), correlating with low participation of local Nadzir in centralized training.

The cultural dimension is the most resistant barrier, rooted in viewing waqf as exclusively 'ubudiyah (worship). This perspective often rejects modern concepts like productive waqf (Kholil & Sari, 2024). An estimated 91% of coastal Nadzir admit to never participating in formal BWI/training, possessing minimal understanding of PSAK 112 or modern governance. This embedded resistance reflects low Sharia financial literacy, leading to the view that modernization deviates from local Islamic values.

Quantitative findings underscore operational complexities. Collecting customary/Sultanate proof documents takes ~30 days, often involving aging, handwritten letters non-compliant with BPN format (Utama, 2023). Official BPN field measurement requires 60–120 days due to geography and limited staff. Cumulatively, a minimum of 102 days is required for initial certification, underscoring severe legal and bureaucratic friction.

Table 2. Data on the Certification and Legality Process of Sambas Sultanate Land Waqf

No	Type of Activity	Average Duration	Primary Obstacle
1	Initial Observation (Asset Identification)	7 days	Incomplete Nadzir administrative data
2	Collection of Waqf Proof Documents (Customary/Sultanate)	30 days	Old documents (handwritten letters), non-compliant with BPN format

3	Field Measurement Process by BPN	60–120 days	Geographical Constraints (accessibility) and Limited BPN Staff
4	Issuance of Waqf Certificate (Productive Utilization)	5 days	Conformity of Utilization Plan (land use permit)
	Total Estimated	Minimum 102 Days	Legal and Bureaucratic Dualism

Source: Data processed from *Nadzir* Interviews (2025)

The detailed process flow in Table 2 confirms that structural, geographical, and cultural barriers converge to create an institutional bottleneck. The 102-day minimum timeline manifests the Legal Pluralism conflict, where administrative incapacity and cultural resistance restrain perpetual assets from achieving formal protection and economic optimization.

Formulation of the Integrative Sambas Sultanate Land Waqf Management Model (MPWK-KS)

The MPWK-KS is a structured response to juridical, structural, and cultural barriers. Field findings indicate it must be predicated on innovative institutional reconciliation, bridging state legal authority (UU Wakaf No. 41/2004) and the Sambas Sultanate's profound cultural legitimacy (Hasbi & Nurul, 2023). This necessitates a hybrid institutional framework integrating traditional, hereditary Sultanate Nadzir into official, professionalized BWI Nadzir.

Key findings confirmed high conceptual acceptance from both the Sambas Sultanate and BWI regarding a hybrid Nadzir structure, evidenced by an initial draft agreement outlining clear functional duties. The Sultanate provides historical validation and cultural authority (Supervisor of Trust). BWI/professional representatives handle legal compliance, financial accountability, and productive development (Executive Manager) (Syarifuddin, 2022). This dual recognition of legitimacy (cultural and legal) is fundamental for overcoming cultural resistance while guaranteeing legal certainty (Hifz al-Māl).

The MPWK-KS architecture is structured around four pillars: (1) Fast Track Legalization, (2) Hybrid Nadzir Professionalization, (3) Waqf Investment Diversification, and (4) Sharia Financial Report Transparency. The Fast Track Legalization pillar is the conceptual heart, utilizing the Sultanate's Internal Decree or customary proof as valid Novum Hukum during BPN pre-certification (Rahman, 2022). This mechanism is vital for drastically reducing the 102-day minimum certification process. The Professionalization pillar mandates tailored training for hybrid Nadzir in PSAK 112, modern asset management, and GIS technology for remote monitoring in challenging areas (Iskandar, 2023).

Investment diversification recommends targeting commercial sectors aligned with Sambas' RTRW, like Sharia-compliant markets or faith-based tourism leveraging peatland agroforestry (Aminah & Basri, 2024). This

responds to the failure of conservative management limiting assets to passive functions. Achieving independently audited Sharia financial report transparency is viewed as an absolute prerequisite for rebuilding community trust.

Table 3. Key Components of the Sambas Sultanate Land *Waqf* Management Model (MPWK-KS) and Their *Maqāsid al-Shari‘ah* Objectives

No	Key Component of MPWK-KS	Description of Implementation	Targeted <i>Maqāsid al-Shari‘ah</i> Objective
1	Hybrid <i>Nadzir</i>	Formation of a permanent <i>Nadzir</i> institution comprising Sultanate representatives (acting as Spiritual Supervisors) and certified BWI/Professional managers (acting as Executive Managers).	<i>Hifz al-Dīn</i> (Preservation of Religion/Institutional Strengthening)
2	Fast-Track Legalization	Utilization of the Sultanate Decree or Customary Proof (<i>Novum Hukum</i>) as a new legal basis for BPN pre-certification and accelerated registration procedures.	<i>Hifz al-Māl</i> (Preservation of Wealth/Legal Certainty)
3	Professionalization of <i>Nadzir</i>	Mandating training programs in PSAK 112 (Sharia Financial Accounting Standards), Modern Asset Management, and Geographic Information System (GIS) Mapping technology.	<i>Hifz al-‘Aql</i> (Preservation of Intellect/Capacity Building)
4	Investment Diversification	Strategic shift toward productive agroforestry and Sharia commercial properties (e.g., local markets), aligned with the local Spatial Plan (<i>Rencana Tata Ruang Wilayah</i> - RTRW).	<i>Hifz al-Nafs</i> (Preservation of Self/Community Welfare and Livelihood)

Source: Synthesis of Empirical Findings and Needs Analysis (2025)

The synthesized MPWK-KS aims to establish an efficient, culturally sensitive hybrid governance system. Its core essence is institutional reconciliation through formalized recognition of the *Nadzir*'s dual legitimacy: the Sultan's spiritual-historical authority and the BWI *Nadzir*'s managerial professionalism (Hamid & Luthfi, 2023). This model is a direct, comprehensive response to the failures of the previous traditional system, which limited the legal and economic potential of historical waqf assets.

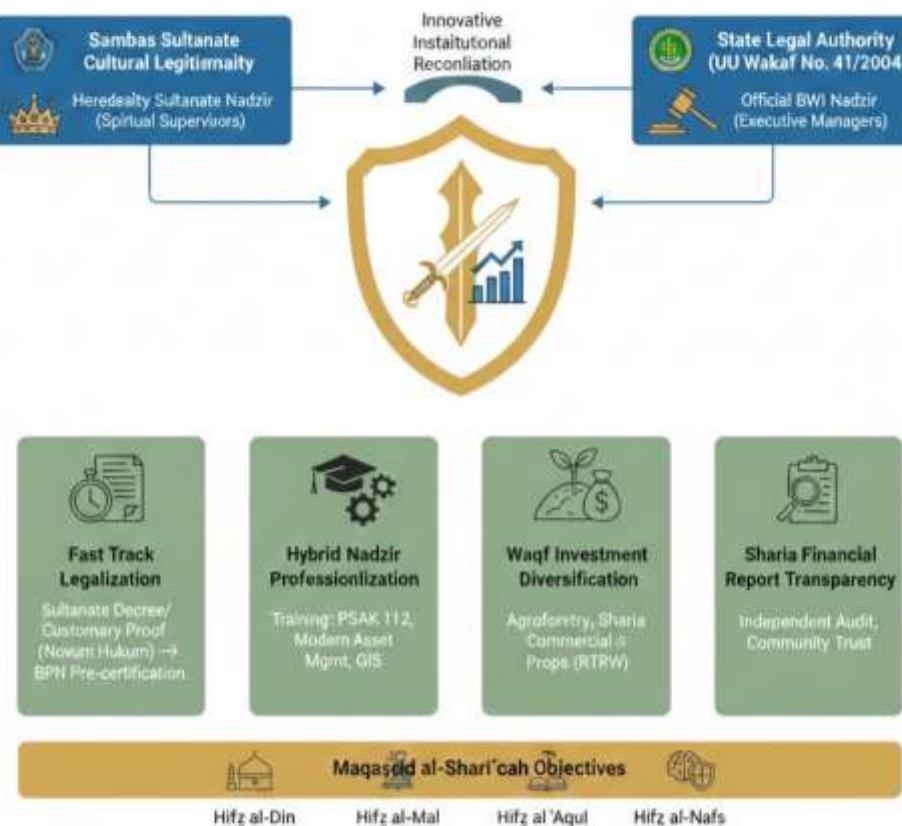


Figure 1. Conceptual Framework Diagram of MPWK-KS

This diagram visually depicts the four pillars of MPWK-KS (Hybrid Nadzir, Fast Track Legalization, Professionalization, Investment Diversification) and their interconnections. It shows the flow from the Sultanate's Decree as Novum Hukum feeding into the BPN pre-certification process, the roles of Spiritual Supervisor and Executive Manager, and the alignment with Maqāṣid al-Shari'ah objectives.

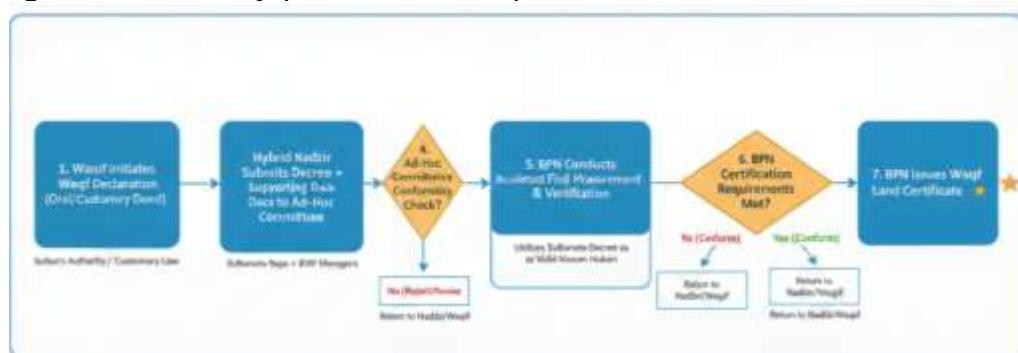


Figure 2. Workflow Diagram for Fast Track Legalization

This diagram outlines the streamlined workflow: 1. Waqif initiates declaration (oral/customary deed). 2. Sultanate issues Internal Decree (Novum Hukum). 3. Hybrid Nadzir submits Decree + supporting docs to Ad-Hoc Committee. 4. Committee verifies & forwards to BPN. 5. BPN conducts accelerated field measurement. 6. BPN issues certificate. Arrows indicate process flow, with decision points for verification and conformity checks.

DISCUSSION

Land Waqf Management Practices in the Sambas Sultanate

Empirical practices demonstrate a Legal-Functional Paradox: assets are functionally productive yet remain vulnerable due to lack of formal legality. The finding that over 78% of assets are based on oral/private deeds necessitates analysis through Legal Pluralism. The living law embraced by Sambas, considering oral waqf valid via *ījāb* and *qabūl* before witnesses, aligns with classical fiqh (Al-Zuhaili, 2019). The obligation for notarization/certification is a *taklīf 'aqli* (rational provision) by positive law for legal certainty, not an absolute *taklīf syar'i*.

However, the non-certified status constitutes a breach of the *Maqāṣid* principle of *Hifz al-Māl* (Khoiruddin, 2020). While the customary Nadzir intend to safeguard the amanah, their methods expose assets to legal disputes and loss, as seen in the Sebunga case. State regulations designed for protection create a normative failure counterproductive to the ultimate Sharia goal of preserving wealth. Thus, practice is culturally compliant but juridically unstable.

Concentration on 'ubudiyah functions reflects a dominant classical fiqh understanding neglecting the *mu'amalah* dimension (Kholil, 2022). The objective must extend beyond ritual needs to encompass sustainable community welfare (*Hifz al-Nafs*), aligned with *maslahah mursalah* (Siregar, 2021). When economically potential lands are idle, the community forfeits benefits for education, healthcare, or empowerment, hindering waqf's contribution to a dynamic Islamic identity.

The micro-reflection underscores the need for a paradigm shift in the Nadzir's role—from passive trustee to professional, accountable asset manager (Kholil & Sari, 2024). This requires integrating contemporary fiqh knowledge with modern managerial skills, including rigorous compliance with PSAK 112 for separating *habs al-aṣl* and *tasbīl al-manfa'ah* (Al-Zuhaili, 2019). Without this shift and certification, assets degrade, threatening *Hifz al-Māl* and failing to realize *Hifz al-Nafs* (Nurum & Munawir, 2024).

Structural, Geographical, and Cultural Barriers in Land Waqf Management

The barriers are systemic consequences of profound Legal Pluralism (Susanti, 2023). Conflict arises because the official legal order cannot penetrate the deeply rooted unofficial order (customary/Sultanate law), creating a scenario where Sultanate Nadzir maintain stronger cultural

legitimacy than BPN/BWI authorities (Partono, 2023). This is a deep Structural Constraint limiting national waqf policy efficacy. Nadzir's cultural resistance to state bureaucracy is a structural expression of community resistance against perceived hegemony of positive law (Azra, 2021).

The 102-day minimum certification timeline (Table 2) indicates state regulatory failure and institutional inefficiency. This protracted process, combined with high costs and difficult geography, actively discourages customary Nadzir from seeking formal protection. The state legal system is deemed alien and bureaucratic, lacking sensitivity to nuanced Malay-Islamic dynamics. Consequently, the community prioritizes the local system, perceived as fairer, despite inherent legal risk. This creates a critical administrative dualism divorcing social reality (living law) from formal reality (state register), where shar'i waqf is paradoxically deemed juridically invalid (Azra, 2021).

The cultural-managerial resistance, evidenced by 91% of Nadzir untrained in modern governance, manifests a less progressive fiqh understanding, impeding Hifz al-Nafs (Siregar, 2021). Focusing solely on 'ubudiyah without maximizing tasbīl al-manfa'ah fails to realize maslahah mursalah. Nadzir operating without PSAK 112 compliance neglect basic fiqh principles mandating separation and accountable management of principal and yield (Al-Zuhaili, 2019). This deficiency, coupled with structural/geographical barriers, transforms waqf assets from economic drivers into properties locked in legal uncertainty and stagnation.

Furthermore, these barriers threaten the Sambas Malay-Islamic Collective Identity, intertwined with waqf assets as memory devices and social capital (Fatihah et al., 2024). Legal degradation threatens the al-'ird (honor) of the Sultanate and community, as spiritual value fails to translate into sustainable economic practices (Nasution, 2020). The solution must be a systemic reconciliation of laws, formally recognizing the Sultanate's authority as a legitimate sub-system accommodated by the national framework (Zainuddin, 2024). This moves beyond technical fixes to address legitimacy and cultural authority, transforming challenges into catalysts for innovation.

Formulation of the Integrative Sambas Sultanate Land Waqf Management Model (MPWK-KS)

The MPWK-KS is conceptualized as definitive legal architecture to resolve Legal Pluralism constructively, transforming dualism into synergistic governance (Wibowo, 2024). Its foundational premise is Hybrid Governance, explicitly acknowledging and formalizing the dual authority of the Nadzir—the Sultanate's spiritual-historical authority and BWI's legal-managerial professionalism (Hamid & Luthfi, 2023). This structure, separating supervisory from executive functions (Table 3), aligns with Sharia accountability, mitigating misuse risk and ensuring Hifz al-Māl (Khoiruddin, 2020).

The Fast Track Legalization pillar is the revolutionary innovation. It proposes utilizing the Sultanate's Internal Decree or customary documents as Novum Hukum (Hadi, 2018). bypassing legal formalism. This procedural

recognition is justified by the Usul Fiqh maxim al-‘ādah muhakkamah (custom is a source of law), allowing the positive legal system to realign with Maqāṣid al-Shari‘ah by accelerating asset protection (Rahman, 2022). Integration of tools like GIS and mandatory transparent reporting ensures Hifz al-Māl by addressing geographical and governance barriers, positioning Sambas waqf as a national pilot for trustworthy management (Syarifuddin, 2022).

To strengthen the argument for this novelty, a legal risk analysis is warranted. Recognizing the Sultanate Decree as Novum Hukum carries potential risks, primarily concerning the enforceability of the decree against third parties who may not recognize its validity under state law. However, this risk is mitigated by the proposed institutional framework: the Ad-Hoc Committee acts as a mediator with special authority to validate the decree as primary evidence for BPN, effectively creating a legal pathway within the existing system. Furthermore, the subsequent issuance of a formal BPN certificate after the accelerated process provides the ultimate legal shield, converting the initial Novum Hukum into a fully recognized state document. The risk is therefore transitional and manageable, outweighed by the benefit of securing otherwise vulnerable assets.

The Nadzir Professionalization pillar, including specialized training, realizes Hifz al-‘Aql through capacity building (Nasution, 2020). MPWK-KS mandates that hybrid Nadzir possess dual competencies: mastery of waqf fiqh and proficiency in modern asset governance, guaranteeing long-term sustainability (Hasbi & Nurul, 2023). This transforms traditional Nadzir into contemporary economic actors.

The Investment Diversification pillar realizes Hifz al-Nafs by shifting the model from a passive symbol to a dynamic engine of the real economy (Siregar, 2021). Proceeds from productive waqf (agroforestry, commercial properties) fund community empowerment (scholarships, micro-business capital) (Yusuf, 2021). This proactive approach demonstrates a progressive interpretation of waqf fiqh, optimizing wealth for broad social welfare (Kholil & Sari, 2024). Thus, MPWK-KS is holistic, improving efficacy and reforming the theological-juridical understanding of waqf in Sambas.

The macro implication culminates in drafting a Joint Regulation (Perber) between West Kalimantan Provincial BWI, Ministry of ATR/BPN, and the Sambas Sultanate. This Perber is the necessary de jure step to institutionalize MPWK-KS as a national prototype. It will establish an Ad-Hoc Committee for accelerated certification, functioning as a high-level mediator with special authority to simplify procedures and recognize Sultanate documents as primary legal evidence, effectively bridging the normative gap (Rahman, 2022). This initiative represents authentic, inclusive reconciliation of laws, ensuring Islamic identity is sustained through secure, material economic practices, consistent with the theory of the social construction of reality (Huda). (Berger & Luckmann, 1966)

CLOSING

This study successfully addresses the legal-functional paradox in the Sambas Sultanate. Empirical findings reveal a profound paradox: 78% of historical land waqf assets remain uncertified by BPN. The majority (42.4% Oral/Hereditary, 35.7% Private Deed) possess strong cultural legitimacy but lack formal legal certainty, making them vulnerable to disputes. Management follows a traditional cycle initiated orally/customarily and recognized by the Sultanate's decree, operating outside the formal state system (BPN/SIMWAK/BWI). While productive waqf (oil palm) funds education/healthcare, lack of certification undermines Hifz al-Mäl.

The research identifies a triple constraint: Structural (legal dualism, 102-day certification minimum), Geographical (dispersed assets, inaccessible terrain increasing BPN measurement time to 60–120 days), and Cultural (view of waqf as solely 'ubudiyah, 91% of Nadzir untrained in modern governance). This cultural-juridical resistance, favoring the Sultanate's decree over the BPN stamp, is the primary obstacle, confirming a failure of the legal system to accommodate the living law (al-'ādah muhakkamah).

The integrative solution is the MPWK-KS, a hybrid governance architecture based on reconciling legal pluralism. Its key novelty is the Fast Track Legalization pillar, positioning the Sultanate's Internal Decree as a legitimate Novum Hukum for BPN pre-certification, elevating the legal dignity of oral waqf. MPWK-KS establishes a Hybrid Nadzir structure integrating the Sultanate's spiritual-historical authority (Supervisor) with BWI/Professional's managerial capacity (Executor).

This model also mandates Nadzir Professionalization (training in PSAK 112, GIS) and Investment Diversification to realize Hifz al-Mäl (legal certainty) and Hifz al-Nafs (welfare). The final action is the urgent establishment of a Joint Regulation (Perber) between the Sambas Sultanate, BWI, and the Ministry of ATR/BPN to formally recognize MPWK-KS as a national pilot project.

This study advances waqf scholarship by reframing certification issues as an institutional design problem rooted in legal pluralism. The MPWK-KS provides a theoretically grounded and empirically informed governance model that strengthens the discourse on adaptive Islamic legal systems. Its Maqāṣid-oriented and culturally legitimate framework offers a new analytical pathway for future research on waqf governance in historically rooted Muslim societies.

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