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Issues and Challenges of Waqf in Marawi City and Proposed Action Plan for the Bangsamoro Autonomous Region in Muslim Mindanao

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Abstract - As an Islamic community finance mechanism, waqf (endowment) can be seen as a great impending tool that contributes significantly to creating a significant source of funding for the neighborhood and for the diverse and expanding needs of Muslims. Waqf is a significant component of Islamic economic instruments that is unquestionably believed to be able to address socioeconomic issues, particularly the good challenge of eradicating poverty brought on by a lack of resources and inadequate employment and income. Although Waqf had been implemented in the Philippines for many years, it has yet give impact in contributing welfare of the people in this present day. As a result, this study used a qualitative research strategy to gather information from online journals and papers as well as library research. A comprehensive assessment of the literature on the creation and administration of waqf properties was conducted. Before the Marawi City war broke out in May 2017, previous studies offer fascinating insight on the significance of masjid, madrasah, healthcare facilities, and integrated schools. The newspaper, Television News Watch, and YouTube have all provided secondary data on the position of the waqf properties in Marawi City as of late. The purpose of this study is to explore problems and difficulties encountered by Muslims during the implementation of Waqf. As a result, this article suggested a straightforward course of action that Bangsamoro should follow to increase the effectiveness and efficiency of Waqf. In addition, the paper will identify the significance impact of Waqf implementation in Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) towards creating and establishing Ministry of Religious Affairs in support to Islamic Procedural Law, Islamic Financing and Banking and other concerns related to social welfare of the Bangsamoro.

Key words: Waqf, Socio-economic, managing, administration of Waqf.

1 INTRODUCTION

The term "Bangsamoro People" refers to those who, at the time of conquest and colonization, were regarded as the natives or original inhabitants of Mindanao, the Sulu archipelago, and its neighboring Islands, including Palawan. Their descendants, whether mixed-race or of full blood, have the right to acknowledge or self-identify as Bangsamoro. Couples and their offspring are categorized as Bangsamoro. Public Act No. 6734 of the BBL

According to Tagoranao and Gamon (2019), Marawi City, the provincial capital of Lanao del Sur, has long been regarded as the religious and cultural hub of Muslims in the Philippines. Marawi City, which has a population of over 200,000, is regarded as the biggest city under the control of the Bangsamoro Autonomous Region for Muslim Mindanao Region. It has been referred to as the only "Islamic City" of the Philippines because there are numerous lovely masjids and madrasahs or madaris in each city district. The Jamiatul Muslim Mindanao (JMM), MahadMarawi Al-Islamie, and Ma'ahdKamilol Islam, the largest and oldest madaris in the Philippines, all provide a comprehensive degree of education similar to madrasah in Middle Eastern nations. This madrasah has been established to provide Islamic education not only for the people of Lanao del Sur but also for all Muslims in the Philippines. Along with religious and educational waqf, there are waqf holdings devoted to providing communal services like shelter for the homeless, water systems, waiting areas, and lodging for guests. However, during the five-month Marawi City conflict, intense bombings and ground assault completely destroyed the majority of these buildings.

The Maute/ISIS gang stormed Marawi City on May 23, 2017, and the conflict ended on October 23, 2017. The masjid, madrasa, and other waqf properties were severely damaged as a result of the repeated,

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powerful bombings and ground attack over the previous five months. These features evolved into tools for improving the socioeconomic advancements of the Muslims residing near Lake Lanao. The majority of the ancestral land converted to waqf properties as agreed upon or with the consent of the family members were portions of the ancestral lands used for madrasah, masjid, Muslim cemetery, water system, dormitories, waiting shade, and other charitable properties.

Before the war, some waqf properties provided the Muslim minority with Islamic education, religious and social services, and other services that the Philippine Government had failed to do. It used to be the only source of income for madrasah teachers and scholars because it gave them a safe means of subsistence and the freedom to conduct research and generate significant scholarly output that aided in the advancement of Muslim cultural and scientific activities in the Philippines. The development of waqf as one of the most significant Islamic institutions in the Philippines, particularly in Lanao del Sur and Marawi City, is demonstrated by this.

The masjid, madrasah, and other waqf structures in Marawi City were reduced to skeletal remains and ruins after the siege. There is no certainty that the waqf properties will be included in the proposed transformative restoration plan because these are not legally regarded as government assets, despite the government's pledge to rebuild and resuscitate the city to make it comfortable for the population and residents. Additionally, it is not constitutionally protected due to the division of church and state. In order to repair the devastated waqf properties, particularly the masjid and madrasah, Muslim individuals and religious groups must cooperate and give financing and services first priority. More initiatives that will encourage funding for the reconstruction of those partially or entirely destroyed properties during the war must be pushed. The study of the difficulties in rebuilding the waqf properties in Marawi City is one of the goals of this essay.

The only Islamic bank in the Philippines, Al Amanah Islamic Investment Bank, must enthusiastically mobilize a trust fund as one of the prospects for the reconstruction's success. In particular, the madrasah and integrated schools, which are necessities for Muslim children as parents realized the value of religious education after long periods of being displaced in Christian areas during evacuation time, will benefit greatly from the financing for the immediate revival of waqf properties. It is necessary to imitate the waqf system used by nearby nations like Malaysia and Thailand, where the masjid serves not only as a place for prayers but also as a cultural hub for learning and hosts other Islamic events that generate income for the upkeep of the masjid and for microfinance. The waqf micro-finance program will at the very least be able to support Marawi City's 10% poorest residents and those who completely lost their businesses or means of subsistence due to the conflict.

This recent study emphasizes the significance of rebuilding masjids, schools, madrasahs, and other waqf properties lost in the Marawi City conflict. The restoration of waqf properties will revive the possibility of their use in the socioeconomic growth of the Muslim community. There have been numerous prior studies on the creation and administration of waqf properties in various Muslim nations as well as Muslim-majority nations like Singapore and Thailand. Unfortunately, no religious institutions, including waqf, zakat, and bait ul-maal, are legally supported in the Philippines, a country with a majority-Christian population and less than 15 million Muslims.

The separation of Church and State shall be inviolable, according to the Philippine Constitution. No law may be made that "respects an establishment of religion, or prohibits the free exercise thereof," according to Article III, Section 5.However, under Section 28(3) of Article VI of the Philippine Constitution, all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable, or educational purposes are exempt from real property tax. Religious education has been thought to be provided by madrasah or madaris. Lacar et al. claim that The madrasah schools contribute significantly to national integration (Lacar, 1986), despite significant challenges. Although during the Muslim Mindanao conflict there was a promotion or announcement in Muslim areas to repair old mosques damaged by military aid, the efforts only resulted in highly publicized coverage in the national press and in government pamphlets, the Muslims cannot rely on the government's support.

The government must understand how crucial the waqf institutions are to the Muslim world. Ghazale emphasized the importance of endowments, or waqf, for the political, economic, and social well-being of Muslims, as well as for the establishment of institutions that provide services in the fields of healthcare and education. Therefore, it is imperative to take quick action to reconstruct waqf properties, which requires help or funding from endowed charitable organizations or people. One encouraging sign that has been put forth in the

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past is how hereditary rulers are serving as strong role models for charitable giving in a number of Muslim nations like those in the Middle East.

Political figures, aristocracy, religious institutions, and commoners all must invest not only their time and talents but also their money in the Philippines. The mosque has to be rebuilt so that it can function as both a place of worship and a gathering place for Muslims. Muslims are a minority, just like in Singapore, and mosques now serve as community centers. The MajlisUgama Islam, which is consistent with the idea that mosques are institutions that actively promote the collectivity of the ummah, oversees the activities of the mosques. With the establishment of the General Endowment Fund, Waqf holdings in Singapore are now well-managed and developed (bayt-ul-maal). However, bayt-ul-maal is not acknowledged by the law as a part of the government in the Philippines. In order to finance the reconstruction of the waqf properties in Marawi City and other Muslim areas of the nation, a trust fund must be established.

2. Literature Review

2.1 The Economic Definition of Wagf

Waqf is an Arabic word that means endowment and refers to a certain form of permanent charity act. It entails giving a permanent asset that can bring about a profit or benefit (Mannan, 1989). Specific beneficiary categories are then served by the revenue or benefit created. It is a voluntarily made charity endowment in the form of money, assets, or land for causes that adhere to Shari'ah.

Waqf is a nonprofit organization. It gets better as a result of religious and moral drive. The benefits of charities can last for decades, generations, or even centuries because of their durability and continuity. Also to be noted is the Islamic definition of Waqf, which applies the Waqf's perpetuity principle while making its assets cumulative. A Waqf property cannot be sold or otherwise disposed of, meaning it will always be a part of the Waqf domain and any new Waqf will be added to it. This suggests that the value of the Waqf property will only rise. They are not allowed to refuse because it is forbidden to use Waqf properties for personal gain or to neglect them in any way.

2.2 Legitimacy of Waqf and Its Significant

Because Waqf transfers wealth for society during its establishment phase, it is related to the distribution of wealth in the national economy. According to a study by Othman (2001), Waqf significantly contributes to the fight against poverty by ensuring that the underprivileged have access to food, education, and medical care. Waqf funds from public donations are one of the potential solutions to the demand for adequate funding for public needs. It is one of the Muslim Ummah's accomplishments. The Holy Qur'an exhorts Muslims to practice altruism, to carry out good deeds, and to spend money in Allah's cause. While the believers hurried to put it into practice, the Prophet Mohammad (peace be upon him) outlined it in his Sunnah and enjoined his Companions to do the same. Waqf had a very favorable impact on growth and wealth, which contributed to the uniqueness of Islamic civilization.

Waqf was more widely understood under Muslim law because it was in line with the altruistic ideals upheld by the Qur'an and Hadiths. Waqf refers to a Muslim's endowing of property—movable or immovable, tangible or intangible—to Allah the Almighty on the grounds that the donation will help the less fortunate. A Waqf deed is everlasting and irrevocable since it symbolizes the surrender of property to Allah, the Almighty. The Waqf property is owned by Allah, the Almighty, and no one is permitted to use it for their own purposes (A.Radiamoda, 2016)

In order to empower the Muslim Ummah, Waqf and socioeconomic justice are both essential cornerstones. The Prophet (peace be upon him) himself established the rule that Waqf is valid: Umar ibn al-Khattab acquired a plot of land in the Khaybar region. To make the most pious use of it, he went to the Prophet and begged for direction. The Prophet replied, "Tie up the original property and devote the usufruct to human beings which is not to be sold or the subject of gift or an inheritance. Being the produce to your children, and the poor in the way of Allah"

Additionally, the hadith that follows provides evidence of Waqf and arguably best describes the guiding rationale for doing so. Abū Huraira reported that the Holy Prophet (peace be upon him) said, "when a man dies, all his acts come to an end, but three; recurring charity, or knowledge (by which people benefit), or a pious offspring who prays for him".

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Additionally, Abu Talha gave the Prophet (peace be upon him) his choice of a plot of land in Medina known as the Bairuha orchard, according to a story related by Imam Bukhari. The Prophet handed it to him and counseled him to use it as an endowment for his kin. AbuTalha thereupon gave the orchard as a charity to Ubay and Hassan. The Prophetic direction in respect of *Waqf* is contained in the following hadith: "*Retain the original* (property) itself and endow its fruit in the path of Allah".

Waqf therefore had a very good impact on growth and prosperity, which contributed to the uniqueness of Islamic civilization. Waqf's goal is to use assets donated in Allah's name for philanthropic and religious purposes, though. Legally speaking, a Muslim who permanently dedicates any movable or immovable property for any cause deemed pious, charitable, or religious by Muslim law.

Based on the waqf'sShari'ah roots and the ijtihad, or personal reasoning, of the fuqaha from all schools who have studied the rules of waqf in terms of variety, conditions, and investment methods as well as its applications and passages, a comprehensive figh that encompasses all aspects of waqf has emerged.

2.3 Components of a ValidWaqf

The following components that constitute a legal waqf have been agreed upon by the majority of fuqaha in books of Islamic law. As a legal organization, the waqf management institution is required to meet certain conditions known as rukunwaqf, some of which are comparable to the elements of a valid sales contract. The following is an explanation of the rules:

- 1) *Al-waqif* is a person who donates waqf fund. He/she should be health physically and mentally. The decision to donate should not be made under pressure.
- 2) **Al-mawquf** is an assets or fund donated as waqf in *fiqh* (Islamic law). Existence of *mawquf*should be clear and durable. Therefore, people can benefit from the waqf for long time.
- 3) Al-mawquf'alaih refers to those who are entitled to benefit from return of waqf fund management.
- 4) *Sighah*. the process through which a waqif declares an asset or fund to be a waqf. The Companions' deeds further support the legitimacy of waqf. For when Prophet Mohammad (peace be upon him) responds in his Hadith to Umar's desire to give a garden he owns to charity, the Prophet says: "Give it in charity with its land and trees on the condition that the land and trees will neither be sold nor given as a present, nor bequeathed, but the fruits are to be spent in charity." 'So Umar gave it in charity, and it was for Allah's Cause, the emancipation of slaves, for the poor, for guests, for travelers, and for kinsmen. As long as he didn't intend to use it as a means of financial gain, the person serving as its administrator was free to eat from it and allow a friend to do the same. 2009 (Abdel Mohsin).

2.4 Waqf's Categories of the Bangsamoro in the Philippines

Part of M. T. Shaikh Khan's explanations Syed, M.H., & According to a 2007 study, Waqf may be roughly divided into two categories: the first group is based on the organization's goals and the characteristics of its recipients, and the second category is based on how the mawquf asset is used. There are two sorts of waqf in terms of its intended use and the type of recipients, or mawqufialayhim:

- 1) **Waqfkhayri** or public endowment occurs when the beneficiaries of the usufruct consist of ongoing charitable concerns such as the needy, mosques, hospitals, schools and any similar vehicles that achieve general wellbeing for members of the Muslim *ummah* at large.
- 2) Waqfahli or dhurri or familial endowment occurs when the beneficiaries of the usufruct can be the waqif himself or certain people designated (specifically or generally) by the waqif regardless of whether these beneficiaries are related to him or not. Such waqfs automatically become khayri when the designated people cease to exist. This kind of family settlement in the form of waqf cannot be sold.

The majority of Marawi City's waqf properties are waqfkhayri (welfare waqfs), which are intended to meet the needs of the destitute, orphans, and other people in need. Masjids and madaris were constructed using waqf lands and income. However, some waqf properties, particularly Islamic integrated schools and cemeteries, are governed by waqfahli (family waqf), which is endowed solely for the benefit of the founder, the members of his family, the descendants, and later revolves for the benefit of more general welfare purposes. (Gamon, 2001) There were many different types of wuquf (plural of waqf), which included but wasn't limited to building places of worship, educational institutions, medical facilities, and shelters. They also included constructing roads and

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providing aid to the needy, the destitute, and travelers. Waqf is a vital component of social, cultural, and economic life. It is founded on Muslim empathy, social takaful, communication, and compassion. Waqf was used to care for non-Muslims, which is also remarkable.

2.5 Applications and Rulings of Waqf

In Islam, property is endowed with the intention of being utilized for charity or pious purposes and is known as waqf. The word waqf literally means "detention." Waqf, in the context of law, refers to the retention of a property so that its income or produce is always available for charitable or religious purposes. (Othman, 2001). When a waqf is established, the property is retained, or "tied up," permanently, and ceases to be transferable. Dedication to Allah the Almighty - In the sense that nobody can assert ownership of the property, Allah the Almighty owns it.

Waqfor endowment has been embodied in Islam as one of the good deeds for which the reward by Allah is 70 times (Verse 2: 261). In another verse, the act of philanthropy by disposing out property as an act of charity is encouraged in Islam (Verse 73:20 and 64:17). The idea behind is to prevent accumulation of wealth or hording circulation of wealth in society. Wealth is meant for the benefit of people and not itself to be enrich by a few, the reason interest or riba is prevented in Islam (A. Radiamoda, 2016)

A mosque for prayer or a school for education are two examples of direct waqf, which uses mawquf funds to achieve the intended and direct purpose of the endowment.

- 1) There is also the waqf for investments, where the asl is used to generate money that is then distributed or allocated for the endowment's purposes.
- 2) The oldest and simplest type of waqf to establish is real estate. Such waqfs ran simply, with income coming from renting out any type of property in urban areas, including homes, businesses, garages, factories, shops, and warehouses. The waqf that owns the asset shares the harvest with those who work and farm the land. Agricultural assets in rural areas that could be farmed were also used as real estate waqf. The plot or plantation would be developed and harvested using muzara'a or share cropping. 2009's Abdel Mohsin
- 3) 3) Cash waqf management system Waqf funds from donations from the public are one of the possible solutions to the requirement for adequate funding for public needs. By obtaining cash waqf certificates, people make cash waqf donations. The funds will subsequently be invested in several investment portfolios, with the proceeds going toward the aforementioned public necessities. While the principal of the money will be reinvest in a number of highly lucrative investment possibilities, the earnings made will also be utilized to finance programs aimed at reducing poverty.
- 4) Most Muslim scholars have listed irrevocability, perpetuity and inalienability Upon being designated as a waqf, an asset or piece of property is subject to three restrictions. Once a waqf is declared and established, it cannot be changed (Sadeq, A., 2002). The waqif is unable to obtain his property back in his or anybody else's name. No human being is allowed to alienate waqf property for himself or any other person because it is Allah's property. It cannot be exchanged for money or given away.

The following fatwa (dated May 11, 2002) was issued in response to the need for a cash waqf certificate program in Indonesia by the Board of Indonesian Muslim Scholars.

- 1) Cash Waqaf (Waqf al-Nuqud) is waqf donated by individual, group of individuals, or legal entity, in cash.
- 2) Cash waqf includes securities.
- 3) Money donated as wagf is not forbidden (jawaz).
- 4) Cash waqf can only be distributed and allocated for anything not against Shari'ah (Islamic law).
- 5) Existence of waqf fund should be conserved. Waqf fund cannot be transferred to anyone.

Waqf, in the opinion of Tagoranao and Gamon, is crucial to the advancement of Muslim education, particularly in the creation of madrasah institutions that teach Islam to the next generation of Muslims. There are examples of some of the waqf-founded madrasah and colleges in Marawi City that have been impacted by the war there:

1) The Jamiatul Philippine al-Islamiyyah (JPI), previously the Kamilol Islam Institute, was established by the stockholders as a family foundation and is the largest Muslim private educational institution in Central Mindanao. It was established in 1955, registered as a madrasah, and given permission to provide comprehensive elementary, secondary, and university courses in addition to conventional Islamic studies. It was one of the schools that the ISIS held in Marawi City for more than three months as a stronghold. On September 16, 2017, it came under the control of the government.

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- 2) JamiatulIslamiaMarawi Foundation is one of the famous private schools in In 1972, a philanthropist from the Maranaw tribe founded Marawi City. The nursing and scientific laboratories, library, administration, and college buildings on the school grounds were endowed by a number of local and foreign persons. ISIS employed several of the structures in their battle with the Philippine Armed Forces in Marawi City. One of Marawi City's largest madrasahs is called Ma'ahadMarawi Al-Islami. The Islamic Development Bank in Jeddah, Kingdom of Saudi Arabia, provided the funding, while the Muslim World League also contributed financially. To improve the socioeconomic and educational status of Muslims in the Philippines, they provided financial support for this madrasah. As the ISIS fought against the soldiers of the government, it developed into one of their strongholds.
- 3) One of Marawi City's first educational institutions, Pacasum College was founded through family waqf. This institution has been kept open to continue serving Muslims with competent, dedicated, and inexpensive education, especially for pupils from low-income households.
- 4) Other schools and madrasah which have been destroyed by the air strikes during the Marawi war are: JamiatulWaqf (QismulBanaat&Baneen), Ma'ahad Muhseneen, Ma'ahadQiraat, Ma'ahadDisomangcop, Ma'ahadDhikriAlIslami, etc.

In Marawi City, there were numbers of masjid in every district which were built on waqf lands. They were financed by cash *waqf* provided by the people and some religious and private organizations. Some of the damaged masjid occupied by the ISIS during the war are:

- 1) The Masjid Jami'Islamic Center It is the grand mosque in the province of Lanao del Sur. It was founded by the Late former Senator Ahmad DomocaoAlonto. It is located in the center of Marawi City. It was the second major mosque that government forces had taken from the control of the Maute/ISIS group and its allies aside from Saad al Musairi Mosque, the first the government had taken. (Nawal A., 2017).
- 2) The Masjid Bato/Dansalan It is one of the biggest mosque within the City Centre of Marawi. The lower ground of the Masjid has been used by the Ma'ahad Marawi Al Islami as students' classrooms for more than forty years. The Masjid became the command centre by the ISIS and where many hostages of the war were kept by them. It fell into the government hands on September 16, 2017.
 - 3) Other masjid which were affected by the war are: Masjid Abubakr, Masjid Shiekh Mura, Masjid Barrio Naga, Masjid Nadwah, Masjid Markaz, Masjid YahyaMoner, Masjid DarulAman, Masjid Raya Madaya and Masjid LilodMadaya in Marawi City.

The Philippine armed forces were advised not to destroy mosques at the start of the war due to the destruction of the aforementioned institutions and mosques during the conflict. Throughout the five (5) month siege, the government was constantly urged by the local leaders, non-governmental organizations, and religious organizations to reduce airstrikes to prevent severe destructions. However, because terrorists have sought refuge in those houses of worship, they were compelled to target mosques in their surgical attacks (Maitem, 2017). This indicates that the mosques were made a target in order to protect the government soldiers fighting on the ground and rescue the lives of the hostages. Amnesty International has questioned the need for military destruction of infrastructure, including religious structures, as a possible violation of international humanitarian law.

Despite the fact that Marawi City has been declared to be free of the enemy for more than a month, nothing has begun as would have been anticipated, despite the fact that the authority is receiving gifts from various organizations and nations. In reality, Amnesty International urged the Philippine Government to implement prompt and efficient measures for restoration and rehabilitation in Marawi (Amnesty International, 2017). Although it was highlighted by the government that Marawi requires P50 billion for rehabilitation, it was not made clear whether mosques and madrasahs will be included.

The involvement of external contributors from the global communities, as represented by various international and local organizations, is a key component of the post-war reconstruction paradigm. In reality, various nations and international organizations, including the United States, Japan, Australia, Thailand, China, the World Bank, and the Asian Development Bank, have committed financial support. In addition, a number of government organizations and institutions, including municipal governments, desire to contribute to the rehabilitation process. (September 23, 2017; Philippine Daily Inquirer). However, the government made it clear that reconstruction will be challenging and take time, as much of the city, including its public infrastructure, has been completely destroyed as a result of months of intense fighting.

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3 CONCLUSIONS AND RECOMMENDATION

The masjid, madrasah, and other waqf properties were destroyed during the five-month siege of Marawi by the ISIS group and the Philippine Armed Forces. Although the government pledged to rebuild the city, there is no assurance that waqf properties will be included in the transformation plan because they are not statutorily regarded as government property. Rebuilding and restoring the destroyed masjid, madrasah, waqf buildings, and other related properties will be the responsibility of the residents of Marawi City and the religious organizations.

Before the conflict, several waqf properties provided the Muslim minority with Islamic education, religious and social assistance, and other amenities that the Philippine Government had failed to do.

Waqfshould significantly advance the Philippines and Bangsamoro. In the social, political, and economic life of the Muslim society, it is very important. Waqf is a unique category of absolute and permanent property charitable deed. It serves as both a mechanism for generating rewards and for social welfare. It is an area that has to be investigated and used in greater detail in order to realize the following recommendation and build a more reflective awareness of its applications in the past, present, and most crucially the future:

- 1) To provide a standard manual to assist with the implementation of the waqf's components; To raise funds for the growth of the waqf; and To fully exploit the advantages of the waqf for economic activities;
- 2) To promote the career opportunity The National Commission on Muslim Filipinos (NCMF) needs to broaden and promote the career opportunities available in the Waqf field by providing an alluring compensation package in order to draw in more applicants for job openings at NCMF.
- 3) To raise awareness of the importance of Waqf, Waqf must be widely marketed as a key tool in Islamic economics.
- 4) To support Islamic Procedural Law and Islamic law in general, the Bangsamoro Autonomous Region in Muslim Mindanao should establish a Ministry of Religious Affairs. Banking, financing, and other issues pertaining to the Bangsamoro's social welfare.

Therefore, in order to ensure Waqf as a crucial tool in improving socioeconomic conditions, particularly in an effort to eradicate poverty for the benefit of the Muslim ummah, the BARMM or NCMF must play its part effectively. Every difficulty encountered while handling and managing the Waqf properties needs to be factored into a strategic action plan.