

A Thesis Submitted for the Degree of Doctor
of Area Studies

The Revitalization of *Waqf* Institutions as an
Islamic Social Welfare System: A Case Study in
Malaysia

イスラーム型社会福祉システムとしてのワクフ
制度の再生—マレーシアの事例から—

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Introduction

Islamic economics has emerged since the early nineteenth century and has grown over the years in many countries. Studies on Islamic economics are also increasing all over the world. These studies are no less important than any other studies on the Islamic world and a dynamic and firm understanding is needed to ensure they contribute to further research and economic prosperity. Islamic economics offers studies in all aspects of human dealings including law, *fiqh*, and Sharī‘a, as well as essential basics in Islamic banking and finance. For Islamic economics to be able to serve the society much insightful research is necessary.

This study specifically focusing on the practice of *waqf* in Malaysia. Malaysia has a multiracial population, predominantly defined by three major ethnic groups which is Malay, Chinese and Indian races, with diverse cultural backgrounds. According to the Malaysian constitution, it declares Islam as the states religion, however, non-Muslims are given the freedom of religion. Malaysia was formed in September, 16 1963. The Federation of Malaya or known as Persekutuan Tanah Melayu, was a federation under the British Colonization and be able to gain the independence in August 31, 1957 and became Malaysia after united with Sabah and Sarawak.

Waqf is a long-practiced tradition in Islamic civilization, and a form of charitable funding prevalent throughout the majority of the Islamic world in the pre-modern era. *Waqf* plays an important role in serving society's needs and supporting Islamic economics by enhancing the development of the social economy. Historically, the *waqf* practices in Malaysia was started since the existed of Islam in Tanah Melayu 800 years ago. However, this study is focusing on the recent practices of *waqf* revitalization in Malaysia which has started since late 2000 until the current practices.

In line with modern developments within the financial world, Malaysia has recently been focusing on the innovation of *waqf* as an alternative social welfare system and a promising method to resolve social problems. Numerous reformations and developments of *waqf* assets have been made. These reformations and developments adjust the practices of *waqf* to keep pace with modern economy, while ensuring that *waqf* recourses are being fully utilized for the benefit of society. Trends in *waqf* revitalization in Malaysia show how a self-sustaining model for *waqf* could generate and utilize *waqf* income. The important question for this study is:

How can the revitalization of *waqf* institutions be a promising method for Islamic social welfare?

In addition, this research will also look into following questions:

1. How to identify the *waqf* practice in Malaysia by using the matrix?
2. How can we clarify several *waqf* practices in Malaysia by using my *waqf* practice?
3. How to clarify the *waqf* practices in Malaysia into the matrix?

Chapter 1

Islamic Economy as an Economic System

In this section, I will discuss the nature of Islamic economy, then historical developments of modern Islamic economics. This chapter will discuss the important elements of Islamic economy, examine the historical developments of modern Islamic economics, and review the context of charity as a mutual system in Islam by describing the concept of Islamic economy as an economic system. Furthermore, the author discusses the potential of *waqf* revitalization for improving social welfare

1.1 Market Economy and Gift Economy

When we use the term “Islamic economy,” it means an economy which is governed by Islamic principles, not just the economy of a Muslim society. What are the Islamic principles governing such an economy is a debatable issue, and it is indeed part of this chapter’s discussion.

Generally speaking, there could be two kinds of Islamic economy, or Islamic economies, in the Islamic world. One is historical, and the other contemporary. Islamic economies in the pre-modern eras flourished in various parts of the Islamic world from the 7th century when Islamic society was established in the Arabian Peninsula until the arrival of the Western economic system to the Muslim lands in the modern era. Contemporary Islamic economies are either remaining parts of the historical Islamic economies or reconstructed Islamic economies through the various efforts to revive the Islamic system, especially in the latter half of the 20th century.

The historical Islamic economies are the sources for ideas when modern Muslim scholars try to reformulate Islamic economies under the contemporary conditions. In this

thesis, when I use the term Islamic economy, I am referring basically to the contemporary model of Islamic economy, drawn from the Islamic legal sources, historical experiences and the theoretical discussions on them.

Now, let's locate this model of Islamic economy in a general picture. Economic systems may be divided in fundamental types, such as a market economy, a gift economy and a planned economy. The third, a planned economy, was widely observed in socialist countries in the 20th century, but it has lost its significance today, and an Islamic economy does not have planning and control by a central government. So, let's concentrate on a market economy and a gift economy.

First, a Market Economy can be defined as an economic system in which entrepreneurs hire workers to produce goods and services to be marketed (sold on the market) with the intention of making a profit. Market economy can take various forms depending upon certain special features in its structure of property rights in addition to the minimum rights under consideration here and the name of capitalism is in fact more a reflection of those features on the presumption that such an economy is necessarily a market economy.

Islam is inclined towards the moral aspects of the economic sphere which is therefore its attitude towards the social system in general. However, an Islamic economy also has a strong element of a gift economy, because there are acts of almsgiving (*zakat* and *sadaqa*) as religious duties, virtuous acts, for every Muslim. They are actually economic religious duties.

A) Polanyi

Karl Paul Polanyi was an economic anthropologist and former Hungarian political leader. He was born on October 25, 1886, in Vienna, Austria and passed away on April 23, 1964, in Pickering, Canada. Polanyi was not a conventional economist but was instead concerned with the development of an overall view of the functioning of economic relationships within different social frameworks.

This led him to pursue detailed historical and anthropological studies. He produced three works based on the theme of the market economy as a special form of social organization. *The Great Transformation* (1944) concentrated on the development of the market economy in the 19th century, with Polanyi presenting his belief that this form of economy was so socially divisive that it had no long-term future. Polanyi defines the economy in terms of an instituted process comprising two levels, one of which has to do with man's interaction with his natural and social surroundings, the other referring to the institutionalization of that process. Every economy, regardless of its dominant form of integration, partakes of these characteristics.

It seems obvious therefore, that Polanyi in no way denies this relationship between the human economy and the social system. What happens is that, under capitalism, all social considerations, motivations, and values take a back seat to the empirically acquired primacy of the economy, which becomes autonomous from all (conscious) social control.

According to Polanyi, in a post-capitalist society – namely once the fictitious commodity nature of labor, land and money is abolished – social regulation will take the form of a democratic, participatory management of the production process, through the

intervention of such institutions as the state, the trade unions, the cooperatives, the factories, the townships, the schools, the churches, etc. (Polanyi 2000: 290-292)

B) Karl Polanyi Forms Integration Theory

Compare to the characteristics of western economic, a comparison of the characteristics of the Islamic economic system has never existed. Karl Polanyi has identified the general types of the social organization in economic activities under the heading of “forms of integration”. The forms of integration or the modes of exchange by Polanyi were intended to create a substantive non-market economics which would indeed provide the general conceptual framework. Based on the topology of the economic system by Polanyi (1977), this writer will be discussing the important features and potential of 2 as part of the modern economic system and as an alternative to the current welfare system.

Polanyi (1977) has identified that the main form of integration in the human economy is concerned with reciprocity, redistribution and exchange (a fourth subtype is house holding which is a characteristic of all the main types, was identified to present the household economy). The term used by Polanyi (1977) was intended to represent the institutional structure and personal attitude in the economy.

Reciprocity is a term use to illustrate the exchange of goods, services and personal movement within a (primitive) society based on the traditions related to the family, a kinship system, neighbors, and members of voluntary associations or peer groups (Karatani 2014). Polanyi (1977: 39) describes reciprocity as follows;

“The central feature of this type of organization is that the sanctions, the validation for goods and personal movement into and out of the economy, and the productive uses of the material stuff of the substantive economic process are to be found in some part of the societal structure, like the kinship system which has a function and a

rationale that is not necessary independent of but goes beyond that role in ordering the relations between the persons in the economic process.

On the other hand, *Redistribution* is referred to as the actual physical movement of goods into a central place from which they are redistributed (Polanyi 1977: 42). Redistribution entails the production and allocation of goods on the basis of norms establishing the modalities of labor services and types of resources that should be transferred to the political chief. (Triglia 2002: 98). Karatani (2014: 6) mentioned that redistribution is something that already existed, from archaic society to the contemporary welfare state.

Exchange is the principle of social organization which may, if the conditions are right, be extended to spheres of human activity other than the economy as it is defined (Polanyi 1977). Schaniel. C and Naele. C (2000) defined exchange as follows:

“All exchanges share three traits: (1) a two-way movement [goods < --> goods; goods < --- > (2) between willing transactors (3) neither of whom is required to transact with the other after the completion of the agreed-upon exchange. Exchanges may be bartered, ranging from isolated exchanges through silent trade to the multiplicity of exchanges in an ancient port of trade, or they may be sales for money...”

In addition, Polanyi had been persuaded that, as a form of integration, *house holding* is a micro-economic form of *Redistribution*. In using these forms of integration to portray an economy, it is often helpful to describe the relationships among many units in the economy as reciprocity or exchange and the relationships within these units as redistributive (Schaniel. C and Neale.C 2009: 92).

Kojin Karatani (2014) discusses the forms of the integration by explaining the unique domain of the moral separated from the modes of exchange. He puts the modes of

exchange into the matrix and suggests that the modes of production can also be understood in terms of economic bases.

<p>B: Plunder and Redistribution ↵ (Dominant and Protection)↵ State↵</p>	<p>A: Reciprocity ↵ (Gift and Counter gift)↵ Nation ↵</p>
<p>C: Market Exchange ↵ (Money and Commodities)↵</p>	<p>Capital ↵ ↵</p>

Table 1. The Modes of Exchange Matrix

Mode of exchange A, in the tribal society this is the dominant mode of exchange. Here no one is permitted to monopolize wealth or power. Once a state society in the other words, a class society emerges, the mode of exchange A is subordinated, and the mode of exchange B becomes dominant. Mode of exchange C develops under it but remains in a subordinated role. In the capitalist society mode C becomes dominant. The mode of exchange A is repressed but never eliminated (Karatani 2014: 6).

Historically, redistribution is taking the place in the form of policies such as irrigation systems, social welfare and public order. Basically, the mode of exchange B is an exemplary feudal economics system. This hereby led to the government or state controlling and acting as the authorities party on behalf of the public. Karatani (2014) also mentioned that the state is not necessarily the extension of the tribal society chiefdom but instead originated in the mode of exchange B – plunder and redistribution.

While the mode of exchange C or commodity exchange is grounded by mutual consent which has arisen neither due to customs inherent in gift giving (mode A) or pillaging (mode B). Commodity exchange is established only when the participants

mutually recognize each other as free beings. In the mode of exchange C, it creates classes and differentiation of status. This is because it takes place by the exchange of capital such as money and commodities. In this case money created the barriers and different positions between the two parties. It is more likely the practice of the modern capitalism system.

B: Plunder and Redistribution ↕ (Dominant and Protection) ↕ State ↕	A: Reciprocity ↕ (Gift and Counter gift) ↕ Nation ↕
C: Market Exchange ↕ (Money and Commodities) ↕ Capital ↕	D: X

Table 2 Modes of Exchange Matrix with Mode of Exchange X

Karatani (2014) has added the modes of exchange D into his discussion and concludes that the modes of exchange could be divided into four types which are reciprocity, plunder and redistribution, commodity exchange and X. He said that modes of exchange D can be called by many names and social formation. Karatani (2014:7) mentions that unlike the other three, the modes of exchange X does not exist in actuality. It is an imaginary return of the reciprocity that has been repressed under the modes of exchange B and C.

C) *Waqf* Revitalization – *Waqf* based Social Welfare

According to the traditional perspectives of *waqf*, reciprocity is the nature of the *waqf* system as it stops all the management and operation by a person of a property. However, the Islamic economy through *waqf*, is not actually a pure reciprocity but a combination of the systems of market exchange and market competition. Furthermore, in the *waqf* practice, the donor does not deal with the recipients.

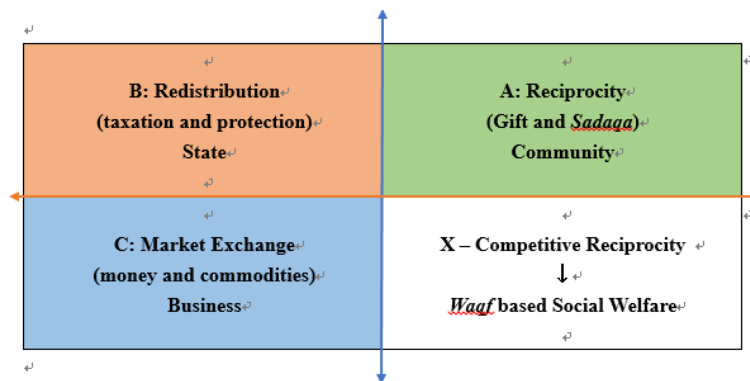
Reciprocity is a scheme particular to Islam as it is an exchange between one party and another. In Islam the real gift economy was *hibah*. *Hibah* is a unilateral contract, benevolent in nature, which does not require the same conditions as a bilateral contract, whereby one party to the contract transfers ownership of an asset to a counterparty without any consideration (Kureshi and Hayat 2015: 193). Simply, *hibah* is a voluntary act where a person gives or transfers to the other party without any consideration or reward. It is essentially a contract of giving a gift, nothing else. The party giving the gift must own the asset at the time of giving the gift, but can also commit to offering a gift to the counterparty in the future. Usually, it's given to a person as a symbol of love, for example from a father to his daughter or son. Giving gifts is usually perceived as a personal act, not necessarily a commercial act, but just as an individual offering a gift to another person.

While *zakat* is a kind of charity it is also a religious obligation for a Muslim. Therefore it is not really considered as pure reciprocity as there is an obligation associated with the act.

Apparently, Karatani has never considered the Islamic economy as a mode of exchange for D. Therefore, Nagaoka (2010) mentions the potential of *waqf* to fill up the modes D or X by suggesting competitive reciprocity. Nagaoka (2010) mentions that the mode of exchange D or X is similar to reciprocity in mode A, and aims at the redistribution of wealth. Other than that, reciprocity cannot be realized by the internal logic of tribe, community, or family. Moreover, the redistribution of wealth cannot be achieved by the state mandatorily. In mode X, both are realized, and achieved by market exchange. This is actually similar to the current practice of *waqf* revitalization. *Waqf*

revitalization has a great potential to propose an alternative (next-generation) economic system to modern capitalism.

Based on the Karatani matrix, writers provide a new matrix based on the ideas of Islamic economy. In the traditional practices of *waqf*, it is mainly based on the redistribution. However, the current revitalization practices of *waqf* show that it could be more than just a redistribution process. Figure below shows the characteristics of an economics process based on the Islamic economy. As mentioned above, Islamic welfare has a strong element of reciprocity as shown in *zakat* and *sadaqa*. While in redistribution, the state plays an important role in collecting taxes from the society. In turn, the government offers protection for the society or the tax payer.



Prepared by author based on the Karatani Matrix (2014)

Sources: Author's own

Market exchange is similar to any other economic process, where an exchange of money and commodities is involved the transaction. Islam has a strong concept and principle of conducting business according to the principles of *Sharī'a* which will be discussed further in the next section.

The combination of reciprocity and market exchange leads to competitive reciprocity or the domain X. *Waqf* based on social welfare could fit into the domain X

because it is not purely based on reciprocity or the gift economy but introduces a combination of market exchange and market competition which then could benefit both the Muslim and non-Muslim society.

1.2 Economic Rules in the Sharī‘a, or the Islamic Law

Islam has its own legal system. The law of Islam is called Sharī‘a. It is the moral, legal and religious code followed by all Muslims based on the teachings of Islam and the life of Prophet Muhammad s.a.w. The entire essence of Islamic economics teaches man how to relate and deal with other men in the light of his relationship with the one God, Allah (s.w.t). The representative economic unit in an Islamic society is a Muslim being obedient to Allah (s.w.t) who follows the path of Islam by acquiring knowledge of Sharī‘a and applying it to solve all the problems of life including the economic ones. The Sharī‘a rules are derived or based on the Quran and its demonstration by Prophet Muhammad s.a.w. through a rigorous process. Zamir Iqbal and Abbas Mirakhor (2011: 6) emphasize that Sharī‘a has a networking role which is etymologically derived from its root meaning “the road” that leads man to harmonize life on earth and the Afterlife. The principles of Sharī‘a are very broad and cover ordinary everyday life, such as how to behave towards other people and how perform religious duties like praying and fasting.

Since the Sharī‘a is comprehensive in covering all domains of life, it also provides regulations for economic activities. Usually, Sharī‘a rules are divided into the domain of “*ibadat*” (acts of worship) and the domain of “*muamalat*” (transactions), and economic rules are basically contained in the domain of “*muamalat*” (transactions). For example, there are four major principles in Islamic economics for practical application according to Sharī‘a which are first, the abolition of *riba* or interest on capital; second, the institution of *mudharabah*, meaning the profit loss sharing system in Islamic economics ventures; third, the abolition of wasteful consumption and the forth the institution of *zakat* which is an organized form of social assistance in an Islamic society finance by an obligatory tax on all forms of income and wealth exceeding a certain

minimum exemption level called *nisab*. These rules or principles are certainly applied as a value based under the umbrella of the Shari'a.

There are also rules related to economic issues in the domain of “*ibadat*.” Important examples are *zakat* and *sadaqa* (obligatory and voluntary charity). The main consensus on Islamic economics is to establish social justice, eliminate of poverty, and reduce income disparities with an interest free system through the *zakat* and *sadaqa* system. *Zakat* and *sadaqa* are the main ethical instruments of social distributive justice with, at the same time, the purpose of seeking the pleasure of Allah (s.w.t) as the ultimate goal. For example, *zakat* is a compulsory obligation in the faith of Islam to pay a certain part of one's surplus wealth to the specified beneficiaries every year. *Zakat* is an important institution in an Islamic economic framework for poverty alleviation and economic welfare.

1.2.2 Basic Principles of Islamic Economics

The core foundation of the Islamic economy is that it is based on the Sharī‘a rulings. Its laws provide a guide for the Islamic economics and it is widely accepted by Islamic financial institutions.

There are several basic principles of Islamic economics. The most important is that the practice of *riba* was prevalent at the dawn of Islam and was prohibited as mentioned in the several verses of Quran. The Quran mentions that an individual who believes in Islam and practices it, shall have only one course of life, obedience to Allah (s.w.t). and His prophet, Muhammad s.a.w. Thus Muslim behavior serves as the basic micro foundation that logically leads to the Sharī‘a paradigm (Muhammad Arif 1985: 83)

In recent years, Islamic countries have proposed an Islamic economy system which reasserts traditional Islamic values (M. Abassi, W. Hollman and H. Murrey Jr.

1989: 11). Islamic economics can be defined as the study of the behavior of Muslims who organize the resources which they are entrusted with to achieve *al-falah* (success). This definition follows the scientific tradition of limiting itself to the statement of the basic economic problem only (Muhammad Arif 1985: 90).

There are several principles of Islamic economics. First, Islamic economics contraindicates acts resulting in harm, corruption and exploitation of the weak. Therefore Islamic economics more than capitalism or socialism, emphasizes man as part of a collectivity and attempts to balance and harmonize the individual spiritual and material needs equitably against the needs of the society as the large. Second, Muslims are not averse to legitimate profit through trade and other kinds of business. For example, in the Quran the prohibition of *riba* is very clear because taking interest means making profit that increases the principal or wealth without making any effort. Any payment over and above the actual return is considered as interest and in Islam is totally prohibited.

In addition to *riba*, *gharar* is defined as the uncertainty created due to the lack of information and control of a contract. It is the situation when the subject of the contract is not something either party has control over. For example, selling a fish that has not yet been caught. The prohibition of *gharar* is because it is based on the speculation.

Third, Islam assumes that wealth is a favor bestowed by Allah (s.w.t) who created and owns everything. Man is merely as an agent with only temporary possession of the material things. However, men are admonished to honor and please Allah (s.w.t) by managing and using property entrusted to them in a responsible, righteous, socially beneficial and prudent manner and to neither abuse or destroy or waste it.

Fourth, it should be noted that the Quran speaks approvingly of free enterprise, while quite straightforwardly discouraged the kind of central planning that characterizes

the socialist and communist economies. However, Islam does not condemn the accumulation of wealth. Islam's emphasis on private property and individual wealth manifests itself in other ways and accepts the unequal distribution of wealth and income and justifies it in the interest of efficiency.

One of the most important principles of Islamic banking is encouraging Muslims to invest their money to become equal partners by sharing their profit or loss in a business, instead of an investment where the two parties become a debtor and a creditor. In Islam, profit is considered as the reward of capital. A depositor in an Islamic bank can make a profit through profit sharing by contributing his capital to a business partnership and through rental earning on an asset that has been financed by his capital.

Furthermore, the prohibition of unethical activities that are forbidden in Islam are not allowed in Islamic banking, either by investing or through supporting those activities. Islamic banking must operate in accordance with the rules and Sharī'a principles governing Islamic trading transactions. Lastly, in Islam, money is considered as medium of exchange. This means that money cannot buy money, but can only buy goods or services sold for a certain amount of profit.

1.3 Developments of Modern Islamic Economics

The comparison of the Islamic economy to practical competition in the modern market economy is an important one, and the differences in the functioning of the institutions in the two systems affects the concept of economic efficiency as ordinarily understood. A modern exchange economy justifies the need of interest in order to achieve allocative efficiency as interest is assumed to cover the cost of capital depreciation in producing the capital. The Islamic world-wide makes it a moral imperative of every Muslim, to try their utmost foster brotherhood and social economic justice.

Economic development is indeed a point of concern for many academics including Muslim and non-Muslims scholars. This title is wide and touches various aspects of life. But what the writer wants to emphasize on this occasion is to explain the meaning of economic development from the point of Islam and to summarize it from the perspective of an individual or Malaysia as a country with a variety of ancestral trails and religions. Although the economy is a particular dimension of human life, its development is irrespective of the dimensions and other aspects of human development itself.

Therefore, the Islamic perception of economic development does not focus on building an entire infrastructure and dimensions that directly or indirectly develop economic development. Hence the development of the natural world is closely related to the development of the spiritual realm, identity and socio-cultural values. The discussion on this topic summarizes the concept of development, developmental elements, development bases, development policy goals, reforms and economic development in Malaysia, the impact of globalization on development, and so forth.

1.3.1 The Concept of Economic Development

According to Dr Abdul Ghani 'Abod: Adams defines economic growth as:

الى الزراعة من التاريخية الناحية من التحول وكان الموارد لتوزيع واعادة, مستمر تحول الخدمات الى ثمة ومن, الصناعة

Which translates as:

"the redistribution of wealth resources can be summarized as a continuous shift in development from the historical point of view from the agricultural era to the industrial era and from that stage to the service era. "

But according to Abdul Ghani (1992: 63) this definition will be seen as a narrow definition unless the definition of the transitional process which summarizes changes in

every aspect of life is widely understood. Irrespective of whether development is summarized or not in terms of growth, the general opinion holds that economic growth also means economic development as a universal aspect. Both are intertwined and needed in developing countries. In fact, the concept of Islamic economic development is based on the development of human capital and the mastery of technology as a driving force for economic development. The development of human resources summarizes the full potential and independence and quality of humanity from the spiritual and moral point of view.

Economic development embraces the development of a fair global financial system and business policy. Mohammad A. Muqtader (1996: 388) also summarizes it as the equalization of social freedom, economic justice, technology development, diversification of resources and so on. A country is considered as a developing country based on the standard rate or a certain category. The categories are measured by Gross National Product per capita for a country. A country is said to develop when it has gone through economic growth and economic structure changes (Noland 2005: 1216-1222). Economic growth is measured by an increase in income (per capita country output) while change in economic structure focuses on the importance of a sectoral changes to industry (Ang 2008: 539), a high percentage of urban population (Stiglitz 1991), a long life expectancy and low illiteracy rates (Schumpeter 1982), exposure to international arenas and so on.

Development in Islam includes the value systems and ideas, a social system that contains family, political, economic, educational, legal and cultural tools (Chapra 2001: 8), such as the creation of tools for life's necessities, transport facilities, buildings, machines, machinery, mass media tools, computers and others (Wan Omar 2012: 70).

According to Gupta (2011: 5), economic development is an immensely complicated process. It is not just a matter of natural resources, capital, and labor. It is part of the whole social development of a society, depending not just on economic circumstances but on social structure and the attitudes of people to life as a whole. At the same time comprehensive development for any nation is subjected to three important factors which are: an awareness of the setbacks in all dimensions, an awareness of the need to eliminate the setbacks and the elimination of those setbacks.

There are various definitions of Islamic economics from some Islamic economic experts. Among the definitions are as stated by Akram Khan that the Islamic economy is an assessment of the achievement of 'human' achievement through the mastery of the land on the basis of co-operation and participation). Turkan, Muhammad and Mohd (2012) describes Islamic economics as a social science that reviews the economic problems of a society that holds Islamic values. It relates to production, distribution and use. Islamic economics is also defined as knowledge, application and Sharī'a rules to prevent injustice in the search and production of resources, to provide human satisfaction and enable them to perform their obligations to Allah (s.w.t) and society (Wilson 1998).

According to the definition of Mohammad Chapra (1979: 172), Islamic economics is a branch of knowledge that helps to realize human well-being through the provision and distribution of limited resources based on the teachings of Islam without ignoring individual liberties or causing imbalances in macroeconomics and ecology. Khurshid Ahmad (1992) also defines the Islamic economy as a systematic effort to understand economic problems and human behavior in relation to those issues according to Islamic perspective. According to Chapra (2001: 6), the Islamic economy can be seen as one of

the branches of economic science where studies are based on Islamic paradigm (i.e. axioms, values and ethical systems), as with the study of capitalist and socialist economics.

Islamic economics is also seen as a reflection of the Islamic worldview based on revelation and has a flexible methodology that combines western Keynesian or neoclassical economics with *fiqh* science (Reza Nasr 2012: 170). According to the definition of Wilson (1998), Islamic economics is an approach to interpret and solve human problems based on values, norms, laws and institutions found and derived from sources of knowledge within Islam. According to Haneef and Furqani (2009: 46), the approach to solving human problems must be in harmony with the *Sharī'a* in terms of acquiring using or managing natural resources for the good of humankind and the virtues of material and spiritual mutual benefit for the pleasure of Allah (s.w.t).

Based on the above definition, it is found that the study of Islamic economics focuses on the study of human behavior and behavior that fully embraces and practices Islamic values in an economic system. That mankind will govern and manage their economic resources effectively and optimally so that their survival in the world can be continued as slaves to their Creator based on Islam (Jaafar Ahmad et al. 2011). According to Hoffman (1993: 11), humans are not economic beings, in the context of human relations with God (s.w.t). (*hablumminallah*), man is God's servant (s.w.t). In the context of human beings and with natural resources (*hablumminannas*), man is the caliph of Allah (s.w.t).

1.3.2 Elements of Development

The most important element of this development is the human element, although it is undeniable that the concept of Islamic development is comprehensive and integrated. The development from an Islamic perspective optimizes the human, moral, material, spiritual, physical, economic and social well-being factors. As a multi-dimensional

development, Islam promotes the balance between various factors such as material and spiritual, quantitative with qualitative, and external with internal (Naquib al-Attas 2001: 77). Islam opposes disbelief and tyranny, but advocates gratitude and justice (Noland 2005: 1232). Since development is closely linked to the improvement of living standards, economic factors cannot be separated because they affect social development directly. However, development should not be equated with per capita increase, production and total exports.

What's important is that development must be linked to the quality of life of the community, thus development must be able to solve the problems associated with it; the question of poverty, the fulfillment of basic human needs such as adequate food and the minimum nutrients, a place to shelter, employment opportunities for families, schools for children, a clean healthy environment and other social indicators with the perfect atmosphere of life worthy of human happiness (Chapra 2001: 146).

In addition, there are other elements that become decisive factors; such as diverse economic development resources, advances in science and technology, a stable and fair national and international financial system, a good, transparent and fair political system that encourages the participation of all citizens in making important decisions, the preservation of a conducive national and international environment that isn't repressed by the emergence of new neocolonialism and so forth.

1.3.3 Bases of Development

Development stems from philosophy and concepts that refer to the basic question of life. In this context is most fundamental to Muslims is faith. This principle asserts that human

beings as trustees of Allah (s.w.t¹) are responsible for prospering natural resources and managing them in a good and just manner. Allah (s.w.t) does not like destructive actions; whether places of human habitation or other creatures of Allah (s.w.t) from generation to generation. The presence of men in this world is for worship and seeking knowledge of Allah (s.w.t). Basics of Islam, Faith, and *Ihsan* are all developmental movements. Shari‘a is the basis of the next development. Economic expansion must refer to Shari‘a and Halal principles.

Development must be brought about on a just, non-oppressive, or non-repressive basis (Chapra 2001: 9). Next are the principles of morality or courtesy. The development of moral concern is a prerequisite for the development of Islamic economics. Therefore, an effort to increase humility should be matched by efforts to improve worship, spiritual enlightenment and positive psychological tendencies. It is important to strengthen our internal control as well as controlling the appetite and the urges of the lower self (Wan Omar 2012: 17). If not, then the community will be haunted by the tendency to pursue lust and increase in crime and immorality.

In addition, science, technology and skills are fundamentally important in generating the economic development of Muslims. The higher the achievement of Muslims in the fields of science, technology and other skills then the greater will be their progress in economic development. This is closely tied to the ability to specialize or achieve a degree of specialization in various areas of expenditure (Wan Omar 2012: 73).

¹ SWT: Subhanahu wa ta'ala, Arabic for “May He be glorified and exalted.

1.3.4 Development Policy Goals

Development goals can be classified into several levels. These can be described as goals, objectives and so on. The first goal in Islamic economic development policy is the development of human resources. This development encompasses the development of all the potential and human qualities in various fields and domains as well as desirable personality traits (Ahmed 2002: 6). It summarizes efforts to improve their skills and life skills especially in knowledge-based and e-commerce economies. The next goal is to increase production. This matter is achieved with continuous and sustainable growth in the production of the country in terms of quantity, quality, efficiency and the right mix of products (Khalid 2002: 231).

Preference and encouragement should be given to legalized (*halal*) production, especially to the basic necessities of life, whereas prohibited and discouraged items should be controlled, and their production restricted. Balanced Development is also the goal of Islamic economic growth. It not only means harmonious and balanced development between territories and between economic sectors but also the recovery of equality of income distribution and property ownership (Matthews & Tlemsani 2003).

Next is Quality Improvement of Life. Islamic economic development emphasizes the improvement of the people's economic welfare infrastructure, enhancing the wisdom and balance of consumerism; not being wasteful and being more concerned with being unpretentious by avoiding luxurious fashions (Nasr 1979: 45).

Ideally under an Islamic economy the people should feel safer, there should be a constant supply of essential goods, convenient transportation, financial and welfare assistance for all of the people, consumer protection through institutions, the development of physical and social infrastructure, the stability of prices especially the basic necessities

of goods, health treatment facilities and so on. Therefore, the government needs to create a wide range of job opportunities for the people, and develop and provide effective social welfare as well as ensuring equality of income and wealth distributions. Technological and Research Development is also a goal of Islamic economic development. Economic progress relies heavily on advancement in high technology and research (Izzi-Deen 1990). Development in this area should be in line with the needs and direction of the Islamic state. Success in producing high technology production in various fields enhances the freedom and independence of the people and the Islamic state itself.

The next goal is to increase the National Defense Force. *Ummah* and Muslim nations are often the target of invasion by foreign powers who want to deprive them of their wealth of resources and colonize them, hence the role of Islamic economic development is to enhance the defense infrastructure in all its forms to counter other countries' invasion (Nasr 1979: 65). This requires the existence of a defense policy that not only emphasizes the development of military power and even develops a state-of-the-art weapons communications system, the production of war equipment and others. Allah (s.w.t) says in Surah al-Anfal verse 60:

لَا دُونَهُمْ مِنْ وَآخِرِينَ وَعَدُوُّكُمْ اللَّهُ عَدُوٌّ بِهِ تُرْهِبُونَ الْخَيْلَ رَبَاطٍ وَمِنْ قُوَّةٍ مِمَّنْ اسْتَمْتَعْتُمْ مِمَّا لَهُمْ وَأَعْدُوا
يَعْلَمُهُمُ اللَّهُ تَعْلَمُونَهُمْ

Which translates as;

"Hence, make ready against them whatever force and war mounts you are able to muster, so that you might deter the enemies of God, who are your enemies as well, and others besides them of whom you may be unaware, but of whom God is aware;

As a final objective, Islamic economic development should be aimed to reduce dependency on foreign countries in a defense context. Islamic countries need to achieve

independence in defense relations. It also means that Muslim nations need to form joint defense strategies with fellow Muslims in order to defend their religion and homeland. Without mutual defense agreements, one by one the country will be subjected by their enemies by various false grounds among which are to combat global terrorism (Hassan & Cajee 2002).

1.4 Islamic Economy and Capitalism

1.4.1 Capitalism

The Islamic economy and capitalism are very contradictory and distinct concepts that are understood in a different manner by scholars of respective systems. Capitalism was believed to bring a better life than the other economic systems (Nagaoka 2018: 395). However, this idea is against the principles and the characteristics of the Islamic economics. Scholars Hirofumi Uzawa has described “abuses of socialism and the illusion of capitalism” as the contemporary world problem.

Before discussing Islamic economics and capitalism, it is important to understand the problem that has been created by capitalism and why capitalism receives so much criticism by scholars of economics. The term capitalism can be understood in different manners and various understanding depend on how it is being analyzed. Basically, capitalism can be defined as an economic system in which the means of production of goods and services are privately owned and operated for profit. While, Nagaoka (2018: 405) mentions that merchant capitalism is a profit making system that utilizes the different of prices between two geographically distant points.

However, there were a lot of historical perspectives on capitalism and concern about the problems which were created by the capitalism. Capitalism has receives much criticism as it is associated with the unfair distribution of wealth and power, market

monopoly or oligopoly (government control) and various forms of exploitation on an economic and cultural level.

Muslim scholars such as Maududi (1997: 301) mention that capitalism is a system that lacks balance and moderation. He mentions that, capitalism is extreme with an excessive emphasis on the right of individual ownership and freedom of enterprise that causes suffering and privatization for those who owned little. D. Domar (1989: 15) mentions that capitalism has created six main evil economic principles which are inequality, alienation, racism, sexism, irrationalism and imperialism.

A major characteristic of capitalism is the complexity of production and distribution that create a great variety of means to satisfy a given end (George Simmel: 1990: 246). On the political economy of income inequality, Persson & Tabellini (1991) suggest that to begin the economic growth process, restricting the political participation of the poor is a useful and effective policy tool since such restrictions were common in political history. It is contended that as development progresses and inequality is reduced, political rights could be extended to larger factions of the society without endangering economic growth.

Neoclassical economics state that a competitive market economy was capable of achieving equilibrium in each individual commodity market as well as the economy. However, Keynes (1936: 178) mentioned that there was no assurance that capitalism of market economy could provide the state of equilibrium.

Weber (2010: 7) argued that the capitalist system is based on greed and pursuit selfish interests which consider that it's the most efficient economic system because it is guided by the rational calculations of all participants in the economy to find the most efficient means to gain control over the self, society and nature.

Nevertheless, Jonathan Langton, Christina Trullols and Abdullah Q. Turkistani (2011: 35) mention that though the criticism of conventional economics is often based on assumptions that are totally secular and materialistic, even today this is not really the case as more people in a capitalism economy are giving a lot of charity and donations due to the enforcement of moral ethics. However, it is notable that that free market economy has clearly failed in addressing poverty and the needs of the society.

The growth problem comes directly from the nature of capitalism as it is a machine for accumulation of capital (Jones 2011: 56). While scholars such as Karatani (2014) define capitalism as the principle of the infinite growth of capital which is achieved by the endless pursuit of profit, which in turn relies on some sort of different system. The outcome of capitalism itself depends on its ideological superstructure. There also scholars who criticize capitalism and suggest solutions to the system. For example, Mark Fisher (Bottomore 1985: 5-7) has discussed capitalist realism. He mentions that capitalist realism does not assert that capitalism is a perfect system but instead claims that it is the only system that can operate in a way compatible with human nature and economic laws.

1.4.2 Islam and capitalism

Islamic economics scholars always view Islamic economics as an alternative solution to capitalism or socialism or any other economic system. Some researchers define Islamic economics as the alternative to conventional and western economics. Overall there are lots of similarities and common grounds between Islamic economics and western economics. However, Islamic economics is ethically oriented, rejects absolute ownership and induces that caring for others and social justice are most important.

Thus, scholars such as Chapra, Baqir al-Sadr, Siddiqi and Khurshid Ahmad believe the Islamic economics movement offers promising solutions to both capitalist and socialist economics as it provides a balance between both the material and the spiritual and promotes social harmony and economic justice, as Islam insists on consistency between mankind's obligation to Allah (s.w.t) and human consumption.

The paradigm of the capitalist system is based on a market economy but Islamic economics is in addition a system based on principles and norms for human welfare derived from the Islamic sources. There are differences both in fundamentals and systems. Islamic economics encourages the maximization of reasonable profit but at the same time must seriously consider values that are embodied in Quran and Sunnah. Nagaoka (2018: 406) mentions that in Islam the profit motive is simple and reasonable in the sense that it is directly connected to salvation in the Hereafter, in that the more profit one makes in this world, the greater the possibility of being saved in the afterlife. This comparison is quite compatible with the universal principle of capitalism that seeks for infinite growth of capital and pursuit of profit.

In addition, the way that the capitalist system interprets economic resources is different from Islamic economic ethics. For example, in Islam workers are not just a means of production but also human beings with moral responsibilities (Wilson 2008: 202). Other than that in the capitalist system the interest rate is linked to the capitalist money market and money, bonds, loans and equity in which economic values can be held overtime are influenced by the rate of interest in one way or the other (Mannan 1999: 34). There is no such counterpart to this type of money market in Islam. The taking of interest is considered as *riba* which is totally against Islamic economics principles.

Chapra (1979: 5) mentioned that the Islamic way of life, being goal-oriented is inconceivable without an organized community governed in accordance with the tenets of Islam. For example, it creates an economy that provides opportunities for members of the community. On the contrary, capitalist economics is based on the utility of the self-interest alone, which is not condoned in either Sharī'a or *al-falah*. In Islamic economics, the concept of self-interest is based on the rewards obtainable by the self in the Hereafter, with generosity as the motivating force, whereas capitalism encourages the possessive ownership of wealth.

Another difference regarding Islamic economics is that behind the working of an economy based on market exchange, the location of resources, and the maximization of utility is a more fundamental truth – that of social justice (Choudhury 1983: 93). Islamic economy highlights distributive justice and need of fulfillment as the role of the market in the effective allocation of wealth. Resource allocation must be linked materially with consideration for Islamic values. The objective criteria will be represented by the value of the capital which must be based on the Islamic opportunity value and the subjective criteria will be represented by the economic ethics which must be based upon the injunctions of the Quran and Sunnah.

In addition, in Islam private ownership is based on the freedom of an individual and collective ownership is based on resources in the public interest (Mohd Shafiai 2012: 10). Baqir Al-Sadr (Wilson 2008: 203) believed that property can be acquired by work or inheritance, provided this was stated and allowed by the Shari'a. However, he supports the principle of state ownership of certain resources. For example, the control of utilities like electricity. This could be described as a mixed economy where state, individuals and businesses all play an important role.

Although scholars like Rodney Wilson argue that Islamic economics is another version of the capitalism system, however we find that the Islamic economics is always concerned with the moral objectives. Moreover, Islam does not support hoarding, speculation, monopoly and profiteering since they create instability in the economy, therefore it will allow a sustainable market which will promote economic stability.

Chapter 2

The Development of Islamic Economy in Malaysia

2.0 Introduction

Chapter Two will discuss the economic transformation of Malaysia and the development of Islamic economics in Malaysia until the present day. Malaysia has often been cited as an example of the successful development of the Islamic economics (Wilson 2008: 208), despite the divisions between its various ethnicities and religions. The development of Islamic economics in Malaysia occurred during the second half of the twentieth century under the strong influence and political support of the Malaysian government which wanted to develop Malaysia into an economically competitive nation.

2.1 Restructuring the Malaysian Economic System

Malaysia was formed in 1963, six years after Malaya gained independence from British Colonization in 1957, by joining Sabah and Sarawak to Malaya. The restructuring of Malaysian economics followed this formation later, as colonization by the British had affected the country in many ways due to inappropriate intervention and misconduct. Since then, Malaysia has become a multiracial country in which the majority of the population is Malay, at over 50% of the nation, followed by Chinese (24%), Indian (8%) and others (0.9%).

The Malays were also regarded as a *bumiputera*² or ‘sons of the soil’ among the natives from Sabah and Sarawak (Ali, 2008). Each of the ethnic groups in Malaysia have their own identity such as way of life, language, religion, culture and ideology that make each ethnic group different from one to another.

²The terms of *bumiputera* or *bumiputra* are commonly used to represent the Malays and the natives from Sabah and Sarawak as they are the main original inhabitants of Malaysia.

After gaining independence from the British and the formation of Malaysia, the economy was faced with an imbalanced economic structure as well as unequal representation in the sphere of political power that led to political and social instability and eventually to riots in 1969.

This is because the “divide and rule” approach employed by the British in its economic policies had resulted in imbalances between urban and rural areas and also between the ethnic groups in Malaysia (Sundaram and Hui 1952: 1). The British colonials had separated the functions of the economy according to ethnicity (Teo 1986; Abdullah 1984). The Malays, who mostly lived in rural areas, were involved in the traditional economy as paddy farmers and fishermen. The Chinese were involved in tin mines and commerce or trade. The Indians were mostly located in rubber estates.

The result of the race paradigm used during the colonial times has affected the society in many ways, especially in terms of socio-economics which can still be seen today. This has often been discussed in most of the literature on the country, as poverty and income disparity were some of the main problems that affected the Malaysian society at the time.

Although Malaysia struggled with an imbalanced economic structure after gaining independence, it has shown a remarkable transformation in its economy as well as its political and social structure. Historically, the Malaysian economy was based on exporting rubber and palm oil and later changed to an industrial country with a substantial electronics sector and car industry. Many researchers believe that Malaysia's success in establishing an Islamic economy was encouraged by the influence of the nation's leader, Mahathir Mohammad, who was the prime minister of Malaysia for 22 years from 1981.

The Malaysian government started to restructure and rebuild its economics

system after colonization with the aim of tackling the problems of poverty and income inequality then extending it to become a modern economics system. Major changes in the Malaysia economy were started with the government development plan initiative that was introduced after the race riots of May 1969³ (Ramli & Mohd Ramli 2013: 108) The New Economic Policy (NEP) was presented as a response towards the riot.

2.1.1 New Economic Policy (1970 – 1980)

The New Economic Policy (NEP) was considered as pioneering development and as a solution to Malaysia's economic problems. Introduced in 1970 by Tun Abdul Razak Hussein⁴, the government then initiated the strategy to restructure the community economy through the NEP to cope with the critical economic situation at that time. The NEP was introduced to fix the economic imbalances in income distribution, employment, ownership and control of wealth between Malays and non-Malays. The NEP was acclaimed as a successful model of distribution and economic growth.

The New Economic Policy (NEP) was introduced in early 1971 due to critical poverty problems at that time. It was designed to reduce poverty among Malaysians and provide opportunities for Malays to improve their socio-economic capabilities, and particularly to reduce poverty and restructure society. The NEP focused on economic growth and development to ensure that poverty could be eradicated effectively, and the restructuring of the economy so that inequalities among Malaysians would be balanced (Faaland, Parkinson & Saniman 1991; Ali, 2008; Milner, Embong & Yean 2014).

In addition, the NEP was drafted to steer economic policy. The policy had

³Race riot of 1969, familiarly known as the 13th of May event among Malaysians was incited by racial hatred among the Chinese, Malays and Indians

⁴ The second prime Minister of Malaysia, serving the country from 1970 to 1976.

targeted Malaysia's economic development and economic growth over 20 years, from 1971 to 1990. Apart from eradicating poverty and restructuring society, it aimed to establish unity among Malaysians and eliminate the identification of races with the economic functions that were introduced by the British colonialists. It was also designed to promote the *bumiputera's* progress in the economic realm.

At the time of the independence, the Malaysian economy was largely dominated by the local Chinese and the generally more powerful foreign investors. While the other social groups such as the *bumiputera* and the Indians were struggling with poverty. The implementation of the NEP helped to increase the equity of the *bumiputera*, and encouraged the emergence of a new class of *bumiputera*, especially Malay entrepreneurs, as more of them entered the business world. Additionally, more *bumiputera* attended the universities. *Bumiputera* also gained job opportunities in the government and private sectors.

The introduction of the New Economic Policy (NEP) accelerated economic development for the Malaysian society. It also helped with the participation of Malays in the modern economy and successfully contributed to the reduction of poverty among them. Even though poverty could not be eliminated one hundred per cent, the rate of poverty was lower than in the early days of independence. Furthermore, this resulted in the emergence of a Malay middle class from the low income earners. This civilized middle-class started to take its place in the political arena or at least have its own say by voting in elections, and also on informal issues like human rights.

Mohd Shafiai (2013: 45) mentioned that the NEP has particularly helped the Muslims to emerge from poverty and attain the Islamic goals of self-actualization in terms of sustaining life, developing intellectual achievements and enjoying the fruits of their

individual efforts through ownership. In order to improve the social welfare of the Muslims, it is important to empower the economics of the society.

2.2 The Development of the Modern Economy in Malaysia

Basically, the development of the modern economy in Malaysia has always been related to Mahathir Mohamad, the current and fourth Prime Minister of Malaysia. He ruled Malaysia for 22 years (1981-2003) and was the key figure in initiating and inspiring the development of the nation with the Vision 2020 (Wawasan 2020). The NEP's intention was to tackle the issues of poverty and income inequality and at the same time act as a foundation for the development of a modern economy and yet it was not really favorable for economic growth.

2.2.1 Tun Mahathir Mohamad Regime

When Mahathir Mohamad became the fourth Prime minister of Malaysia, he developed various policies such as the New Development Policy (NDP), the Look East Policy (Dasar Pandang Ke Timur) and Vision 2020 (Wawasan 2020). The NDP continued the vision of the NEP, however it relied more on the private sector so that they would be more responsive and productive in attaining their objectives. This is because Mahathir thought that the private sectors would be helped in enhancing economic growth through providing job opportunities.

However, Mahathir Mohamad aimed for Malaysia to become a fully development nation through the plan known as Vision 2020 (Wawasan 2020). Vision 2020 aimed to turn Malaysia into a developed country with equal emphasis on economic and the moral values for the future. (Mutalib 1993: x). Mutalib also mentioned that Vision 2020 is a part of the program for the Islamization of Malaysia. Vision 2020 stood as the national vision of what Malaysia intended to become, which was a self-sufficient

industrial nation, with greater economic growth (William Greider).

1. Vision 2020 (Wawasan 2020)

Vision 2020 (Wawasan 2020) highlighted nine major goals or challenges for the development of the nation which are:

1. Establishing a united Malaysian nation with a sense of common and shared destiny
2. Developing Malaysian society with faith and confidence in itself
3. Fostering and developing a mature democratic society
4. Establishing a fully moral and ethical society
5. Establishing a mature and tolerant society
6. Establishing a scientific and progressive society
7. Establishing a fully caring society and caring culture
8. Ensuring an economically just society
9. Establishing a prosperous society with an economy that is fully competitive, dynamic, robust and resilient.

Mahathir during his speech to parliament said:

“Malaysia should not be developed only in the economic sense. It must be a nation that is fully developed along all the dimensions: economically, politically, socially, spiritually, psychologically and culturally. We must be fully developed in terms of national unity and social-cohesion, in terms of our economy, in terms of social justice, political stability, and system of government, quality of life, social and spiritual values, national pride and confidence”

The development of the modern Malaysian economy can be witnessed from its economic performance and stability and it intends to reach the goal of becoming a fully

developed country by 2020.

2. Look East Policy (Dasar Pandang Ke Timur)

Look East Policy (Dasar Pandang Ke Timur)⁵ is a policy that was initiated by Tun Mahathir Mohamad in 1981. This policy aimed to learn from the experiences of Japan and Korea towards building the nation of Malaysia, especially by looking at the industrial and development model initiated by the Japanese and Korean governments. Tun Mahathir Mohamad mentioned that Malaysian society should learn from Japan and Korea's successes and that their remarkable development lay in their labor ethics, morale, and management capability. For this purpose, Malaysia decided to dispatch their students to Japan, to study not only academics and technical know-how but also to learn the labor ethics and discipline of the Japanese people.

3. The Islamization of Malaysian Economics by Mahathir Mohamad

In addition to the modern economy, Malaysia also pledged support for an Islamization program which has been achieved by the functioning of the Islamic financial system as part of the dual banking system (Mohd. Shafiai 2013: 41). This is because in Malaysia, Islam is more than a religion for Malays; it also defines the law as well as the culture (Musa 2013: 358). He also mentioned that Malays were willing to give up their 'Malayness' in order to appear more Islamic and this actually impacts the three most important elements in daily life which are information (specifically the free access), education, and engagement in economics (Musa 2013: 359).

When Mahathir Mohamad took over the administration of Malaysia, he wanted

⁵Dr. Mahathir Mohamad, "Look East Policy: the Challenges for Japan in a globalization World" speech at Seminar for 20th anniversary of Look East Policy in Japan at <https://www.mofa.go.jp/region/asia-paci/malaysia/pmv0212/speech.html>

to transform Malaysia into a newly industrialized country (NIC) with various economic offerings. Until today, his major policies have influenced the development of the country.

Mohd. Shafiai (2012: 47) argues that Mahathir Mohamad's Islamization initiative was partly for political reasons as he felt obliged to take the initiative to reduce the electoral appeal of his opponents and to maintain inter-ethnic peace by controlling Islamic activity wisely. Therefore, it has actually had an influence on the development of the Malaysian constitution. The federal government has also actively advanced Islamic ideals through the implementation of regulations and policies in its administration.

However, it could be argued that Mahathir's intention was to develop Malaysia through economic policies such as industrialization, and then the Islamization played a part after the establishing of Malaysia as a progressive nation in the modern era (Mohd. Shafiai 2012: 49). Mahathir Mohamad somehow has shown his commitment towards Islam by utilizing Islamization to create a relationship between the normative notions of modernity and progress.

Tun Mahathir Mohamad established the Malaysian Islamic Development Department (JAKIM) with the aim of bringing the country closer to the Islamic. JAKIM was Mahathir's top priority and was merely a vehicle by which to sell his vision (Ahmad 2003: 96). JAKIM was established on January 1997. The role of JAKIM was to ensure the development plans for the *ummah*⁶ and the development of Islam in Malaysia were implemented based on effective plans and coordination.

2.2.2 Tun Abdullah Ahmad Badawi Regime

Tun Abdullah Ahmad Badawi replaced Tun Mahathir Mohamad as the fifth prime

⁶ the worldwide community comprising all adherent of the Muslim faith

minister of Malaysia on October 31, 2003 and started to plan his administration. During his administration era, Tun Abdullah Ahmad Badawi has particularly promoted the status of Islam and Islamic-based institutions by his progressive and modern approach to Islam named Islam *hadhari*.

Islam *hadhari* is a set of 10 principles to guide the progress and development of Malaysia. Introduced in 2004, Islam *hadhari*, translated as “civilizational Islam” is an approach to embed genuine Islamic values into Malaysian society and national development (Wong Sulong 2016:201). The 10 principles of Islam *hadhari* in Tun Abdullah's view are both consistent with the tenets of Islam and the Quran and acceptable to the non-Muslims. The 10 principles are:

1. Faith and piety in Allah (s.w.t).
2. A just and trustworthy government
3. A free and independent people
4. A vigorous pursuit and mastery of knowledge
5. A balanced and comprehensive economic development
6. A good quality of life for everyone
7. The protection of the right of minority groups and women
8. Cultural and moral integrity
9. The safeguarding of natural resources and the environment
10. Strong defense capabilities.

Abdullah in his speech during the UMNO 55th general meeting said: “Islam *hadhari* is complete and comprehensive, with an emphasis on the development of the economy and civilization, capable of building Malaysia's competitiveness. The glorious heritage of the Islamic civilization in all its aspects must be used as a reference in order to become the

source of inspiration for the Malay race to prosper.”

(Wong Sulong 2016:203)

Tun Abdullah Ahmad Badawi also explains that Islam *hadhari* is not a new religion, a new teaching or a new *mazhab*⁷ (denomination). It is an effort to bring the *ummah* back to the basics of Islam, back to the fundamentals as prescribed in the Quran and the Sunnah which form the foundations for an Islamic civilization.

Tun Abdullah Ahmad Badawi and his brand of Islam are widely considered a welcome change. Islam *hadhari* is to some extent a logical outgrowth of social, political and Islamic realities in Malaysia. The government has long stressed moderation and economic equity in order to keep peace between the Muslim Malays, who make up about 60 percent of the population, and the indigenous tribes and sizeable Chinese and Indian minorities, most of whom are not Muslim. Malay concerns, however, have always been central to government policy.

In addition, in order to encourage and empower Islamic economics, Tun Abdullah established Jabatan, Wakaf, Zakat dan Haji (JAWHAR) which is actually the pioneer in *waqf* revitalization in Malaysia. The discussion on this institution can be found later in Chapter 3.

2.3 The Development of an Islamic Economy in Malaysia

Malaysia has often been cited as an example of the successful development of an Islamic economy (Wilson 2008: 208), despite divisions between ethnicity and religion. The

⁷ Mazhab (more commonly transliterated as madhab, from the arabic *مذهب*), is a school of Islamic jurisprudence. In the early medieval Islamic world there were 4 main mazhab which are Hanafi, Shafi'i, Maliki and Hanbali.

development of the Islamic economy in Malaysia has occurred since the second half of the twentieth century, influenced by the political support of the government with the intention to develop Malaysia into competitive economy.

The whole Islamic economy in Malaysia was started by the establishment of Lembaga Urusan Tabung Haji – LUTH (Islamic Pilgrimage Fund). It was the pioneer for the nation in setting up its first Islamic financial institution. LUTH is a savings institution and operates for Muslims who want to make the Hajj (pilgrimage to Mecca). Although LUTH is not a banking institution it works as a fund manager using the Sharī‘a principles.

LUTH was established in November 1962, and its basic principles were structured by the Royal Professor of Malaysia, Ungku Abdul Aziz (Ex-Vice Chancellor University Malaya), and its official operation began in 1963. In the initial stage it was envisaged as a simple saving scheme, to enable Muslim villagers to save their money without interest at the post office for the purpose of performing Hajj. After LUTH legislation was enacted by parliament in 1969, its functions were widened to include the administration and organization of Hajj activities.

When this act was amended in August 1997, LUTH took on a more corporate image as a company involved in three core businesses: savings, investment and Hajj. As a result, LUTH is one of the biggest savings and investment institutions in the country. It started with only 1,281 depositors and total deposits of RM 46,600. By 2005, the number of depositors had increased to 5.098 million and total cumulative deposits had increased to RM 13,319 million. Although LUTH has been categorized as a non-bank financial intermediary it can play a role in mobilizing the savings of pilgrims and other depositors and investing them according to the Sharī‘a. Its value grew from RM 27 million in 1985 to RM 638 million in 2006.

The establishment of LUTH has facilitated the introduction of Islamic banking to Malaysia. The government received a formal demand from the *bumiputera* Economic Congress that urged the government to establish Islamic banking in order to mobilize the savings of the Muslims and to invest them in a productive manner in accordance with the Islamic laws and practices (Ab. Aziz 2013:22) .

Since then, the Islamic economy in Malaysia has expanded into various sectors such as Islamic financial institutions like *takaful*⁸, the *halal* industry and a few other sectors. Remarkably, Malaysia has shown dominance in a few industry sectors such as *halal* food and Islamic finance. This growth is driven by continuous product innovation and a comprehensive financial infrastructure. Overall, the Islamic economy has shown remarkable growth in the past few years. During the World Halal Summit, 2015 that was held in Kuala Lumpur, the global *halal* economy was reported to be valued at USD 2.3 trillion and this figure is expected to grow in the future (Irfan et al. 2013: 2).

The tremendous growth of Islamic economics in Malaysia, particularly in the banking and finance sectors, was influenced by the impressive demand and expansion all over the world. The Islamic economic industry expanded not only to Muslim countries such as the members of the Organization of Islamic Cooperation (OIC), but also beyond traditional Muslim boundaries to countries like Japan, Korea, the United Kingdom, Brazil and Thailand.

According to Thomson Reuters, 2016, Malaysia still leads in the sectors of Islamic banking and industries based on *halal* food. Many believe that this is powered by

⁸*Takaful* is a type of insurance system devised to comply with the Shari'a laws, in which money is pooled and invested.

continuous product innovation and the comprehensive financial infrastructure. In 2014, Islamic banking assets in Malaysia were RM 487.158 billion, more than a quarter of the total banking system, and the Malaysian Islamic finance industry had grown to become a key segment in the financial system. The Governor of Malaysia Central Bank, Datuk Muhammad Ibrahim, believes that this is the consequence of continuous initiatives to build a solid foundation focusing on infrastructural, institutional and capacity building measures, as well as a robust regulatory and supervisory framework (Adilla 2016: 20) .

Following this trend, the then government played an important role in the development and support of *halal*-dependent industries, by implementing *halal* procedures and numerous guidelines (Ifran et al 2013: 16). The implementation of *halal* food certificates encouraged the emergence of *halal* food markets in Malaysia. Furthermore, one of the key successes of the *halal* economy in Malaysia was because it represented a significant market not only for Muslims, but also for non-Muslims. The government regulations on *halal* food in Malaysia allowed Malaysia to become one of the leading countries in *halal* activities. The domestic consumption of *halal* food itself has contributed toward the growth of the Malaysian *halal* market.

2.4 The Development of Islamic Banking and Finance

In the beginning, Islamic economy was greatly influenced by the banking and financial sectors. Even until today, the Islamic banking and financial institutions are major contributors toward the development of the Malaysian economy.

Islamic finance is a new practice in recent history (Bakar 2016: xviii) that manifests in the economic system in a different form from modern or capitalist economic systems. The influence of Muslims in Malaysia, who wanted the Islamic system to be applied in the country, has resulted in the practice of a dual economic system, particularly

in the banking sector. The trend of the Islamic economy has expanded into the food industry, tourism, and fashion and lifestyle, which actively promote *halal* practices. Malaysia is often cited as a successful example of an Islamic economy.

The government of Malaysia gives full support towards the establishment of Islamic banking and finance. Dr. Zeti Akhtar Abdul Aziz⁹, the governor of the bank of Malaysia highlighted in her speech that;

“In serving the needs of the real economy, Islamic finance offers a comprehensive and competitive solution in meeting the funding and investment requirements of businesses. Given its international outreach and dimension, and ability to provide a total financial solution, Islamic finance is now at the frontier in which it presents new opportunities to support the economy and overall financial stability”¹⁰

In 1983, the first full-fledged Islamic bank, Bank Islam Malaysia Berhad (BIMB) was set up. BIMB was regulated by Bank Negara Malaysia (BNM) or the central bank of Malaysia under the Islamic Banking Act 1993 (Md. Nor et al. 2016: 606). This became the milestone for the Islamic economy in Malaysia because since then Islamic banking and finance has seen progressive growth. Mohd. Shafiai (2013: 42) mentioned that Malaysia has put in place the essential comprehensive framework and initiative to promote the development of Islamic banking and finance. The 'Islamic window' was

⁹ Tan Sri Dato' Sri Dr. Ungku Zeti Akhtar binti Ungku Abdul Aziz, known as Zeti Akhtar Aziz, was the 7th Governor of Bank Negara Malaysia, Malaysia's central bank. She was governor from 2000 to 2016, and was the first woman in the position.

¹⁰ Zeti speech on January 26, 2016 in Kuala Lumpur. Retrieved from http://www.bnm.gov.my/index.php?ch=en_speech&pg=en_speech&ac=664&lang=en

introduced in 1993 by BNM with the concept of an interest free banking scheme which allowed the commercial bank in Malaysia to offer Islamic banking products and services.

The commercial bank co-exists with their current operation and runs its operation under the same name. However, BNM required the banks to separate their Islamic funds and transaction activities from their conventional banks' activities. In addition, all the banking institutions in Malaysia that provide Islamic banking products are required to display the Islamic banking logo (Bank Negara Malaysia, 2012).



Figure 2.1. The Islamic Banking Logo

Sources: Bank Negara Malaysia

In 1999, the second full-fledged Islamic bank, Bank Muamalat Malaysia Berhad was established which helped to strengthen Islamic banking practices in Malaysia Act (Md. Nor et al. 2016: 602-603). Currently in Malaysia, there are 16 fully-fledged Islamic banks offering more than 100 financial products, compared with fewer than four Islamic banks and *takaful* players before 2000. Due to the supportive environment provided by the government and individuals, the country boasts a vibrant Islamic banking institution (Ab. Aziz 2013: 23).

In the following years, a *takaful* company was introduced as the complement to the Islamic financial institutions in Malaysia. The *takaful* Company was established in

1994. The Malaysian government has also made a progressive effort to promote the Islamic Capital Market (ICM). In Malaysia, the Bank Negara Malaysia (BNM) regulates the Islamic financial system while the Securities Commission Malaysia (SC) acts as a regulator which supervises and monitors capital market activities. The SC is responsible for encouraging and promoting securities and derivatives in Malaysia as well as protecting the investors.

Through the effort of SC, a wide range of equity products, debt securities and management funds operate in line with Shari'a principles. These have encouraged the development of *sukuk* in Malaysia. By 2002, Malaysia had become one of the pioneers in *sukuk* issuance with the issuance of the Global Market and Guthrie *sukuk*¹¹ in 2002 (Shahimi et al 2013: 154). Malaysia promoted the concept of *ijara*, *musharaka* and *mudaraba* in their issuance concept of *sukuk*, and the *sukuk* industry has become one of the main contributors to the success of the financial system. In 2016, *sukuk* contributed USD 66 billion (RM 264 billion) to become one of the main contributors to the Malaysian economy.

The existing Islamic banking and finance industry has a positive impact on the economic system. However, the Islamic economy, particularly the Islamic banking system, has received a lot of criticism for its operations and management. Taking into account the aim of Islamic economics to enable equity financing toward creating specific economic activities that add value, the change in its direction is rather meaningful.

It has gone from profit-and-loss sharing and participatory financing to efficiency

¹¹ *Sukuk* (Islamic bonds) Islamic bonds, structured in such a way as to generate returns to investors without infringing Islamic law (that prohibits *riba* or interest).

and profit maximization, or *murabaha*¹² centered financial transactions, namely from asset-based financing to *tawarruq*¹³ which is debt-based financing (Asutay 2015: 19). These Islamic economic practices and methods received criticism, as Sharī‘a scholars are of the opinion that Islamic finance is using the debt structure instead the equity-based structure that is prescribed in Islam. Nagaoka (2012) mentions the most predominant criticism levied by the Gulf Sharī ‘a Scholars in *murabaha*, was regarding *bay al-‘ina*¹⁴ and *bay al-dayn*¹⁵, early Islamic banking practices that were not approved by the law.

Other than that, the Islamic banking and finance practices received criticism for seeming to desire profit more than the real services encouraged by Islam. Scholars mention that the way the business operated was too similar to conventional economic practices. The practice of Islamic economics is supposed to abide by the rules of Sharī‘a, whereas the practices of the Islamic banking system created the same products as conventional markets. Those who criticized the current practice of Islamic banking and financial system stated that the best aspect of Islamic economics is the consideration of the moral standards of Islam, which promotes social justice. They consider that the revitalization of *zakat* and *waqf* can contribute in achieving the moral aspect of Islamic economics.

¹²*Murabaha*, also referred to as cost-plus financing, is an Islamic financing structure in which the seller provides the cost and profit margin of an asset.

¹³Tawarruq is a financial instrument in which a buyer purchases a commodity from a seller on a deferred payment basis, and the buyer sells the same commodity to a third party on a spot payment basis (meaning that payment is made on the spot).

¹⁴ Bay al ina’ is a financing contract which involves the sale and buys back transaction of an asset by a seller

¹⁵ Bay al-dayn denotes the sale of debt securities, debt certificates (commercial papers), or receivables for a specific amount (usually at a discount to its face value)

2.5 The Development of *Waqf* Institutions

The government has also provided many incentives to help religious bodies and private sector institutions to ensure the success of *waqf* and *zakat* developments in Malaysia. Malaysia views *waqf* development as a stronghold of Islamic economics. However, the institution and practice of *waqf* has not fully developed in Malaysia due to certain problems, such as lack of knowledge of corporate finance.

Until the present day, we cannot see the large-scale impact of *waqf* in Malaysia, both for individual recipients and also society as a whole. Nevertheless, in recent years some innovative *waqf* financial models have been developed to ensure that it provides broader Islamic economic values. Yet, in terms of revitalizing the practice, there are constraints in developing and innovating *waqf* while simultaneously preserving the religious purity of the institution.

The institution of *zakat* in Malaysia involved with collection, disbursement, coordination and management of funds. The Prime Minister's Department took initiative to study the *zakat* institution, reorganizing and upgrading the relevant agencies. The establishment of JAWHAR has actually shown the commitment of the federal government in enhancing the *zakat* and *waqf* institutions in Malaysia.

All matters relating to Islam in Malaysia come under the jurisdiction of the State authorities. In some states like the Federal Territory of Kuala Lumpur (FDKL), in terms of collecting *zakat*, a corporation collects FDKL's *Zakat*, and the *baitulmal*¹⁶ department of the Religious Council disburses the proceeds, and they have improved their services

¹⁶ also known as bayt a-mal, in the Arabic translation means “house of money” or “house of wealth” is a store treasury or property house which manages all properties and financial resources of Muslims community

by utilizing modern management practices with a deep knowledge of Islamic finance and investment so that they are run as highly professional organizations.

For example, in the State of Selangor, a corporation manages both the collection and disbursement of *zakat*, whereas in the State of Kelantan, the implementation of *zakat* collection, disbursement and expenditure seems to be different from other states in Malaysia.

The Malaysia government is also taking *waqf* as a serious medium in order to develop the country. This has been highlighted by the assistant governor of Bank Negara Malaysia, Mr. Murzusham¹⁷, he mentioned that;

“*Waqf* has played a significant socioeconomic role throughout history. Exciting potential lies within *waqf*, even today. As trustees of wealth bestowed upon us by Allah (s.w.t) we are entrusted to ensure that *waqf* meets its intended objectives. If properly developed, managed and utilized, we can harness its potential as a highly effective platform for sustainable economic growth, one that creates sustainable and perpetual benefits for all, especially our future generations. It is time to put these strategies and plans into action”.

2.5.1 Yayasan Pembangunan Ekonomi Islam Malaysia (YPEIM) or the Foundation of Islamic Economic Development Malaysia (FIEDM)

FIEDM was established in 1976 to collect voluntary funds from various *halal* sources and invest these into *halal* projects and other economic activities. But in 1984 the government took the initiative to reactivate and allow their functions and objectives to be fully active in the Muslim society to provide economic assistance (employment and

¹⁷ Assistant Governor’s Speech at the Forum on ‘*Waqf*: An Economic Perspective’ available at <http://www.bnm.gov.my>

monetary) and promote human welfare for the Muslims. FIEDM combines the practice of charity with that of investment and efficient management under the guidelines of Sharī‘a.

Through welfare activity functions, it can promote brotherhood, altruism, integration and cooperation among Muslims while through its investment activity it can generate income, savings and employment by collective economic activities to cater to the material needs of the daily life of the Muslim society. FIEDM acts in Malaysia more or less on the same model but not identical (in terms of rates of interest) with Bangladesh's Grammen Bank.

2.6 Conclusion

The establishment of the Islamic economy in Malaysia can be traced back to the establishment of Lembaga Tabung Haji Malaysia in 1963. Its development was influenced by the government. The authorities have spent a lot of time and effort to establish the Islamic financial system which operates alongside the conventional economy. Until today, Malaysia remains as one of the main global hubs for the Islamic economy especially in banking practices, and it has become one of the primary examples for the study of Islamic economics all over the globe.

However, the overall development of the Islamic economy in Malaysia happened after the restructuring of Muslim society in Malaysia alongside the process of Islamization by the government. The government policies of 1990 that aimed to restructure the economy and the society of Malaysia actually played an important role. It was important and a necessity to rebuild and transform the economy of the society as a whole, and especially that of the Malay Muslims, many of whom were suffering from poverty. It could be concluded that the Islamization process in Malaysia worked together

with the transformation of the Malaysian economy. By restructuring the economic system, the Muslim society and Malaysia overall have been able to transform into a modern and civilized society. While making these changes to increase the resilience of the economy, it was important to ensure that the Muslims would be able to sustain and accommodate their religious values.

In fact, the Islamization of the Muslim society in Malaysia actually began in the 1980's, in the form of banking laws, education and a growing number of government policies on socioeconomic and political schemes. Ironically, although the government policies in the era of Tun Mahathir Mohamad did not show a dynamic Islamization process, they actually showed a more dynamic penetration of the state and society where more conservative Muslims had become a powerful constituency supportive of further religious influence in government bureaucracies and programs. Tun Abdullah Ahmad Badawi's policies showed a much more dynamic side of the Islamization process in Malaysia.

The Islamic economy has developed and market penetration is on the rise, attracting both Muslim and non-Muslim communities alike as it focuses on socially responsible practices and has affected Malaysia's economic growth in many ways. It has had a significant impact for Muslims who have both revivalist principles and the business-mindedness to support modernization.

From the above discussion it can be concluded that economic development based on an Islamic perspective is a comprehensive, multi-dimensional integration of spiritual and material aspects through an Islamic approach to social welfare in order to achieve the efficient use, production and distribution of wealth in accord with the Islamic concept of *maslahah* and the principle of *maqasid al-shari`a*. The theory of economic development

according to the Islamic perspective is the foundation of a civilized and strong *ummah*, a strong faith, a *halal* life, and success (*al-falah*) in the worldly and spiritual life. Malaysia today is an example of these perspectives, where the development of the society is taking place alongside the religion and shows that Islam promotes growth in various perspectives.

Chapter 3

Theory and Practice of *Waqf* in Islamic Economics

3.0 Introduction

Chapter three is a review of the history and the comprehensive implementation of *waqf* including a summary of the legal framework in Malaysia. One of the manifestations of mercy in Islam is the legislation of *waqf*, the unique practice that distinguishes Muslims' social solidarity. Muslims have a strong desire for *waqf*, and those with a major need among the Islamic countries started to utilize *waqf* for social development. In Malaysia, the Majlis Agama Islam Negeri (MAIN) is the body responsible for managing *waqf* assets. Through MAIN, numerous reformations and developments of *waqf* assets have been made. These reforms and developments adjust the practices of *waqf* to keep pace with the modern economy, while ensuring that *waqf* resources are being fully utilized for the benefit of society.

3.1 Introduction to the Concept of *Waqf*

The *waqf* which is also spelled as *wakaf* or *waqaf*¹⁸ is an institution for donation with a long tradition in Islamic practice that has played a dominant role within the social framework of Muslim society. *Waqf* is derived from the Arabic term “*waqafa*” which is used in Islam to mean an endowment. In Arabic, the word *waqf* literally means to hold up, prevent or restrain. There are various interpretations of *waqf*, however in practical terms *waqf* is defined as a permanent submission by a Muslim of a valuable property such

¹⁸The word *waqf* also spelled as *wakaf*, *waqaf* or sometimes *awqaf* (plural) is the variation of spelling usually used depends on the researcher, location or country. In English, *waqf* is usually used. In case of Malaysia, *wakaf* and *waqaf* spelling are commonly used and understand by the society, which *wakaf* spelling translated as according to the Malaysian language. While *waqaf* used to show the understanding of the society on the spelling as according to the Arabic words.

as land or building to the ownership of Allah (s.w.t) (Noor Aimi et al 2014: 116).

Hence, the valuable property or capital that is submitted as *waqf*, should not be sold out but frozen for the purpose of giving in the name of Allah (s.w.t) and any income derived from it, should be distributed. More precisely, *waqf* is when a person nominates or transfers his property to the public with intention to help ease a burden and promote worship. If any items have been donated, then they are not tradable, and become the property of Allah (s.w.t). on behalf of someone.

The *waqf* property is surrendered for good, with the intention of attaining closeness to Allah (s.w.t). The practice of *waqf* is synonymous with Islam as it has been practiced since the beginning of Islam in the Arabic peninsular over a thousand years ago. *Waqf* is very important for improving and developing Muslim life. In recent years, *waqf* has played an important role in integrating the Islamic economy and Islamic society.

Waqf is regarded as charitable giving in the Islamic tradition. Its main purpose is as an Islamic endowment is to provide support for society, especially those in need, and all activities that benefit society, such as education, health, and other public interests. Under the Islamic system, *waqf* is used to provide a wide range of welfare not only to Muslims but also non-Muslims. Muhammad Ali Hashim (2011) mentions that the *waqf* property or things are not limited for use by Muslims alone, considering that non-Muslims can use and can share what has been giving to the society overall, the whole purpose and practice of *waqf* being a means to provide for the public good without only focusing on Muslims.

Ramli, Ab. Aziz & Haji Alias (2018: 34) mentioned that *waqf* practice allow one to have two kinds of relationship that complement life, an Islamic relationship with God, and human relationships. The purpose of *waqf* is to act as charity in the promotion of

Islamic views and values. *Waqf* has being part and parcel of the development of Islam. It has also played a very important role for the Muslims as it can assist the recipient. In addition, *waqf* plays an important role in the propagation, strengthening and spreading of Islam (Amir Bahari 2014: 363). That *waqf* functions as a tool for wealth distribution is undeniable; Islam has emphasized that the practice of *waqf* is an effective form of wealth distribution and has also perfected its distribution.

The creation of *waqf* is effective when its pillars are being fulfilled; the pillars of *waqf* are as follows:

- i. The creator of *waqf*, known as *waqif*
- ii. The *mutawalli* known as the manager
- iii. The *waqf* property known as *mawquf*
- iv. *Sighah* known as offer and acceptance

Waqf are divided into two types which are general *waqf* and specific *waqf*. General *waqf* is a dedication in perpetuity of capital and income property for a pious, religious or charitable purpose recognized by Muslim law and the property so dedicated. While specific *waqf* means a dedication in perpetuity of capital and income property for pious, religious or charitable purpose recognized by the Muslim law, the income of the property being paid to the persons or for the purposes specified in the *waqf* and the property so dedicated.

In the other words, general *waqf* usually does not mention the specific beneficiary or where it is supposed to be donated either to schools, mosques or needy people. Most of the cases of *waqf* revitalization in Malaysia utilized general *waqf* as it could be transferred to the new types of assets that could generate income, while, specific *waqf* refers to *waqf* that has specifically named beneficiaries.

Nowadays, the practice of *waqf* has become a practice for Muslims in Malaysia in addition to the practice of charity or *sadaqa*. In recent years, there is no doubt that the growth of contemporary *waqf* has become common in Muslim societies all over the world under the notion of *maslaha* (public interest, a concept in traditional Islamic law) and in accordance with changing surroundings, circumstances, customs and needs (Meer 2014: 120). According to necessity and specific circumstances, *maslaha* consists of prohibiting or permitting activities on the basis of whether they serve the public benefit or welfare. Thus, governments view *waqf* as an innovative mechanism that works for the benefit of society.

3.2 Development of the *Waqf* System

3.2.2 History of *Waqf* in Malaysia

The history of *waqf* in Malaysia began with the arrival of Islam at the beginning of seventh century (Othman 2013: 87). It recently reemerged alongside the rapid growth of Islamic economics in Malaysia. Islam has played a very important role in shaping and influencing the culture of Malay society. Although Malaya was colonized by western powers, Islam grew and was firmly established within the society, and remained the principal religion, even until today. Therefore, as it is part of the Islamic tradition, the practice of *waqf* has become the norm, or habit, among Muslims in Malaysia.

Malaysia has a long story of *waqf*, the earliest record of which is found in Terengganu dating from the early thirteenth century (Othman 2013: 92). During the early period, the practice of *waqf* was focused on religious and educational purposes with an aim to promote knowledge among the public. The *waqf* donations from this era were typically restricted toward the donation of land, and usually related to the establishment of mosques, cemeteries and structures for public use such as madrasahs (education

centers) (Crecellius 2010: 270). Numerous madrasahs have been established on *waqf*-donated lands. The management of *waqf* in this early period was governed by the community, as well as Muslim scholars such as village chiefs, priests and scholars. It was largely based on trust, as donations or endowments were made verbally (Yaacob 2013: 396). The lack of records later caused problems, and some donations became grounds for court cases, as heirs were not informed of the endowment.

Waqf in Malaysia experienced embolization after it went through a long interaction with British colonization. Under the relentless British colonization, the Malays, who comprised the major portion of society in Malaysia, were seriously concerned about being able to maintain Islam as the main religion for their society, and the mosques became the center of their resistance (Mahamood 2006: 43; Othman 2013: 98-103). The mosques and other religious buildings in this era were maintained through the *waqf* practice. This is not surprising, as most of the *waqf* practice during the time was related to donating for social purposes such as the establishment of mosques and cemeteries (Baer 1997: 266).

Muslim societies believe that the establishment of mosques will help to uphold and promote religious beliefs among the community. The British rule also affected the establishment of legal acts. For example, the *waqf* management was very proactive in society in order to stop the British government from buying land from the society (Cizakca 1988: 66). As a result of this, the British implemented the prohibition of *waqf* enactment in 1911. It had a direct effect on the practice of *waqf*, and the Muslims lost their freedom to declare their assets as endowments. This situation continued until 1978, when the enactment was finally repealed (Cizakca 1988: 66).

However, *waqf* development and activities after Malaysia's independence in

1957 have been encouraging. It ushered in a more efficient and systematic management and administration. After independence, *waqf* was incorporated into the state's Islamic Administration Enactment Act that governed Islamic affairs or *waqf* matters for state (Yaacob 2013: 395). The Majlis Agama Islam Negeri (MAIN) was established in every state and vested under the Sultan, the ruler of the state (Ab. Rahman, 2009: 121). MAIN is the primary body responsible for assisting the Sultan (King, or head of the state) in matters related to Islam, including *zakat* and *waqf* (Isa et al. 2011: 563). Since the introduction of *waqf* organizations under the management of MAIN, records have been maintained. Besides this, many projects were developed with funds allocated from MAIN. This later gave rise to problems because MAIN was the only organization that provided funds for the development of mosques and *waqf* properties in the state (Hassan 2008: 7). Although there are lots of *waqf* properties registered in every state, they remain undeveloped due to lack of funds.

In recent years, *waqf* has received much more attention than before, as people believe it can play a significant role in socioeconomic development. This trend can be observed not only in Malaysia, but also in other Muslim countries. The trend was started and inspired by the revitalization of *waqf* practices in Singapore. The ideas focused on the potential of *waqf* to tackle the issues of poverty, inequality and unemployment in Muslim countries (Md. Saad and Anuar 2009: 338). The revitalization of *waqf* practices included the development of financial instruments so that *waqf* funds could be used as resources for funding productive economic activities and for genuine socioeconomic development (Amuda Razak & Ahmed 2016: 229). In Malaysia, the beginning of *waqf* revitalization was largely influenced by the role of the government. The government took active measures by establishing the Jabatan Wakaf, Zakat dan Haji, also known as

JAWHAR, in 2004 to help the development of *waqf* practices and enhance the development of MAIN (Hassan 2008: 3). However, the revitalization of *waqf* by JAWHAR was more focused on abandoned *waqf* land all over Malaysia, in association with financial assistance from Ministry of Finance Malaysia (MOF). The government provided almost RM 9.1 billion for the development of *waqf* land in Malaysia.

3.3 Legal Framework and *Waqf* Governance Structure in Malaysia

a. Legal framework

After independence, the Malaysian Federal Constitution - High Constitution of Malaysia 1957 acknowledged that the management and jurisdiction of *waqf* properties would come under the power of the state and be administered by the MAIN. The Federal Constitution Ninth Schedule, List II mentions that all religious affairs, including *waqf*, would fall under the state list (Mahamood 2006: 15-26). This made the king or sultan, the head of religion (Islam). In states without a sultan, such as Melaka, Pulau Pinang, Sabah, Sarawak, Wilayah Persekutuan Kuala Lumpur, and Wilayah Persekutuan Labuan, the Yang di-Pertuan Agong (monarch and head of state of Malaysia) became the head of religion. The legal framework came into effect in Malaysia in 1957, when it became a constitution, and continues to function until today.

As Malaysia is a federation that consists of thirteen states and three federal territories, there are currently thirteen different MAIN all over the country, declared the sole trustees of all *waqf* properties in their respective states (Dahlan et al. 2014: 57). According to law, the Sultan, with the assistance of MAIN, is the sole trustee of all *waqf* properties, whether general or specific, in each state (Ab. Rahman 2009: 115). Each state has its own management and administration that consists of experts and officials that carry out the administration of *waqf* properties. Basically, the legal framework and

administration of *waqf* is different from one state to another. Selangor was the first state to authorize SIRC as the manager of *waqf* properties, followed by the other states of Malaysia (Yaacob 2013: 397). The information below illustrates the present Islamic laws enacted by the states which relate to the administration of *waqf* in Malaysia.

- a. Pahang Administration of the Law of the Religion of Islam Enactment, 1991
- b. Federal Territory Administration of Muslim Law Enactment, 1993
- c. Kelantan Council of Religion and Malay Custom and Kathis Courts Enactment, 1994
- d. Sarawak in 2001 Majlis Islam Sarawak Ordinance, 2001
- e. Johor Administration of Islamic Law Enactment, 2003
- f. Penang Administration of Muslim Law Enactment, 2004
- g. Sabah Administration of Muslim Law Enactment, 2004
- h. Malacca Administration of Muslim Law Enactment, 2005
- i. Negeri Sembilan Administration of Muslim Law Enactment, 2005
- j. Perlis Administration of Muslim Law Enactment, 2006
- k. Kedah Administration of Muslim Law Enactment, 2008
- l. Selangor Administration of Muslim Law Enactment, 2015
- m. Perak Administration of Muslim Law Enactment, 2015
- n. Terengganu Administration of Islamic Law Enactment, 2016

b. *Waqf* Governance Structure In Malaysia

Although each state has a different administration and management, all the states basically have the same organizational chart structure. Every state is bound to the state ruler or Sultan and the *waqf* institution is under the administration of MAIN (Mahamood 2006: 28). Research on the topic has revealed that MAIN in all states faces a similar problem, that of inefficient *waqf* administration, which eventually leads to the failure to

generate optimum income from *waqf* lands. This is because MAIN only receives funds from the state management to run their operations (Hassan 2008: 5).

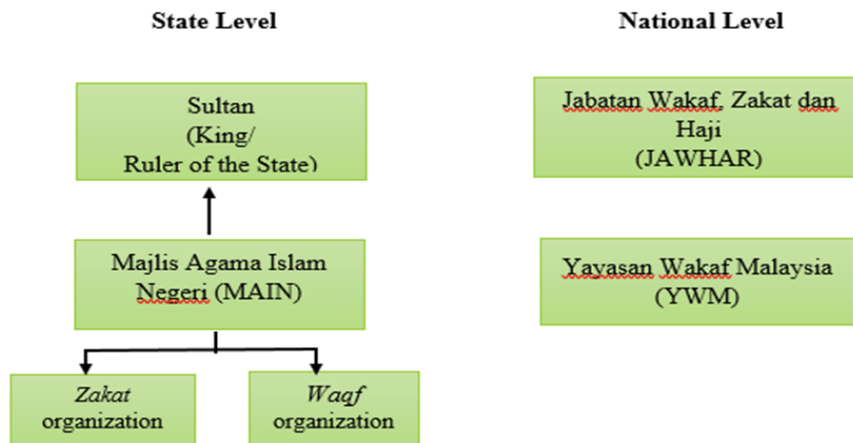


Figure 3.1 The *Waqf* Governance Structure in Malaysia

Sources: Prepared by the Author

On March 27, 2004, at the inception of the new Malaysian Cabinet, Prime Minister Tun Abdullah Ahmad Badawi announced the formation of JAWHAR with the aim to make *waqf* administration systematic and effective throughout the country. JAWHAR plays a vital role as a planning coordinator, and manages not only *waqf* matters, but also the *zakat* administration system and the implementation of regulations of hajj administration (Ab Rahman et al 2014: 229). In addition, the Yayasan Wakaf Malaysia (YWM) was established in 2008 to strengthen *waqf* developments in the country. YWM was the main pioneer in promoting *waqf* fund projects and cash *waqf* schemes (Zakaria and Muda 2015: 18).

c. Fatwa Regarding *Waqf* Matters in Malaysia

Every ruling related to Islamic laws is authorized by the states, and each state has an

advisor called a Mufti who provides council regarding problems involving Islamic disputes. Citizens approach fatwa institutions, which are led by muftis, when problems or disputes arise. However, even though the state institution fatwa is a legal entity under the ruling of the Sultan, it is a completely different body from MAIN (Ab. Rahman 2009: 115).¹⁹ At the national level, a body known as the Jabatan Kemajuan Islam Malaysia (JAKIM) presides over matters relating to Islamic affairs. The fatwa institution plays a large role in resolving issues relating to *waqf* disputes (Dahlan et al. 2014: 58). For example, regarding the transfer of *waqf* land which cannot be carried out except in emergencies and under specific conditions.

3.4 Waqf and Malaysian Society

Malaysian society has always been associated with religion, and has become especially closely related to Islam. Since the beginning of the Malay civilization, which started hundreds of years ago, the life of the Malay community was much influenced by Hinduism. The Malay community administered by the king, who is the highest leader in society and the customs of the Malay community, is also heavily influenced by Hindu religion such as in marriage and other matters. At this time, many governments had been built around the archipelago.

There are various versions and theories presented about the coming of Islam to Malaya. The spread of Islam in Melaka was much influenced by the Arab-Persian community who came to trade at that time (Zulkarnain Ramli & Nik Hassan Shuhaimi Nik Abd. Rahman 2009). Most Muslim Arabs use the Malacca Straits for the purpose of

¹⁹Fatwa means a ruling given by an Islamic scholar based on Shari'a law on a matter which has no precedent

trading in China, successfully spreading Islam's influence to the Malay community and subsequently converting the Malay people who were initially Hindu.

The influence of Islam can then be seen through the transformation of the administrative system and the way of life of the Malay community itself. Among the major changes is the government's highest title, which was once king but was changed to sultan. The influence of Islam also applies in the Malay economy, education and social groupings. Islam is seen as a religion that gives justice to all regardless of the community status of the nobility or subordinates of every servant and ordinary person in society.

Until today, the sultan plays an important role and is considered as the influencer of Malaysian society. The sultan acts as the Malay ruler and is the patron of Islam. This is to safeguard the sanctity of Islam and the interests of the Malays themselves. As a multiracial nation, the practice of Islam is not a barrier to unifying the multiracial and multilateral society. In fact, Islamic teachings are also used as references in strengthening the formation of Malaysian society.

In Malaysia, Islam and Malay are synonymous. This is because it has been recognized by the Government of Malaysia where all Malays are Muslims, and the development of Islam in the Malay Peninsula since hundreds of years ago has been the cornerstone of the development of the nation itself up to this day. Although the lives of the Malay community today have changed, due to the modernization, there is no excuse to deny the relationship between Malays and Muslims. According to Ismail, Stapa and Suhaimi (2012), religion will help the nation and society to remain strong. The Malay community can flourish if firmly rooted in faith, Shari'a, and morals as encouraged by Islam.

In addition, Professor Dr. Syed Hussein Alatas (1967), mention that the Malay community should look at the teachings of Islam that do not encourage the act of begging and relying on others but stress the need to work to change and improve their lives, as encouraged by Islamic values. He also mentions that the concept of Islam Hadhari introduced by former Malaysian Prime Minister, Tun Abdullah Ahmad Badawi could help and encourage the community to improve themselves.

In order to restructure the Malay economy, *waqf* is seen as a medium to reduce the problem of inequality and income distribution gap among Malays. In the limitation of *zakat* funds to function as a medium to reduce the problem of income inequality and reduce poverty, *waqf* is seen as one of the possible solutions. It is undeniable that *zakat* helps in reducing poverty and helps the poor to reduce the burden of their lives, but it is inadequate. Thus, as a proactive step, the property of *waqf* is seen as a platform to help the poor to improve their standard of living. Although *waqf* is not an obligation imposed on Muslims, still the practices of *waqf* were already common and in harmony with the lives of the Malay community.

3.5 Revitalization of *Waqf* in Malaysia

Waqf has existed for a thousand years and is believed to be an important economic vehicle. Malaysia is currently experiencing changes to the development of *waqf*. Previously, the forms of *waqf* related to land and buildings were most popular, and customary to the Muslims of Malaysia. People used to donate land to build schools, mosques or madrasahs. However, nowadays, contemporary *waqf* has gained increasing popularity among the community as it is considered one of the most flexible mechanisms to distribute benefits to the needy.

The first revitalization of *waqf* practice in Malaysia was greatly influenced by

the government. The government realized that there was an increase in total *waqf* land donated by Muslims from time to time. However, it was not fully benefitting the local Muslim community due to the shortage of funds faced by MAIN. According to a minister at the Prime Minister’s Department, Datuk Jamil Khir Baharom, unused *waqf* land involves about 9,937 hectares of land all over the country, with an estimated value of RM1.9 billion. Therefore, there is a need for the government to develop an efficient and systematic processes to benefit the Muslims.

Understanding the financial constraints faced at the state level, the government has provided funds, which have been allocated across the country for the development of *waqf* lands (Ismail et.al 2015: 615). Through JAWHAR, the government has taken drastic measures and begun a number of initiatives to explore effective ways to revive the role of *waqf* in economic and social development. The allocation by the government has been used to finance various *waqf* lands in Malaysia. By 2011, there were eight projects developed under the JAWHAR program established in states all over Malaysia. JAWHAR illustrates the commitment of the federal government to consolidate *waqf* activities at the national level.

Table 3.1: *Waqf* Project Develop by Jabatan Wakaf, Zakat and Haji Malaysia (JAWHAR) 2008-2011

No.	Project	Cost of the project	Inauguration
1.	Orphan house Mukim Derga, Kota Star, Kedah	2.080,000	2009
2.	Business Center Mukim Ulu Kinta, Tambun, Perak	1.600,00	2010
3.	Pusat Kegiatan Saudarabaru, Seremban Negeri Sembilan	4,500,00	2010

4.	Haemodialysis Center BatuPahat, Johor	8,000,00	2010
5.	Maahad Al-Mashoor Education Center, Pulau Pinang	7,500,000	2010
6.	PusatPerlindunganWanita, Johor Bharu	41,000,000	2011
7.	Hotel <i>Waqf</i> , Tanjung Kling, Melaka	25,600,000	2011
8.	Hotel <i>Waqf</i> , Taiping, Perak	19,000,000	2011

Sources: Jabatan Wakaf, Zakat dan Haji Malaysia (JAWHAR)

3.5.1 Contemporary *Waqf*

In recent years, Malaysia has experienced an interesting development in *waqf*. The development or revitalization of *waqf* can be seen in forms, structures, operating models and Sharī‘ah pronouncements (Securities Commission Malaysia 2014: 18). Cash *waqf* and corporate *waqf* are forms of contemporary *waqf* that are being widely practiced in Malaysia. Other than that, the revitalization of *waqf* in Malaysia can be seen in the structural institutional changes within the *waqf* system, with the establishment of separate entities from MAIN (Chowdary 2011: 12157). These changes are typically conducted or helmed by professional Islamic industry players, for example, the Security Commission Malaysia that proposed the *sukuk* structure of *waqf* assets. However, it has yet to be fully realized.

a. Cash *waqf*

The use of cash *waqf* has been increasingly emerging due to the flexibility of pooling funds. It is well known that cash *waqf* was being legally issued during the 15th Summit held in Muscat, Oman (Hossani 2014: 4). In the case of Malaysia, Majlis Fatwa Kebangsaan has agreed about the permissibility of *waqf* in the form of cash. Cash *waqf*

also may be used as capital for Islamic financing and investments (permissible in Islam) (Md Saad and Anuar 2009: 343).

The Sharī‘a ruling on cash *waqf* is also discussed by contemporary international and local fatwa organizations. For example, in its 77th Muzakarah in 2007, the National Fatwa Council, while discussing the *waqf* land development projects under the ninth Malaysia Planning (RMK9), decided that cash *waqf* is allowed. The utilization may include, for instance, Shari'a-based lending as well as permissible and safe investments like *Mudaraba* where the profit-share owned by the *waqf* goes to beneficiaries (M. Mitias 2010: 126). In Malaysia, the development of cash *waqf* is driven by MAIN and YWM. YWM was officially established on July 23, 2008 under the Trustee Act [Incorporation] 1952 by JAWHAR. Since its establishment, YWM has embarked on several projects in collaboration with MAIN to promote and develop the cash *waqf* model in Malaysia. There are a number of high-impact *waqf* projects that have been developed in various states in Malaysia using cash *waqf* funds.

Among the notable *waqf* projects are the construction of several *waqf* hotels, such as The Regency Seri Warisan Hotel in Taiping and Pantai Puteri Hotel in Tanjung Keling, Melaka. Through the allocation of cash *waqf* amounting to RM 2.5 million from the 2010 Budget, Terengganu Culinary Academy was established on land owned by the Majlis Agama Islam dan Adat Melayu Terengganu (MAIDAM) in collaboration with YWM and GIATMARA. The Academy, which started its operations on July 30, 2012, offers six-month courses in confectionary and bakery, with hostel facilities for orphan children under the administration of MAIDAM.

b. Corporate *waqf*

Corporate *waqf* was initiated by the private sector in Malaysia. The first private

body to successfully initiate corporate *waqf* in Malaysia was the Johor Corporation which has implemented a remarkable model of contemporary *waqf*. Most of the *waqf* funds of Johor Corporation were being allocated to healthcare and for charity purposes through their subsidiary, Kumpulan Wakaf An-Nur. Johor Corporation established the Kumpulan Wakaf An-Nur Corporation Bhd (WANcorp) as the *mutawalli* for the 12.35 million *waqf* shares of its publicly listed subsidiaries, valued at RM 200 million.

c. Islamic capital market

The Security Commission (SC) of Malaysia recently tried to promote the development of an innovative *waqf* by using the Islamic capital market in Malaysia (Suruhanjaya Sekuriti, 2014: 21). Since the development of *waqf* assets requires a huge amount of capital, innovating new ways of capital accumulation need to be initiated, and this will help to depart from the financial methods employed by traditional financial institutions. SC suggested that the availability of the Islamic capital market could be used to raise the capital needed, while professional services could provide market capital intermediaries. There are various products and services available from the Islamic capital market that could be used to facilitate the development of *waqf* assets, either to raise capital or for investment (Suruhanjaya Sekuriti 2014: 22). SC developed ideas on raising capital through the *Sukuk*. *Sukuk* was widely being used as an investment instrument, and its characteristics also meet with Sharī‘a principles. *Sukuk* is defined as Islamic bonds, structured in such a way as to generate returns to investors without infringing Islamic laws (that prohibit *riba* or interest). *Sukuk* represents undivided shares in the ownership of tangible assets relating to particular projects or special investment activity.

Furthermore, the characteristics of *sukuk* also meet with commercial needs. The diagram below shows SC’s suggestion of how to raise capital from *sukuk* insurance for

the development of *waqf* assets. SC is responsible for managing all matters with regard to the issuance of *sukuk* in Malaysia. Therefore, SC suggested *waqf* development through *sukuk* issuance. Investors are responsible for providing capital for the project, by subscribing to *sukuk*. The *sukuk* issuer, for example the *waqf* institution, will proceed with the *waqf* project development. The issuer will appoint intermediary institutions to manage projects, such as real estate managers, supervised by the authorities. Once a *waqf* project generates some income, the *sukuk* issuer will distribute periodic profits to investors.

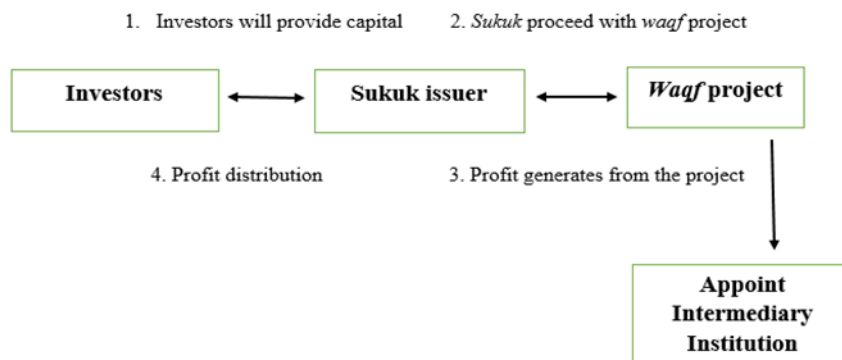


Figure 3.2 The Security Commission suggestion for *Waqf* Development through Sukuk Issuance

Source: Prepared by Author based on the Security Commission (SC) of Malaysia

3.5.2 Empowerment of *Waqf* in Malaysia

Waqf practice has grown rapidly to what is considered as a form of worship and has become a significant means for a country to increase and expand its economy and help the needy in the society. *Waqf* is synonymous with Muslims, but according to Syed Mohd Ghazali Wafa (2010), European countries have long been using this *waqf* practice system. However there are several suggestions on empowering *waqf* practices that need to be addressed.

The community needs more exposure and awareness to realize the importance of this *waqf* practice. Awareness should start from scratch by cultivating *waqf* practices from the general society. Currently MAIN has started to promote *waqf* among the society to create awareness, and all parties should provide continuous cooperation to cultivate an interest in *waqf* in society. This is because, in general the society is only exposed to the importance of other religious practices such as performing *umrah*. This concept of *waqf* has actually been developed and used by non-Muslim groups for educational and corporate purposes. While awareness of these *waqf* practices have increased, constraints due to parliamentary domination have slowed the growth of the *waqf* system in Malaysia.

Waqf administration and management need to be expanded and all their functions assessed in order to improve the standard of living of the Muslim community. Management of *waqf* implementation needs to be further upgraded so that the *waqf* system can be used in Islamic State life. Thus, the State Islamic Religious Council (MAIN) cooperate with the Department of *Waqf*, Zakat and Hajj to manage the *waqf* system well. This is because before the development of the *waqf*, the land should be agreed upon by the State Religious Council and the Department of *Waqf*, Zakat and Hajj. Awareness of all parties is increased by conducting campaigns, courses, and talks on the importance of *waqf* to society and economic development.

Before 1952, the State Religious Council had adopted no guidelines on *waqf* management and administration. Usually, a person who wanted donate their asset to *waqf* would gift their property to influential and trusted people such as imams, mosques, or mosque and village chiefs. This process was run on the basis of mutual trust. After 1952, the management of *waqf* was upgraded and became systematic as there were guidelines for *waqf* in the respective Islamic Administration enactment of the state. Due to the fact

that each state has its own legislative affairs the management of *waqf* is not consistent. Hence, it is necessary to establish a way to coordinate management of *waqf* so that the society is not confused about it.

Next, MAIN has created a flexible and open *waqf* act and enactment according to the current suitability and development. MAIN has facilitated matters relating to the *waqf* process so that the community is attracted by its simplicity. Fatwas for the *istibdal* method of treating *waqf* properties that are not developed were made in order for the designated property to be developed for other uses. Terms and legal requirements for the land acquisition process outlined by the federal government should also be upgraded and reviewed so that the way to prosperity becomes an easy process.

In addition, implementing and utilizing GIS based land information systems for land development will be more efficient. The introduction of the Geographic Information System Waqf System (GISWAQF) which benefited from the Geographical Information System (GIS) as proposed by a group of researchers from the Center for Real Estate Research (CRES), Universiti Teknologi Malaysia is a positive step. This system enables the designated lands to be managed systematically and efficiently. According to Mohd Nazri Chik, this will in turn involve *waqf* land in the development and planning of the state, provincial and local governments.

Furthermore, the use and practice of the *istibdal* system is the best way to reconstruct *waqf* property as there are some situations in which the *waqf* property is not growing and is not developed due to problems that arise such as strategic and other positions. This concept was introduced by the National Fatwa Committee Muzakarah in 1982. Implementation of this system will be more efficient. Through this method, projects

can be developed such as mosque institutions, community centers, educational institutions, social responsibility centers, businesses, agriculture and business centers.

With this method, it can improve the economic standards and facilitate the community. Another suggestion for empowerment is the use of specialist services such as Nazir services appointed by the State Islamic Agencies in managing matters relating to *waqf*. The Nazirs are responsible for reviewing and deciding the benefits to be obtained for the development of *waqf* property. The Nazir will deal with the State Islamic Religious Council regarding land that has been reserved for the *waqf* to be built to bring great benefits to the community.

3.6 Conclusion

In conclusion, the current practices of *waqf* in Malaysia are completely different from the traditional practices of *waqf* which were original used in Islam. Although the previous practice of *waqf* in Malaysia is still being applied, the current situation reveals that Malaysia has initiated contemporary forms of *waqf*, which predict more benefits to society.

Land endowment, previously the most popular practice of *waqf*, seems to have more limitations, though it also offers a way to help society. However, the utility of *waqf* land is useless unless it is developed, which requires huge amounts of funds. This was one of the main weaknesses for SIRC, which was bound by the state fund. The revitalization of *waqf* through contemporary methods demonstrates that it is still a conducive practice and provides ample opportunities to create better value through *waqf* assets.

Looking at the current trends of *waqf* revitalization in Malaysia, we can conclude that the trends of *waqf* development are focused on the creation of wealth and capital

gains. More investments are being made through *waqf* assets or *waqf* approaches by investing capital to gain more money. This has been done with the idea that by creating more capital and money, more unfortunate individuals and societies could be helped. The intention was to leverage the potential of *waqf* to uplift the poor and needy. In addition, the revitalization of *waqf* in Malaysia has provided opportunities for those who wished to practice *waqf* but did not own immovable assets or enough property like land or buildings. Through contemporary *waqf*, people can make an endowment according to the amount that they are able to afford. As Muslims, a lot of people have a desire to practice *waqf*, as it is part of their goal to achieve blessings from Allah (s.w.t). However, due to constraints such as the lack of assets and properties, they were unable to do it until the revitalization of *waqf* made it possible.

However, the revitalization of *waqf* in Malaysia also faced many challenges. The most important issue in *waqf* revitalization was creating a sustainable and positive social impact. The practice of cash *waqf* needs consistent donations in order to achieve *waqf* development goals. Nevertheless, the current practice seems to have found leverage, since endowments from donors can be seasonal and not consistent. Although this is a joint venture within the industry, this problem might affect the effective development of *waqf*. This is very important because it will have an impact on the financial literacy of organizations.

In addition, there is also an argument regarding the Sharī 'a pronouncement in a few states in Malaysia. According to Majlis Fatwa Malaysia, the gains procured from cash *waqf* must be used to purchase permanent assets, while the rest of the collection should be channeled to MAIN for charity purposes. Thus, there is an argument among scholars that the current practice of cash *waqf* in a few states of Malaysia is not in line

with the Islamic law.

The lack of expertise leads to a lack of advancement in revitalization initiatives in *waqf* development. Development of *waqf* assets requires a lot of innovation in the form of financing and investment that are in line with the Sharī‘a pronouncement. For example, the operation of cash *waqf* requires a fund manager who has expertise and experience in managing the *waqf* fund. In addition, the revitalization of *waqf* needs an effective model for developing *waqf* in accordance with the Sharī‘a with the ability to coordinate *waqf* funds in effective ways. However, though Malaysia is at the frontier of *waqf* revitalization, there is a still lack of expertise that can fulfill all the requirements.

Finally, the development and revitalization of *waqf* in Malaysia will involve the efforts of various parties, including the public, government, religious bodies, the private sector and financial institutions. However, currently it seems the government is the driving factor for the revitalization of *waqf* in Malaysia, followed by the private sector. The success of contemporary *waqf* in Malaysia demonstrates that with a proper foundation and framework, *waqf* can contribute not only to the welfare of society, but also integrate the Islamic economy. The future research, should address the importance of *waqf* revitalization in tackling income inequality in Malaysia.

Chapter 4

***Waqf* Perak Ar-Ridzuan, Majlis Agama Islam Negeri Perak (MAIPk)**

4.0 Introduction

This chapter will discuss a case study of *waqf* revitalization in Malaysia focusing on Majlis Agama Islam Perak (MAIPk), (Perak State Religious Council). It will also show the management and the administration and give an overview of the current practices of MAIPk. This background is necessary in building up a case study approach in analysis. This case study focuses on the administration of *waqf* and examines the impact of the program on their achievements in socio-development. This case study will also look at the method and the structure of *waqf* implemented by the MAIPk.

4.1 History Background Majlis Agama Islam Negeri Perak (MAIPk)

In a country, there should be laws and guidelines for leadership and governance involving all administrative matters, especially religious affairs. Similarly with Malaysia, the administration of Islamic affairs is known as the Islamic Administration Enactment. In every state in Malaysia, MAIN has been established to manage and resolve matters involving the Islamic religion. The head of the administrative leadership in the Islamic religion of each state is the king (Sultan) and the Yang di-Pertuan Agong for states without the king. This is similar to State of Perak in which the institution is known as Majlis Agama Islam Negeri Perak (MAIPk) or Perak State Religious Council.

The ideas of establishing an Islamic state religious council was started by Dato 'Seri Ali Zaini bin Haji Muhamad Zain, a former Speaker of the Perak Legislative Assembly during the meeting that was held at the Madrasah Iskandariah, on August 10, 1947. Perak stated that the government had officially established the Majlis Agama Islam

Negeri Perak dan Adat Istiadat Melayu (MAIPk)²⁰ on October 23, 1949. Specific laws relating to the administration of Islam and customs in the state were officially approved on May 1, 1952.

The first administration office of MAIPk was located at Balai Syara in Kuala Kangsar, Perak, and then it was moved to Ipoh. Meanwhile, the existing Balai Syara ' administration had been absorbed under the administration of the Kadi Kuala Kangsar Office. In order to strengthen the administration of MAIPk, Islamic and Malay customs, the laws relating to it have been revised, amended and drafted several times. In 1965, a law named the Islamic Religious Administration Act 1965 (Enactment No. 11 of 1965) was enforced to replace the law of 1952.



Figure 4.1 and 4.2 The Majlis Agama Islam Negeri Perak (MAIPk)

Sources: By Author Own

Then, on January 13, 1993, the Islamic Religious Administration Act 1965 was replaced by the Islamic Religious Administration Enactment 1992 (Enactment No. 2 of 1992). Under Bills Enactment No. 2 1992, the Islamic Religious and Customs Council

²⁰Islamic Religious Council and the Malay Traditional Perak

was officially incorporated as a statutory body of the government. For the purpose of homogeneity with other states throughout Malaysia, the Religious Administration Enactment 1992 was eventually replaced by the Administration of the Religion of Islam (Perak) Enactment 2004 (Enactment No. 4 of 2004). Enactment 4 of 2004 was enforced on September 15, 2004 and is still in force until now. Islamic Religious and Indigenous Religious Entities are still retained as government statutory bodies. Until today, there are 14 directors of MAIPk, known as Yang Dipertua Majlis.

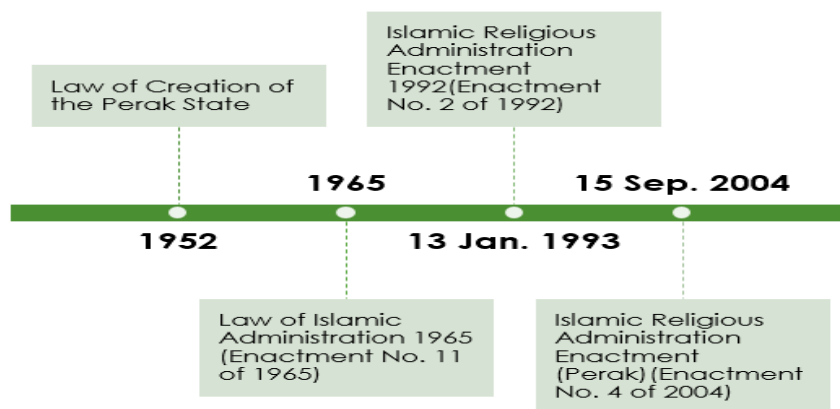


Figure 4.3 Laws Enforced by Majlis Agama Islam Negeri Perak from 1952 to 2004

Sources: By Author Own

4.1.1 Roles and Responsibilities of Majlis Agama Islam Negeri Perak (MAIPk)

The main responsibility of Majlis Agama Islam Negeri (MAIPK) is to advise, consult and assist the king of the state or the sultan in any Islamic religious matters. It is the sole and permanent entity that conducts the legal power of the state after the Sultan. The role of MAIPk was not only advising and helping the Sultan but also encouraging, assisting and striving for the state and social welfare including the economy and tranquility of the society.

There are several MAIPk objectives, among which is to provide excellent service

by practicing a quality working culture while maximizing technology and communications. The next objective is to use effective and efficient collection and distribution systems for upholding *zakat* institutions. The last objective is to manage the property of *baitulmal* and *waqf* for socioeconomic development and the conservation of the *ummah*. MAIPk's vision is to be a sympathetic Islamic institution in driving the progress and well-being of the *ummah* based on the Quran and Sunnah.

MAIPk's mission is to enhance the socio-economic status of the *ummah* through the strengthening of effective and dynamic *baitulmal* management and by practicing good governance based on sincerity, integrity and high professionalism.

For the management of *waqf*, the MAIPk handles *waqf* properties by designing and managing development projects for community use as prescribed. MAIPk should also ensure that projects are managed according to and comply with the terms and conditions of the donor that have been outlined. In order to improve the economy, MAIPk needs to work together with and reflect on the views given by the Investment and Development Committee and the Sharī ‘ a committee to ensure that the projects developed and undertaken provide and receive returns for the benefit of the society. The Investment and Development Committee is the committee that will decide on developing appropriate and returnable projects. Sharī ‘ a committees will determine the types of *waqf* and make the appropriate decisions regarding *waqf* that can be developed according to Islamic law.

4.2 Waqf Perak Ar-Ridzuan (WPAR)

Waqf Perak Ar-Ridzuan (WPAR) is a *waqf* department under MAIPk established on February 12, 2006. WPAR aims to empower the *waqf* institution for the sake of *waqf* asset preservation as well as the well-being and advancement of society. WPAR promotes cash *waqf*. Donations are used according to the donor's intention; donors can select their

intended *waqf* projects according to WPAR's four project areas of education, health, religious activities, and economy. PAR has its own vision and mission. The vision for WPAR is to be a superior *waqf* institution with integrity based on the Quran and Sunnah, while its mission is to empower the *waqf* institution for the sustainability of *waqf* assets and the prosperity and progress of the *ummah*.

There are various WPAR functions in managing and handling *waqf* properties. The designated property should be directed and divided properly and fairly. The main function that WPAR needs to do is to develop *waqf* lands to preserve and enhance the economy, welfare, and position of the *ummah*. It is also necessary to ensure the distribution of *waqf* property within a young and conscientious Muslim community who can benefit from the designated property. The WPAR party needs to ensure that the designated land has been registered and take action if there is a breach on the land that has been cultivated.

In addition, maintenance and administration are the responsibility of WPAR to ensure that the designated property is in good condition and favorable to the MAIPk function as the main trustee of *waqf*. WPAR also needs to ensure that the data and information on *waqf* property are kept well organized and cross reference the records of *waqf* properties with the data. Management of *waqf* property rental, application of property use and *waqf* revenue and preparing annual reports on the use and progress of *waqf* results is also a WPAR function.

WPAR is also responsible for organizing and advertising campaigns and programs to encourage more communities to participate in *waqf*. Various facilities are also available to the community to facilitate making payments and accruing retirement assets. This is available on the WPAR website, where all projects and programs are displayed.

4.3 The Waqf Practice of WPAR

Many programs and projects are undertaken by the WPAR to attract people to better understand and continue the practice of *waqf*. Today, using technology can make it easier for WPAR to advertise about *waqf* projects. This also makes it easier for the WPAR to share information about *waqf* with community. The community can see the progress of projects on the WPAR website to verify that it manages the *waqf* property well and trustworthily. People can also know how the funds they donate to and are being used. In addition, the community can also find information on courses, classes, lectures and *waqf* knowledge to produce knowledgeable communities.

WPAR, creates and simplifies payment methods for cash *waqf*. Various methods include online payday loans and internet banking. One attraction for the community is that every donation one makes will be deducted from one's income tax. This is one of the efforts to encourage more people to donate to *waqf*. It also shows the importance of *waqf* contributions in the development of the State as well as the development of the *ummah*. In this regard, there are a variety of projects that are valuable and they are divided into five categories namely religious, health, economy, education and cash *waqf*.

4.3.1 Religion

In the case of religion, WPAR has devised a *waqf* for the development of Quran by the dissemination of knowledge through learning, study, appreciation and refinement of Quranic knowledge. This will benefit all without differentiating between ages. WPAR has created this religious *waqf* to make a community of Quran and make the Quran a guide for life, showing that the Quran is very important for a Muslim. In addition, the program also creates a community that cultivates the Quran in life and produces with high skills and knowledge of the Quran.

4.3.2 Health

The planning of the construction of the Waqf Hemodialysis Center at the Alang Iskandar Shah Mosque, Kampung Dato Seri Kamaruddin, Manjung was approved by the Ministry of Health Malaysia (KKM) on June 20, 2017. With the approval, the MAIPk prepared and drafted the relevant plans to apply for planning permission and construction began when the local authorities approved it. Then on February 14, 2018, the Private Medical Practice Control Branch (CKAPS), Medical Practice Division, Ministry of Finance Malaysia approved MAIPk to establish, administer and coordinate the facilities or Private Health Care Services.

Once all matters were approved, the construction of the Endowment Hemodialysis Center was carried out. The establishment of the Hemodialysis Center is a collaboration between MAIPk and Ar-Ridzuan Medical Group. The Manjung District is the first choice as a pilot project for the construction of the Hemodialysis center due to its dense population and statistically high number of kidney patients. This construction is very important for the convenience of patients to receive treatment and also to accommodate the growing needs of patients. Financing for the construction of the Hemodialysis Center has been accumulated from funds donated by the public and the cooperators.

4.3.3 Economy

Recently, WPAR launched a *waqf* business center in Mukim Hulu Bernam Timur, Muallim District, Perak (State). It is located next to Masjid Al-Hidayah Bandar Behrang 2020, Slim River. It includes six units of business premises. The development of this business center aimed to offer opportunities for small start-up entrepreneurs. WPAR plans to expand this *waqf* business center project to the whole of Perak. Such a business center

can boost the local economy and help someone in need. It is one of the most valuable projects in the community.

In addition, to improve the standard of living and increase the economic income of the fishermen, a boat's *waqf* has been created. The WPAR will provide boats and fishing boat equipment including engines, nets and sonar. This will make it easier for fishermen to obtain and increase their catches. This will reduce the burden on the less fortunate fishermen. Indirectly, it can improve the economy of the state. As such, *waqf* is very important to help the needy in the society.

4.3.4 Education

Waqf for education is also very important in helping the less fortunate students. Each student has their own potential, but there are constraints for underprivileged students especially regarding accommodation. In addition, due to the large numbers, universities or colleges also face residential problems for students. To address this, the WRAP has taken steps and initiatives to develop the two blocks of residential buildings for Universiti Sultan Azlan Shah (USAS) students in Kuala Kangsar. It will reduce the burden and provide suitable placements for the students. It also makes it easy for students as they do not have to spend money on renting a home.

In addition to residential *waqf*, the WPAR also established the Perak Maahad Tahfiz (development fund). This is because not all *Maahad Tahfiz* get financing from the state or central government, especially private *Maahad Tahfiz* which are established by individuals. The fund will finance and develop the physical and infrastructure of *Maahad Tahfiz*. On April 7, 2016, the Majlis Perak Customs and Islamic Council (MAIPK) Conference agreed to set up a Tahfiz Education committee. It aims to study, review and certify organizations and the *tahfiz* curriculum, especially for private or personal *Maahad*

Tahfiz. The census results show that 95% are private or personal *Maahad Tahfiz*. Most private *Maahad Tahfiz* are remarkable because funding of their incomes and financial resources is limited. The smoothness of *Maahad Tahfiz*'s management is dependent on financial resources. To retain a *Maahad Tahfiz* requires a strong financial source, but most private *Maahad Tahfiz* only depend on the contributions of the public and the corporations. With the financial constraints faced, the MAIPk took the initiative to ease the burden and launch *Maahad Tahfiz*'s management. With the conditions set out in the agreement, the MAIPk will provide a complete infrastructure to ensure the *Maahad Tahfiz* environment is safe, comfortable and conducive to the students of *tahfiz*.

For all students in rural areas, WAPR provides *Wakaf Ilmu* where WPAR will provide intensive classes and mentoring classes to rural students. These classes were created to reduce the gap between rural and urban students, focusing on core subjects to improve their performance and academic achievements in the exams. Expert teachers will be selected to handle the classes. ICT knowledge and skills will also be applied to students in line with increasingly advanced learning. Classes will be held and conducted in the mosques.

4.4 Waqf Practice and model of Majlis Agama Islam Negeri Perak (MAIPk)

Generally, cash *waqf* is charity using cash in addition to *waqf* of property and land, and is collected in a trust fund under management of *waqf*. This cash *waqf* will finance charitable welfare activities. In addition, it can also be used for the development of the *ummah* and to improve the economy of the *ummah*. On April 10, 2007, the Fatwa of the National Council for Islamic Religious Affairs of Malaysia held the 77th session in Kuala Terengganu allowing the implementation of cash *waqf* for the purpose of welfare charity as well as for the benefit of the *ummah*. There is pronouncement by Imam Az-Zuhri, that

waqf in the form of a dinar is required for the purpose of charity and preaching. This cash *waqf* was introduced to make it easier for the community to donate and create unlimited benefits for the welfare of Muslims. It also encourages the community to contribute and consider it as a charitable investment. In addition, cash *waqf* makes it easy for anyone to designate property however small their donation, because not everyone is capable of owning assets or property such as land for inheritance.

Through the development of WPAR, donations could be directly derived from the donors for the development of the WPAR project. This enables them to control and plan the future of MAIPk. Although the WPAR has been well established since 2015 the organization is still run under the management of SIRC. This is because WPAR still faces a problem with shortage of funds. Actually the staff in WPAR were also the staff who worked under the the MAIPk. Temporarily, WPAR was only a team created under the *waqf* department of MAIPk.

One of the most remarkable projects under the Majlis Agama Islam Negeri Perak was the Hotel Waqf in Taiping Perak. Understanding the financial constraints faced at the state level, the government has provided funds, which have been allocated across the country for the development of *waqf* lands (Ismail et.al 2015: 615). Through JAWHAR, the government has taken drastic measures and initiated a number of projects to explore effective ways to revive the role of *waqf* in economic and social development. The allocation by the government was used to finance various *waqf* lands in Malaysia.



Figure 4.4 Hotel Waqf, Taiping, Perak

Sources: Majlis Agama Islam Negeri Perak (MAIPk)

This Hotel *Waqf* was developed on potential *waqf* land in Taiping Perak. Receiving RM 19,000,000 from JAWHAR, the hotel was established in 2011 and has been operated for 7 years. In order to ensure the effective management of the hotel, the management and administration of the company have been given to a private organization that has expertise in the field. MAIPk leases the land for RM100, 000 per year. The money they received from the lease of the Hotel *Waqf* Taiping was distributed into three parts of which 30% from the profits was given for the purpose of managing and fixing the mosque in Taiping, Perak. 30% from the profit is being saved. The purpose of the savings is to ensure the MAIPk has the initial capital for taking over the hotel when the initial contract has reached its limit. The other 20% of the profit was given to the management team of the WPAR to be utilized for other development projects.

Table 4.1 The Percentage of profit distribution in from Hotel *Waqf*

No	Distribution	Percent
1.	Mosque	30
2.	Saving	30
3.	Management Team	20



Figure 4.5 The Banner for the *Waqf* Promotion

Sources: By Author Own



Figure 4.6 The Banner for the *Waqf* Promotion

Sources: By Author Own

4.5 Issues and Challenges

The first issues and challenges in *waqf* management are related to the lack of financial resources or funds. A project will be delayed if the financial resources are inadequate. Similarly, property or *waqf* assets that require *waqf* land development also involve substantial costs and require sufficient financial resources. According to Azha (2013) failure to provide adequate financial resources to cover the costs of development and construction on *waqf* land will slow down its development. While most of these *waqf* land development projects are valuable projects to the community, the constraints of the fund's resources will be problematic and the process of development will be delayed. Because of this, there are many abandoned *waqf* lands.

Another issue in the management of *waqf* concerns the elements of internal control. The element of internal control is an important aspect in the management of all institutions including *waqf* institutions. These control elements include the control environment, control activities, monitoring, information and communication as well as risk assessment. The combination of these control elements can determine whether the management of an institution is in good condition. The nature of the challenge for management is the internal control of the institution itself. According to Mahmood (2006: 74), among the elements identified is the training aspect for staff as an aspect of control activities, but this training is not comprehensive for all departments. This is because not all institutions maintain and provide training to staff despite its importance.

A third issue is record-keeping. Accurate data and complete information are important for efficient management. Data and information need to be kept well and thoroughly to facilitate any business if it is necessary to refer to it later. Systematic data storage and information will help institutions run smoothly and efficiently. Information

leakage and lack of storage of information and data will undermine the image of the institution. Similarly, management of *waqf* is often a problem of information storage. This shows that the system used has many deficiencies and needs to be upgraded. This has been an issue since the time when there were a guidelines in the management of *waqf*.

Previously, the designated property would be handed over to the imam or any person entrusted as a *waqf* if the trustee died. Problems have arisen because of incomplete and unsystematic records or when there is no clear record of the transaction. The impact of data storage and information malfunctions in the event of any consequence might also be a cause of data theft by irresponsible parties.

The fourth challenge in managing *waqf* is the public's awareness of *waqf*. It will somehow affect the management of the *waqf*. The community is less aware of the characteristics of *waqf*. Most people think this *waqf* is only for religious and educational matters. This shows that people do not understand the concept of *waqf* clearly and deeply. It also creates misunderstandings on how the land is used, if for example, the land use is not according to Islamic law.

The community also considers this *waqf* only for the Islamic religion alone, while countries such as Turkey, Singapore and America have long been using this *waqf* system. This suggests that people do not really understand the concept and system of *waqf*. The community needs to change the perception of *waqf* to understand that *waqf* is the biggest contributor to the development of the economy and to help the less fortunate, and that not only Muslims but also non-Muslims can benefit from this *waqf* system.

According to Kahf (2003), *waqf* contributions are widespread covering all aspects of social welfare although politicians and economists clarify that the task is the government responsibility as an example of education, health and security.

The fifth issue and challenge is the lack of expertise in managing *waqf* properties. Skilled specialists are very much needed in the field of Sharī‘a, legislation and investment as well as land development. Lack of skilled personnel and experts in land planning and development will face challenges and constraints in managing them. The weaknesses in the planning and development of *waqf* land will cause constraints and difficulties in managing *waqf* (Azha, 2013). Due to the lack of expertise and empowerment this will affect the development of *waqf* institutions, but it also affects the State Religious Council. The *waqf* institution and the State Religious Council need to address the issue of skilled expertise.

The last issue is legal inconsistency. Each state has its own State Religious Council and manages *waqf* according to its own laws. This makes the legislation of each state unequal except for Selangor, Malacca, Perak and Negeri Sembilan. It is important to standardize this institution so that people are not confused by other state laws. In general it is also important to create a more systematic and orderly administration.

4.6 Conclusion

In conclusion, *waqf* is a great practice and has a great reward. The importance of *waqf* in the economic structure is significant. Combining the spiritual element with the existing external elements distinguishes the Islamic economy from the concept of a mixed economy, capitalist, socialist or communist. Extensive *waqf* implementation can help in building human capital.

Awareness is needed from all parties that these *waqf* practices provide much benefit in religion and also to the economy, education and health. The fact that the *waqf* office is a section found in the *baitulmal* office means that there are limited staff to manage both units at the same time. This imbalance leads to incompetence in managing

the *waqf* properties as they should be implemented. Only the existence of skilled experts can ensure good management of *waqf*. MAIN in particular has to work with various parties who have certain expertise regarding *waqf* property in an effort to produce the benefits of *waqf*.

Additionally, surveys on *waqf* implementing institutions in other countries can also help to re-evaluate existing enactments and operating structures. In conclusion, all parties need to cooperate with this transformation effort. The authorities should be open-minded and take academic studies and views seriously. This will help to achieve efficiency and effectiveness in the management and implementation of *waqf* institutions. This will in turn increase the economy of the *ummah* and the power of the Muslims eventually.

Chapter 5

Perbadanan *Waqf* Selangor (PWS) by the Majlis Agama Islam Selangor (MAIS)

5.0 Introduction

Chapter five is the case study on Majlis Agama Islam Negeri Selangor (MAIS). This chapter also examines the management and the administration of *waqf* revitalization by MAIS. This case study will show the administration and the important features of *waqf* and examine the impact of the program towards their achievements in socio-development. It also examines the methods and the structure of *waqf* implemented by the MAIPk.

5.1 History Background of Majlis Agama Islam Selangor (MAIS)

MAIS was established on March 1, 2005 under the Administration of the Religion of Islam (State of Selangor) Enactment 2003 (the ARI enactment) and took over the functions of the earlier Majlis Agama Islam dan Adat Istiadat Melayu Selangor that had been in existence since 1952 under the Administration of Muslim Law Enactment 1952, an early predecessor of the enactment. However, in early 2015, in order to improve the management and enhance the practice of *zakat* and *waqf* in Selangor state, the enactment was changed to Selangor Administration of Muslim Law Enactment, 2015.

Majlis Agama Islam Selangor (MAIS)'s main responsibility was to advise, consult and assist the king of the state or sultan in any Islamic religious matters. It is the sole and permanent entity that conducts the legal power for the state after the Sultan. The role of MAIS was not only advising and helping the Sultan but also encouraging, assisting and striving for state and societal welfare including the economic security and tranquility of the society. In the case of the *waqf*, the MAIS is responsible for strengthening *waqf* property development, identifying the potential of *waqf* in the long term and identifying the strategies and appropriate budget planning for *waqf* development. Other than that,

their role is to monitor *waqf* development projects that are conducted in Selangor state. Therefore, the MAIS has a huge responsibility to ensure *waqf* revitalization in Selangor state meets with their goals.

5.2 Perbadanan Wakaf Selangor (PWS)

Historically, the Selangor Wakaf Corporation²¹ was established on October 30, 2009. The purpose of the establishment of PWS was to strengthen the management of *waqf* and *zakat* in Selangor state. This establishment of PWS was agreed by the Sultan of Selangor under the provision of the Majlis Agama Islam Selangor and it was approved and published on February 3, 2011.

Generally, the role of PWS is to advise the council regarding the policies and measures to be taken to promote the development of *waqf* property and products for the enhancement and betterment of *waqf*. Also, the function of PWS is to implement and affect any policy in respect to the development of *waqf* property and products for Selangor state. In addition to this role, PWS need to develop, adopt, implement and take measures for the development of *waqf* in the state.

PWS also acts as the coordinating agency that monitors the development of *waqf* property including all the projects around the Selangor area. This includes monitoring the developers and contractors that are responsible for buildings and facilities under the *waqf* project. They need to manage and carry out operations and also maintain the property including the infrastructure, premises and equipment in the area of *waqf*. Finally, PWS's role is to encourage and conduct research on the development of all aspects of *waqf* properties and products.

²¹The Perbadanan Wakaf Selangor in Bahasa Malaysia.

5.3 The Management and Practices of Majlis Agama Islam Negeri

Previously, most of the administration and management of *waqf* institutions in Malaysia relied on the state budget to develop and manage the religious state council. However, due to the budget limitations, the central government through JAWHAR especially has encouraged the state to raise funding for the council by itself, especially through *waqf* shares and cash *waqf*. This is because there are a lot of potential *waqf* properties that are not able to be developed due to budget constraints. Although the central government provides some funds to help the Majlis Agama Islam Negeri there is also a limitation for each state.

The MAIS through PWS tried to improve the management efficiency of *waqf* projects in Selangor by collaborating with the financial institutions. For example, MAIS has collaborated with Bank Muamalat Malaysia. MAIS has conducted a joint management committee with Bank Muamalat Malaysia and established the *Waqaf* Selangor Muamalat (WSM), which is a partnership between the *Waqaf* Corporations. The purpose of this establishment was to manage the *waqf* funds together especially in terms of collecting funds. *Waqaf* Selangor Muamalat (WSM) focused on two segments which are health and education. This joint venture also discusses the investment of *waqf* funds in Sharī ‘a compliant activities.

This collaboration is to ensure that *waqf* properties and funds are invested according to the right conditions and at the same time to ensure that the investment can give a return to society. Nevertheless, MAIS also establish their own council for taking into account the views of the investment and development Committee and the Sharī ‘a

Committee. The Investment and Development Committee serves to make decisions and determine the form of land development for the *waqf* that seems appropriate and viable. In addition, the Sharī‘a committee determines the types of *waqf* and decides whether it can or cannot be developed. In Malaysia, MAIS is one of the *waqf* institutions that actively promotes the revitalization of *waqf* practices and always has more advanced strategies and steps when compared to the other Majlis Agama Islam Negeri.

Majlis Agama Islam Selangor (MAIS) is among the advanced councils in managing cash *waqf* with the establishment of Perbadanan Wakaf Selangor (PWS) and one of the states that carry cash *waqf* to purchase share units offered by MAIS. MAIS acts as a trustee for these shares. The share units are then distributed by MAIS for community use. In Section 2 (Selangor) *waqf* enactment 1999 (no.7 1999) stated that “wakaf share” means the creation of a wakaf through the issuance of shares which are subsequently endowed as a wakaf by the purchaser to the Majlis”. The implementation is specified under Section 17 (1). The *waqf* share method offers any property acquired or to be acquired to any person for the shares to be purchased and is subsequently endowed back to the council.

The distribution of the property of the *waqf* to the poor and disadvantaged can be implemented in various ways. However, the distribution of the *waqf* rewards should emphasize the effectiveness and transparency, of the community and the potential to be an investment that can generate sustainable income to society. In the case of MAIS, the *waqf* funds are not only given directly to the poor but are also used as a capital to start businesses.

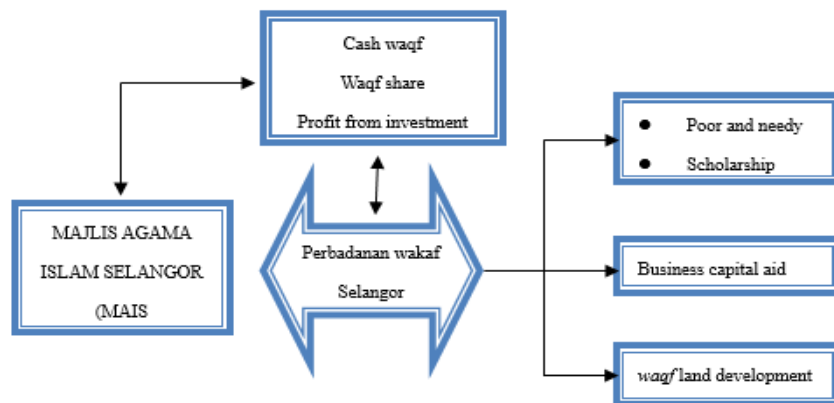


Figure 5.1 This Diagram Illustrate the *Waqf* Practices by the MAIS through PWS

Sources: Author's own

Usually, business capital grants would be accompanied by training and assistance from the *waqf* institution to ensure it can generate sustainable income to the beneficiaries. This distribution is more meaningful because it is long term and is able to provide the poor and low income earners with opportunities to improve themselves through the business.

As can be seen in the chart, PWS has initiated many ways to generate funds and develop *waqf* property. The acquisition of cash *waqf* financing will be used to finance the socioeconomic development of the community. Through cash *waqf*, society is encouraged to contribute more to an endowment. Other than that, the expansion and development of the *waqf* property will enable more poor and low income earners to receive assistance from MAIS. These efforts will allow people to improve their living standards and reduce the burden of their lives. Distribution of wealth will lead to the economic growth of the poor and thus enable the inequality gap in the community to be diminished.

5.4.1 *Waqf* Development under Perbadanan Wakaf Selangor (PWS)

Selangor is actively promoting the *waqf* system for helping the society and improving the economy through *waqf* schemes and products. For example, PWS has introduced the Selangor Share that allows the public to purchase the share units of funds from the charity given in the name of Allah (s.w.t) for the purposes of donation. This share scheme has allowed people to purchase an amount that is affordable for everyone. Other than that, the scheme can be applied even without a permanent asset such as land or a building. Most of the funds gained from the share donation are used to build mosques,

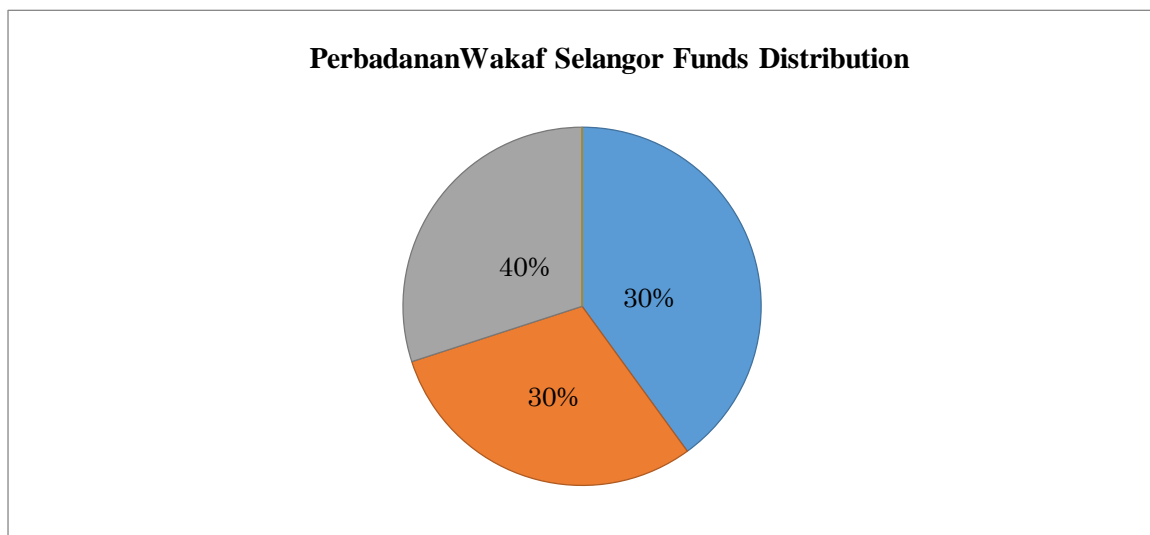


Figure 5.1 Chart showing Percentage for PWS Funds Distribution

In case of PWS, 40% from the fund's gains will be used for the investment and another 30% for education funds, while another 30% is used for healthcare, such as the establishment of a dialysis center and so on. For example, until today, there are five branches of a dialysis center under the management of Perbadanan Wakaf Selangor (PWS).

In addition to the healthcare centre, *waqf* funds that are especially received from *waqf* shares and cash *waqf* are used to build a bazaar or business complex which is then

rented to the public. The public can rent the premises from Majlis Agama Islam Selangor and the fund uses the recycled income for another *waqf* project under the PWS. Currently, there are 12 properties that can be rented from the MAIS under *waqf* property.

Table 5.1: The list of the infrastructure that could be rented under the Majlis Agama Islam Selangor (MAIS)

No	Premise Address	Type of Facilities
1.	No. 23, Jln BP 7/13, Bandar Bukit Puchong, 47120 Puchong	Shop Lot
2.	No. 25, Jln BP 7/13, Bandar Bukit Puchong, 47120 Puchong	Shop Lot
3.	No. 17A, Puncak Bestari Jati 3, Bandar Puncak Alam, 42300 Kuala Selangor	Shop Lot
4.	No. 17G, Puncak Bestari Jati 3, Bandar Puncak Alam, 42300 Kuala Selangor	Shop Lot
5.	No. C-03-06, Nilam Puri Condominium, Bandar Bukit Puchong, 47100 Puchong, Selangor	House
6.	No. 160 Jalan Pulau Kempas 28/3, Taman Alam Megah, Seksyen 28, 40200 Shah ALam	House
7.	No. 01-08-04 Pinang Height Apartment, Jln Pinang Raja 18/2, Seksyen 18, 40200 Shah ALam	House
8.	No. 58B, Jalan Tengku Badar, 42000 Pelabuhan Klang	House
9.	No. 267, Jln Sri Sarawak 1, Taman Sri Andalas	House
10.	No. 2-1, Tingkat 2 Pangsapuri Sri Bayu, Desa Sri Bayu, Bt 16, 48000 Rawang	House
11.	No. 54 (1), Jalan Melur 11, Kg. Melayu Ampang, 68000 Ampang	House
12.	No. 47, Jalan Bukit Mewah 47, Taman Bukit Mewah, 43000 Kajang	House

Additionally MAIS, through an initiative by PWS has increasingly developed buildings, especially business complexes on *waqf* land that have the potential to be

developed. The funds to establish the buildings are raised through public donations especially through cash *waqf* and *waqf* shares.

PWS has proactively undertaken the planning of the development of *waqf* land around the Selangor area. Most of the development includes complex development projects such as shop lots, a health clinic, a dialysis centre, and hotel accommodation. Among the projects that have been conducted is one near to the Hulu Langat area in Selangor which is a development with a mosque and school alongside a shopping complex or bazaar. The project is currently being developed and is expected to be fully operating by the end of this year. This complex will be used as a religious learning center and a combination of training centers for *muallaf*²². It will provide benefits in terms of education services and skills training to the local community as well as an income for the *waqf* institution.

5.4 Conclusion

From the discussion it is obvious that the Majlis Agama Islam Selangor has tried to initiate a lot of ways to strengthen development and *waqf* revitalization in Selangor state. Moreover, MAIS and PWS has effectively played their role in ensuring the development of *waqf* could enhance the socioeconomics of the society and attempt to reduce the poverty in the Selangor area.

In addition, MAIS needs to make sure that PWS plays a greater role on being creative in utilizing the *waqf* assets for the benefit of mankind. *Waqf* must be managed as it is supposed to be managed, particularly when the issue of ownership and the legal entity of the *waqf* assets need to be resolved. In addition, PWS must be given very wide powers

²² A new convert, a person who has officially converted to Islam

in managing and developing *waqf* assets. As the party that is responsible for conducting research for the development of *waqf* in Selangor, PWS also needs to investigate opportunities that could be used in order to increase the efficiency of MAIS and PWS.

Chapter 6

Kumpulan *Waqf* an-Nur by Johor Corporation

6.0 Introduction

Chapter six is a case study of Johor Corporation. The study will establish corporate *waqf* as an independent category of *waqf* that has initiated by private bodies in Malaysia. There has been a lot of literature discussing regarding the *waqf* applied by Johor Corporation due to its salient characteristics and that suggest corporate *waqf* is the best form of modern *waqf* practice based on its vibrant nature and active roles with strong professional participation in its management. Therefore, writer has decided to discuss this institution and its impact on *waqf* revitalization in Malaysia.

6.1 Overview of the Corporate *Waqf* Concept

Although the governments has taken every reasonable step to ensure the effectiveness of the Islamic State Religious Council or Majlis Agama Islam Negeri, private institutions on the other hand apparently have a well-designed and well-planned management for *waqf*. Kumpulan *Waqf* An-Nur is an institution that was established under Johor Corporation which has a separate and independent management from the Islamic State Religious Council. It is one of the earliest institutions that was initiated by the private sector in Malaysia and has been maintained until today.

Waqf practice today is different from the traditional one because it follows the current requirements in parallel with daily transactions in modern life. One of the *waqf* innovations that has attracted the world's attention is the concept of corporate *waqf* that was introduced by Johor Corporation Berhad (JCorp). The uniqueness of this corporate *waqf* is its use of shares as a main funding method for contributing to the *waqf*.

Corporate *waqf* is an adaption of the *waqf* shares (Mahmood 2013: 45). Corporate *waqf* is formed when an individual or organizations for example companies, corporations, organizations or institutions put aside an amount of liquid money, shares, profit, dividends and the dedicate of its usufruct in perpetuity to the welfare of society. Therefore, corporate *waqf* is where liquid money, shares, profits, and dividends have been declared as *waqf* by the corporate sector with the aim to distribute the benefits derived from the stock dividend (Mohd Thas Thaker & Mohd Thas Thaker 2015: 166).

Corporate *waqf* is an innovative mechanism in generating income for the benefits of most of society in the form of cash *waqf*, *waqf* share and other asset investment methods. It is an initiative in combining the perpetuity characteristics of *waqf* to achieve the power of entrepreneurial dynamism. In Malaysia, Johor Corporation Berhad (Jcorp) is the pioneer and the first corporation that has implemented corporate *waqf*. JCorp established a subsidiary company to supervise and guarantee all of the Jcorp assets and shares that are donated as *waqf*. Johor Corporation has undertaken the *waqf* to align and integrated their corporate social responsibilities (CSR) activities with the Islamic teachings and responsibilities embedding the same corporate vision of “Corporate *waqf* for business Jihad”.

6.2 The Background of Johor Corporation (JCorp)

Johor Corporation (Jcorp) or Perbadanan Johor is a Malaysian government-linked company, formerly known as the "Johor State Economic Development Corporation" (JSEDC). Formed in 1968, it is part of the government's affirmative action program to restructure its multi-ethnic society by eradicating the economic imbalance between the Malays and the non-Malays. Malaysian "state economic development corporations" were designed to break away from the bureaucratic binds of a regular government department

and to become a commercially oriented investment arm of the respective state governments.

6.3 The Background of Kumpulan Waqf An-Nur Corporation (WANCorp)

Kumpulan *Waqf* An-Nur (WANCorp) is an operational arm established to fulfill Johor Corporation's corporate responsibility. Johor Corporation (JCorp) is the first private body that has successfully initiated the corporate *waqf* system in Malaysia. WANCorp was established on October 2, 2000 to manage the assets and shares of J JCorp which have been transferred to them as *waqf* assets.

JCorp was formerly known as Johor Economic Development Corporation. It was established by the Johor State government on May 18, 1968 during the memorandum of understanding (MOU) that was made between JCorp and Malis Agama Islam Negeri Johor on December 4, 2009. Majlis Agama Islam Negeri Johor has agreed to appoint WANCorp to act as a special *mutawalli* to manage shares and assets which have been made *waqf* by the company.

In the MOU, the Mufti of Johor and his Deputy, the Director General of Majlis Agama Islam Johor, and executives from Majlis Agama Islam Johor who were in charge of *waqf* were made directors of WANCorp while some selected executives from JCorp were appointed as *mutawallis*.

On August 3, 2006, JCorp announced that RM200 million of the company shares were given away as *waqf* assets and transferred these shares to WANCorp. These shares were taken from JCorp public listed subsidiaries consisting of 12.35 million units of shares in Kulim Malaysia Bhd, 18.60 million units of shares in KPJ Healthcare Bhd, and 4.32 million units of shares in Johor Land Bhd. While, on June 29, 2009, WANCorp had

used the *istibdal*²³ principle to substitute *waqf* shares from Johor Land Bhd with share from Al-Aqar KPJ REIT since Johor Land Bhd. was no longer listed in the Malaysian Bourse.

As a corporate *waqf* entity, WANCorp strives to achieve the following objectives:

- i. Incorporating Islamic values in the management and administration of JCorp and its subsidiary companies.
- ii. Undertaking research on contemporary approaches and providing policy recommendations in making JCorp an Islamic corporate entity.
- iii. Coordinating and managing the operation of Waqf An-Nur Clinics to ensure that the objective of providing affordable health care and dialysis service to the poor is realized.
- iv. Planning and coordinating Islamic activities and incorporating Islamic values in JCorp and its group of companies.
- v. Acting as the Secretariat for mosque committees and coordinating the management of mosques which belong to JCorp.
- vi. To be a main centre of reference for business management from an Islamic perspective.

(Annual report, 2017)

²³Relating to the law of *waqf*, it refers to the conversion of a type of *waqf* into another type. Usually, it applied to the conversion of cash *waqf* into real estate *waqf*. There were certain conditions which had to be fulfilled before such a conversion was authorized by the state.

All income earned by WANCorp is declared as dividends. In terms of distribution, 70% of the benefit goes back to JCorp for reinvestment and human capital development, 25% goes to WANCorp for use *fisabilillah*²⁴ and 5% is distributed to Majlis Agama Islam Johor. The idea behind this 70:25:5 formula was to ensure the *waqf* fund continued to grow and enable it to contribute more of its assets to *waqf* in the future. Funds under the definition *fisabilillah*, have been used for charitable and social works, human capital development, and for the treatment of sick patients. In addition, the fund was used to organize various activities for Muslims and non-Muslims and also arranged charitable and religious activities that benefits and fulfil the needs of the society.

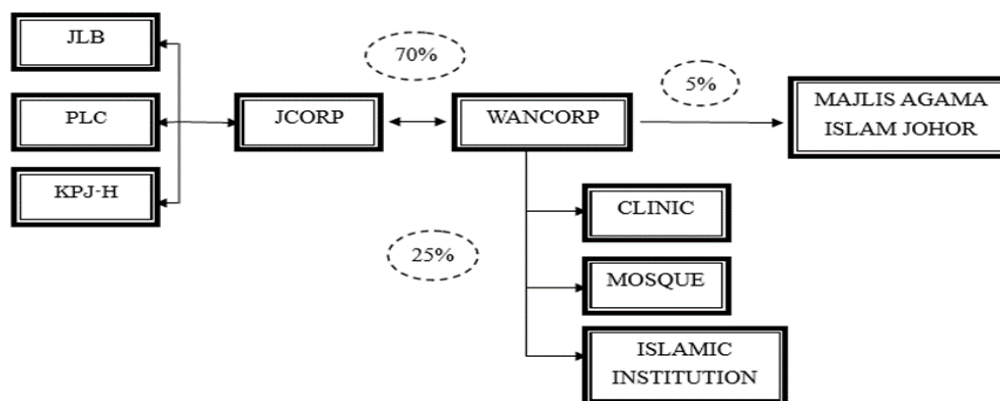


Figure 6.1 The Johor Corporation Profit Distribution For Corporate *Waqf*

Sources: - Annual Report of Kumpulan *Waqf* An-Nur, 2007

6.4 The Corporate *Waqf* Practices of Kumpulan *Waqf* An-Nur (WANCorp)

Johor Corporation has implemented a remarkable model of contemporary *waqf*. Most of the *waqf* funds of Johor Corporation are allocated to healthcare and for charity

²⁴The phrase *fisabilillah* (سببيل الله *fi sabīli llāhi*) is an Arabic expression meaning "in the cause of Allah", or more befittingly, "for the sake of Allah"

purposes through their subsidiary, Kumpulan *Waqf* An-Nur. Johor Corporation established the Kumpulan *Waqf* An-Nur Corporation Bhd (WANcorp) as the *mutawalli* for the 12.35 million *waqf* shares of its publicly listed subsidiaries, valued at RM200 million.

WANCorp is the responsible party to allocate the funds received through JCorp of which the 5% pays the total dividend income arising from the *waqf* shares, while 25% is donated to *fisabilillah* activities and 70% is reinvested for human activities. *Waqf* Jcorp has inspired a lot of revitalization of *waqf* in Malaysia because it has given people a new perspective on how business entities can fulfill their social responsibility using Islamic principles. It serves as an entire business enterprise.

WANCorp began operating on October 25, 2000 under the name Pengurusan Klinik *Waqf* An-Nur. Then, on December 4, 2009, JCorp and Majlis Agama Islam Negeri Johor (SIRCJ) signed a memorandum and since then WANCorp has been responsible for Johor Corporation's CSR initiatives in terms of managing *Waqf* An-Nur Hospital (HWAN) and the chain of clinics(KWAN), mosques, *waqf* dana niaga and *waqf* Brigade.

Most of the *waqf* funds of JCorp are allocated to healthcare and for charity purposes through their subsidiary, WANCorp. In terms of fund distribution, JCorp's *waqf* steering committee agreed that entrepreneurship is the central theme of its CSR. To promote the culture of entrepreneurship, WANcorp has established three business clubs to help Malay entrepreneurs particularly in establishing business networks among Muslims. This goal was implemented through the Tunas Bistari and Siswa Bistari Programmes which sought to train the community with respect to the necessary business skills and mindset of entrepreneurship.

The most outstanding community program of JCorp is the *waqf* clinic charity that targets the poor and needy. Its clinics are run all across Malaysia, serving various ethnic groups from different backgrounds and religious affiliations.

Table 6.1 Waqf An-Nur Corporation Hospital and Healthcare in Malaysia

State	Number of Hospital/ Clinic
Johor	7
Sarawak	2
Selangor	7
Negeri Sembilan	2
Perak	1
Pulau pinang	1
Amount	20



Figure 6.2 Clinic Wakaf An-Nur by Johor Corporation in Masjid Besar Bukit Tiram, Johor Malaysia



Figure 6.3 The Wakaf An-Nur Dialysis Centre in Masjid Besar Bukit Tiram, Johor Malaysia

Sources: Author's Own

Corporate *waqf* is an innovative mechanism for generating income for the benefit of most of society in the form of cash *waqf*, *waqf* share and other asset investment methods (Dahlia and Haslindar, 2013). The same authors also mentioned that corporate *waqf* is an initiative in combining the perpetuity characteristics of *waqf* to achieve the power of entrepreneurial dynamism. Based on Norma, Salina and Zarinah (2013), corporate *waqf* is an idea combining corporate efforts with the aim of giving back to the society through the *waqf* concept. They added that corporate *waqf* is an innovation with the intention to revitalize the once powerful *waqf* institutions and benefitting from its dynamics towards adding value and producing wealth through business and corporate efforts to encourage economic growth.

According to Nurul Asykin and Muhammad Hakimi (2013), during ‘Seminar Awqaf Antarabangsa 2008’, Prof. Murad Cizakca said that corporate *waqf* management is the most sophisticated Islamic financial practice nowadays. The existence of

corporate *waqf* shows the big success of the *waqf* system because the money collected through shares can be used formally for economic development projects without having any restrictions or obstacles as in the *waqf* of immovable property (Asmak, 2009).

6.4.1 The Distribution of KWAN

Waqaf An-Nur Corporation Berhad (WANCorp) as a *Mutawalli* of Waqaf An-Nur Corporation Berhad (WANCorp) is a one of its subsidiary companies taht is entrusted to manage all JCorp groups' assets and shares that are donated as *waqf* (Dahlia and Haslindar, 2013). On October 25, 2000, WANCorp started its operations under the name Pengurusan Klinik Waqaf An-Nur' (Abd. Shakor, 2011). After a memorandum of understanding (MOU) was made between JCorp and State Islamic Religious Council of Johor(SIRCJ) on December 4, 2009, SIRCJ agreed to appoint WANCorp to act as a special *mutawalli* in order to manage shares and assets which had been made *waqf* assets by JCorp and transferred to WANCorp (Norma, Salina and Zarinah, 2013). It is follows the Waqf Procedures 1983 under the Enactment of Islamic Administration Johor 2003 (Dahlia and Haslindar, 2013).. Mahmood and Mohd Shafiai (2013), state the objective of the establishment of WANCorp consists of management and administration based on Islamic values, planning and coordinating religious activities and roles by acting as a mosque committee secretariat and coordinating the management of mosques. WANCorp also conducts research employing a contemporary approach, recommends a project implementation that is in line with the JCorp's vision and struggles to be a reference hub in matters related business management in Islamic affairs.

Six subsidiaries of JCorp are *al-waqif* in the corporate *waqf* practice. Annual Report WANCorp 2012, states that three of them are Listed Companies and the other three are Unlisted Companies. The Public Listed Companies are KPJ Healthcare Berhad,

Kulim (M) Berhad and Al-‘Aqar KPJ Reit. The Unlisted Companies are Tiram Travel Sdn Bhd, Larkin Sentral Property Sdn Bhd and Capaian Aspirasi Sdn Bhd.

Based on the Annual Report of WANCorp 2017, its financial performance has shown continued growth and strengthened the national economic conditions which have contributed towards increasing the performance of *waqf* shares. The dividend earned in 2017 from the *waqf* shares has increased dramatically to about RM57.56 million compared to just RM16.94 million in 2016.

The productivity concept of corporate *waqf* can be seen through the benefits of the property as an input that consists of an annual dividend of the shares from the six subsidiaries of JCorp, a contribution of cash *waqf* by WANCorp as membership participation, and 70% of the dividend for reinvestment. The total of the benefits will be collected and distributed to the three groups with a different percentage of distribution which based on the agreement at 70%, 25% and 5%. The benefit’s distribution can be seen as the production process and the welfare programs and Islamic Corporate Social Responsibility (ICSR) as an output of this kind of *waqf* concept.

Seventy percent of the dividend earned goes back to JCorp for reinvestment and human capital development, 25% goes to WANCorp for use *fisabilillah* and 5% goes to SIRCJ. Until December 31, 2012, the 70% of funds for reinvestment was about RM36.27 million and it was invested as fix savings in financial institutions which are based on the Shari'a. The income earned from investment in 2012 was RM421, 418.71. The total income earned from the investment until 31 December 2012 was RM1, 017,696.86.

Based on the Annual Report WANCorp 2017, 60% (RM2, 088,117) of the funds for use *fisabilillah* were used for charity and social works such as sick patient’s treatment, mosques management and other Corporate Social Responsibility Programs, 38% (RM1,

312,303) was used for human capital development such as ‘Tabung Akedemi Mutawwif’ and 2% (RM60, 000) was used for special projects such as ‘Program Kemantapan Orang Asli Johor’. The amount of 5% goes to SIRCJ was about RM2, 861,700 in 2017.

Table 6.1 The Distribution of Profit by KWAN under the Waqf Niaga Program

Bil	Type of Business	Numbers of recipient	Amount Donated (RM)
1.	Food/Drink	67	150,000
2.	Sewing Centre	9	26,800
3.	Cafeteria	4	19,000
4.	Beauty	8	21,900
5.	Workshop	5	15,000
6.	Welding	3	9,000
7.	Nursery and Kindergarten	2	6,000
8.	Groceries store	3	9,000
9.	Printing and advertising	2	5,000
10.	School Transportation	3	9,000
11.	Others	14	43,400
12.	Ayamas Franchise	133	88,100
Amount		256	402,200

Sources: 2017 Kumpulan *Waqf* An-Nur, Financial Report

Waqf Dana Niaga is an initiative to provide zero-interest capital loans or the contract of *qardhul hasan* to assist small-scale entrepreneurs to start or expand their businesses. The initiative is aimed at promoting Islamic finance and driving the economic growth of Muslim entrepreneurs. As of December 2017, a total of RM 879,300 has been distributed to 392 recipients.

6.5 Outcome from the Case Study

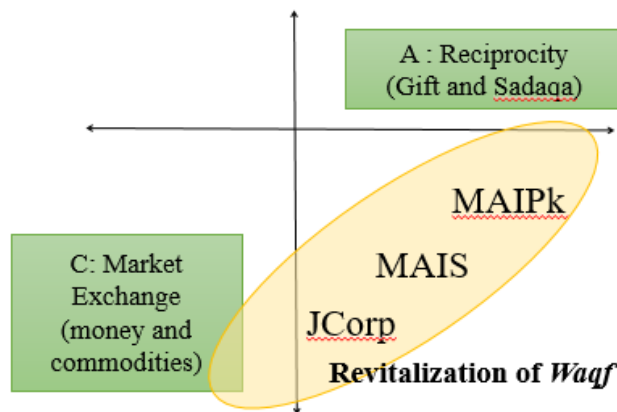


Figure 6.4 *Waqf* Revitalization as the basic for the Social welfare

Sources: Author Own

It is necessary to discuss the differences in practice by the *waqf* institution and how they can learn from each other. Throughout conducting the case studies, the author found that they fit into *waqf* based social welfare. It has been observed that the practice of MAIPk is closer to reciprocity; while the practice of MAIS is balanced between reciprocity and market exchange, and lastly, Johor Corporation is the most innovative *waqf* with a strong inclination toward market exchange.

MAIPk practices the cash *waqf* approach to ensure an increase in public donations and also to improve the administrative of the institution. The cash *waqf* is used in the early development before the institution initiates the next level of *waqf* revitalization. The *waqf* institution took a movable form especially in terms of the creation of cash *waqf* which has found its place as one of the financial institutions financing different developments in the different states.

MAIPk practices the direct cash *waqf* method, where they created the cash *waqf* in order to be invested and the revenue generated to be channeled to the beneficiaries.

These elements were a lot closer to the reciprocity elements in the economic process. A specified *waqf* institution that acts as the trustee can call for the founders to contribute to different needs of society or to certain beneficiaries. As cash *waqf* is a trust fund established with money to support services to mankind in the name of Allah (s.w.t), it is easier for the public to made donations and it is the easiest way for the *waqf* institution to loan to borrowers who after certain period returned the principal to the *waqf* plus a certain "extra" amount, which is then spent on all sorts of pious and social purposes. It is recognized that there is no ample study in the area of cash *waqf*.

Again literature relating to the cash *waqf* management is very scanty. The exiting studies identify various facets of cash *waqf* and its management issues to explore different aspects of theoretical dimensions and practices yet they do not specifically mention the funds used and the medium of development by the *waqf* institution. This writer thinks it is important to explore the innovative avenues for managing cash *waqf* systems and making a hybrid viable cash *waqf* model with sustainable characteristics for generating more benefits for all the parties involved in the society.

In the case of MAIS, the institution uses various approaches such as *waqf* shares, cash *waqf* and combines with financial institutions and appoints trustees that manage and invest the accumulated *waqf* funds. The revenue generated is then be directed to the different needs of society or to certain beneficiaries. This shows a very strong connection between the reciprocity elements and the market exchange elements. Beneficiaries can be mosques universities, schools, scholarships, hospitals clinics, highways, the poor hungry and needy, neglected animals and so on. By applying the different practices of *waqf*, MAIS is able generated revenue and distribute it in different proportions for management expenses, for charitable areas and to add to the capital as a self-financing device (SFD).

In case of *waqf* shares, individuals can choose which sector to donate to. For each sector contributed to, the donor will receive a certificate, along with an annual report which details the investment, the returns, the projects implemented and other key information. Most of the *waqf* shares are usually purchase by financial institutions (MAYBANK, Bank Islam and Bank Muamalat) or private companies.

The *Waqf* share system is very applicable nowadays because it is parallel with daily transactions in modern life. Individual's members of the community are also able to donate for share *waqf* because it is possible to purchase the shares offered by a company in a quantity based on how much or how little they can afford. Moreover, share *waqf* earns a dividend for the shareholder. The *waqf* share implemented by JCorp also enables companies to fulfill their Islamic Corporate Social Responsibility (ICSR). Overall, this share *waqf* can contribute towards economic development and the equal distribution of wealth among the community.

Corporate *waqf* implemented by JCorp is considered as the most innovative *waqf* approach that can benefit many parties. Firstly, for the government, *waqf* is a one of the instruments for redistributing wealth to proceed with economic development as a whole. This is because *waqf* plays an important role that is significant in providing benefits for education, economic and infrastructure. Indirectly, the government will able to reduce its expenditure which will lead to a reduction in the budget deficit. In addition, through *waqf*, the government's need to borrow will be low which will lead to a reduction in the high interest rates that are curbing the economic growth of the country.

Secondly, for companies, as well as fulfilling their Islamic Corporate Social Responsibility (ICSR), they can also gain long-lasting benefits if they practice corporate *waqf*. Besides helping the needy, they can also ensure that the equity belongs to Malaysian

Muslims. Thus, it can bring potential growth with the addition of equity for public benefits. The equity growth will be gained through revenue from the investment in some *waqf* properties in the form of shares. The equity here means the shares and securities of the companies. The approaches used by Jcorp through corporate *waqf* show the practices of this institution were a lot closer to market exchange but still retained a part of the reciprocity element.

Lastly, for the community, *waqf* can provide them with a lot of benefits. Those are benefits covering all aspects of education, economics, health, and infrastructure. For education, the *waqf* can provide scholarship or training that will improve the quality of the community by enhancing their knowledge and skills. In the end, individual members of the community will be able to get a job or set up a business.

For the economy, the *waqf* can provide business premises and financial assistance based on the *qardhul hassan*²⁵. Business premises that are developed from the *waqf* fund or land, add the potential to run business activities among the community. From the financing assistance which is based on the *qardhul hassan*, a person or a group which lacks financial capital will be able to set up and run a business without being burdened by high interest loans. Thus, it can reduce the unemployment problem in Malaysia

Last but not least, the community can also gain infrastructure benefits through *waqf* practices such as establishing schools, medical facilities, and places of worship, and so forth which will help in improving the community's welfare. *Waqf* is an important institution for environmental protection and social living improvements like providing transportation infrastructure such as roads and bridges, providing municipalities with

²⁵ An interest-free loan where the borrower only repays the principal amount, Quran forbids paying or receiving interest, *qardhul hasan* is the only permissible loan in Islam.

schools and hospitals, and enabling agricultural development. If we consider all these benefits, applying *waqf* efficiently means that poverty and hunger can be eradicated and the gap between the rich and the poor will be reduced.

7. Conclusion

This conclusion will reflect the outcome of the case studies and the issues of *waqf* revitalization in Malaysia. Thus, this chapter will answer the following questions that have been discussed in the earlier chapters.

1. How to identify the *waqf* practice in Malaysia by using the matrix?
2. How can we clarify several *waqf* practices in Malaysia by using my *waqf* practice?
3. How to clarify the *waqf* practices in Malaysia into the matrix?

Looking at the current trend of *waqf* revitalization in Malaysia, we can conclude that the trends of *waqf* development have focused on the creation of wealth and capital gains. More investments were made through *waqf* assets or *waqf* approaches by investing capital to gain more money. This was done with the idea that by creating more capital and money, more unfortunate individuals and social groups could be helped. The intention was to leverage the potential of *waqf* to uplift the poor and needy.

In addition, the revitalization of *waqf* in Malaysia has provided opportunities for those who wished to practice *waqf* but did not own immovable assets or have enough property like land or buildings. Through contemporary *waqf*, people can donate in amounts according to their individual limitations. As Muslims, a lot of people have a desire to practice *waqf*, as it is part of their goal to achieve blessings from Allah (s.w.t). However, due to constraints such as the lack of assets and properties, they were unable to do it until the revitalization of *waqf* made it possible.

However, the revitalization of *waqf* in Malaysia has also faced many challenges. The most important issues in *waqf* revitalization were creating a sustainable and positive social impact. The practice of cash *waqf* needs consistent donors in order to achieve *waqf* development goals. Nevertheless, the current practice seems to have found leverage, since

endowments from donors can be seasonal and not consistent. Although this is a joint venture within the industry, this problem might affect the effective development of *waqf*. This is very important because it will have an impact on the financial literacy of organizations.

In addition, there is also an argument regarding the Sharī 'a pronouncements in a few states in Malaysia. According to Majlis Fatwa Malaysia, the gains procured from cash *waqf* must be used to purchase permanent assets, while the rest of the money accumulated should be channeled to MAIN for charitable purposes. Thus, there is an argument among scholars that the current practice of cash *waqf* in a few states of Malaysia is not in line with the Islamic law.

A lack of expertise leads to a lack of advancement in revitalization initiatives in *waqf* development. Development of *waqf* assets requires a lot of innovation in the form of financing and investment that is in line with the Sharī 'a pronouncements. For example, the operation of cash *waqf* requires a fund manager who has expertise and experience in managing the *waqf* fund. Moreover, the revitalization of *waqf* needs an effective model for developing *waqf* in accordance with the Shari' a, and with the ability to coordinate *waqf* funds in effective ways. However, though Malaysia is on the leading frontier of *waqf* revitalization, there is presently a lack of expertise that can fulfill all these requirements.

In the interviews conducted during the fieldwork, the officers from the representative institutions highlighted the importance of *waqf* revitalization in Malaysia, particularly the transformation of *waqf* practices, to ensure that assets can be accumulated for engendering societal good. Although there has been criticism of *waqf* revitalization in Malaysia, with a number of foreign researchers noting its money-oriented nature, the current approaches are deemed by Malaysia as necessary to encourage the development

of *waqf* so that its potential can be fully realized. Indeed, most of the MAIN councils are faced with fund shortages for developing *waqf* property assets.

Lastly, the fieldwork has given the author the opportunity to gather useful information on *waqf* fund distribution by both MAIPk and WANCorp. The interviews shed light on the institutional practices of *waqf* revitalization in Malaysia, enabling the author to identify variables for future analysis. The author intends to explore the perceptions, experiences, and opinions of *waqf* experts in Malaysia. It is our hope to help encourage a proactive attitude toward *waqf* as a means for uplifting society by meeting its needs and resolving its long-standing problems.

As the final conclusion, the revitalization of *waqf* in Malaysia demonstrates that with a proper foundation and framework, *waqf* can contribute to the social welfare of a society, with a different combination of reciprocity and market exchange. The development and revitalization of *waqf* in Malaysia will involve the efforts of various parties, including the public, the government, religious bodies, the private sector and financial institutions. However, currently it seems the government is the driving factor for the revitalization of *waqf* in Malaysia, followed by the private sector. The success of contemporary *waqf* in Malaysia demonstrates that with a proper foundation and framework, *waqf* can not only contribute to the welfare of society, but also integrate the Islamic economy.

Appendix

An English Glossary for the Arabic Terms

Aqd - An agreement between two willing parties to initiate, adjust or terminate a given transaction in a manner binding upon both parties.

Bai’/Bay - (contract of agreement)

Bai’ al-Ina/ Bay’ Al-Dayn - The sale of debt by the creditor to a third party. The debt can be either money or commodities sold in accordance with the Sharī‘a parameters.

Bai’ Al-Dayn/ Bay’ Al-‘Īna - The sale of a commodity for a spot price and its repurchase for a deferred price higher than the spot price. Reverse ‘Īna is the sale of a commodity for a deferred price and its repurchase for a spot price lower than the deferred price.

Fatwa – religious ruling by an Islamic jurist

Fiqh - Knowledge of the legal rulings pertaining to conduct, which have been derived from specific evidence.

Gharar - uncertainty

Halal – Lawful, permitted by Sharia law

Haram – Forbidden by Sharia law

Hibah - The payment of money or transfer of an asset to another party without a consideration.

Ijāra/ Ijarah - A contract made to lease the usufruct of a specified asset for an agreed period against a specified rental. It could be preceded by a unilateral binding promise from one of the contracting parties. As for the ijāra contract, it is binding on both contracting parties.

Ijtihad - interpretation

Istisna’a – The sale of a specified asset, with an obligation on the part of the seller to

manufacture/construct it using his own materials and to deliver it on a specific date in return for a specific price to be paid in one lump sum or instalments.

Maysir - gambling, also, any form of business activity where monetary gains are derived from mere chance, speculation or conjecture.

Murabaḥa - transaction based on the purchase of a commodity from a seller or a broker and its resale to the customer on the basis of deferred murabaḥah, followed by the sale of the commodity by the customer for a spot price to a third party for the purpose of obtaining liquidity, provided that there are no links between the two contracts.

Muḍāraba - A partnership contract between the capital provider (rabb al-māl) and an entrepreneur (muḍārib) whereby the capital provider would contribute capital to an enterprise or activity that is to be managed by the entrepreneur. Profits generated by that enterprise or activity are shared in accordance with the percentage specified in the contract, while losses are to be borne solely by the capital provider unless the losses are due to misconduct, negligence or breach of contracted terms.

Riba - excess, increase or addition, which correctly interpreted according to Sharia terminology, implies any excess compensation without due consideration (consideration does not include time value of money). The definition derived from the Quran and is unanimously accepted by all Islamic scholars.

Qarḍrul -Hassan - The payment of money to someone who will benefit from it provided that its equivalent is repaid. The repayment of the money is due at any point in time, even if it is deferred.

Sunnah – The social implementation of Quranic teaching and demonstrated by life of the Prophet Muhammad s.a.w

Sharī‘a – The application of the laws given in the holy Quran and demonstrated by

Prophet

Sharī'a compliant – in compliance with Sharī'a law, therefore halal

Takaful - Remuneration paid for a service provided by a third party enabling two parties to come to an agreement.

Tawarruq – involves buying an item on credit and selling the item on the spot to get cash

Wa'd - An undertaking by someone to perform an act in the future related to someone else.

Wadī'ah - A contract for the safekeeping of assets on a trust basis and their return upon the demand of their owners. The contract can be for a fee or without a fee. The assets are held on a trust basis by the safekeeper and are not guaranteed by the safekeeper, except in the case of misconduct, negligence or breach of the conditions.

Wakālah - An agency contract where the customer (principal) appoints an institution as agent (wakīl) to carry out the business on his behalf. The contract can be for a fee or without a fee.

Zakat - An obligatory financial contribution disbursed to specified recipients that is prescribed by the Sharī'a on those who possess wealth exceeding a minimum amount that is maintained in their possession for one lunar year.

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