

***Waqf* in Malaysia and Its New Waves in the Twenty-First Century**

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1. Introduction

The aim of this paper is to provide an overview of the history of *waqf* in Malaysia, and to focus on the new trends in *waqf* in Malaysia, especially the revitalization of *waqf* practices. The Arabic term *waqf* is used in Islam to mean an endowment. In Arabic, the word *waqf* literally means to hold up, prevent or restrain. However, in current times, *waqf* has come to mean a permanent offering of a valuable property by a Muslim to the ownership of Allah s.w.t.¹ (Noor Aimi et al. 2014: 116). The *waqf* property is surrendered for good, with the intention of attaining closeness to Allah s.w.t. For example, *waqf* properties are utilized for beneficial purposes such as hospitality, education, training and so forth. *Waqf* has played an important role in integrating Islamic economy and Islamic society.

In the present 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 it serves the public benefit or welfare. Thus, governments view *waqf* as an innovative mechanism that works for the benefit of society.

However, the traditional *waqf* practice in Malaysia seems to find it hard to resolve the contemporary problems faced by Malaysian society today. Therefore, *waqf* has been developed and enhanced to alleviate socioeconomic problems and meet modern society's needs. However, there are constraints in developing and innovating the concept in terms of preserving its religious purity. The revitalization of *waqf* in Malaysia has been carried out with a view to adapt the practice to current global economic practices in the modern economy.

The emerging growth of the Islamic economy, such as Islamic finance and halal industries in Malaysia, seem to have potential to contribute to economic growth and development. At the same time, it could open key opportunities to widen the impact of social responsibilities such the reduction of income inequality. Islamic economy could be instrumental in resolving socioeconomic issues through wealth transfer as it places strong emphasis on social justice based on fundamental Islamic principles (Nuraccahmi 2015: 7). The discussion on social justice cannot be complete without talking about the economy, since the existence of social injustices such as poverty and income inequality occur due to the

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

imbalances in economic distribution (Ungku 1975: 98).

In order to solve income inequality, the economic system needs to ensure that there is an equitable distribution of wealth in the society. Islam has the most significant impact on social justice, as the underlying principles of Islamic economics are justice and fairness for all. Islamic economics' approach to the issue of income inequality is in direct contrast to the conventional approach. An Islamic economic promotes the redistribution of wealth to tackle the issues of income inequality (Haneef et al. 2015: 249). Islamic wealth redistribution instruments such *waqf* may reduce disparities of income and wealth and promote social justice. However, wealth redistribution indicators should be able to stimulate economic growth and act as a countercyclical force in the economy (Ibrahim 2008: 225).

Waqf is one of the mediums that can promote and provide solutions for the fairness and renewal of the economic system. It is one of the practices that are still being practiced in the contemporary Islamic world (Nagaoka 2012: 132). *Waqf* has the potential to ensure the equitable distribution of income and wealth. Using a proper management and system, the revitalization of the *waqf* practice in Malaysia seems to display potential and could play a huge role in alleviating income inequality (Aidi et al. 2005: 10). *Waqf* could provide a comprehensive mechanism to enhance the economy and uplift the poor. Through revitalization of the practice, the function of *waqf* is predicted to contribute beyond wealth distribution, as it also has potential as a tool for wealth accumulation. As mentioned by Nagaoka (2014: 12), new mechanisms were proposed to utilize *waqf* funds, which link *waqf* and Islamic finance. These innovative mechanisms could be an approach to alleviate income inequality. Therefore, this paper discusses the development and revitalization of *waqf* in Malaysia in the recent years. In addition, this paper would also like to discuss the actors that influence *waqf* revitalization in Malaysia

2. Overview of *Waqf* Practice 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 in Malaysia. Although Malaya² was colonized by western powers, Islam grew and was firmly established within the society, and remained the sole religion, even until today. Therefore, as it is part of the Islamic tradition, the practice of *waqf* has become the norm, or habitual, among Muslims in Malaysia.

Malaysia has a long story of *waqf*, the earliest record of which is found in Terengganu dating from the early thirteen centuries (Othman 2013: 92). During the early period, the

² The term British Malaya loosely describes a set of states on the Malay Peninsula and the island of Singapore that were brought under British control between the 18th and the 20th centuries.

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 1971: 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 embedization after it went through a long and interaction by British colonization. Under the relentless British colonization, the Malays, who comprise 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 the 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 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 (Cizacka 1998: 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 (Cizacka 1998: 66).

However, *waqf* development and activities after Malaysia's independence in 1957 has been encouraging. It ushered in a more efficient and systematic management and administration. After independence, *waqf* was incorporated in the states 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*³ 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

3 *Zakat* (Arabic: “that which purifies”, also *zakat al-mal*, “*zakat* on wealth”, or “*zakah*”) is a form of alms-giving treated in Islam as a religious obligation or tax, which, by Quranic ranking, is next after prayer (*salat*) in importance.

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, it remains undeveloped due to lack of funds.



Figure 1: Madrasah Ar-Rahmaniah (Religious School) in Kampung Bujang, Kedah, built on *waqf* land

Sources: Farid Mat Zain and Ibrahim Abu Bakar (2012)⁴

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 financing instruments so that *waqf* funds could be used as resources for funding productive economic activities and for genuine socioeconomic development (Amuda et al. 2016: 229). In Malaysia, the beginning of the *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.⁵

⁴ <https://ukm.pure.elsevier.com/en/publications/the-development-of-pondok-and-madrasah-in-kedah-1909-1941> subscribed on 2017, July 23

⁵ Data available at www.jawhar.gov.my

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.⁶ 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 13 countries and three federal territories, there are currently 13 different MAIN all over the country, declared the sole trustee 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 illustrate the present Islamic laws enactment practice by the states which relating 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

6 Malaysia Federal Constitution, 1957

m. Perak Administration of Muslim Law Enactment, 2015

n. Terengganu Administration of Islamic Law Enactment, 2016

b. *Waqf* Governance Structure in Malaysia

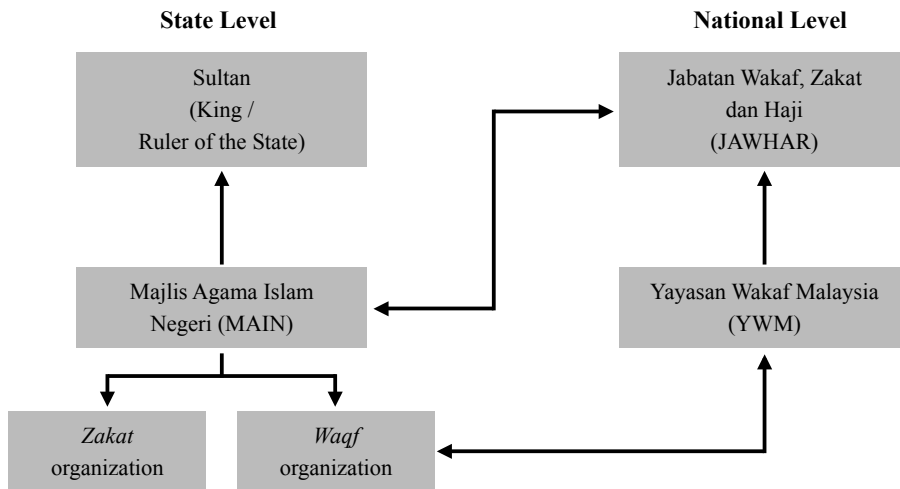


Figure 2 The *Waqf* Governance Structure in Malaysia

Sources: Prepared by Author own

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 face 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).

On March 27, 2004, at the inception of the new Malaysian Cabinet, Prime Minister Tun Abdullah Ahmad Badawi announced the formation of JAWHAR with an 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 SIRC (Ab. Rahman 2009: 115). 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.

4. Recent Developments in Islamic Finance in Malaysia

Islamic finance is new practice in recent history (Bakar 2016: xviii). It is a new practice 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 the practice of a dual economic system, particularly in the banking sector. The trend of 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 Islamic economy.

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 comprehensive financial infrastructure. Overall, 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 the 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, United Kingdom, Brazil and Thailand.

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. The establishment of Tabung Haji (Islamic Pilgrimage Fund) in 1962 became the first pioneer for the nations to set up the Islamic financial institution in Malaysia. Tabung Haji is a saving institution and operates for Muslim that want to go to pilgrim.⁷ Although Tabung Haji is not the banking institution but it works as the fund manager that manage its fund using the sharia principles.

⁷ www.tabunghaji.gov.my

In 1983, the first full-fledged Islamic banks, 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 (Md Nor et al. 2016: 606). In the following years, *takaful*⁸ company was introduced as the complimentary towards the Islamic financial institution in Malaysia. This become the milestone for the Islamic economy in Malaysia because since then the Islamic banking and finance has progressively growth. Mohd Shafiai (2013: 42) mention that Malaysia has put the essential comprehensive framework and initiative to promote the development of Islamic banking and finance in Malaysia. The Islamic window was introduced in 1993 by BNM with the concept of interest free banking scheme which allowed the commercial bank in Malaysia to offer the Islamic banking products and services.

The commercial bank is co-existing with their current operation and run the operation under the same name. However, BNM required the banks to separated their fun and the transaction activities from their conventional banks activities. In 1999, the second full-fledged Islamic banks, Banks Muamalat Malaysia Berhad which help strengthening the Islamic banking practices in Malaysia Act (Md Nor et al. 2016: 602–603). Other than that, Malaysian government also showing the progressive effort on promoting the Islamic Capital Market (ICM). In Malaysia, the Bank Negara Malaysia (BNM) will regulated the Islamic finance system while Securities Commission Malaysia (SC) act as a regulator which supervise and monitors the capital market activities. SC responsible to encouraging and promoting the securities and derivatives in Malaysia as well as protecting the investors.⁹

Through the effort of SC, wide range of equity products, debt securities and management fund in the line of sharia principle. This have encouraged the development of *sukuk*¹⁰ in Malaysia. By 2002, Malaysia have become one of the pioneer in *sukuk* issuance with the issuance of the Global Market and Guthrie Sukuk in 2002 (Shahimi et al. 2013: 154). Malaysia was promoting the concept of *ijara*,¹¹ *musharaka*¹² and *mudaraba*¹³ in their issuance concept of *sukuk*.

According to Thomson Reuters, 2016,¹⁴ Malaysia still leads in the sectors of Islamic

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

9 Suruhanjaya Sekurites Malaysia.

10 *Sukuk* is an Islamic bond, structured in such a way as to generate returns to investors without infringing Islamic law (that prohibits *riba* or interest). *Sukuk* represents undivided shares in the ownership of tangible assets relating to particular projects or special investment activity.

11 *Ijara* means lease, rent or wage.

12 *Musharaka* is a joint venture relationship, establish under a contract by mutual consent of the parties for sharing profit and losses in the joint business.

13 *Mudaraba* means profit sharing, is an agreement between capital provider and entrepreneurs on mutually agreed ratio.

14 Thomson Reuters State of Global Islamic Economics Reports, 2016, <https://ceif.iba.edu.pk/pdf/ThomsonReuters-stateoftheGlobalIslamicEconomyReport201617.pdf>

banking and industries based on halal food. Many believe that this is powered by continuous product innovation and comprehensive financial infrastructure. In 2014, Islamic banking assets in Malaysia was RM 487.158 billion, more than a quarter of the total banking system, and the Malaysian Islamic finance industry has 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).¹⁵ Currently in Malaysia, there are 16¹⁶ full-fledge Islamic banks operates in Malaysia with offering more than 100 financial products, compared with fewer than four Islamic banks and *takaful* players before 2000. One of the main contributors towards the successful financial system is the *Sukuk* industry. In 2016, *Sukuk* contributed USD 66 billion (RM 264 billion)¹⁷ to become one of the main contributors in Malaysia.

Following the trend, the then government played an important role toward the development and support of halal-dependent industries, by implementing halal procedures and numerous guidelines (Ifra et al. 2013: 16). The implementation of halal food certificates encouraged the emergence of halal food markets in Malaysia. Other than that, one of the key successes of the halal economy in Malaysia was not only because it represented a significant market 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.

The existing Islamic banking and finance industry has a positive impact on the economic system. However, the Islamic economy particularly the Islamic banking system 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 and profit maximization, or the *murabaha*-centered financial transactions, namely from asset-based financing to *tawarruq* which is debt-based financing (Asutay 2010: 19). Islamic economic practices and methods received criticism, as Sharia scholars are of the opinion that Islamic finance uses the debt structure instead of using the equity-based structure that is prescribed in Islam. Nagaoka (2012), mentions the most predominant criticism levied by the Gulf Sharia Scholars in *murabaha*, was regarding *bay*

15 Adilla, F. (2016). Rise in Islamic Banking Assets. New Straits Times, Kuala Lumpur. <https://www.nst.com.my/news/2016/08/165820/rise-islamic-banking-assets>

16 Bank Negara Malaysia, www.bnm.gov.my

17 Bank Negara Malaysia, www.bnm.gov.my

*al-ina*¹⁸ and *bay al-dayn*¹⁹, early Islamic banking practices that were not approved by the law.

Other than that, the Islamic banking and finance practice 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 Sharia, whereas the practices of the Islamic banking system created the same products as conventional markets. Those who criticize the current practice of Islamic banking and financial system states 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 contributed in achieving the moral aspect of Islamic economics.

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 in 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.

5. Revitalization of *Waqf* in Malaysia

Waqf has existed for a thousand years and is believed to be an important economic vehicle. Malaysia currently experiences 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, with an estimated value of RM1.9 billion all over the country. Therefore, there is a need

¹⁸ *Bay al-ina* is a mark-up sale financing or agreement. The financier sells an asset to the customers on a deferred -payment basis and then the assets immediately repurchased by the financier for a cash discount.

¹⁹ *Bay al-dayn* is refers to the sale of debt arising from trade and services transaction in the form of a deferred payment sale. The customers sell the debt to the bank at a discount.

for the government to develop 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 initiated a number of initiatives to explore effective ways to revive the role of *waqf* in economic and social development. The allocation by the governance was 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.²⁰ JAWHAR illustrates the commitment of the federal government to consolidate *waqf* activities at the national level.

Table 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 Saudara baru, Seremban Negeri Sembilan	4,500,00	2010
4.	Haemodialysis Center Batu Pahat, Johor	8,000,00	2010
5.	Maahad Al-Mashoor Education Center, Pulau Pinang	7,500,000	2010
6.	Pusat Perlindungan Wanita, 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)



Hotel *Waqf* MAIM, Tanjung Kling Melaka



Hotel *Waqf*, Taiping, Perak

Sources: Jabatan Wakaf, Zakat dan Haji Malaysia (JAWHAR)²¹

²⁰ Available at www.jawhar.gov.my

²¹ Available at www.jawhar.gov.my

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 sharia 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 (Chowdhury et al. 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 is yet to be achieved.

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 15 Summit held in Muscat, Oman (Sayyed Hosseini et al. 2014: 4). In 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 Sharia ruling of 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, Sharia-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.²² 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 numbers 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 a 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

22 Yayasanwakafmalaysia.gov.my

of MAIDAM.²³

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 Johor Corporation. Johor Corporation has implemented a remarkable model of contemporary *waqf*. Most of the *waqf* funds of Johor Corporation were being allocated to the 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.²⁴

The Johor Corporation will receive 5% of the total dividend income arising from the *waqf* shares, while 25% will be donated to *fisabilillah* activities and 70% reinvested for human activities.²⁵ *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 conduct social responsibility using Islamic principles.

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 (Securities Commission Malaysia 2014: 21). Since the development of *waqf* assets require a huge amount of capital, innovating new ways of capital accumulation needs 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 (Securities Commission Malaysia 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 Sharia principles. *Sukuk* is defined as Islamic bonds, structured in such a way as to generate returns to investors without infringing Islamic laws (that prohibits *riba* or interest). *Sukuk* represents undivided shares in the ownership of tangible assets relating to particular projects or special investment activity.

Other than that, the characteristics also meet with commercial needs. The diagram below shows SC's suggestion of how to raise capital from *sukuk* insurance for the development of

²³ Yayasanwakafmalaysia.gov.my

²⁴ www.waqfsahamlarkin.com

²⁵ Available at the wancorp.com.my

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.

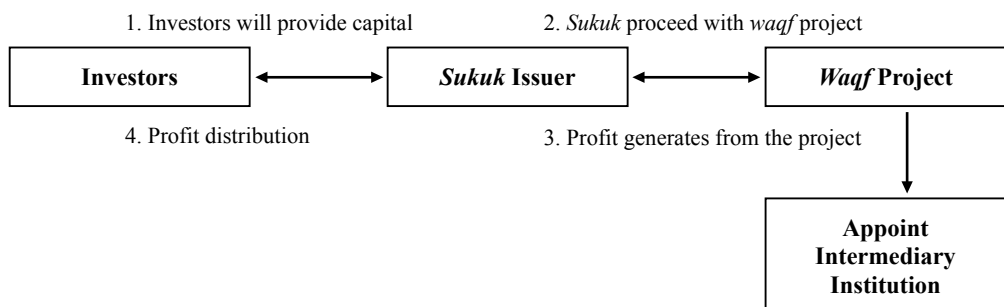


Figure 3 The Security Commission Suggestion for *Waqf* Development through *Sukuk* Issuance
Source: Prepared by Author based on the Security Commission (SC) of Malaysia

In conclusion, the current practices of *waqf* in Malaysia are completely different from previous practices. 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 demonstrate that it is still a conducive practice and provides ample opportunities to create better value through *waqf* assets.

6. Conclusion

Looking at the current trend of *waqf* revitalization in Malaysia, we can conclude that the trends of *waqf* development focused on the creation of wealth and capital gains. More investments were made through *waqf* assets or *waqf* approach by investing capital to gain more money. This was 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 was provided opportunities for those who wished to practice *waqf* but did not own

immovable assets or enough property like lands or buildings. Through contemporary *waqf*, people can endow their deeds in amounts that they want or have. 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 issues in *waqf* revitalization were creating 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 Sharia 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 the 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 *Sharia* pronouncement. For example, the operation of cash *waqf* requires a fund manager who has expertise and experience in managing the *waqf* fund. Other than that, the revitalization of *waqf* needs an effective model of developing *waqf* in accordance with *Sharia*, and with the ability to coordinate *waqf* funds in effective ways. However, though Malaysia is on the leading frontiers of *waqf* revitalization, there is a lack of expertise that can fulfill the requirement.

In conclusion, the development and revitalization of *waqf* in Malaysia will involve the efforts of various parties, including the public, government, religious bodies, 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 Islamic economy. The future research, should address the importance of *waqf* revitalization in tackling income inequality in Malaysia.

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