

WAY FORWARD FOR WAQF IMPLEMENTATION IN MALAYSIA AND BEYOND

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Abstract	<p><i>Waqf has existed as an important Islamic finance organization. Waqf institutions, specifically Majlis Agama Islam Negeri (MAIN) are responsible for utilizing cash waqf collections to build meaningful initiatives that benefit society. This study aim to review the current implementation and potential of waqf in the future. The content analysis was conducted from related sources including documents and journals to achieve the objective. Based on the analysis, the study finds that all the waqf entities played significant roles to strengthen the MAIN in empowering the administration, management, and development of waqf in Malaysia.</i></p> <p>Keywords: <i>Waqf, Finance, Organization, Cash, Collections.</i></p>
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INTRODUCTION

Waqf had existed since Rasulullah SAW when Saidina Umar r.a. obtained a plot of land in Khaibar (Zuraidah et al., 2011). Although waqf is not expressly or explicitly referenced in the Holy Quran, it is extensively stressed (Chowdury, 1970). It is one of Islam's most significant socioeconomic institutions. It is recurrent and falls under the concept of sadaqah (charity). Waqf is an economic organization that benefits Muslims and is a ceremonial affair for Allah SWT (Mohd Afandi et al., 2010).

The al Quran and the Sunnah of the Prophet are the sources of waqf law (peace be upon him). Waqf is classified into four types: waqf khayri (general), waqf fi ahli (family), waqf mushtarak (mixed), waqf istibdal (exchange), and cash waqf or waqf share. Except for cash waqf or waqf share, all involved immovable properties if the cash is donated as waqf (Yaacob, 2013). The practice of monetary waqf is gaining popularity among Malaysian Muslims. Waqf institutions (SIRCS) are responsible for utilizing cash waqf collections to build meaningful initiatives that benefit society (Anwar et al., 2014).

DEFINITION OF WAQF

Waqf is a highly unique and helpful scheme for poverty reduction. Waqf means 'detention,' which implies 'bringing anything to a halt and standstill' (Chowdurry, 1970). Waqf is the holding of a property for its output or revenue to be available for religious or charitable purposes at all times. When a waqf is established, Allah regains possession of the property. As a result, it becomes non-transferable, gets detained, or is 'tied up' forever and ever.

The idea of waqf (pl: "awqaf" and "wuquuf"), also known as an "endowment," was devised by the Holy Prophet Mohammad (SAW) and has played an important role in

meeting the socioeconomic requirements of the Ummah (Farra et al., 2016). Waqf is neither a business idea nor an investment platform for making money. Instead, Waqf is commonly referred to as charity instruments in which the profits are utilized to promote the well-being of the afflicted society. Aside from the notion mentioned above, many Muslims do not attempt to advance their knowledge of waqf (Dahlia Ibrahim & Haslindar Ibrahim, 2013).

Money generated by a nationalized entity is also not considered a waqf entity. Waqf is not a one-on-one transaction. It is, after all, a human-to-Allah SWT transaction. Although it is a man-to-man transaction, the administration of a waqf entity must be managed within the cover of a man-to-Allah transaction. A framework to help men realize their full potential as Abdillah. The individual who declares the syahadatain; the primary distinction between endowment, gift or charity, and any altruistic action. In a non-Muslim society, they are wealth management tools. To be an al-waqif, one must be a Muslim. Thus, the primary purpose of waqf is to bring man closer to his/her creator, Allah SWT. As a result, the al-waqif is the most powerful man/woman in the waqf value chain.

Waqf has existed as an important Islamic finance organization from the early days of Islam. It functions as a driving force in the economy's growth and the ummah. In addition to other institutions like "zakat" and "sadaqah," these institutions contribute to the effectiveness of Malaysia's social warranty system. So essentially, "waqf" serves not just as "ibadah" to Allah SWT, but it also has a broad connotation and serves as an agent for the progress of all Muslims.

SPIRITUAL BASIS IN THE IMPLEMENTATION OF WAQF

The value chain in waqf governance begins with the Muslim person. Realizing the returns from waqf-ed wealth, a Muslim intends (*doa*) to Allah S.W.T. to be bestowed the sincerity (*ikhlas*) that the rewards will be in this world and the next. This first step has to be done with full knowledge without fear or favour from any entity except Allah S.W.T to ensure the sustainability of intention (*Istiqomah*) even when many obstacles come forth from whichever angle or direction. Failures in the implementation of waqf usually emanate from this first step, that is, the *doa*. The al-waqif must be sure (*yaqin*) that he/she will not falter, having 100% trust in the mercy of Allah S.W.T. that has put in the heart the need for waqf.

The *yaqin* comes from the realization that the *doa* is the most powerful factor in his/her endeavour, that is, Allah S.W.T. will accept the *doa* immediately, that Allah S.W.T. will accept the *doa* in good time, that Allah S.W.T. will accept the *doa* with greater returns as Allah S.W.T. is Most Beneficent, Most Merciful and that Allah S.W.T. will accept not in this world but surely in the hereafter (*akhirat*).

The second part of the waqf value chain is in the understanding and confidence that MAIN as the sole trustee, will ensure, by law, that the wishes of al-waqif from all administrative and operational issues, be it from local government requirements, federal government legislation and international prescriptions failure to gain this level of confidence in MAIN are noted till now by the writer to be the root cause of non-implementation of waqf governance in Malaysia. The usual escape route is to go for Endowment. Many entities that started a waqf implementation unit chose the easy way to Endowment as the contention is that ROC in waqf is not helpful and forthcoming with the way forward. We believe that the ROC must have the *istiqomah* to comply with the ROC at MAIN, so that waqf governance is fully operationalized and realized via the team approach, joint task force, monitoring and optimizing procedures.

The third waqf implementation is for MAIN, in cooperation with the waqf entity disputed, to officially appoint the waqf manager who will dutifully follow the terms of reference and the standard operating procedure stipulated. Let the managers manage, and this can be easily carried out by following the following basic rules of management; that is, the right man/woman to do the job, the amount of money needed to move the implementation, and the methodology employed must be shariah-based, the materials that

are needed to ensure success according to the wishes of al-waqif and have a complete management information system in place to ensure monitoring and optimization of implementation protocols.

WAQF AND ENDOWMENT: AN OVERVIEW

The accountable officials in charge are the authorizing body (Majlis Agama Islam Negeri, MAIN in Malaysia), the executive, the judicial, and the legislature (ROC). The ROC must be afraid of Allah SWT. MAIN's role is to guarantee that the declared purposes of al-waqif are properly accomplished and that the principles of waqf strictly adhere. The executive shall ensure the full implementation of the authorized waqf construct so that the waqf is continuously operationalized, giving good returns for disbursement to all, unchallenged by any world authority because the authority comes from Allah SWT and the al-waqif has dutifully returned his/her wealth to Allah SWT while sober and in all honesty. The typical challenges to waqf institutions include the nation-leader, the state's ineptness of all operational institutions, particularly the ROC, and the uneducated people. As a result, the term "charity" cannot refer to waqf. Likewise, the term endowment cannot refer to Waqf.

Waqf is a way for Muslims (the al-waqif) to give money or property in exchange for blessings from Allah SWT. Thus, Allah SWT is the owner of the money and property. As the only trustee, the Majlis Agama Islam Negeri (MAIN) promises to guarantee the execution of the waqf-ed cash and property as specified by the al-waqif in conformity with Islamic Shariah. As a result, the al-waqif is relieved of handling his cash and/or property while living or after death. MAIN can designate an agent (the mutawali) to carry out al-intentions. waqif's A Muslim's money management approach is believed to ensure benefits in this world and the afterlife.

Waqf funds are spent according to the preferences of the al-waqif, and any surplus may be used to benefit the community as a whole. This spending represents al-"return waqif's on investment" in surrendering his cash and/or property to MAIN as the only trustee and not to any other body/agency. MAIN has the same powers as stated in Malaysia's constitution and each state. Monies created by entities other than MAIN are not regarded as waqf in the Malaysian context. Under no circumstances could the Waqf institution be nationalized, as waqf is a religious responsibility of the Muslim man that will be "paid" in full in the hereafter.

IMPLEMENTATION OF WAQF UNDER MALAYSIAN LAW

The Waqf is a spiritual and religious concern and a significant one with implications for economic, political, communal, educational, and social growth. Because the Waqf institution addresses a wide variety of concerns ranging from economic to social aspects of human growth, it may be regarded as one of the most important weapons for enhancing Islam's pride, dignity, and dominance (Chowdurry, 1970). Yet, for a relatively long time, the appropriate authorities in Malaysia have mostly ignored Waqf and its management (Siraj, 2012). Waqf is handled in Malaysia by State Islamic Religious Councils (SIRCs), the exclusive trustees of waqf resources.

In recent years, Malaysia has seen remarkable growth in creating waqf. One of the reasons contributing to this phenomenon is increased public awareness. In addition, Malaysia's religious state agency and waqf centres likewise produce more modern instruments that benefit the general people (Saifuddin, 2014).

Malaysia's Federal Constitution clearly states that the King is the supreme authority in Islam for all governments governed by the King or Sultan. In states within the Federation that do not have a King or Sultan, such as Sabah, Sarawak, Malacca, and Penang, the Yang di Pertuan of the State is the primary authority on Islamic affairs (Wu, 1991). Malaysia's Federal Constitution maintains the administration of Islamic legal concerns. Civil law promulgated at the state level should not clash with the Federal Constitution (Federal Constitution, Article 75). Things related to Islamic Administrative Affairs or Islamic law, on the other hand, are entrusted to the State Government. The

Federal Territory is exempt from this rule. The legislative list, or the capacity to legislate and administer, is specified in Schedule 9, List 2 of the State List. In this case, the various state governments can establish an Islamic council and a religion department. The conclusion is that each state's administration of Islamic religious matters is governed autonomously and is not standardized throughout Malaysia's states regarding the law, management, and implementation.

Islam and the concept of waqf and the regulations on Charitable Trust and Religious Charity, Trustee appointment and corporation for individuals associated with religious grant and Charity, Trust Foundation, Charity, and Charity Foundation are all mentioned in the State List Constitution. On the other hand, Waqf matters are regularly taken to the Civil Court, particularly if the land in question is not registered in the name of the State Religious Council or contains non-Muslims.

According to the Federal Constitution of Malaysia, any concerns concerning waqf are exclusively under the supervision and administration of MAIN under the State List, Ninth Schedule of the Constitution. MAIN's power as the only trustee of waqf land is fully enshrined in each state statute. The council was the only administrator and manager of all waqf land, whether mobile or immovable. It has also been said that MAIN is the only trustee for all waqf land and properties in Malaysia, whether in the form of waqf am, or waqf khas and all nazar am and trusts (Che Zuina et. al, 2015).

Five states, namely Melaka, Negeri Sembilan, Selangor, Perak, and Terengganu, have implemented specialized endowment legislation in their respective State Legislative Assemblies (DUN). The rest of the laws on waqf administration are exclusively found in state Islamic religious administration enactments, except Johor, which has the Wakaf Rules (Johor) 1983. In comparison to current legal rules, specific laws can be a complete and comprehensive legal framework for regulating and administering all activities relating to waqf (Mohd Izzat, 2019).

ADMINISTRATION OF WAQF IN MALAYSIA

Currently, the waqf institution in Malaysia appears to be dysfunctional, owing to a variety of limits and issues and a lack of social knowledge about waqf and its administration. The Malaysian government must overcome these limits, raise waqf knowledge among individuals, and develop a brand-new idea to see the waqf institution prosper worldwide (Farra et al., 2016). According to documents from 2010, there are waqf properties worth more than RM111 billion in Malaysia. However, one of the concerns with waqf land in Malaysia was that more than 70% of it was still granted to mosques, as indicated in the table below:

Table 1: Waqf Land in Malaysia

No	Use of Waqf Land	Size (Acres)	Percentage of total waqf land (%)
1	Mosque	462.6238	75.04
2	Surau	41.01742	6.68
3	Cemeteries	2.5920	0.4
4	Schools	50.5805	8.2
5	Charities/Orphanages	11.3647	1.84
	Total		92.18

Source: Jabatan Waqf, Zakat, dan Haji (JAWHAR) Malaysia

Referring to MAIN (State Islamic Religious Council Malaysia), many waqf lands remain unregistered under MAIN, owing to a lack of community awareness about the waqf land registration procedure. Malaysia is made up of 14 states and is controlled by a King. Following that, each state is subject to the Sultan, to whom the Federal Government grants complete authority to oversee all religious concerns such as zakat, baitulmal, waqf, etc.

The Sultan then delegated authority to each Malaysian state's State Islamic Religious Council (SIRC) to handle all religious concerns (Dahlia Ibrahim & Haslindar Ibrahim, 2013). According to the clause, the MAIN is responsible for the following:

- i. All waqf properties are entirely trusted under the council of the Islamic religion.
- ii. The council is required to retain all paperwork about waqf properties.
- iii. Waqf property ownership must be transferred to the council.
- iv. The council shall use all funds from designated waqf properties for the founder's stated purpose.
- v. The council shall maintain all proceeds from general waqf properties in the general fund or the baitul mal.

Institutions have also established several companies for the management of waqf. UM AWQAF by Universiti Malaya, WAZAN by Universiti Putra Malaysia, PEW (Pusat Endowmen dan Wakaf) by Universiti Tun Hussein Onn, ZAWAIN by Universiti Sains Malaysia, and Bahagian Zakat, Sedekah & Wakaf (ZAWAF) by Universiti Teknologi Mara (UiTM). The payment process is essentially the same: filling out the form and paying by cash or online transfer.

CONCLUSION

In conclusion, we firmly feel that waqf entities following the procedures/protocols mentioned in this brief letter would help the al-waqif, MAIN, and those participating in waqf propagation to get blessings from Allah SWT in this world and the next. As a result, MAIN must be properly reorganized in all states to enhance Malaysia's administration, management, and development of waqf land.

MAINS' job is to guarantee that the professed aims of al-waqif are effectively implemented and that the principles of waqf have been completely adhered to; the administration MUST guarantee that the approved waqf building is eventually implemented such that the waqf is continually operationalized, giving fair returns for disbursement to all, and unchallenged by any global authority since the authority derives from Allah S.W.T. and al-waqif.

The following are the common risks to waqf structures: the nation-leader, the state is, the ineptness of all operating facilities, particularly the ROC, and the uneducated public. As a result, charity and waqf cannot be used interchangeably.

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