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## WAQF DEVELOPMENT IN MAJLIS AGAMA ISLAM WILAYAH PERSEKUTUAN

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### Abstract

Waqf has potential to improve and plays a significant role in social, political, and economic life in the Muslim society in Malaysia. Prior research has claimed that there are many issues and challenges in managing waqf property by State Islamic Religious Council (SIRC). The issues and challenges discovered are legal constraint of Malaysia land administration systems of waqf, the lack of marketability and unproductive of waqf assets, misused of waqf assets, the lack of knowledge and management skills of waqf, the lack of awareness of waqf among muslims and waqf remains in perpetuity and cannot be used as collateral. Based on the issues highlighted, the objective of this study is to determine the current waqf management practices and the techniques be used for successful development of waqf property in Malaysia. To reach this objective, the study focus on SIRC initiatives on waqf project development in Wilayah Persekutuan. The methodology of this study is descriptive and exploratory by nature where the interviews were done in collaboration with the Majlis Agama Islam Wilayah Persekutuan (MAIWP). The finding shows the methods used by MAIWP in developing their waqf property is joint venture. The method used is to achieve the purpose of SIRC.

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*Key-words:- Organizational Management & Administration, Waqf Development, SIRC*

### 1. Introduction

Malaysia has plenty of waqf properties. However, to develop the waqf properties, the State Islamic Religious Council (SIRC) has to play their role effectively. The profit generated from waqf properties can be used for society welfare such as helping the poor and needy, mosques, schools and others. Waqf play an important role to fulfil the need of the Muslim in today world.

Mohd Puad et. al (2014) had highlighted the important of waqf management. First priority is to preserve the property and secondly to maximize the revenues of the beneficiaries. Authors also suggested that the revenues are used for the welfare of the society including social, spiritual and economical objectives, which is distributed among the poor and the needy, mosques, schools, graveyards, orphans, widow, old folk's etc. The list of the beneficiaries is unlimited, as long as the donor determines the need of a group or individual for any Shariah compliant purpose, the donation would be considered valid

Waqf as an Islamic public finance instrument can be seen as a great potential mechanisms that play a significant role in generating a prominent source of financing for the state and for the needs of the Muslim ummah who are complex and growing (Mohd Puad et. al 2014). For an example, Wilayah Persekutuan Islamic Religious Council (MAIWP) had successful develop the waqf land to commercial property known as Bank Islam Tower and generate return RM56.6 million from the project. The return from the project will benefit to the beneficiaries and increase the welfare of the Muslim in the state. Thus, Waqf prove as a powerful mechanism in developing the nation in form of charitable instruments (Mohd Puad et. al 2014).

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In Malaysia, SIRC had given authority to manage the waqf of each state. Unfortunately, most of the SIRC manage the waqf in traditional way and for religious purpose only. In fact, the potential of waqf is not utilizes to the maximum for the benefit of ummah. Thus, it is a great challenge for SIRC to move forward in managing and developing waqf. As such, this study attempts to concentrate on waqf development practice by the SIRC in Malaysia.

### 1.1 Problem Statement

Prior research has claimed that there are many issues and challenges in managing waqf property by SIRC. The issues and challenges in managing waqf property as Mohd Puad et. al (2014) discovered are legal constraint of Malaysia land administration systems of waqf, the lack of marketability and unproductive of waqf assets, misused of waqf assets, the lack of knowledge and management skills of waqf, the lack of awareness of waqf among muslims and waqf remains in perpetuity and cannot be used collateral.

Furthermore, in another study by Ahmad & Muhamed (2011) also highlighted some issues on waqf management by the SIRC. The authors found that an unequal treatment by laws and market power had contributed to the unproductive waqf land in Malaysia. Besides, most of the waqf land is developed in traditional way. Indeed, SIRC is the only trustee or mutawalli for waqf property in every state. They face the lack of skill employees and fund to develop the waqf property. The weakness in waqf planning also contributes to the unproductive waqf property. The authors suggested that unproductive waqf property is contributed by the inefficient of management and the lack of fund. Hence, this study will focus on waqf development practice by Majlis Agama Islam Wilayah Persekutuan (MAIWP).

### 1.2 Research Objectives

The current study aims to provide insights into waqf development practices in Malaysia in the context of waqf property development by SIRC. To achieve the aims, the following research objectives are formulated:

- i. To identify the current waqf development practices in Malaysia.
- ii. To analyse the techniques be used for successful development of waqf property in Malaysia.

## 2. Literature Review

### 2.1 Concept Of Waqf

Bahari (2014) define waqf is an act of charity where a person allocates parts of his assets for the purpose of charitable use. A waqf made will not form part of his estate. The properties will belong to the community and the community will gain the benefit from the assets made into waqf. As explained by Mohd Puad et. al (2014) it is defined as permanent submission by a Muslim of a valuable property to the ownership of Allah swt.

Section 2(1) Waqf Enactment Selangor 1999 (No.7) classifies waqf into general waqf and special waqf. There are three types of waqf:

- i. Religious waqf: referring to waqf for mosques and religious schools.
- ii. Philanthropic waqf: in humanitarian waqf, benefits are allocated to support the society and promote social activities.  
For instance the library, educational centres, health care etc.
- iii. Family waqf: waqf from parents to children and heirs.

On the other hand, Monzer (2007) presented "It has now become evident that the growth and development of Islamic civilisation continues to depend on the growth and development of waqf. The Islamic system of waqf revolutionizes the non-profit sector and its role in social welfare. It creates a permanent, cumulative and ever-increasing capital base and infrastructure for benevolent activities."

The objectives of waqf are the opportunity for the donor to get continuous rewards, fulfil the needs of different beneficiaries, and provide the economic benefits to society and ensuring the perpetuity of the waqf properties.

### 2.3 The Elements Of Waqf

According to fiqh, waqf have five pillars, it is waqif (donor) as a person who endows his property or cash to charitable purpose. Under section 2 of the Waqf Enactment Selangor 1999, waqif is referring to a person who created the waqf. Second is waqf contract (waqfieh), which way in waqif states his/her asset or fund as waqf. Third is mawquf alaih (beneficiaries) as people or areas that are charitable purposes. In other word, those other people or areas enabled to advantage from return of waqf. Fourth, is mawquf (property) that is asset or fund which is endowed as waqf charitable purpose. The last component is

mutawalli (manager) as a person or institution who is assigned as legal custodianship over mawquf. In managing the waqf properties, the Waqf Enactment Selangor 1999 stipulated SIRC as the sole trustee of waqf (section 32) and waqf management committee (section 21) has role as manager and administer of the waqf.

#### 2.4 The Characteristics of Waqf

As refer to Mar Iman & Mohammad (2014), three characteristics that Muslim jurists agree on waqf are irrevocability, perpetuity and inalienability. Irrevocability means the lack of power of the waqif to terminate his donation at any time. To Muslim jurists, the declaration or undertaking by the donor is binding. It means that the ownership of the property is transfer from waqif to the ownership of Allah s.w.t. In Malaysia, the waqf property is registered in the name of SIRC after the waqif donated his waqf. SIRC is solely trustee of waqf property in every state in Malaysia. For instance, section 4 of the Selangor enactment state:

- i. A waqf shall immediately come into effect once all the requirements and conditions of the waqf had been fulfilled, unless it is expressly provided that it shall commence only after the death of the waqif.
- ii. A waqf which has come into effect cannot be sold or transferred by the waqif or be inherited by any person.

This clearly indicates that the waqif don't have power to revoke his waqf declaration after it is made.

Second is perpetuity. Perpetuity means waqf cannot be limited by time. It should remain forever (Mar Iman & Mohammad 2014). The benefit and the usufruct will be used whereas the corpus shall remain intact as described by Bahari (2014). This will ensure continuous contribution from the waqf property towards Muslim society.

The last element is inalienability. It is complementary characteristic of perpetuity that it should be irrevocable. This concept of inalienability is rooted in the hadith reported by Sayidina Umar r.a. highlighting the principle that a dedicated property should not be sold, given as a gift, and inherited (Mar Iman & Mohammad 2014).

#### 2.5 Development Issues of Waqf

The issue of waqf development have been discussed by many parties. The SIRC issue is the SIRC have not been very successful in utilising waqf properties to improve the socio-economic well-being of the society. A large portion of waqf land in Malaysia is said to be undeveloped. It was estimated that less than 30% of the total acreage has been developed into various uses, such as shop houses, rented houses, patrol station, and agriculture (Mar Iman & Mohammad 2014). This issue happen because of the lack of the proper planning, management, funding, staff and others.

In Malaysia, waqf property administration, management, and development lie within the jurisdiction of the SIRC of every state. Therefore, SIRC are responsible as mutawalli in waqf management in their state.

Waqf development requires good waqf managers who are able to manage and develop assets. This requires training of officers in business and project management or outsourcing to another entity. In regard to waqf lands, it is more important to have real estate investment know how as waqf land is a piece of real estate that operates within market conditions and needs to be maintained. We cannot afford to have idle waqf lands that cannot even generate income for its own maintenance, what more to serve the intentions of the waqif. There is also the need for financial know how in order to be able to ensure proper accounting is done for the development of waqf assets (Syed Abdul Kadir 2014).

Eventually, SIRC lack of human resources such as professionals with knowledge on property management, accountancy, developer and contractor in managing waqf. In addition, the lack of waqf fund to develop the waqf property also contributes to the weak management in waqf.

### 3. Research Method

The purpose of this study is to determine waqf development practise in Malaysia. Besides that, the researchers also interested in analyze the techniques be used for successful waqf development by SIRC. In order that, researcher are decided to use descriptive research design.

In this study, the target population is SIRC in Malaysia. The selection of sample is non-probability sampling. Non-probability sampling relies on the personal judgment of the researcher rather than chance to select sample elements. The non-probability sampling that researcher used is convenience sampling. Hence, 1 key people from 1 SIRC are selected for interviewed on waqf development in Malaysia. Next, the interview was conducted with MAIWP for the purpose of this study. The appointment by email and call was set out before interview was conducted. This study is been done in SIRC offices.

The interview questions are developed based on previous journals and researcher scope of study. The questions asked based on SIRC organization structure, waqf management, waqf property development, cash waqf, problems in managing waqf, benefits of waqf projects and suggestion on waqf. This helps the researcher to accomplish the research objectives which is identifying the waqf development practise by SIRC.

### 4. Findings

In managing waqf property, joint venture is an alternative way that SIRC should consider by involving external party especially corporate to collaborate in waqf development. For instance, MAIWP had gone through 2 joint venture project involving waqf land development and cash waqf investment.

Bank Islam Tower is the successful smart partnership in waqf land development in Malaysia by MAIWP. MAIWP had taken the opportunity to develop 1.21 acres of wakaf land located at Jalan Perak, Kuala Lumpur. The project is to develop a 34-storey office tower with 2 basement car parks for Lembaga Tabung Haji (TH). The project is full financing by TH. Further, the TH subsidiary which is TH Properties Group of Company was responsible to develop the land. Indeed, Bank Islam Malaysia Berhad (Bank Islam) agreed and gives commitment to be the main tenant for the project. Bank Islam also agreed to make this building as its headquarters, in line with its status as the pioneer of Islamic banking in Malaysia.

This successful smart partnership is between MAIWP, TH Properties Group Company, TH, and Bank Islam in the development of Bank Islam Tower on waqf land. The project also ensures that the waqf land is beneficial back to the local Muslim community in Wilayah Persekutuan. The benefit from the Bank Islam Tower project is the waqf land is developed to valuable property. Before the project started, the value of the land is RM34 million on 2007. After the project is successful, the value of the land increases to RM151 million within 4 years.

Moreover, the project was use unique financing structure which is 'Build-Operate-Transfer' concept whereas it is built by the developer, then occupy by developer or financier or other main tenant. Then, after agreed time period the property will be transfer to the trustee which is MAIWP. Upon the project completion, the Bank Islam Tower is lease to TH for 25 years. During the leasing period, MAIWP is eligible to received RM56.6 million from TH for their return on the project. After the leasing period end, TH will give back the Bank Islam Tower to the MAIWP as they are a trustee of the waqf property in Wilayah Persekutuan.

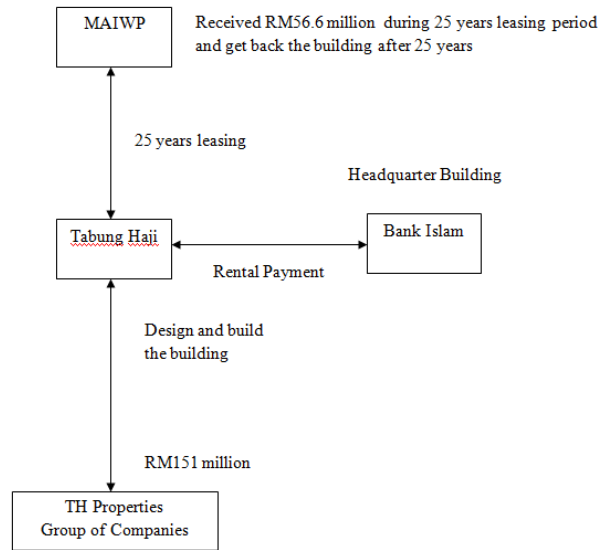


Figure 1 The operation of Bank Islam Tower development

Another joint venture projects is cash waqf investment. The project started in 2014 between MAIWP and Maybank Islamic Berhad (Maybank Islamic). Maybank Islamic had grant RM20 million cash waqf to MAIWP. For this joint venture, MAIWP is a trustee of the cash waqf and Maybank Islamic was appointed as fund manager of the fund. The project theme is to develop three key areas which are education, entrepreneurship and health services. The profit from the cash waqf investment will be use for the following program:

- i. Micro-credit financing
- ii. Education financing
- iii. The construction of educational infrastructure
- iv. The construction of the infrastructure of health services

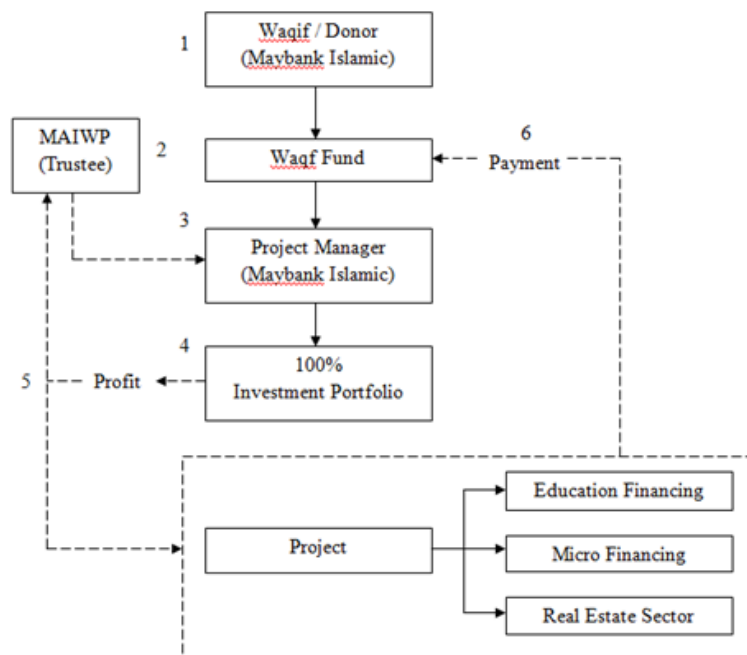


Figure 2 The process of Cash Waqf Investment by Maybank

## 5. Conclusion

From the above discussion on waqf development in Wilayah Persekutuan, the method used by MAIWP in developing their waqf property is joint venture. In Kuala Lumpur, MAIWP has successfully developed the waqf land belong to Ahmad Dowjee Dhadaboy in the golden triangle into Bank Islam Tower. The joint venture is between MAIWP, TH Properties Group Company, TH, and Bank Islam. The benefit of joint venture is the parties would share their resources to develop waqf property. For joint venture in Selangor, Wilayah Persekutuan and Penang, SIRC only provided the land and other resources such as capital, technology, specialised staff, marketing and other, are provided by their joint venture partner. The successful joint venture projects help increase the waqf land value, increase productivity and generate greater profits to SIRC.

To summarize, the different methods offer the variety option of developing waqf property into commercial projects compared to traditional waqf development like mosque, grave, school and others. It facilitates the SIRC to achieve their objective in managing waqf property effectively and efficiently. Furthermore, the methods help SIRC to solve their resource deficiency into more competitive way in utilizing it. The benefits from the waqf projects will return back to the beneficiaries in broader way.

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