

***Wakaf* development:
The case of Iskandar Malaysia¹**

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Wakaf development in Malaysia is actively dominated by government's agency and corporate entities. There are various models contributing towards *wakaf* development in Malaysia. . *Wakaf* has been one of the pre-dominant sources of revenue for the above-mentioned institutions for the ummah at large. As a Malaysian Federal Government Statutory Body, Iskandar Regional Development Authority (IRDA) plays a great role in meeting the vision to develop Iskandar Malaysia (IM) into a sustainable metropolis. *Wakaf* property hence becoming one of the important agenda of development with a big number of *wakaf* asset located in IM itself. This paper highlights a number of factors for the success of *wakaf* development in IM. A critical review on the literature is adopted followed by an analysis based on an open-ended survey and semi-structured interview. Factors contributing towards the development of *Wakaf* in Malaysia particularly in IM are identified for efficient and strategic management that can be adopted in Malaysia and other Muslim countries. The findings indicate that there are seven factors contributing towards the success of *Wakaf* development in Malaysia namely; GIS System that contribute to find the geographical location of *wakaf* asset in IM, effective *wakaf* model that promote creativity and innovation, dynamism of Fatwa, multiple-agencies cooperation and commitment, social support from the society, religiosity of *wakif* and strategic asset location.

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1.0 Background of the Study

Wakaf development in Malaysia started ever since Malaysia was known as Tanah Melayu with the sole power of administration given to State Religious Council (*Majlis Agama Islam Negeri*). Until today the responsibility for administration and management falls under the individual state thus contributing to multiple approaches in managing religious activities in Malaysia (Mohammad & Mar_Iman, 2006; Sabit, 2006). At the same time, the developments of *Wakaf* activities and institutions have increased tremendously in terms of number and knowledge. In recent years, ideas have evolved particularly on the contemporary *wakaf* activities in Malaysia. For example, Johor Corporation (JCorp) has come up with their innovation on corporate *wakaf* (JCorp, 2007). Former Prime Minister of Malaysia, Dato' Seri Abdullah Ahmad Badawi has also suggested the establishment of World *Wakaf* Fund (Tabung *Wakaf* Sedunia) (Mahamood, 2007) and also establishment of *Wakaf* Bond offered under *Wakaf* Enactment (Negeri Sembilan) 2005 (Mahamood, 2007). All these are among new innovations towards modern and contemporary platform for *wakaf* development in Malaysia.

Consecutively, to boost up economic development of Malaysia, the Ninth Malaysia Plan (2006-2010) has identified Iskandar Malaysia (IM) as the focus area for development in the southern region of Peninsular Malaysia and as one of the major catalyst and high-impact development under the plan. IM covers 221,634 hectares (2,217 sq km) of land area which is about 3 times the size of Singapore and 2 times the size of Hong Kong. Iskandar Regional Development Authority (IRDA) is the supervisory body appointed by the Federal Government to oversee and monitor the development activities in the area. As the region consists of five local authorities, namely; City Council of Johor Bahru, Municipal Council of Johor Bahru Tengah, Local Authority of Pasir Gudang, District Council of Kulai, it is the duty of IRDA to facilitate and coordinate with these authorities in designing and developing the area.

Under the Malaysian Plan for IM, a list of *wakaf* lands has been identified in this area. Factually, the *Wakaf* lands in the state of Johor have been identified as the biggest in term of size and some of them are located within the IM area. Those lands which are under the purview of Johor State Religious Council (MAIJ) have significant potentials to participate in the development of the region. The existence of JCorp at the heart of IM which is known for its “Corporate *Wakaf*” gives more significance to the potential of *Wakaf* concept to be applied in IM.

2.0 Problem Statement

Despite the success story of Corporate *Wakaf* by JCorp especially its “*Klinik Wakaf An-Nur*”, the society is still insecure spiritually with the management of *wakaf* in Malaysia. This religious contribution requires certainty and positive reputation on management's part to be one of the pushing factors attracting Muslims to involve in *wakaf* activity. It is seen in IM that positive *wakaf* awareness and knowledge have contributed to advance *wakaf* initiative and pro-active actions has been taken by the management; i.e IRDA. Given the various efforts by the government, particularly MAIJ in *wakaf* management and huge volume of *wakaf* assets in IM, it therefore imperative to study the contributing factors to the success of *Wakaf* development in Malaysia. The participation of *wakaf* institutions in the development

of IM should not be neglected. Hence, with IM as the scope, this study aims to answer the following research question:

- 2.1 What are the factors that contribute towards positive development of *wakaf* in IM?
- 2.2 What are the potential factors that could be further improved to promote *wakaf* awareness in Malaysia particularly in IM?

3.0 Objectives of the Paper

This paper focuses only on *wakaf* development and the contributing factors in IM. The findings suggest further enhancement to the Muslim countries with the similar mental paradigm of the society to foster greater attracting factors to involve in *wakaf* activity. Even though this study is only in IM, it represents part of Muslim ummah thus denotes part of the world. Thus, this paper aims at:

- 3.1 Highlighting the factors contributing towards positive development of *wakaf* in IM.
- 3.2 Promoting some other potential factors that could be further improved to promote *wakaf* awareness in Malaysia particularly in IM.

4.0 Literatures Review

4.1 *Wakaf Development in Malaysia*

Historically, it is presumed that *wakaf* institutions existed in Malaya later known as Malaysia, since the advent of Islam in the country around 1500CE (Mahamood, 2006). The origin and development of *wakaf* in the country can be divided into three different periods; pre-colonial, during colonization and post-independence. At the latter stage, great efforts have been taken by *wakaf* authorities towards developing as well as establishing new types of *wakaf* assets. Continuous support from the government and private agencies also play a key role in enhancing and stimulating this philanthropic institution to achieve its main objective of improving the socio-economic welfare of the people in the country.

Not much information on the development of *wakaf* practice during pre-colonial period of Malaya can be obtained. However, Pahang Laws enacted in 1596CE thought to be the first codified laws pertaining to *Wakaf* in the country (Mahamood, 2006). Besides acknowledging Shafi'i rulings in matters relating to Shariah, the law also recognizes two types of *wakaf* assets; movable and immovable, as well as classifying *wakaf* properties into two main categories; public and special *wakaf*. In term of *wakaf* assets, three mosques, namely; The Kg. Hulu Mosque, Kg Laut Mosque and Sultan Abu Bakar are considered to be among the earliest *wakaf* properties in Malaysia (Mahamood, 2006).

Wakaf institutions continued to survive although Malaysia was colonized for more than four hundred years. This practice became widespread, in particular during British occupation in which the implementation of secular policies by the British forced the Muslims to safeguard their religious rites. Muslims were encouraged to donate their lands for the purpose of building mosques and religious schools. Late 19 centuries had seen the

development of the traditional pondok education² in Peninsula Malaya (Zaki, 2006). Muslims generously dedicated their assets for the establishment of accommodation for teachers and pondok accommodation for students. The trusteeship of *wakaf* assets during this period was placed under various parties, for example penghulus, the qadis, and religious school teachers. As no written documentation was in place, it is difficult to trace the actual number of *wakaf* properties including the ownership of *wakaf* assets that were transferred to the trustee's heirs.

Wakaf developments and activities in the post-independence era of Malaysia have been encouraging. All matters relating to *wakaf* assets are vested under the State Islam Religious Councils (SRIC), in accordance to Ninth Schedule (State List) of Federal Constitution of Malaysia (Ibrahim, 1997). As the sole trustee of *wakaf* properties, SRICs are empowered by law to appoint any individual or committee acting as its representative and also use *wakaf* assets to generate income through yields and rentals. In contrast to past experience, *wakaf* authorities not only develop *wakaf* for establishing religious places but also build shop lots and commercial properties on *wakaf* lands. To overcome the problem of getting enough funds for *wakaf* development projects, various financing mechanisms have been used by *wakaf* managers including hukr, ijaratain, istibdal and sukuk musyarakah (Sabit, 2006). *Wakaf* authorities also introduced the cash *wakaf* concept for fund raising purposes and the proceeds channelled to finance *wakaf* activities. Various types of cash *wakaf* concept such as *wakaf* shares models, takaful *wakaf* model and corporate cash *wakaf* models have been developed by *wakaf* authorities in Malaysia (Mohsin, 2008).

In recent years, various steps have been taken by the government and private companies towards accelerating and stimulating *wakaf* developments in the country. The establishment of the Department of *Wakaf*, Hajj and Umrah in 2004 under the Ministry of Prime Minister Department shows the commitment of Federal Government to consolidate *wakaf* activities at national level (please refer to: www.jawhar.gov.my). Among the main duties of the department are to coordinate, facilitate and enhance SRIC in administrating and developing *wakaf* properties in their respective areas. In 2008, the *Wakaf* Foundation of Malaysia (YWM) was set up to strengthen *wakaf* developments in the country. Currently, the foundation actively promotes its *wakaf* fund projects and cash *wakaf* scheme (please refer to: www.ywm.org.my). Corporate *wakaf* share launched in 2006 by JCorp demonstrates the company's assurance to be one of the leaders in promoting corporate social responsibility via philanthropic *wakaf* practice. Kumpulan *Wakaf* An-Nur, a subsidiary of JCorp has successfully developed a number of clinics known as An-Nur *Wakaf* Clinic in various places and a hospital in Pasir Gudang (please refer to: www.jcorp.com.my). The initiative taken by JCorp can be used as a model for other private companies to actively involve in promoting, establishing and developing *wakaf* properties in Malaysia.

4.2 Factors contributing to *Wakaf* development

Wakaf development in Malaysia particularly has been resulted from various impacts. The factors and impacts include but not limited to management and administration, in-house fatwa management system, new-innovated *wakaf* model, legal issues, geographical issue, and others. There are preceding factors that contributed to the failure of *wakaf* development including some positive factors. In many situations, the deteriorating factors have turned to

² It refers to the traditional system of Islamic teaching where students live in a *pondok* (small hut) which is built around *Tok Guru*'s house (teacher's house) or the place where the Islamic teaching is conducted.

thriving contributions due to efforts and responses to a number of criticism especially to the management of *wakaf* institution in Malaysia.

Wakaf development; in both manners, positive and negative have brought constructive comments and appraisal for future development of this concept and institution. The institution of *wakaf* has shown tremendous contribution in economic development of Muslims particularly in aiming poverty alleviation of the ummah. Since this study focuses on the positive development of *wakaf*, several literatures support the industry in various angles. (Ahmed & Khan, 1997; Ghazali & Salamon, 2006; Hasan & Abdullah, 2008; Manat, 2007; Mar_Iman, 2006; Ramli & Sulaiman, 2006) found that effective administration is one of the important factors contributing towards the efficient *wakaf* development in Kuwait (Ramli & Sulaiman, 2006), India (Ahmed & Khan, 1997) and Malaysia (Ghazali & Salamon, 2006; Hasan & Abdullah, 2008; Manat, 2007; Sabit, Iman, & Omar, 2005). This factor comes in various support systems like the establishment of *Yayasan Wakaf Kebangsaan* (National *Wakaf* Council), resourceful human power, efficient and trustworthy human capital that includes the manager (*nazir*) and administrator, effective IT system like the implementation of GIS Information System by Penang State Religious Council, creative administration by providing special social project support and development centre mainly for utilisation of *wakaf* asset and systematic and fast *wakaf* registration procedures and processes. It is admitted that strong administration and management of any institution could support the entity and bring positive impact to the whole stakeholders especially to the potential *wakif*. In addition, to support the effort in maximising *wakaf* contributing and uplift its administration, Manual for Management of *Wakaf* Land has been issued by Department of *Wakaf*, Zakat and Hajj (JAWHAR). The manual has provided direction and standard guidelines to support professionalism in managing *wakaf* contribution (Hasan & Abdullah, 2008) thus promoting efficiency and confidence among potential *wakif*.

In order to ensure a smooth running of the development and to ensure that the development process is not hindered by any religious issue, fatwa efficiency should be upgraded accordingly. The dynamic of fatwa especially pertaining to economic issue is vital since it is the heart of every future progress of Islamic financial institution including *wakaf* management institution like State Religious Council in Malaysia as supported by (Adnan & Wan_Chik, 2009; Ahmed & Khan, 1997; Hasan & Abdullah, 2008; Ramli & Sulaiman, 2006). In Malaysia, fatwa regulatory bodies consist of National Fatwa Council and the State Fatwa Committee and both complement each other.. The need for economic-based fatwa for *wakaf* is a need for positive development in maintaining wealth accumulation of the Muslim society. In conjunction to the issue, National Fatwa Council of Malaysia has endorsed various *fatwas* to support the system like the list of *fatwas* attached in Appendix 1 (retrieved from <http://www.e-fatwa.gov.my/fatwa-kebangsaan> on September 21st 2011).

To implement the fatwa, *wakaf* model also should represent the ideas accordingly (Adnan & Wan_Chik, 2009; Hanefah et al., 2010; Hasan & Abdullah, 2008; Hidayat, 2010; Ramli & Sulaiman, 2006). The importance of innovative and diversified *wakaf* model could contribute to the x-factor attracting Muslims to be involved in *wakaf* activity. *Wakaf* in traditional form is understood to be within property-based contribution or particularly real-estate *wakaf*. Thus, it restricts this religious activity to only wealthy and well-off individual. With the current model of *wakaf* such as corporate *wakaf* in the form of shares and cash *wakaf* in the form of donation, the rooms for low and middle -income Muslim to participate in *wakaf* activity is wider.. Thus, both fatwa and model should run hand-in -hand to minimise the gap for *wakaf* participation between rich and middle-class Muslims.

Regulatory bodies play essential role in sustaining and ensuring harmony between all parties involved in wealth transfer process including *wakaf* submission. It is hence utmost important to have a black and white dealings in ensuring rights of all parties are fulfilled and to avoid future legal disputes. With that regards, (Adnan & Wan_Chik, 2009; Ghazali & Salamon, 2006; Hasan & Abdullah, 2008; Manat, 2007) see the importance of standardised *wakaf* enactment to encourage such matter. The current available enactments are based on different state's religious council justification and moreover land and estate issue fall under the jurisdiction of state. Thus, it is necessary for *wakaf* development to be more efficient and promising to provide a standadised enactment for the benefit of all Muslims in Malaysia.

The above mentioned internal pushing factors lie within the manager of *wakaf* contribution and its institution. Without such commitment, *wakaf* institution might face failure and lessen societal confidence to religious institution as a whole. It is important to maintain such positive reputation to promote Islam as a way of life and the first-class administration is part of it. Likewise, external factor also contributes to the said reputation. Society as one of the stakeholders also play important role in bringing *wakaf* administration to the aiming level. (Ghazali & Salamon, 2006) stress on the importance of public participation in the planning and development process of *wakaf* contribution. They play important roles as they are the main customer or contributor of *wakaf* thus promoting *wakaf* awareness and understanding is vital to them. Similarly, (Manat, 2007) also observes that self-awareness and knowledge of the society also support towards the development of *wakaf* institution. Besides society, government and corporate agencies also is part of the system (Hidayat, 2010). The agencies like government-link companies (GLC), private companies, State Office of Land & Mineral, District Council or Local Authorities and other government agencies partly contribute towards the success of *wakaf* development in Malaysia.

5.0 Methodology

5.1 Data Collection

This paper is qualitative in nature. Thus it is based on a case study method through several meetings with the relevant parties. Top managements from the three different government agencies, namely; MAIJ, JCorp and IRDA have been interviewed to provide information on their roles and experiences in managing and monitoring *wakaf* properties. Hence, a semi-structured focus group interview method has been utilised mainly to get andepth information (Mason, 2002) and exact first hand experinece (F.Gubrium & A.Holstein, 2002) of the participants in *wakaf* management and administration in IM. Besides, to support the data, a number of structured questionnaires were distributed to *Wakif* and the heir (*wares*) of *Wakif* to get their views and real experience in dealing with *wakaf* management and processes. These two methods were thus employed to answer the research questions.

Data collection process in the interview was supported by tape-recorder and Microsoft Office one-note recorder besides note-taking process by the interviewers in a series of interviews with the participants. The interview session was conducted in the mother-tongue language of all the participants and the researchers provided clear picture of the research and far from any unambiguous meanings of the data.

5.2 Data Analysis

An analysis was carried out using textual analysis of the transcribed data aiming for data reduction as pointed by (Robson, 1993). A transcription process was done by a research assistant with direct observation by the researcher to get word by word indications; direct propositions and sentences by the interviewees and indirect indications on the proposed themes. By using thematic approach, the raw data were transcribed and read through by the researchers. Since in this study, the researchers themselves are the interviewers and data collectors, the process of familiarisation needs minimal efforts. As (Strauss & Corbin, 1998) describe data analysis is the interplay between researchers and data, during interview session the data were reviewed accordingly and continuously by the researchers and all the unclear statements were reconfirmed with the participants.

In the stage of thematic analysis, a few themes in relation to factors contributing towards positive development of *wakaf* in IM have been identified and listed. The set of themes following the already developed literature review and newly develop themes have been found and are considered as contribution of this study. A list of final theme as drawn by the processes will be discussed further in the finding and discussion sections.

6.0 Finding and Discussion

Drawn from the series of semi-structured interview sessions and structured questionnaires to selected participants, several themes were found to be contributing factors to *wakaf* development in IM. The list of themes is shown in Table 1:

Table 1: Factors contributing towards *wakaf* development in Iskandar Malaysia (IM)

NO	FACTOR	THEME	RESPONDENTS			
			MAIJ	IRDA	J-CORP	WAKIF / HEIRS OF WARIS
1	GIS; IT System that contribute to find the geographical location of <i>wakaf</i> asset in IM	Management	⊕	⊕		
2	Effective <i>wakaf</i> model that promote creativity and innovation.	Model		⊕	⊕	
3	Dynamism of Fatwa	Fatwa	⊕		⊕	
4	Multiple-agencies cooperation and commitment	Stakeholders	⊕	⊕		⊕
5	Social support from the society	Society			⊕	⊕
6	Religiosity of <i>wakif</i>	<i>Wakif</i>				⊕
7	Strategic asset location	Geography			⊕	

Source: Researchers' data

Geographic Information System or well known as GIS is a system developed by IT Group of IRDA in collaboration with the Department of Town and Country Planning of Johor and MAIJ. The system which is a result from a few visits and sessions by the researchers and the participants has contributed to the development of this system that ease the process of searching and locating *wakaf* lands in IM. The only limitation of the system is its inability to determine the specific purpose or function of *wakaf* estate. Future study is suggested to prolong the process and contribute to this innovation. It should be noted that GIS is not a new system. It is a system designed to capture, store, manipulate, analyze, manage, and present all types of geographically referenced data (Foote & Lynch, 1995). Foote and Lynch further added that “*GIS are used extensively in government, business, and research for a wide range of applications including environmental resource analysis, landuse planning, locational analysis, tax appraisal, utility and infrastructure planning, real estate analysis, marketing and demographic analysis, habitat studies, and archaeological analysis*”. Thus, its multiple-functions have attracted Muslim geographers and IT experts to adopt it in *wakaf* management. The system thus helps *wakaf* institution to develop a comprehensive database of *wakaf* asset in such places. In Penang for instance, the system adapted by Science University of Malaysia (USM) with the Department of Town and Country Planning has supplied volumes of data to promote effective management and planning (Hasan & Abdullah, 2008).

Effective *wakaf* model is the sole power of *wakaf* development in Malaysia. Since *wakaf* is a traditional form of contribution and has been practised since the early period of the Prophet Muhammad (pbuh), new innovative model besides the original one have been promoted in IM. The model of corporate *wakaf* which was the first in Malaysia through shares by JCorp has attracted a number of thinkers to be more creative in *wakaf* activity. Besides, cash *wakaf* also has been introduced by MAIJ to inculcate *wakaf* awareness among middle class society and encourage more Muslims to be part of *wakaf*. The need for innovative *wakaf* model has been supported by previous literatures on various *wakaf* models (Adnan & Wan_Chik, 2009; Hanefah et al., 2010; Hasan & Abdullah, 2008; Hidayat, 2010; Ramli & Sulaiman, 2006).

Fatwa innovation carries high credence to the movement of *wakaf* development. Without newly innovated fatwa, the progress might be interrupted. Since fatwa is the heart of the system, its dynamism supports the *wakaf* institution and the *wakaf* may have various alternative of means in dealing with *wakaf* contribution. Johor State Fatwa plays a vital role in managing this matter. A contemporary economic-based *ijtihad* is a requirement in order for the ummah's economic power to rise within the Shariah injunction. The experience of JCorp for instance has brought the corporation to a reputable stage in *wakaf* management. A brave and diligent *ijtihad* of the preceding Mufti Dato' Nooh Gadut with his jurisdiction as advisor of JCorp has shown a positive impact to the society particularly Muslim society. Resulted from that innovation, three subsidiaries of JCorp have been contributed as *wakaf* to MAIJ namely Kulim (Malaysia) Berhad (4.68 % equity shares), KPJ Healthcare Berhad (4.32 % equity shares) and Johor Land Berhad (3.57 % equity shares) (Shahroni, Noh, & Sukor, 2006). It is important to note that fatwa innovation by National Fatwa Council of Malaysia on *wakaf* has been endorsed as early as April 1982 on waqf share and waqf ibdal (Please refer to Appendix 1). This commitment shows that *wakaf* fatwa innovation is the heart of *wakaf* development and fatwa dynamism is thus obligatory for the continuity of this socio-economic contribution.

The success of *wakaf* development does not stand by itself. Multiple-agencies cooperation and commitment are required since *wakaf* is a matter of integrated-based institution. Various agencies particularly government agencies are involved in dealing with *wakaf* management. For instance, real estate *wakaf* requires commitment from State Office of Land & Mineral and District Council or Local Authorities for land registration process and development process. Corporate *wakaf* for example need corporate participation and contribution like the Government-Link Companies (GLC) and private companies like JCorp as supported by (Hidayat, 2010). Cash *wakaf* simultaneously requires public support and awareness so the institution can manage the fund and develop the society accordingly. The collection of contribution which will return back to the society awards huge development impact rather than small contribution to individual person. For instance, cash *wakaf* collection (known as share *wakaf*) initiated by MAIJ has successfully provided student hostel in Al-Azhar Universiti, Mesir which was officiated on 17 April 2010.

Iskandar Malaysia (IM) which is located mostly in Johor Bharu and main districts of Johor has a high asset value. Thus, the location of estate *wakaf* in IM also is in a strategic location and most of the *wakaf* lands are located in residential areas. The total acreage of *wakaf* land in IM is 55.19 hectar which contributes to 2.5% of the total land in IM. The following Table 2 shows the total acreage of *wakaf* land in Johor itself where IM covers most of the important districts including Johor Bharu (33.90 acre), Pasir Gudang (63.21 acre), Johor Bharu Tengah (30.13 acre) and Kulai (9.14 acre).

Table 2: *Wakaf* Site Area in the State of Johor (as reported until May 11, 2010)

DISTRICT	TOTAL LAND IN ACRE
Batu Pahat	777.4063
Johor Bahru	972.7386
Kluang	446.6064
Kota Tinggi	750.4789
Kulaijaya	137.4657
Ledang	265.4826
Mersing	4510.256
Muar	376.61
Pontian	430.1158
Segamat	524.4619
TOTAL	9191.6222

Source: Johor State Religious Council (MAIJ), 2010

Thus, the easy approached and accessible land facilitates the development process and the usage of land is not limited to conventional purposes like mosque, praying area (*Musolla*), religious school and cemetery, but also can be extended to other purposes like business centre, multi-purpose hall, rental houses or condominiums and others.

Wakif is the main source of contribution. The motivation pushing them to be involved in *wakaf* might be due to different intentions. This study found that religiosity of *wakif* plays an important part driving the *wakif* to give their asset for a holy purpose. It should be

understood that *wakaf* contribution is valid and binded upon parties, the wakif and the manager, thus transfer of right over the property is executed. The willingness of wakif to share his asset for the benefit of the ummah is indescribable in words. The inner motive that the researchers look at as a religiosity factor is a spiritual-based drive that resulted from inner understanding and commitment towards one's religion and belief. Religiosity as important factor driving towards any religious-based activity is also proven significantly positive to many other religious monetary commitments like zakat, donation and gift as supported by (Abu_Bakar & Abdul_Rashid, 2010; Muda, Marzuki, & Shahrudin, 2005). Thus, this study concludes that the basic factor promoting towards *wakaf* development via wakif contribution is their religiosity level that comes from their inner sight based on their understanding and awareness towards Islam.

7.0 Conclusion

Human life is temporary. The eternal life lies in the hand of Allah SWT and to ensure success life in the hereafter is via continuous contribution (one of them). Thus, *wakaf* participation is a guarantee if it is done wholeheartedly for the sake of Allah. To promote the agenda, a promising *wakaf* development should be proven, revealed and promoted by the managers; *wakaf* institution. This humble study is an effort to highlight the factors contributing towards positive development of *wakaf* particularly in IM. The result can also be associated to other places in the world that, seven main factors discussed earlier contribute towards the success of *Wakaf* development. With regards to the objective of this paper, religiosity factor is found to be a new potential factor that has not been discussed by any paper so far. The physical development is seemed to be more important in attracting people to be involved in *wakaf* contribution rather than the spiritual drive. Thus, this study promotes the religiosity factor as one of the important reasons attracting Muslims to be part of *wakaf* institution. A small contribution with purely sincere heart with *iman* makes the practice blessed by Allah and it is the main intention in *wakaf* development.

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Appendix 1

Bahagian Pengurusan Fatwa
Jabatan Kemajuan Islam Malaysia
Aras 5, Blok D7, Kompleks D,
Pusat Pentadbiran Kerajaan Persekutuan,
W.P Putrajaya
No. Tel : 03-8886 4000
Email : musykil@islam.gov.my

List of the Ruling on Waqf by National Fatwa Council

1. Waqf Shares and Exchange Waqf (Waqf Ibdal)

Decision:

The 4th Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia held on 13th -14th April 1982 has discussed the waqf share and waqf ibdal. The Committee decided that:

1. Issuing waqf shares through business companies by selling shares, and then donating them for the purpose to develop the waqf properties is permissible. However the activities must fulfill the waqf terms and conditions.
2. Exchange waqf (waqf ibdal) means exchanging the waqf properties with other properties through buying, selling or other means, and this is permitted in order to preserve the waqf. This is permissible according to the opinion of Imam Abu Hanifah

2. Measures to Develop MAIN (State Islamic Councils of Religious) Waqf Land From the Perspective of Shariah

Decision:

The 41st Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia held on 3rd-4th November 1996 has discussed the measures to develop MAIN waqf land from the perspective of Shariah. The Committee has decided that waqf istibdal (waqf exchanges) and waqf share are very good measures and they must be practiced today. This is due to the fact that there are plenty of waqf properties left undeveloped causing difficulties for the authority. The time has come to amend and improve the management of waqf. The practice is not limited to the Shafii Mazhab. The Hanafi mazhab or any other suitable views can be chosen, depending on the situation and time.

Other than those to be practiced must be with care and more ihtiyat, i.e. not accepted

arbitrarily. In addition, in order to establish waqf or develop waqf property, it is advised that such property is managed under waqf share. If waqf share cannot be practiced because of several reasons, istibdal waqf (exchange waqf) can be practiced according to certain requirements and it should be managed properly.

3. The Ruling on the Transfer of Part of Waqf Land to the Authority.

Decision:

The 46th Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia held on 22nd April 1999 has discussed the ruling on the transfer of part of waqf land to the authority. The Committee has decided that:

1. Ownership of Waqf land cannot be transferred except there is an urgent need (darura) that requires , based on certain conditions.
 2. As for waqf land transferred to the government, the respective party must pay compensation according to the current value of the land or replace it with other land that has similar or better value
 3. The to-be-developed waqf land should be excluded from the requirements of land transferred for the construction of public amenities such as road, sewerage, electrical substation and others. As such, the public amenities can be built on the waqf land.
 4. For the waqf land specifically meant for mosque, school and alike, the respective authority must allocate specific area as replacement according to current value of the land in order to maintain the status of the waqf. For instance, multi storey building built on waqf land, certain units (according to market value) should be allocated to be made as mosque, school or others to meet the original intention of the endower.
-

4. The Ruling on Waqf of Leasehold Land

Decision:

The 65th Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia held on 13th October 2004 has discussed the ruling on waqf of leasehold land. The Committee has decided that waqf of leasehold land is valid and accepted by Islamic law.

5. The Rulings Regarding the Development of Waqf Land Under the Ninth Malaysia Plan

Decision:

The 77th Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia held on 10th -12th April 2007 has discussed the rulings regarding the development of waqf land under the Ninth Malaysia Plan. The Committee has decided that:

1. The status of the completed building on the waqf land

- i. The completed building on the waqf land is not automatically converted into a waqf property. However, there is no impediment if the JWZH (The Department of Waqf, Zakat and Hajj) intends to make such a building as waqf
- ii. Such a building must be registered as a new waqf property and must fulfil the requirements of waqf and states enactments

2. Development using Ninth Malaysia Plan Waqf Land Development Programme Fund on Baitulmals land owned by MAIN (State Council of Religious Affairs)

- i. Baitul Mal land owned by MAIN and building constructed on the waqf land that utilized the Waqf Land Development Programme Fund can be registered as waqf property.
- ii. In order to make the project comply with Shariah, JWZH has to refer to the requirements of waqf

3. Leasing waqf land to the Federal Land Commissioners

- i. The waqf land can be leased but cannot be sold

4. Selling of lease of shop lot/house/office space that has been developed on the waqf land

- i. The dwelling or shop units developed and constructed on the waqf land may be leased to any individual for a long term period.
- ii. The requirements and the methods must be followed to ensure the project complies with Shariah and the lending agreement.

5. The status of Federal Government in the development of the waqf land

- i. The Federal Government can be regarded as the endower on a condition that the fund provided was meant for waqf
- ii. As the endower, the government has the right to determine the requirements for the waqf property. However, the appointment of nazir (supervisor) is not allowed as it is contradictory to the enactment

6. The Department of Waqf, Zakat, and Hajj (JWZH) as the trustee of the Ninth Malaysia Plan Development of waqf Property Programme

- i. JWZH can be the trustee for Ninth Malaysia Plan waqf land development programme fund via the national waqf entity to be established through an economic joint venture with MAIN on the condition that both parties JWZH and MAIN are in agreement.

7. *Sole trustee of the waqf*

- i. The issue of MAIN as the sole trustee of waqf properties is not a Shariah issue but rather a matter of policy involving administration.

8. *Waqf in the form of money*

- i. Givings Waqf in the form of money is permissible in Islam.

9. *Waiver or tax remittance on land tax on waqf property*

- i. Waqf property should be exempted from tax.

6. *Developing Special Waqf Land Not in Accordance to the Intention of the Endower.*

Decision:

The 80th Muzakarah (Conference) of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia held on 1st -3rd February 2008 has discussed the ruling on developing special land not in accordance to the intention of the endower. The Committee has decided that developing special waqf land especially waqf for mosque where additional construction project, renovation and alike took place in order to ensure such waqf property is maintained is permissible in Islam. Such development is only permitted if it fulfills the needs set by the government and not against Islamic Principles.