Banking Model of Corporate Waqf: An Analysis of Wakaf Selangor Muamalat

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Abstract

Purpose - This study aims to analyse the structure of the corporate waqf model applied in “Wakaf Selangor Muamalat” which has been jointly established by Perbadanan Wakaf Selangor (PWS) and Bank Muamalat Malaysia Berhad (BMMB).

Design/Methodology/Approach - This is an exploratory study primarily focused on the library research and secondary information. Since “Waqf Selangor Muamalat” was only launched on September 27, 2012, the empirical data of this instrument is not yet available for analysis.

Findings – BMMB is the first Malaysian Islamic banking institution which partakes in the accumulating and managing the waqf fund for investment with the State Religious Council. This latest collaboration offers a new dimension of waqf corporate models in Malaysia, specifically as a banking model of corporate waqf.

Originality/value – This is the first study on “Waqf Selangor Muamalat” structure since it was launched. The outcome of this study is expected to provide some insight on the potential waqf models that are applicable within the institutional framework of banking sector.

Keywords Islam, Banking, Waqf, Corporate Waqf

Paper Type Theoretical Research Paper

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1. Introduction

Current development of *waqf* activities in Malaysia is the participation of corporate entities in the development and management of *waqf* properties. Corporate entities’ involvement in *waqf* practice could represent the ethical dimensions of the corporate world. This new concept of corporate *waqf* set the direction of managing *waqf* assets by corporate company, which known for their corporate culture of professionalism, accountability and transparency. A number of corporate figures and corporate bodies have been recognized to actively engage in the practice of *waqf* development and management comprehensively.

The engagement of corporate bodies in *waqf* affairs is imperative considering a number of issues associated with *waqf* authorities, for example, lack of management, mismanagement and accountability. *Waqf* authorities in a number of Muslims and non-Muslim countries have been blamed for underdeveloped and negligent of *waqf* properties. Thus, collaboration between *waqf* agencies with corporate bodies could bring a new dimension of good governance in *waqf* affairs. With the emergence of cash *waqf* concept which requires the prudent and systematic management team, the expertise of personnel from corporate world benefits *waqf* authorities.

The paper starts with a brief discussion on *waqf* concept and the landscape of *waqf* in Malaysia. Then, the explanation on corporate *waqf* will be highlighted.

1.1 Problem Statement

The emergence of movable *waqf* assets, especially cash *waqf* has raised the issues of professionalism, accountability and transparency in the management of these assets. Cash *waqf* involves a number of activities such the accumulation of the fund, the
investment of fund and the distribution of the fund. These kinds of acts are usually executed by high skill and expert personnel in the area of fund management. The elements of professionalism, accountability, and transparency of managing the fund is a common practice in this corporate entity. Thus, the initiative taken by MAIS to collaborate with BMMB; a financial institution is a major step to rejuvenate corporate waqf practice in the country. The new partnership between the two parties could be a catalyst towards the replication of corporate culture of accountability, good governance and transparency into waqf management and administration. The confidence of the public towards waqf authorities will be raised that eventually leads to the increasing number of cash waqf donors.

1.2 Objective

This study aims to:

1. Analyse the managerial structure of “Wakaf Selangor Muamalat”.
2. Discuss the financial and operational framework of “Wakaf Selangor Muamalat”.
3. Deliberate on the Shariah consideration of “Wakaf Selangor Muamalat”.

2. Literature Review

This section shall discuss some of the main literatures of waqf in Islamic jurisprudence and its current development in Malaysia as well as the growth of corporate waqf in practices.
2.1 Waqf Concept

Waqf literally means detention or prevention. In Islamic jurisprudence, waqf is a form of gift in which the corpus is detained, and the usufruct is set free. The meaning of 'detention' of the corpus is its prevention from being inherited, sold, gifted, mortgaged, rented, lent or any type of disposition. As to dedication of the usufruct, it means its devotion to the purpose mentioned by the waqif (endower) without any financial return. Thus, waqf could be technically defined as dedication and donation of a property that can be utilized with the permanent existence of its corpus, without any right of disposition for its original endower or others to a permissible existing party or by chanelling its yields or proceeds to charitable and good purposes for the sake of Allah. The waqf term is also commonly used to denote the endowed property (al-mal al-mawquf) itself.

In general, waqf could be categorized into several categories from three different aspects, i.e. the beneficiaries, the purpose of waqf and the subject matter of waqf. In terms of the beneficiaries, waqf could be either waqf khayri (charitable endowment) or waqf ahli/dhurri (endowment for offspring). In waqf dhurri, the waqf property is only for the benefit of specified relatives, family members and their offspring. In terms of the purpose, waqf could be either waqf am (general waqf) or waqf khass (specific waqf). In terms of the subject matter of waqf, a waqf could be either waqf al-‘aqar (endowment of immoveable asset) or waqf al-manqul (endowment of the moveable assets) (Abdullaah Jalil and Asharaf Mohd. Ramli, 2008). Hanafiyyah does not approve waqf al-manqul with the exception of the moveable asset which is endowed together with the immoveable ones or if there are proofs from the Shariah on the legality of such waqf such as swords and horses or if the practice has been
accepted by *al-ṭurf* (customary practice) such as books and money. *Waqf* should be on the permanent basis (*al-ta’bid*) according to the majority of the Islamic jurists. However, Malikiyyah view that *waqf* could be on the temporary basis (*al-Zuhayli*, 1997). A permanent endowment made by the government for the public interest such as endowment of lands for hospitals or schools is named as *irsad* rather than *waqf*.

There are three main models of *waqf*, i.e. (i) real estate *waqf*, (ii) cash *waqf* and (iii) corporate *waqf* (which has been pioneered by JCorp) (Hajah Mustafa Mohd. Hanefah et al., 2010). In Malaysia, all matters relating to *waqf* assets are vested under the State Islam Religious Councils (SRIC), in accordance to Ninth Schedule (State List) of Federal Constitution of Malaysia (Ahmad Ibrahim, 1997). As the sole trustee of *waqf* properties, SRICs are empowered by law to appoint any individual or committee acting as its representative and also use *waqf* assets to generate income through yields and rentals. The establishment of the Department of *Waqf*, Hajj and Umrah in 2004 under the Ministry of Prime Minister Department shows the commitment of Malaysian Federal Government to consolidate *waqf* activities at the national level. The establishment of Malaysian *Waqf* Foundation (YWM) on 15th September 2008, under the purview of JAWHAR has also signed another milestone in *waqf* development in Malaysia's level.

### 2.2 *Waqf* Development in Malaysia

The transformation of *waqf* development and management in Malaysia for the last few years is encouraging. The Federal Government spearheads the initiative of improving and enhancing *waqf* administration through the establishment of *waqf* agencies at federal level and allocating funds for the development of idle *waqf* assets. The emergence of cash *waqf* concept in a number of Muslim countries has also been
influencing *waqf* authorities in Malaysia to create this type of *waqf* asset. Corporate entities participation into *waqf* affairs; also known as corporate *waqf* is another milestone towards reviving charitable act of *waqf*.

In view of the huge potential of developing sizeable amount of *waqf* assets, The Federal Government of Malaysia takes a huge step of founding two agencies, namely: the Department of *Waqf*, Zakat and Hajj (JAWHAR), and *Waqf* Foundation of Malaysia (YWM. Among the main duties of these two bodies are to coordinate, facilitate and enhance SRIC in administrating and developing *waqf* properties in their respective areas (Hajah Mustafa Mohd. Hanefah et al., 2010). Aiming at stimulating the development of *waqf* assets in the country, the Federal allocated RM200 million in the 9th and 10th Malaysia Plan for developing a number of *waqf* properties (JAWHAR, 2010). JAWHAR and YWM in this respect represent the Federal Government to implement and undertake the projects with the cooperation of SRICs. The detail of the projects is shown below:

**Figure 1: Waqf Projects of MP 9 & 10**

<table>
<thead>
<tr>
<th>State</th>
<th>Projects</th>
<th>Cost (Financing)</th>
<th>Date of Completion</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kedah</td>
<td>Orphanage Hostel,</td>
<td>2.08 mil, RMK-9</td>
<td>30.11.2009</td>
<td>Social</td>
</tr>
<tr>
<td>Selangor</td>
<td>Contruction works of land</td>
<td>160k , RMK-9</td>
<td>16.12.2009</td>
<td>Economic</td>
</tr>
<tr>
<td>Kelantan</td>
<td>Orphanage Hostel</td>
<td>1.5 mil, RMK-9</td>
<td>15.4.2010</td>
<td>Social</td>
</tr>
<tr>
<td>Sarawak</td>
<td>Equipments for Islamic Complex of Kuching</td>
<td>10 mil, RMK-9</td>
<td>31.12.2010</td>
<td>Social/commercial</td>
</tr>
<tr>
<td>Negeri Sembilan</td>
<td>1. Centre for new-convert</td>
<td>4.5 mil, RMK-9</td>
<td>31.12.2010</td>
<td>Social</td>
</tr>
<tr>
<td></td>
<td>2. <em>Wakaf</em> Hotel and Baitul Hidal</td>
<td>18 mil, RMK-10</td>
<td>01.11.2011</td>
<td>Commercial</td>
</tr>
<tr>
<td>Johor</td>
<td>1. Hemodialicys Center</td>
<td>8 mil, RMK-10</td>
<td>7.12.2010</td>
<td>Social</td>
</tr>
<tr>
<td></td>
<td>2. Women Shelter</td>
<td>7.5 mil, RMK-10</td>
<td>31.12.2010</td>
<td>Social</td>
</tr>
<tr>
<td>Pulau Pinang</td>
<td>Maahad al-Mashoor Education Complex</td>
<td>41 mil, RMK-10</td>
<td>31.01.2011</td>
<td>Social</td>
</tr>
<tr>
<td>Perak</td>
<td>1. Shop lot</td>
<td>4.5 mil, RMK-10</td>
<td>31.12.2010</td>
<td>Social/Economy</td>
</tr>
<tr>
<td>Melaka</td>
<td><em>Wakaf</em> Hotel</td>
<td>25.6 mil, RMK-10</td>
<td>25.08.2011</td>
<td>Economy</td>
</tr>
</tbody>
</table>

Source: JAWHAR
As depicted in the Table 1, the traditional way of developing waqf assets for the purpose of constructing religious buildings, for example, mosque is no longer applicable. Waqf assets are mainly developed for social and commercial purposes. Given the potential of generating income from waqf assets, the construction of commercial properties that later contribute its proceeds of waqf fund is appreciated. However, proper financial report must be in place to show the accountability and transparency of any transaction occurred and also to prevent mismanagement and embezzlement of waqf funds.

The emergence of movable waqf assets, particularly in the form of shares of the company and cash money implemented in a number of Muslim countries is also affecting waqf practice in Malaysia (Magda Ismail Abdel Mohsin, 2009). In 2006, Johor Corporation (JCorp) pioneered the participation of corporate entity in the administration waqf affairs by pledging the shares of its own company with the total amount of RM200 mil as waqf (Borham, 2011; Hajah Mustafa Mohd. Hanefah et al., 2009). This corporate waqf concept WANCORP; a subsidiary of JCorp is appointed as the trustee responsible to manage waqf fund and channel the proceeds to the beneficiaries.

In recent year’s strategic partnerships between waqf authorities and corporate bodies and figures have been executed to develop waqf properties. For example, Tabung Haji (TH) and Majlis Agama Islam Wilayah Persekutuan agreed to collaborate in developing and managing Menara Bank Islam located in Jalan Perak, Kuala Lumpur. According to the agreement, TH financed the cost of construction and upon the completion, its subsidiary TH Properties manages the assets. Since its completion, the property is leased to Bank Islam and called Menara Bank Islam. Uda Holdings and
Majlis Agama Islam Pulau Pinang (MAINPP) have been joint ventured to develop a parcel of waqf land known as Setee Aishah. This arrangement contributes to the development of the asset, and a number of shop lots allocated to Majlis become a new source for waqf fund.

The establishment of Corporate Waqf in 2006 by Johor Corporation (JCorp) has transformed waqf practice in Malaysia. For the first-time waqf assets in the form of shares of company was issued and managed by corporate body. According to its founder; Tan Sri Muhammad Ali Hashim, the idea of creating corporate waqf derives from the notion of jihad business pioneered by himself with the main agenda is to improve socio-economy wellbeing of Malay society in the country (Muhammad Ali Hashim, 2012). Hajah Mustafa et.al (2009) and Abdul Shakur (2011) explains in detail the structure of corporate waqf which started with the pledged of share's amount RM200million as waqf to WANCORP; a subsidiary of JCorp as a nazir (trustee). WANCORP manages and distributes waqf proceeds to the beneficiaries as stated in waqf deed.

Perhaps, Koc Holdings in turkey is the first corporate bodies involved in the establishment and administration of waqf properties as early as 1967 (Cizakca, 2011b). Koc Holdings endowed 10, 000 shares of the company and entrusted to Koc Foundation as a trustee (nazir). Most of waqf fund managed by Koc Foundation channels towards the establishment education institutions, for example, Koc University. It is clear from the above explanation that the distinction of waqf management between Koc Holdings and JCorp lies in the trusteeship of waqf assets. While WANCORP a business entity responsible to manage waqf assets, Koc
Holdings established their Koc Foundation for administrating and managing *waqf* properties.

Realising the huge potential of mobilising cash *waqf* for the improvement of socio-economic of Muslim society has inspired Islami Bank Bangladesh Limited (IBBL) to establish the cash *waqf* certificate in 1997 (Mannan, 1999; Ramli and Sulaiman, 2006). Cash *waqf* certificate is created to accumulate *waqf* fund and channels the proceeds for the betterment of underprivileged Muslims. IBBL in this respect has become a pioneer in the establishment and management of cash *waqf* instrument at the global stage.

The above discussion shows that corporate entities in a number of Muslim countries such as Malaysia, Turkey and Bangladesh have played a major role in the development and management of *waqf* properties. It is worth to note that these institutions focus on developing movable *waqf* assets, in particular, shares and cash. Given the current state of underprivileged of Muslims in most Muslims countries, the participation of more corporate bodies in *waqf* activities could enhance and provide better living standard for them.

### 3. Analysis of Wakaf Selangor Muamalat

*Waqf* Selangor Muamalat is the first milestone of corporate *waqf* in Malaysia concerning the cooperation between a state-owned *waqf* management institution and an Islamic commercial bank i.e. Perbadanan Wakaf Selangor Berhad (PWS) and Bank Muamalat Malaysia Berhad (BMMB). Thus, such cooperation between these strategic partners in developing *waqf* through corporate *waqf* strategy is worth for study. The following section shall analyse Wakaf Selangor Muamalat from several
main aspects such as management, financial framework, and Shariah consideration (takyif fiqhi).

3.1 Management Structure

PWS and BMMB have established a joint committee to manage the operation of Wakaf Selangor Muamalat which is known as “Jawatankuasa Pengurusan Bersama (JPB)” or Joint Management Committee. JPB consists of:

- Supervisory committee form MAIS
- A chairman
- A secretary and
- A joint secretariat which consists of six members where three of them come from BMMB and another three are from PWS.

JPB is responsible in channelling the waqf fund to the agreed waqf projects, helping the needy beneficiaries for the educational and health purposes, and reinvest the proceeds of waqf fund and et cetera.

Figure 2: Management Structure of JPB
3.2 Financial and Operational Framework

In this section, the authors shall analyse the financial and operational framework of Wakaf Selangor Muamalat. The framework could be illustrated in the figure below.

Figure 3: Financial and Operational Framework of Wakaf Selangor Muamalat
The *waqf* fund is obtained through the Bank Muamalat banking services from the individuals and institutions. The minimum contribution is RM10 by individuals and RM100 by institutions and there is no maximum amount for contribution by both. The *waqf* fund aims to accumulate a sum of RM50 million in three years’ time and Bank Muamalat itself has endowed RM1 million into the fund and its staff has contributed RM74,040 at the launching ceremony of Wakaf Muamalat-Selangor (xxxx). The fund will be managed and channelled by JPB to three main sections. The sections are:

1. Education, such as infrastructure construction, equipment and etc.
2. Healthcare, such as dialysis machine and equipment, research and treatment.

Muamalat Invest Sdn. Bhd. - a fund management company - will invest the allocated fund professionally in Shariah compliant instruments to generate return. 25% of the return will then be distributed to the PWS and 75% of them will be channelled back to JPS for redistribution in areas deemed appropriate by them. The two main sectors aimed as beneficiaries of Wakaf Selangor Muamalat are healthcare and education for the needy people, both Muslim and non-Muslim. These two sectors have been the major area of *waqf* distribution in the history of Islamic countries. Murat Cizakca (2011a) believes that *waqf* distribution to the public will eventually help to mitigate the cost of living and government spending.
3.3 Shariah Consideration of Wakaf Selangor Muamalat

In this section, the authors attempt to rationalize the Shariah framework of Wakaf Selangor Muamalat based on the modus operandi of the program as in the below figure:

![Figure 4: Shariah Consideration of Wakaf Selangor Muamalat](image)

Wakaf Selangor is a form of cash *waqf* managed by a joint committee consisting representatives from corporate body and state authorities. Thus, it could be considered as corporate *waqf* since it is established and managed by corporate institutions of BMMB and its investment arm, Muamalat Invest Sdn. Bhd. The waqif could be institutions and individuals. JPB is assigned as *nazir/mutawalli* of the fund and responsible directly in managing the fund and channelling the fund’s proceeds to the beneficiaries. MISD is appointed based on *wakalah bi al-istithmar* (agency for investment) contract. However, it is unclear whether MISD charges fee on the investment of the fund or not. Since the purpose of *waqf* is for healthcare and education purposes, it is clear that Wakaf Selangor Muamalat is a form of *waqf khairi*
(charitable waqf) and not a waqf dhurri. The main beneficiaries are the needy people in these two areas: (i) healthcare and (ii) education. The third beneficiary is PWS. However, PWS is only entitled to receive 25% of the waqf investment’s proceeds and the rest of 75% will be returned back to JPB for determined activities later. Thus, in term of beneficiaries, it observed that the main beneficiaries are general (‘amm) in nature where no individuals are specified. However, the scope of beneficiaries is restricted by its purposes. Nevertheless, PWS is also specified as an entity (khass) who will receive 25% of the waqf fund’s proceeds from the investment. Thus, beneficiaries of waqf are the combination between general and specific beneficiaries. The waqf fund is perpetual in nature. The Shariah consideration of Wakaf Selangor Muamalat could be summarized in the following table:

<table>
<thead>
<tr>
<th>No.</th>
<th>Aspect</th>
<th>Shariah Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Subject Matter of Waqf</td>
<td>Cash</td>
</tr>
<tr>
<td>2</td>
<td>Purpose of Waqf</td>
<td>Khairi (Charity)</td>
</tr>
<tr>
<td>3</td>
<td>Beneficiaries of Waqf</td>
<td>‘Amm (General) and Khass (Specific): Needy party in the areas of healthcare and education and PWS</td>
</tr>
<tr>
<td>4</td>
<td>Waqif</td>
<td>Individuals and Institutions</td>
</tr>
<tr>
<td>5</td>
<td>Nazir/ Mutawalli</td>
<td>JPB</td>
</tr>
<tr>
<td>6</td>
<td>Management</td>
<td>Corporate</td>
</tr>
<tr>
<td>7</td>
<td>Investment contract</td>
<td>Wakalah bi al-istithmar</td>
</tr>
<tr>
<td>8</td>
<td>Timing</td>
<td>Perpetual</td>
</tr>
</tbody>
</table>

4. Conclusion

Wakaf Selangor Muamalat could be considered as a corporate waqf model that occupies the participation of the corporate entity in its management and decision making. Both BMMB and MIST have been appointed as the bank and the fund management company accordingly in accumulating and investing the waqf fund. Wakaf Selangor Muamalat is a form of waqf khairi in term of its purposes, a form of
corporate *waqf* in term of its management structure, and a combination between general (*'amm*) and specific (*khass*) in term of its beneficiaries. The beneficiaries of the *waqf* fund could be further divided into direct and indirect beneficiaries. The needy public in the area of healthcare and education are the direct beneficiaries while PWS is the indirect beneficiaries of the *waqf* fund.

5. Bibliography


