



Firasat Newsletter

Dear Clients and Friends,

First and foremost, Happy Wesak Day to our Buddhist clients and friends. For this month's segment, our associate Hafizah will deliberate in detail on the concept of Waqf locally and globally and the various advantages in this underutilised sector of our economy. The firm has also been fortunate in working with several institutions in developing this venture. We hope you will find this article useful and appreciate any feedback for us to innovate more Waqf structures.

At MRCO, we would also like to welcome new additions to the firm. Rasyimah, Nazwan and Humaira have joined us as secretary and associates respectively. We also have a new pupil, Norafiqah who joined us this month.

As the month of Ramadan is nearing, I would also like to take the opportunity to wish our Muslim clients and friends, Ramadhan Al Kareem and may the holy month provide us with the opportunity to seek more blessings from Allah swt.

Yours truly,
Mohamed Ridza
Managing Partner
Mohamed Ridza & Co
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WAQF 101

The word 'waqf' is derived from the Arabic language which means confinement, hold or prohibition. Waqf is a very unique instrument of charity whereby the assets will be maintained while the benefits will be enjoyed by the community, irrespective of religion. Waqf is a charitable deed that is highly encouraged in Islam, wherein wealth or possession is endowed by the donator who desires to attain nearness to Allah s.w.t, for the usage or benefit of the general community. A lot of Muslims are interested in giving waqf due to the fact that the donor will still receive the rewards so long as the waqf is being utilised by the community. Prophet Muhammad s.a.w had in one of the famous hadith stated, "When man dies, his deeds cease to continue except for three things: Continuous charity, beneficial knowledge, and pious son who supplicates Allah for him".

It was said that the first waqf was endowed by Prophet Muhammad s.a.w in Madinah by the establishment of Mosque of Quba'. There is no reference to waqf in the Holy Quran but there are abundant of references to waqf in Hadith. It was contended that waqf had existed since the time of Saidina Umar r.a i.e. around 586 AD – 644 AD when Saidina Umar met Prophet Muhammad s.a.w to inquire about the land which he had obtained. Umar r.a asked the Prophet, "O Messenger of Allah, I got some land in Khaibar better than any property I ever owned. What do you suggest that I do with it?" The Prophet (SAW) said, "If you like, you can give the land as waqf and give its fruits in charity." [i]

The development and management of waqf properties had improved tremendously over the years. In Singapore, a large number of waqf properties are administered by Majlis Ugama Islam Singapura ("MUIS"). In 2006, MUIS had issued a Sukuk based on the concept of musyarakah. The Sukuk was issued in two tranches. In the second tranche, MUIS had decided to rais the fund of \$35 million for the development of a waqf property at the Bencoleen Street owned by an Arab merchant named Shaikh Ali Bin Omar Aljunied. In this Sukuk, the waqf institution, the baitulmal and the Warees (a wholly-owned subsidiary of MUIS) had created a joint venture where the waqf

institution will contribute the land, the baitulmal will provide \$35 million from investors and the Warees will provide a nominal amount together with their expertise. Subsequently, a leasing agreement was entered between the Special Purpose Vehicle (SPV) incorporated by the parties and Ascott International Pte. Ltd where the latter had agreed to lease the property for a period of 10 years. It is interesting to note this transaction had increased the revenue of MUIS for that year from \$19,000 per annum to \$5.3 million and MUIS was awarded Mohammad Bin Rashid Al Makhtoum Islamic Finance Awards in the category of Regional Continuing Contribution to Islamic Finance in the same year.[ii]

We can also see the development of management of waqf in the United Kingdom, where an institution named as Islamic Relief was established to manage waqf fund that they collect through cash waqf. Islamic Relief sells waqf share for the amount of £890 each. Over the years, Islamic Relief has assisted many projects. For example, Kharan Water Project in Pakistan, Orphan Home's Reconstruction Project in Bosnia, Rehabilitation of Primary Education Infrastructure in Kandahar and Tsunami Response in Indonesia.

In Malaysia, there are a number of successful waqf development. For example, Majlis Agama Islam Wilayah Persekutuan ("MAIWP") had adopted the 'Build, Operate and Transfer' model for the construction of a 34 storey building in Jalan Perak which is now known as Menara Bank Islam. In this waqf transaction which is also known as Ahmad Dawjee's Waqf, MAIWP had entered into an agreement with Lembaga Tabung Haji ("LTH") whereby MAIWP had offered the land waqf by the late Ahmad Dawjee for the construction of the building and LTH will develop the land using its own funds. LTH subsequently assigned the project to one of its subsidiaries, TH Technologies Sdn Bhd. to construct the building based on the principles of Al-Istisna and Al-Wakalah. LTH is given the right to utilize the building and the land for a period of 25 years and pursuant to principle of Ijarah, MAIWP will receive an agreed rental payment for the lease of the land. At the end of the lease period, LTH will hand over the building and the land to MAIWP.

Another example of well-developed waqf land is in Penang wherein Majlis Agama Islam Negeri Pulau Pinang ("MAIPP") had utilised a waqf land by constructing a 21 storey UMNO Tower's building in Georgetown. The building was erected on a waqf

land and the building were subsequently leased back to MAIPP for a period of 99 years. At the end of the lease period, MAIPP will own the building through sale transaction.

Although we do have a number of successful development of waqf properties, creative and innovative solutions should be used to expedite the development of waqf in Malaysia. Recently, the development of waqf activities has been broadened by the introduction of contemporary waqf. In Johor, Johor Corporation had created Waqaf An-Nur Corporation Berhad, a company limited by guarantee which had been established to manage the assets and shares of Johor Corporation Group of Companies endowed for waqf. Johor Corporation also had established Waqaf An-Nur Hospital and chain of Waqaf An-Nur Clinics, Waqaf Dana Niaga, Waqaf Brigade, and Waqaf Community Centres for the benefit of society, especially for the people of Johor. In Selangor, Majlis Agama Islam Selangor through the Selangor Waqf Corporation has taken an active role in facilitating waqf via Saham Wakaf Selangor scheme where the public can purchase unit of shares at a minimum price of RM10 per unit which will then be converted to permanent assets.

The development of waqf activities has also been widened by the introduction of cash waqf, which is recognized as one of the effective waqf instrument in helping the community and to alleviate poverty. In cash waqf, a person can donate a certain amount of money to obtain the cash waqf certificate. The money received will then be utilised by the waqf institution for investment and also to obtain assets which will benefit the society in the long run. For example, Majlis Agama Islam Negeri Selangor had purchased 5 units of shop-houses at Bandar Bukit Puchong by using Cash Waqf Fund for the sum of RM1.05 million and Center for Cyber and Knowledge Community at Wisma MAIS, Shah Alam for the amount of RM350,000.00 for social and commercial purposes.[iii]

The investments made using the funds obtained through the cash waqf certificate can be used for short and long term investment and through this fund, waqf institution can also be a financial provider to offer assistance to small business and medium enterprises ("SMEs"). This is an additional alternative to the banks and financial institutions. In fact, the banks and financial institutions can play an effective role in financing waqf ventures.

Additionally, issuance of sukuk i.e. Islamic bond can also be used as financing of the development of waqf properties. It can provide long term financial support to waqf institutions to develop and utilise existing waqf land. The waqf institution may liquidate its assets through securitization in the form of Islamic securities or asset-backed securities to finance its investment project. Securitization of the investment project is permissible when the waqf institution is ready to be in charge of the project management or jointly in charge with a third party.

In Saudi Arabia, Sukuk al intifa'a was issued in 2000 in Makkah where King Abdul Aziz Waqf ("KAAW") has been appointed as a nazir. Apart from collecting waqf properties from waqf payer, KAAW has the obligation to manage the waqf properties. The most prominent transaction managed by KAAW is the lease of a piece of land at the centre of Makkah to the Binladin Group on a BOT (Build- Operate-Transfer) concession contract for 28 years. Binladin Group has been given the task to build shopping complexes, towers and a hotel for KAAW as a payment. The construction project were later subcontracted by Binladin to Munshaat, a real estate company based in Kuwait to finance the construction, operate it and transfer it back to Binladin after 28 years. Sukuk Al-Intifa'a of US\$ 390 million was issued to finance this project. Munshaat estimates 26% rate of return from this investment.[iv]

Another interesting proposal in relation to waqf is the proposal whereby waqf market should be created as an additional segment in the composition of Islamic finance besides Islamic banking, takaful and Islamic capital market. Waqf is said to be a powerful concept with sound structure, flexible and dynamic mechanism in designing products and services that will benefit in this world and the Hereafter. Waqf market is proposed to be structured the same way as the other Islamic financial market where there should be regulations by the Central Bank and the securities commission together with the Fatwa Council. The return from the waqf market can be utilized in many sectors such as health care, education, poverty elevation and rural development.[v]

There are many innovative ways to improve administration and development of waqf in Malaysia. Over the years, the landscape for development and management of waqf had improved tremendously. However, there are so much potential and opportunities created by waqf which has yet to be discovered. As reiterated earlier, financial

institutions in Malaysia can take proactive steps to explore such opportunities by collaborating with waqf institutions for the development of waqf.

All parties, whether the government, financial institutions, the waqf institutions and even the community should contribute efforts and ideas to improve and enhance the development of waqf locally and globally. We should all work together to invent ideas and initiatives to bring the development of waqf to a better level than the current position.

‘If you keep good relations with your Kith and kin, help the poor and the destitute, serve your guests generously and assist the deserving calamity-afflicted ones, Verily! The Lord Almighty will never disgrace you.’ (Sahih Bukhari)

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- [i] Rakhimberdiev Sokhibdzhon & etc, *Cash Waqf: An Alternative To Economic Development And Poverty Alleviation In Malaysia*;
 - [ii] <http://giem.kantakji.com/article/details/ID/533#.V0PQB2O9hSU>;
 - [iii] <http://www.mais.gov.my>, accessed on 16 May 2016;
 - [iv] Muhamad Kholid & etc, *Waqf through Sukuk Al-Intifa'a : A Proposed Generic Model*;
 - [v] Assoc. Prof. Dr. Ahcene Lahsasna's article dated 15 October 2014.

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