

# Waqf Unit Trust As an Alternate Model to Realize Waqf Sustainability

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**Abstract - With poverty and unemployment is still the paramount concern across the globe, a study on Waqf and capital market integrations is certainly a timely call for sustainable socio-economic development. The aim of this paper is to revisit the literature on the issue of illiquidity of Waqf assets and eradicate the dependency on government provision. To ensure the sustainability of Waqf institutions, financing apparatus primarily designed for Waqf assets are explored. The study proposes a viable integration of Waqf and capital market apparatus of Unit Trust investments based on the Shariah-compliant standards ratified by the Security Commission of Malaysia (SCM) guidelines. The study opts for thematic analysis method of the existing literature on Waqf financing. The finding indicates that there is a need for a novel apparatus such Waqf unit trust instrument through cash Waqf and share Waqf to realizes greater Waqf funds accumulation, investment, and distribution. It is highly advocated that the income of investment be optimally utilized for socio-economic projects. This study realizes as one of the pioneer endeavors to pool Waqf fund via unit trust model as its sources and exhibit management undertakings of the model.**

**Keywords - Cash Waqf; Socio-Economic; Unit Trust; Waqf Management; Malaysia**

## I. INTRODUCTION

Malaysia as the leading international centre for Islamic fund and wealth management has recently launched its Islamic fund and Wealth Management Blueprint earlier this year. This blueprint outlined the

plan and recommendations to counter impediments to growth and innovation for financial development [2]. One of the noteworthy perspectives is seen to be the emphasis on the development of Waqf, an Islamic philanthropy-based vehicle, a public good, and a tool for redistribution of wealth focusing on social development. The Securities Commission of Malaysia (SCM) has viewed the effort to increase the level of sustainable Waqf assets through fund management or capital raising a priority among its 11 recommendations and innovative plans. Indirectly, this initiatives are aligned to the call to mobilize impact finance development towards the sustainable development goals (SDGs) [11]. In this view, this paper attempts to discuss a Waqf related financing vehicle for raising capital and its management.

Over the years, Waqf institutions have reached their peak and stagnation [32]. Waqf sector has demonstrated a prodigious growth and significant role throughout Islamic history. It has supported economic development, which covers aspects including social, political and others that are today financed by the state/government [35]. Over the last fourteen hundred years, Waqf has progressively become a significant institution in the Islamic socio-economic system and has played varied and astonishing roles throughout Islamic civilization ([27]; [17]; [23]; [18]; [34]).

Waqf has attended to the needs of societies. It has provided education, healthcare, national security, commercial activities, agricultural activities, and even industry sector without depending on any government budget or grants [31]. Reference [40] has articulated that at a time, a “person could be born in a house belonging to a Waqf, sleep in the cradle of that Waqf and fill up on its food, receive instruction through Waqf-owned books, become a teacher in a Waqf school, draw a salary financed by Waqf, and be placed in a Waqf provided coffin for burial at his death in a Waqf cemetery”. All these were possible through generous donations by those who had wealth to those they did not. It is this why Waqf institution is admired

for its redistribution features [15]. To sustain Waqf institutions in such a productive state, efforts are needed to be made to keep its existing assets productive, attract new ones, and find innovative ways for getting funds for distribution.

Nonetheless, the recent literature demonstrates that there exist several reasons for the stagnation of current Waqf assets. They include inconsistency among state laws governing Waqf assets [20], lack of prime location of Waqf assets [35], poor management, poor record keeping, and financial constraints ([36]; [37]). Even though some of the issues have been gradually addressed, the inadequate capital reserves of Waqf funds under each State Islamic Religious Council (SIRC) remains an issue that has to be tackled now and in future.

Ample works of literature on Waqf have emerged recently in tandem with the success of Waqf sector as a source of socio-economic financing ([6]; [36]), especially in the last 10 years. These works relate to cash Waqf, Waqf property, Waqf concepts related to poverty alleviation [12], and remedies to the socio-economic ills of the society [8]. All these deal with the funding of Waqf projects, which do not include the investment aspect of cash Waqf or its equivalents.

In an attempt to enrich the literature on Waqf financing and investment, this study is an extension to the efforts of other eminent authors, focusing mainly on a Waqf financing and investment model which is capable of financing Waqf institutions for the benefit of the general community.

The study has divided the need for Waqf assets, the challenges of Waqf institutions in having liquid assets for socioeconomic projects, the effort to develop Waqf financing models, and the proposal for the investment of cash Waqf funds in unit trusts and how such investment can be made.

## II. WAQF AND ITS SOCIOECONOMIC UTILITY

Waqf is a socio-economic development tool for society. Waqf is taken from the Arabic verb of waqafa to stop (al-habs), to hold, to detain (al-man') or to prevent its disposition. It implies the permanent and irrevocable devotion of the whole or a portion of wealth for the purpose of expanding its usufructs to legitimate socio-economic causes or charitable and righteous end with the prime objectives to become closer to Allah ﷻ. The understating of the four pillars of Waqf, comprising the donor (al-waqif), property (al-mawquf), the recipient (al-mawquf alaih), and offer & acceptance (sighah), indicate the extraordinary dedication of Waqf to the socioeconomic development

of a society. They imply the perpetuity, irrevocability, and inalienability [37] of the Waqf asset for the welfare of humankind.

Often when a Waqf asset is endowed for its beneficiaries, it remains Waqf forever. The permanency of Waqf is protected by law by making Waqf assets irrevocable, perpetual, non-transferrable, and non-inheritable. The irrevocability character of Waqf deeds maintains the asset to remain irrevocable after the declaration has been made [14]. At the same time, the inalienability feature of Waqf assets shows that the assets are not subject to any sale, disposition, mortgage, gift, inheritance, attachment or any alienation [14]. Hence it implies that the Waqf property should not decrease, cannot be revoked after validly declared, ownership is not transferable, and perpetual in nature. Nevertheless, legal protection by itself does not guarantee the permanency of Waqf assets. Additional steps are needed to preserve Waqf assets. Therefore, the Waqf institutions are given the capability to sustain themselves by growing their funds both by way of recruiting new or recurrent donors or having income generating properties. The income can be created through the use of Waqf property in any of Shariah compliant transactions, available in the market. The transaction would be profit maximizing, however, its objective would be not to enrich the donors rather it would be used to support the projects that improvise the welfare of society.

In fact, Waqf endeavors are one of the factors serves to ensure the sustainability and stability of human life (human sustainability) to achieve just and equal socioeconomics [28]. Due to that, the Waqf assets deserve the recognition in comparison to other assets obtainable in the market and should not be treated as an inferior class asset in a legal and market perspective so it may generate continuous revenue and self-reliant.

In attaining the sustainability of Waqf institution, the appointment of Mutawalli (trustee) is deemed essential. The Mutawalli or Nazir is the property manager or administrator of Awqaf. He or she shall take responsibility for the asset under his or her care to entail the sustainability of asset and continuously aid its beneficiaries.

Traditionally, Waqf properties are endowed in the form of a mosque, land for Muslim cemeteries, business premises, religious school and etc. Contemporarily, majority of Muslim scholars accept the Waqf endeavors carried out in the form of cash Waqf, share Waqf, Waqf of shares, Takaful Waqf, and Waqf REITs which are more liquefy and align to the current demand.

The income generating Waqf asset need not be bound by its class. An asset, dedicated to social

services as well as for the economic empowerment of a person or a group, maybe income generating. However, the main intention of the donors in this type of Waqf would be to use the income of the asset for a defined objective. These assets are having a financing capability. The asset may be cash or a fixed, or movable property. To be income generating it all depend on the intention and objective of the donor, the manner asset utilized as specified by the donor, and the good management of the Waqf property by its manager (Nazir/Mutawalli). For a non-profit oriented organization such as Waqf, [13] asserts that four fundamental concepts are deemed essential for a non-profit organization, which also known as *4Ms*; *mission, money, marketing* and *management*. On the other hand, for a cooperative, the fifth element would be the *membership*. Certainly, [13] claims that the most essential would be the *money*, otherwise no mission and aim of the organization could be realized and uphold in the market.

Thus, the Nazir or Mutawalli of Waqf asset upholds a vital sense of duty to maximize the benefit or income from the endowed assets. This can be done either by proper maintenance of it or generating high income therefrom. In either case, the beneficiaries of Waqf assets will acquire greater utility. The Nazir will have to choose, from a variety of investment products, one that has greater utility. The limited the number of investment products, the limited would be the choice of Nazir. Hence, the development of many investment products, observing the nature and principle of Waqf, is needed; only then, the Nazir and Mutawalli could choose one that is efficient and more profitable.

### III. WAQF FINANCING APPARATUS

Literally, any Waqf financing endeavors aims to offer wealth distribution to its recipients. Reference [32] opined that it's important to have a clear understanding on the method applied to manage the cash Waqf contribution from the donors so it can optimally reach its beneficiaries which can be in three forms; public Waqf (*Waqf Khairi*), Waqf Khas/family and Waqf Mushtarak (combined Waqf family and public).

Reference [21] enlightened that the direct cash Waqf is an endowment created by founder in cash to be channeled directly for developing any Waqf property, on the other hand, indirect cash Waqf is an endowment in form of cash, but to be invested first, and only the revenue generated to be channeled to the beneficiaries. Figure 1 below depicts a direct cash Waqf modus operandi;

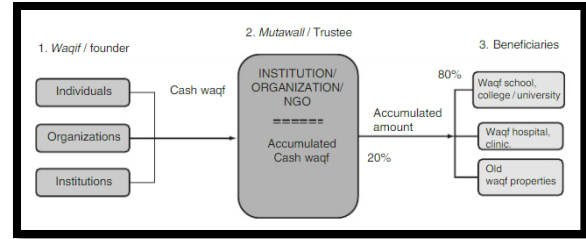


Figure 1. Direct cash Waqf method  
Source: [32]

On the other hand, the indirect cash Waqf works in a manner whereby the *Waqif*/founder create the cash Waqf in order to be invested and the revenue generated to be channeled to the beneficiaries through the management of *Mutawalli*/Trustee. Figure 2 below illustrates the method applied:

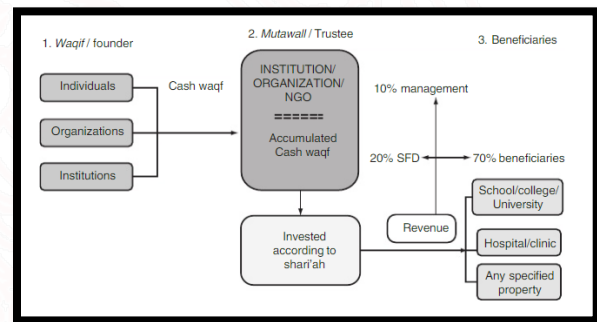


Figure 2. Indirect cash Waqf method  
Source: [32]

Referring to the above cash Waqf structure, Waqf financing endeavor in the capital market best comply for the indirect cash Waqf method. This is to ensure that the appropriate allocation of accumulated cash Waqf is invested in the Shariah investment to generate continuous revenue before reaching the beneficiaries.

Evidently, the selection of investment apparatus suitable for Waqf should consider the following parameters in ensuring the prudent investment of the Waqf assets;

- i. Shariah-compliant; any unethical elements (E.g.: speculation, high uncertainty and gambling activities) or prohibited dealings (such Riba consumption, alcohol, tobacco and pornography industries) in the light of Shariah principle must be discouraged and eliminated.
- ii. Risk preference; investment portfolio entails Waqf assets must not be exposed to high risk which could consequent to decline or loss in the given principle



- asset value. An investment portfolio should be diversified to mitigate the risk.
- iii. Tenure; tenure of the investment should be fitting to the usability of the fund to maintain its liquidity.
  - iv. Debt funds; creation of conventional debt securities portfolio are not advisable and should not be an available option for an Islamic fund manager.
  - v. Equity funds/shares; exclude firms and portfolios that do not adhere to Shariah screening exercise methods such as sector screening, image screening, and financial ratios screening.
  - vi. Hedge funds; most of the derivatives instruments are exposed to high volatility risk.

In line with the rapid and steady growth of the Islamic finance industry in Malaysia, this opportunity should be utilized by Waqf institution to apply creative development strategies and innovative investment that meet the current needs and demands.

#### IV. CHALLENGES TO THE GROWTH OF WAQF ASSETS IN MALAYSIA

Waqf endeavours are common with unsettling events. A number of reasons contribute to the stagnation of Waqf assets such as Waqf in Malaysia is solely governed by State Islamic Religious Councils (SIRC) with Jabatan Agama Wakaf, Zakat dan Haji (JAWHAR) as a coordinator. The practice of Waqf is not new to Malaysian history as it can be traced to the 14<sup>th</sup> century after the embracement of Islam by the Malacca Sultanate [9]. A number of Waqf lands existed since then which were managed by a group of people like Imams, community leaders (*Penghulu, or Ketua Kampung*) and gradually they were transferred to SIRC at each state under the jurisdiction of Sultan [22]. Currently, the supervision of Waqf properties according to [26] has been improved to three-tier Waqf management that consists of Nazir (i.e. SRIC), Mutawalli (i.e. Perbadanan), and Qayyim (i.e.: University). Each of the tiers respectively has its powers and duties as assigned to them under and subsidiary state legislation.

In addition, a number of Waqf assets especially the Waqf lands are found located at the non-strategic location [35]. This somehow weakened the potential of the land to be utilized in generating revenue and further assist the needed beneficiaries. Moreover, to construct any development project on these lands would incur additional cost and budget. Furthermore, [19] assert that poor physical condition

of the Waqf assets and unprofessional record-keeping of the endowed assets leads to prevailing constraints constituted to challenges in the growth and development of Waqf assets.

Waqf institutions thus far have played a significant role as an apparatus to secure the socio-economic equality of wealth distribution comparable to the role of Zakat institution. Hence, the welfare of the needy community is safeguarded by the reliable function of these institutions. This approach is in line with the Islamic teachings of brotherhood and equality in socio-economic welfare. However, their efforts are limited to the funds available to them. To be more effective, they need to attract new funds either by recruiting new and existing donors or generate more income through existing and new investment products.

#### V. LIMITED LIQUIDITY OF WAQF ASSETS

Despite significant efforts of Malaysian Waqf Institutions, Waqf assets and their liquidity are limited. Reference [38] claimed that during the post-colonization period the trustees (managers) of Waqf lost some Waqf properties. These properties were not considered as Waqf due to loss of documents that could be used as evidence of proof of them being Waqf assets. Reference [37] and [7] have highlighted the phenomena of illiquidity and inadequacy of Waqf assets and therefore suggests a search for alternative methods to resolve the issues of idle and undeveloped Waqf assets.

In addition, [3] and [25] opined that Malaysia is struggling to utilize the existing Waqf lands due to little income. This is consistent with [36] who opined that financial limitation is the factor that hinders the Waqf development in Malaysia. In studying the financial agencies reaction, [25] found that financial agencies are hesitant due to their belief that they will not “receive an adequate profit margin compared to the market value rate....” [25]. Further, [16] in relation to Muslims' economic development, highlighted the limited financial resources that in turn limit the growth of Waqf in Malaysia.

Apparently, the Malaysian government is the main source of funding to each SIRC. The Federal Government through the RMK9-10 has allocated a large sum of Money for the development of Waqf sector. In 2012, Bernama reported that under RMK-9 RM256.89 million was allocated for the development of 16 projects and RM72.76 million in RMK-10 for 10 selected projects [10]. Nevertheless, [5] reports that millions of ringgit worth Waqf land are still idle as the SIRC has no adequate funding and expertise to develop it. Reference [22] opined that at least RM 80 billion is needed to develop the entire available Waqf

land in Malaysia. On contrary, this situation is far different from most of minority Muslim countries such as Singapore for instance whose MUIS (Islamic Religious Council of Singapore), as Mutawalli, proactively plan various approaches to develop Waqf property assets to be in line with the current economic development trend in Singapore. In fact, this scenario pushes MUIS to apply various development mechanisms combining the traditional such as *Istibdal*, and *Hukr* (long term rent) with contemporary financial instruments such as *Sukuk Musharakah* for the development of Waqf properties. This combined initiative further enables them to upgrade and unlock the real value of Waqf assets in Singapore which used to be poorly assessed. Ultimately, higher and consistent investment return was able to be generated for the betterment of the Waqf beneficiaries.

The limited liquidity of Waqf sector hinders its asset development agenda ([25]; [29]; [38]). Consequently, other alternatives are seen as essential to explore in order to achieve the growth of Waqf assets. Thus, this study explores the potential of a capital market instrument as a long-term investment vehicle, in order to preserve the sustainability of Waqf as is requisite of Waqf deeds.

## VI. CONTEMPORARY WAQF ASSET FRUITION

After cash Waqf was introduced as an alternate medium for Waqf deeds, [4] and [30] claim that cash Waqf had a great impact on the economic development of Ottoman Empire especially, the loan facility, which catered to the needs of poor households. In fact, [15] and [30] affirm that there was no exact date as a starting point when did cash Waqf been practiced, as there were no records found in the Islamic history at least since the 8th century to 15th.

At present, there is a transformation from the cash Waqf to Waqf shares and then to cash Waqf that has been deliberated by a number of scholars [30]. This is an evolution of Waqf subject that is widely practised in the majority states of Malaysia. Mahamood et al. (2009) opined that the implementation of Waqf share and cash Waqf were certainly significant mainly in making a large pool of funds that can be used for the advancement of Waqf assets. In exploring the ability of cash Waqf as alternate to Riba-based financing, [24] asserts that cash Waqf has the potential and capable of promoting entrepreneurship with interest-free loans from the cash Waqf institutions, making the poor self-reliant and dignified. This paper argues for further evolution by using cash Waqf or Waqf proceeds in a Malaysian capital market product.

The capital market offers a medium and long-term investment platform with a variety of financial instruments that allow the economic agents to group, value and exchange risk. It encourages saving in financial forms through attractive yields, liquidity and risk characteristics. Particularly, it is essential at the time when an institution or a government agency is in need of long-term funds [33]. Hence, the utilization of capital market instruments has the potential to indirectly contribute to the further development of Waqf sector. This work, therefore, proposes the investment of Waqf assets in unit trusts.

## VII. UNIT TRUST AS A WAQF ASSETS

Since its formative years in 1959 to 1979 in Malaysia, the unit trusts investment is ordinarily known as a form of collective investment which allows investors with similar investment objectives to pool their fund to be invested in a portfolio of securities or other assets. A professional fund manager then elected to invest the pooled funds in a portfolio for assets classes such as equity, bond (debt securities), balanced (equity & securities), money market funds (money market instruments) and Islamic unit trusts (Shariah-compliant funds). Ownership of the fund is divided into units of entitlement. It increases or decreases in accordance with the fund value or net asset value (NAV).

Currently, the unit trust industry has attained sustainable growth from the 2000s to current. Securities Commission of Malaysia act as the regulating body governs 36 unit trust management companies with the 649 total number of approved funds out of which 211 are Islamic based. The unit trust industry is expected to value at RM 413.303 billion [39]. With the matured and concrete NAV, it has the ability and potential for the Waqf sector to utilize the platform confidently.

Each unit trusts shares can be regarded as an ownership entitlement in the investment portfolio and in the form of gained profit from the assets invested in the portfolio. These ownership entitlement and its utilities are categorized as an asset by majority Islamic scholars as long as it entails value from a financial point of view and simultaneously delivers utility or usufruct. Thus, each unit trust shares can be considered as legal assets that can be own and the ownership are transferable. This is in-line to the concept of share ownership in any corporate organization be it the ownership of its real estate, benefits, ownership, cash and debt [1].

VIII. PROPOSED WAQF UNIT TRUST MODEL (WUT)

A number of scholars have deliberated in detail on the issue of the endowment through the financial instrument such as Waqf share and Sukuk in numerous research papers conferred in the Majma al-Fiqh al-Islami in 2009. The final fatwa did acknowledge the permissibility unit trusts among others. The scholars have approved the endowment of financial instruments such as Waqf of company shares, Sukuk, Intellectual property and certificate of unit trusts, as they are legally recognised properties.

The above Fatwa contains two forms of unit trusts that can be used by Waqf institutions: the donation of normal unit trusts as Waqf and the investment of liquid Waqf assets in the purchase of unit trusts. With the recent increase in the cost of living, lesser people are able to afford to endow physical or immovable properties for Waqf. With the proposed establishment of Waqf unit trust, this could enable more people to endow in the form of cash either periodically or even once in a lifetime. With the formation of the Waqf Unit Trust (WUT) model,

Figure 3 below illustrates the proposed WUT model that can be utilized by society at large inclusive founders, individuals, organizations, institutions, and even companies to exponentially cultivate the Waqf fund:

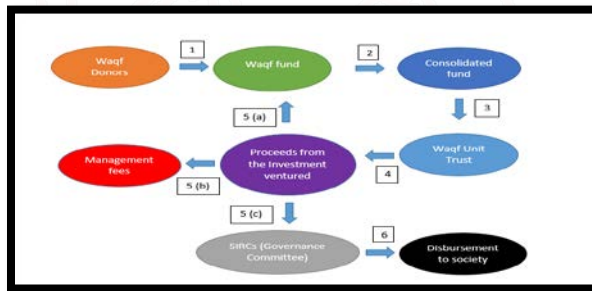


Figure 3. The Waqf Unit Trust model  
Source: Author's own

Referring to the Figure 3 above, below is the modus operandi of the model:

1. Waqf assets from donors (Waqif) consist of Individual and corporate donors are channelled to Waqf fund.
2. Waqf assets from the Waqf fund consist of Cash and Waqf Share (Saham Waqf) are then allocated to a consolidated fund.

3. These Waqf assets then are channelled to an investment apparatus of a unit trust.
4. Upon maturity of the investment, the proceeds from the investment would be realized.
5. This stage would require the disbursement of Waqf assets in three ways:
  - 5a. Appropriate agreed upon amount of income is allocated back to Waqf fund and then reutilized.
  - 5b. An amount is dedicated to the management and sinking fees of the scheme.
  - 5c. Another portion of proceeds is channelled to SIRC which also acts as a governance committee.
6. The disbursement of income realized from the scheme is distributed for the socio-economic development projects.

IX. CONCLUSION AND POLICY RECOMMENDATION

The aim of this paper is to revisit the literature on finance focusing primarily on philanthropic endeavors. The study proposes a model that integrates Waqf and capital market apparatus of Unit Trust model based on standards approved by the Security Commission of Malaysia (SCM) while at the same time adhering to Shariah requisite.

The paper outlines and presents discernment on the prevailing literature of Waqf especially the works related to financing and investment model and instruments in a manner that sheds light on the concept and sets the stage for future research and policy recommendation.

Through the integration of Islamic capital market, WUT model is proposed to realize greater Waqf fund pooling. Moreover, this model is expected to act at the optimal utilization of Waqf fund for greater economic health and simultaneously as a remedy to eradicate socio-economic issues facing the global economy. The WUT model in this study is subjected to further academic debate and is anticipated to benefit policymakers, particularly, SIRC's of each state and government as the governing body/organizations involved as well as organizations such as Securities Commissions of Malaysia and Federation of Investment Managers Malaysia.

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