

Zakat and *waqf* as instrument of Islamic wealth in poverty alleviation and redistribution

Zakat and *waqf*

Case of Malaysia

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Abstract

Purpose – *Zakat* has a strong humanitarian and social-political value. *Zakat* occupies a central role in Islamic fiscal policy and operations. At the same time, it does not preclude the use of modern tools and techniques in raising the state revenues. Islam provides its own comprehensive approach how the state can raise its revenue and how the revenue should be spend. *Zakat* is collected from those who are qualified and distributed to the eight recipients as identified in the Quran. *Waqf* instrument plays an important role in Muslim societies as its support the aged, the poor, the orphans through provision of education, training and business activities. The creation of *waqf* is strongly advocated, especially the creation of cash *waqf* in view of the expensiveness of land as *waqf*. There are collaboration efforts for cash *waqf* and *zakat* collection being done through Islamic banks and takaful. The paper aims to discuss these issues.

Design/methodology/approach – The data were source from the inland revenue, government agencies and state religious authorities, interviews, articles and conference reviews, as well as economic reports and later transcribe into charts and figures.

Findings – Its shows the efficiency of wealth distribution according to the Islamic principles and application of the financial inclusion in the Islamic society.

Research limitations/implications – The limitation is in verifying the accuracy of data gathering from the government agencies.

Social implications – The study can be used in financial inclusion through the application of *zakah* and *waqf* being applied to alleviate poverty.

Originality/value – The research is an extended work done on *zakah* and *waqf* in Islamic wealth distribution.

Keywords Financial inclusion, Islamic, Cultural sociology, Family poverty

Paper type Conceptual paper

Introduction

Wealth management, both conventional and Islamic, is usually associated with private banking that serves the financial needs of the relatively wealthy. Maude (2006) defines it as “financial services provided to wealthy clients, mainly individuals and their families”, while Mindel and Sleight (2010) look at four key areas of wealth management, namely investments and wealth accumulation, retirement and retirement income, wealth and lifestyle protection, and wealth inheritance. Wealth management to an individual is simply looking at it as a science or art of solving and enhancing one’s own financial position, be it doing personally or through the assistance of financial advisers.

Due to the complexity of current business dealings, the services of the financial adviser are in demand, as individuals would not be able to keep pace with the ever-changing landscape of finance and its intricacies. Therefore, we can define Islamic wealth management as the one that provides services to the ultra-high-net-worth and high-net-worth individuals (HNWI), using the most sophisticated tools and recommending the appropriate financial products and



services available in the industry to help them achieve the desired financial enhancement in accordance with Shari'ah.

The goal of Islamic wealth management

In the Islamic perspective, all wealth ultimately belongs to God and man is only a trustee.

The Qur'an says: "To Him (God) belongs what is in the heavens and what is on the earth, and all that is between them, and all that is beneath the soil" (Al-Qur'an: 20:6). The Qur'an further commands: "[. . .] and give them something out of the wealth that God has bestowed upon you" (Al-Qur'an: 24:33). These verses explain that God is the absolute owner of wealth, who has the unquestionable right to bestow it on whomever He pleases. Man's role as a trustee, holding the wealth in trust for Allah, is evident in the Qur'anic verse: "We did indeed offer the Trust to the Heavens and the Earth and the Mountains; but they refused to undertake it, being afraid thereof: but man undertook it; he was indeed unjust and foolish" (Al-Qur'an, 33:72).

A contemporary scholar, Sheikh Yusuf [Qaradawi \(2000\)](#), interpreted the above verses thus: "It is a part of that great trust which Allah offered to the heavens, the earth, and the mountains, which they declined but which man accepted. This trust requires man to carry out the duties placed on him by Allah as His vicegerent on earth and to assume accountability concerning them. This responsibility is the basis on which the human individual will be judged by Allah and given his reward or punishment. Because of this trust, Allah gave man intellect, willpower, and freedom of choice; because of this, He sent His messengers and revealed His Books".

The first right to wealth goes to God Himself, but God does not need "wealth" as we perceive it, and He has prescribed conditions on the utilisation of the wealth that he has bestowed on mankind. Muslims therefore, should follow the guidelines and injunctions of God in their daily undertakings. As mentioned above, Islam considers wealth as something given to us in trust and thus Muslims are accountable for the manner in which wealth is acquired, how it is accumulated and how it is spent in their lifetime. For this purpose, Islam prescribes ways to carry out the trust.

With wealth, Muslims will be able to serve God by giving alms in the form of a wealth tax or *zakah* (one method of wealth purification). Prophet Muhammad (peace be upon him) said: "Blessed is the wealth of a Muslim from which he gives to the poor, the orphans and the needy travellers". Islam has always emphasised the significance of attaining God's blessings (pleasures) by giving alms to those in need. In Islam, mankind is the trustee of the Creator (Allah) and everything belongs to Him. Social responsibility and accountability are essential to this concept. Wealth is a means and not an end, and the management thereof should be for the benefit of the community, directed to please Allah and aimed at the life in the Hereafter.

Islamic wealth management acknowledges responsibility and redistribution as key concepts at the very start of the chain, and not as an end result. The wealth of every individual is eligible for paying *zakat* or *zakah* (wealth tax) as long as the criteria are met, namely: the *hawl* (one full year or 354 days), *nisab* (prescribed rate) and Muslim *baliqh* (adulthood), where he or she is the owner of the wealth.

Islamic wealth management covers a much broader sphere and it addresses the lower and middle class of society and not only the upper-middle-class segment, the HNWI and the extravagantly wealthy, whereby the creation of wealth is treated at par with the subsequent protection and growth thereof. The basic responsibility for the poor and the community needs rests on the shoulders of every individual as soon as he or she has reached a basic level of wealth. The major leveraging tools here are *zakat* (wealth purification), *sadaqah* (voluntary charity) and *qard al-hasan* (benevolent loan). A more permanent purification can be attained by the dedication of a self-sustaining amount of wealth to Allah through the institution of *waqf* (charitable endowment).

Research methodology

This is more of a quantitative research using available data in the collection and distribution of *zakah* as well as the *waqf* properties applying the theory of distribution and Islamic system of redistribution. The data were source from the Inland revenue, government agencies and state religious authorities, interviews, articles and conference reviews, as well as economic reports and later transcribe into charts and figures.

Results of the findings

Zakat (*wealth purification*)

Zakat or *zakah*, commonly known as “wealth tax”, is paid at 2.5 per cent from the wealth of the individual. The giving of alms or *zakat*, the third of the five pillars of Islam, is the second socio-economic *ibadah* (*tazkiyah al-mal*). This purification of wealth is not a cleansing process of unlawful proceeds but an act of purification of greed and selfishness. It is seen as a means of purifying oneself and achieving a balance between wealth accumulation in this life and the Hereafter. By doing so, the individual also becomes God-conscious in all financial dealings and activities. The same goes for other voluntary forms of alms (*sadaqah*) given to mitigate wrongdoings or as a pure, voluntary act of sharing. *Zakat* is obligatory to all Muslims capable of paying it. The capability is referred to as *nisab*, the minimum “*zakatable*” amount. Since *zakat* is not a public sector tax, it holds no revenue for the government. Besides *zakat* on wealth, there is also *Zakat al-Fitr*, which is a means of purification in the month of Ramadhan. It is equivalent to a poll tax and it is applicable to all Muslims.

The rights of others to one’s wealth are highlighted both in the Qur’an and the prophetic traditions (Sunnah). Others who have a right to one’s wealth include the poor, the needy, recent converts, wayfarers and others. In this respect, the Qur’an has clearly stipulate: “Alms are for the poor and the needy, and those employed to administer the (funds); for those whose hearts have been recently reconciled (to Truth); for those in bondage and in debt; in the cause of God; and for the wayfarer: (Thus is it) ordained by God, and God is full of knowledge and wisdom” (Al-Qur’an, 9:60). The poor and the needy are mentioned first because they have more needs than the other categories. In an authenticated Hadith (sayings of the Prophet), Prophet Muhammad (peace be upon him) describes the needy person as “the one who does not have enough to satisfy his needs and whose condition is not known to others, that others may give him something in charity, and who does not beg of people” (Sahih Bukhari, Muslim).

In Malaysia, *zakat* is under the jurisdiction of the member states. All *zakat* collection falls under the administration of Zakat Management Centre, which is an institution incorporated under the State Religious Authority. All *zakat* collected must be disbursed within the year of its collection. *Zakat* collection in Malaysia has increased over time. The amount collected varies from state to state. Figure 1 and Table I show the *zakat* collection for all the states from 2007 to 2016.

All the states had recorded increasing *zakat* collection. However, the predominant states with a rapidly increasing trend of *zakat* collection were Selangor and the Federal Territory (Wilayah Persekutuan). This is attributable mainly to the high volume of business activities as well as the concentration of the working population, especially in the private sector there. For the year 2016, Selangor and the Federal Territory jointly contributed about 50 per cent of total collections, that is, RM1.262bn out of the total of RM2.631bn collected by all the states excluding state of Perlis. The increase in *zakat* collection was mainly due to the favourable economic conditions and activities. Other states had also shown significant increases in their collections. The *zakat* collections for the period from 2007 to 2016 had increased at a cumulative annual growth rate of 47.5 per cent (Figure 2).

In general, *zakat* payers can claim 100 per cent rebate on their *zakat* contribution as provided for under Section 6A (3) of the Income Tax Act of 1967. For companies, they are allowed to claim the amount of *zakat* paid as a deduction up to 2.5 per cent of their aggregate income under

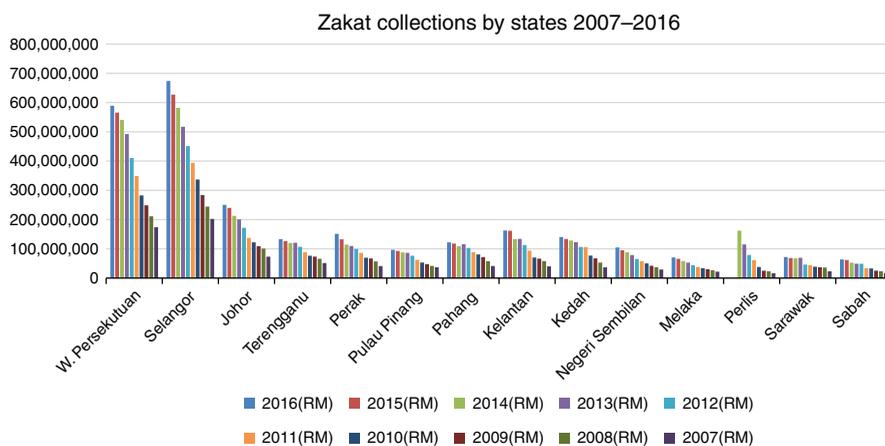


Figure 1.
Zakat collection in Malaysia (2007–2016)

Source: JAWHAR/State Religious Authority/author’s own diagram

State/year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Federal territory	173.8	211.4	248.8	282.7	348.9	410.4	492.4	540.8	565.8	589.3
Selangor	202.2	244.4	283.6	336.9	394.1	451.3	517.3	582.1	627.2	673.7
Johor	73.3	100.7	109.2	122.3	137.5	171.9	200.6	212.8	239.9	250.4
Terengganu	51.4	66.2	73.5	76.4	88.3	107.1	120.9	120.1	126.6	133.4
Perak	41.3	57.0	67.2	69.6	86.1	99.6	109.8	114.6	132.6	151.2
P Pinang	37.1	41.8	48.0	53.2	62.3	76.5	86.0	87.9	92.8	96.8
Pahang	41.5	57.9	71.9	80.9	88.6	102.9	115.8	109.3	118.0	122.2
Kelantan	40.2	58.2	66.5	70.4	94.1	113.2	134.2	133.3	161.9	162.7
Kedah	36.7	53.2	67.6	76.9	106.1	106.2	122.7	128.4	133.9	140.4
N Sembilan	29.4	37.4	42.3	50.2	57.9	65.4	78.9	88.2	95.2	104.8
Melaka	22.1	26.9	30.7	34.0	37.9	54.0	53.1	58.3	66.0	70.5
Sarawak	23.1	36.1	36.9	39.1	44.1	50.8	69.5	67.3	68.6	72.1
Sabah	17.5	23.8	25.4	32.9	33.9	48.9	49.2	52.8	61.8	63.7
Perlis	16.7	23.1	25.3	38.1	61.4	78.9	115	162.3		
Total	806.3	1,038.1	1,196.9	1,363.6	1,641.2	1,937.1	2,265.4	2,458.2	2,490.3	2,631.2

Table I.
Zakat collection in Malaysia (2007–2016) (RM millions)

Source: Department of Awqaf, Zakat and Haji (JAWHAR)/State Religious Authority/author’s own diagram

Section 44 (11A) of the Act. No refund is available if the *zakat* paid exceeds the tax charged. From 2004 to 2014, the claimants for *zakat* rebates were predominantly the private individuals followed by government employees and the business sectors (Figure 3). However, the Inland Revenue Board of Malaysia records indicated a declining trend (Figure 4) for rebate on *zakat* payment over the age groups for the period from 2005 to 2014. It seems the *zakat* payers, especially the private individuals, were reluctant to claim the rebate entitlement. Apparently, the *zakat* contributors are mainly individuals fulfilling the Islamic obligations. There are companies that pay *zakat* on behalf of their shareholders and depositors like Pilgrimage Board (Tabung Haji). Then there are companies that pay based on their business income.

Zakat collections are mainly derived from employment incomes, which comprise about 66 per cent of the total collection followed by businesses (20 per cent) and savings (5 per cent). The balance of 9 per cent is derived from other forms such as gold, silver, shares, employee provident funds’ withdrawals, etc. From the total collected, 75 per cent goes to direct

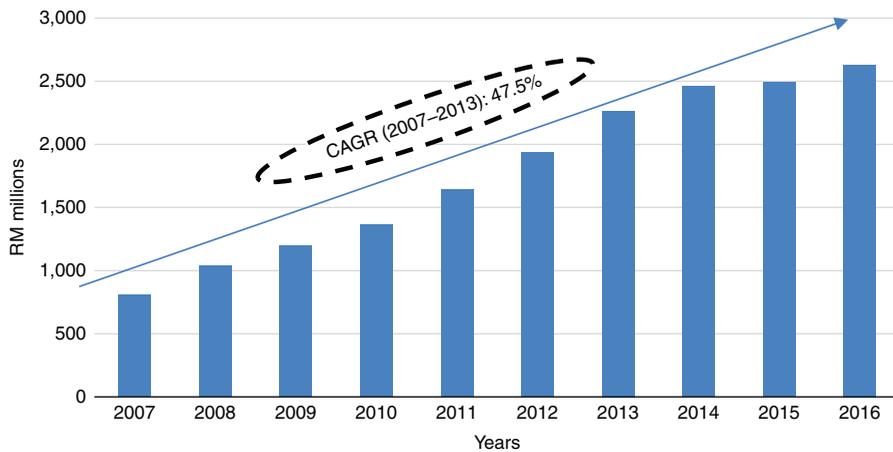
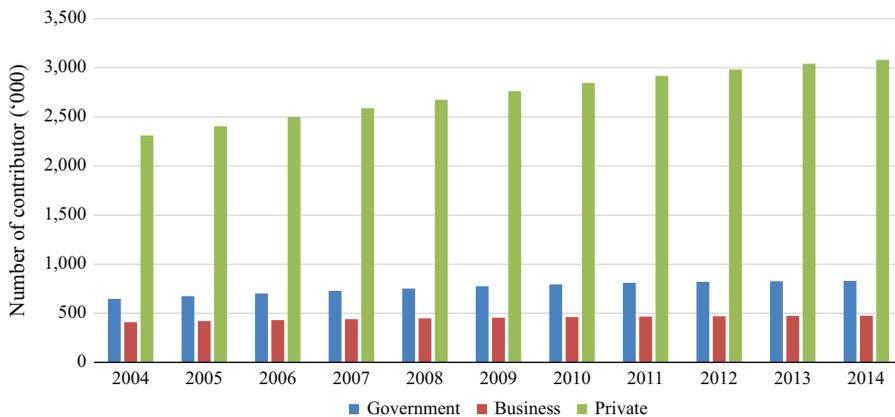


Figure 2.
Total zakat collection
(2007–2016)

Source: JAWHAR/State Religious Authority/author’s own diagram



Notes: This portion is extracted from a research conducted by the author. The title of the research is: Islamic Wealth Redistribution and Management in Malaysia: A Chapter in Islamic Finance in Malaysia: Growth & Development. Edited by Mohamed Ariff

Source: Lembaga Hasil Dalam Negeri Malaysia (The Inland Revenue Board of Malaysia)/author’s own diagram

Figure 3.
Zakat rebate claimants
by group (2004–2014)

distribution, while 25 per cent goes to indirect distribution. The direct distribution comprises contribution for social, economic, educational and religious preaching, and welfare activities. The “social” category includes disbursements for monthly allowances, basic housing necessities, the treatment of major illness and debt settlement. Economic activities relate to business activities, taxi leasing and agricultural aid such as equipment and fertilizers. It is instructive to note that some of the *zakat* recipients have subsequently transformed themselves into *zakat* contributors as their business ventures have been successful. Most of the *zakat* funds are channelled to financing education in the form of scholarships locally and abroad. Aid during Ramadhan, financial help to religious educational institutions and legal assistance for the poor comes under the heading of “religious and welfare activities”.

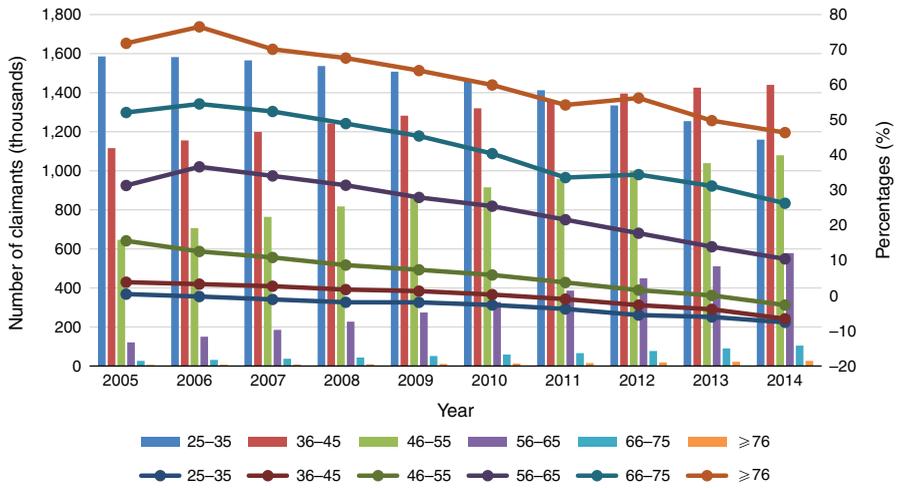


Figure 4.
Zakat rebate claimants
by age group
(2005–2014)

Source: Lembaga Hasil Dalam Negeri Malaysia (The Inland Revenue Board of Malaysia)/
author's own diagram

The indirect distributions are for the management and establishment of educational institutions managed by the respective state religious councils such as childcare centres and preschools, as well as *tahfiz* centres or Qur'an memorisation institutions.

Sadaqah (voluntary charity)

Malaysia has a large number of charitable Muslims. The amount of *sadaqah* is unmeasurable since there are no designated centres with full records. Most organisations make their request for donations or *sadaqah* through word of mouth and social media. A mosque costing about RM10m to build could be fully funded by donations made by individuals within the communities. An example of this is Masjid Al-Mustaqim in Bandar Seri Putra in Selangor. The aid given to Viva Palestine for the Palestinian people ran into millions and this money was the charitable contributions of the Muslim *ummah* (community) made at talks presented in mosques. The amount of donations collected by Viva Palestine was RM2,252,891. In 2013, Mercy Malaysia recorded a total donation of RM16,829,037. Other agencies like Media Prima collected about RM6m under their Tabung Bencana NSTP-Media Prima initiative in 2014 for flood-hit victims in several states in Malaysia. They also collected RM5m in 2014 for the Palestinian Humanitarian Media Prima Fund or Tabung Kemanusiaan Palestin Media Prima.

Waqf (charitable endowment)

An important domain related to inheritance is the creation of a *waqf* from the wealth of a deceased person. Islam allows a person to donate a third of his or her wealth. The institution of *waqf* has contributed much to the welfare of the Muslim society, fulfilling the social goal of Islamic wealth management.

Waqf represents one of the institutions meant for the redistribution of wealth in Islam. Even though *waqf* is placed among the voluntary institutions aimed at a just and equitable distribution of wealth, it is regarded very highly in the Islamic order. The main objective of this institution is to provide continuous goods and services needed in the different Muslim societies for generations to come and until the Day of Judgement.

Even though there is no clear reference to the word *waqf* in the Qur'an, Muslim scholars refer to the following Quranic verse as the main reference for the institution of *waqf*: "By no means shall you attain righteousness unless you give (freely) of that which you love; and whatever you give, of a truth God knows it well" (Surat al-'Imran, 3:92). Moreover, the Prophet refers to the *waqf* as a recurring charity in the following Hadith narrated by al-Bukhari, Muslim, Abu Daud and al-Tirmizi: "When a man dies his acts come to an end, except three things, recurring charity, knowledge (by which people benefit), and pious offspring who pray for him".

Following the teachings of Islam and the practice of the Prophet, nearly all the companions of the Prophet, his wives and his successors had created a *waqf*, a practice which continued for 1,300 years until it reached its peak. The majority of Muslim scholars are in agreement with the definition of the *waqf* as "the detention of a specific property from the ownership of the *waqif* (founder of the *waqf*), and dedicating its revenue to charitable purposes in perpetuity for the cause of Allah". Moreover, they have approved three key restrictions: a *waqf* has to be irrevocable, perpetual and inalienable. In addition, they have agreed on both its immovable and movable form as the subject matter of the *waqf*. Furthermore, they are very keen to execute faithfully the founder's condition in respect to the beneficiaries. Additionally, to serve any needs that may arise in the Muslim society, the majority of Muslim scholars have developed ten stipulations which give flexibility to the trustees in channelling the *waqf* revenue to additional beneficiaries or converting the idle *waqf* property into a productive one. Therefore, our definition of the *waqf* is as follows:

Waqf is the confinement of immovable or movable property from the ownership of the founder and the dedication of its usufruct in perpetuity to needs that may arise in the different Muslim societies (with the inclusion of the ten conditions and the approval of the religious authority), in a way that it cannot be revoked, bequeathed or sold.

Waqf properties in Malaysia

In Malaysia, *awqaf* (plural for *waqf*) are under the purview of the State Government. The *waqf* institution is on the State List and is administered by the State Religious Authorities through direct administration or through the Waqf Corporation. In the case of Selangor, *waqf* administration comes under the Selangor Waqf Corporation or Perbadanan Wakaf Selangor. However, there was little or no development in *waqf* properties in the country in the years prior to 2000, apparently due to the lack of expertise and perspective amongst the staff State Religious Authorities. Consequently, most of the *waqf* lands left idle or underutilised.

Hence, on 27 March 2004, Department of Awqaf, Zakat and Haji or Jabatan Wakaf, Zakat dan Haji (JAWHAR) was established under the Prime Minister's Department to transform *waqf* properties to benefit the Muslim society-at-large. On 23 July 2008, the Malaysia Waqf Foundation or Yayasan Wakaf Malaysia (YWM) established under JAWHAR to undertake *waqf* development in collaboration with the respective State Religious Authority. There has been an increase in *waqf* activities in recent times, which include the running of hotels, *waqf* marts and souvenir kiosks. With a budget of RM50m, the Malaysia Waqf Foundation, in collaboration with the participating State Religious Authorities, has embarked on developing some of the idle *waqf* properties throughout Malaysia. Table II gives the estimated value of *Baitulmal* land based on investible *Baitulmal* land holdings of the various Malaysian states (Figure 5).

Waqf Foundation of Malaysian collection is mainly cash *waqf*, and the total collection from 2009 to June 2017 totals RM9.594bn. For the period ending June 2017, the total collection was RM1.046bn, which had benefited 1,947 recipients as at October 2017. All the states in the country are now promoting cash *waqf*, with financial contributions from the

Table II.
Estimated values and
sizes of *Baitulmal*
land (2014)

No.	State	Area (hectares)	Value (RM)
1.	Johor	2,650.36	15,482,917.99
2.	Kedah	118.06	7,968,003.82
3.	Kelantan	1.66	5,629,000.00
4.	Melaka	133.58	14,466,400.00
5.	Negeri Sembilan	2,614.11	67,024,619.12
6.	Pahang	2.02	2,178,000.00
7.	Pulau Pinang	269.99	140,624,606.11
8.	Perak	35,523.88	24,600,171.10
9.	Perlis	0.00	633,342.89
10.	Selangor	19.15	3,978,506.25
11.	Terengganu	70.99	4,744,667.60
12.	Sabah	0.00	0.00
13.	Sarawak	2.26	85,700.00
14.	Wilayah Persekutuan	1.25	32,328,925.00
	Total	41,407.31	319,744,859.88

Source: JAWHAR

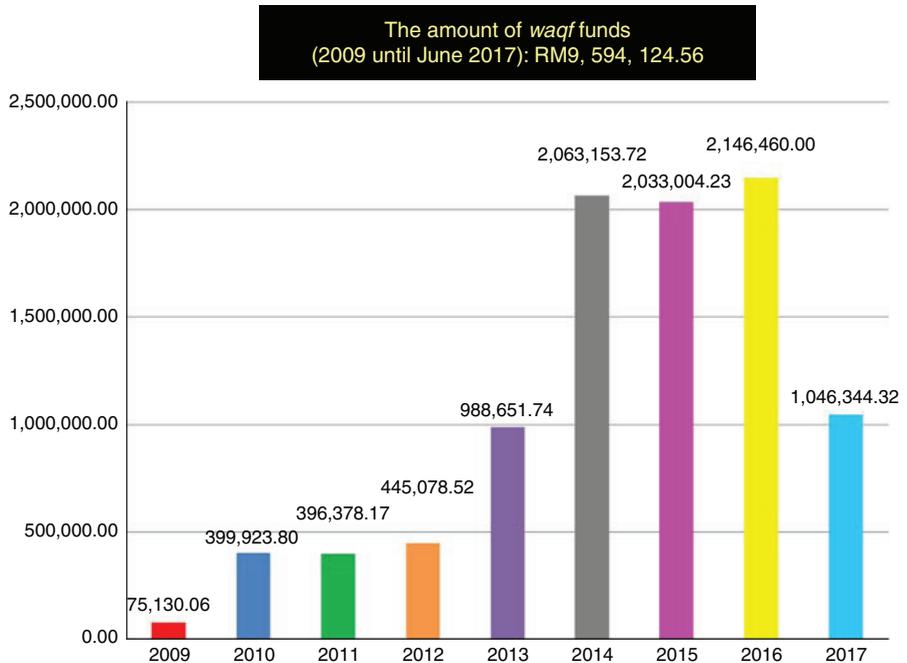


Figure 5.
Cash *waqf* collection
from 2009 to June 2017

Source: Malaysia Waqf Foundation

Muslim community, and the amounts collected are placed under a general. Unlike family *waqf*, administration is more flexible as the channelling of funds can be directed to where it is most needed. JAWHAR, through YKM, is overseeing this. The funds collected are used to enter into joint venture agreements with state *awqaf* to develop *waqf* properties into profitable ventures.

Financing modes for *waqf* properties

Waqf properties can be developed through several Shari'ah-compliant modes of financing such as the long lease (LL) contract (*Ijara Tawilat Al-Ajjal*), the build-operate-transfer (BOT) model, the substitution and exchange contract (*Al-istibdal*), corporate *waqf*, the lease and sale-buy back financing contract (*Ijara al-'ayn*), and private equity (PE) crowdfunding, all of which will be explained next.

Ijara tawilat al-ajjal (LL)[1]

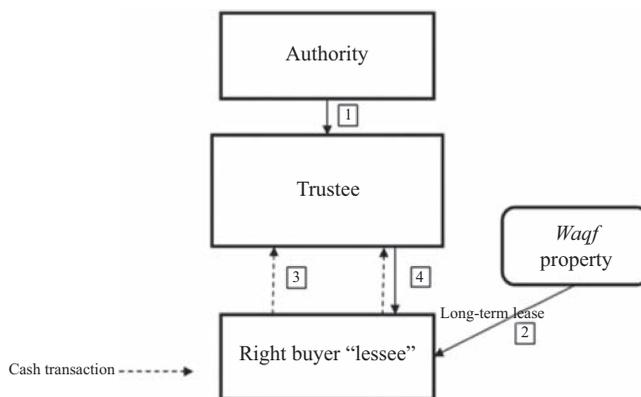
The LL right (*ijara tawilat al-ajjal*) mode was developed by Muslim jurists in the middle of the third century of Hijrah (the Islamic calendar) in order to prevent a *waqf* property from being sold and harm befalling it. In this case, the right was given to the trustee to let out the *waqf* property on an LL at a nominal periodic rent. This right was sold for a lump sum, which was approximately equal to the future value of the *waqf* property plus a nominal periodical rent paid to the trustee for 99 years.

The modus operandi of this mode is explained below and its structure is shown in Figure 6:

- (1) the right is given to the trustee to let out the *waqf* property on an LL at a nominal periodic rent;
- (2) this right is sold for a lump sum, which is approximately equal to the future value of the *waqf* property;
- (3) the buyer pays a nominal periodic rent to the trustee; and
- (4) the buyer benefits from the usufruct of the *waqf* property.

The case study of the JAWHAR-MAIPk LL waqf project

The Regency Hotel Seri Warisan in Perak, operated by JAWHAR, cost RM19m to build. The funds were obtained from the government under the Tenth Malaysia Plan. To create cash flows, the Islamic and Malay Customs Council of Perak or *Malay Custom Majlis Agama dan Adat Melayu Perak* (MAIPk) agreed to lease the hotel to JAWHAR's subsidiary YWM for RM100,000 per year.



Source: Author's own diagram

Figure 6. Long lease right (*ijara tawilat al-ajjal*) structure

The construction of The Regency Hotel Seri Warisan was completed on the basis of smart partnership between JAWHAR, MAIPk and the Department of Works or Jabatan Kerja Raya (JKR). JAWHAR allocated RM19m to develop the three-star hotel on MAIPk's *waqf* land while the owner of the *waqf* land is the Taiping Old Malay Mosque.

It is located along a busy street which was previously lined with double-storey shophouses. The hotel was completed in May 2012 and commenced operation in June 2012, where YKM is responsible for the hotel operation and management.

YKM will pay RM100,000 rent per year for 25 years to MAIPk, and the amount distributed is divided into three portions, as follows:

- (1) 40 per cent goes to the Taiping Old Malay Mosque for the maintenance and repair of the mosque;
- (2) 30 per cent is earmarked for the maintenance and repair of the shop houses near the Taiping Old Malay Mosque and;
- (3) 30 per cent goes to MAIPk for the administration and development of other *waqf* projects in Perak.

The collaboration between JAWHAR and MAIPk took the form of a partnership, with JAWHAR contributing the capital and MAIPk providing the land. They then entered into a Lease and Sale-Buy Back contract whereby MAIPk agreed to rent the building to JAWHAR's subsidiary YWM, while JKR was responsible for the construction of the hotel as an *istisna'* project.

Build-operate-transfer model

The BOT mode of financing is advantageous to both the trustee or *mutawalli* of the *waqf* and the developer of the *waqf* property. This type of project financing has become the preferred choice of many *waqf* organisations in Malaysia that wish to develop old *waqf* land for the following reasons:

- (1) it is a means of developing *waqf* properties through self-financing of the projects;
- (2) it can help *waqf* organisations deal with the complexities of real estate development and project management;
- (3) through BOT, *waqf* organisations are able to pare away non-core functions so that they can focus on their more important role as provider of social services;
- (4) leasing the land to a BOT developer turns an otherwise idle asset into an immediate cash-flow generator;
- (5) the developer builds the project, operates it and at the end of the concession period, returns it to the *waqf* organisation to become a permanent source of revenue;
- (6) the concessionaire or developer builds a project on the *waqf* land, operates it and transfers it, after a specified period, to the *waqf* organisation;
- (7) the developer assumes responsibility for the design, construction, risks of the project and operating costs;
- (8) the financiers look primarily at the earnings of the project as the source from which repayments will be made;

- (9) the financiers' credit assessment is based on the evaluation of the project and not on the creditworthiness of the *waqf* organisation; and
- (10) the security taken by the financiers is largely confined to the assets they finance and not to the inalienable *waqf* assets.

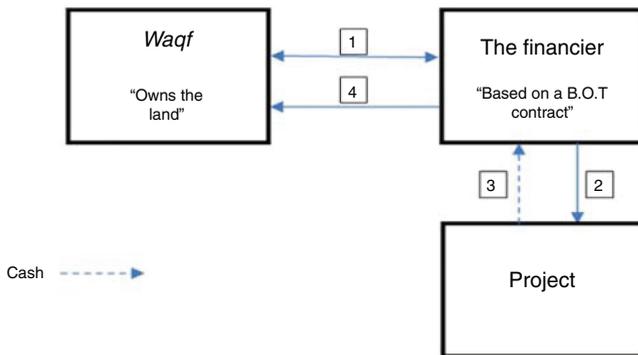
The modus operandi for the BOT model and its structure are depicted in Figure 7:

- (1) the *waqf* institution and the financier sign the BOT contract;
- (2) the financier executes the project on the *waqf* land;
- (3) the financier will profit from the revenues generated after the project comes on stream; and
- (4) after the maturity period, the financier will hand over the management and ownership of the project to the *waqf* institution.

The case study of the Seetee Aishah Waqf heritage park

The venture capital business model was adopted in 2013 in the state of Pulau Pinang and involved Urban Development Authority (UDA) Holdings Berhad and the Islamic Council of Pulau Pinang (Majlis Agama Islam Negeri Pulau Pinang, MAINPP). It was agreed that UDA Holdings Berhad would develop The Seetee Aishah Waqf Heritage Park through a mode of financing which combined the LL or *ijara* for 99 years (Hisham, 2013) and the BOT models.

The Seetee Aishah *waqf* has 9.274 acres of land at Lot 1,444, District 4, Seberang Jaya, Seberang Perai Tengah, Penang. The land is a first-grade land and it is a *al-mushtarak waqf*, that is, a combination of family and public *waqf*. The trustee is MAINPP or the Penang State Religious Council. The trust deed was registered with the Registrar of Trust in the state of Penang on 30 September 1901. Half of the rental proceeds are to be used for the repairs and maintenance of the Permatang Pauh Mosque. In the event no repair is done, the money is to be sent to Makkah, the Holy City of Islam, for *waqf* or charity purposes. The other half of the rental proceeds will go to the family[2]. However, in the past decades, this *waqf* was unproductive as it was left idle. Recently, and with the call to develop old *waqf* properties in Malaysia, MAINPP, as the trustee, decided to develop the land together with UDA Holdings Berhad. UDA Land North Sendirian Berhad (ULNSB)



Source: Author's own diagram

Figure 7. Structure of the build-operate-transfer model

offered to develop the land in a joint venture with MAINPP based on the combined LL and BOT model. MAINPP as the trustee provided the land and UDA, the developer, was responsible for financing the construction. The State of Penang Fatawa Council on 30 November 2006 approved the development as a joint venture between MAINPP and UDA. The agreement was finalised on 12 August 2007, and the project, named as The Seetee Aishah Waqf Heritage Park or Taman Warisan Impian Wakaf Seetee Aishah, consists of two developments.

First, 76 units of two-storey link houses were built. These were financed through LL of 99 years. They were sold on 99-year leases under Form 15A. The land ownership comes under MAINPP as the trustee. The land cannot be sold or charged. After the lease period ends, the land will be returned to MAINPP as the lessor. The lessee can apply to MAINPP for an extension of the lease. The rental proceeds received by MAINPP is about RM150,000 per month. Profits from the sale of the houses, with 30 per cent accruing to MAINPP and 70 per cent to UDA, were based on the differences between the actual selling price and estimated price. Since the sale price was higher, MAINPP received an additional sum in the form of cash.

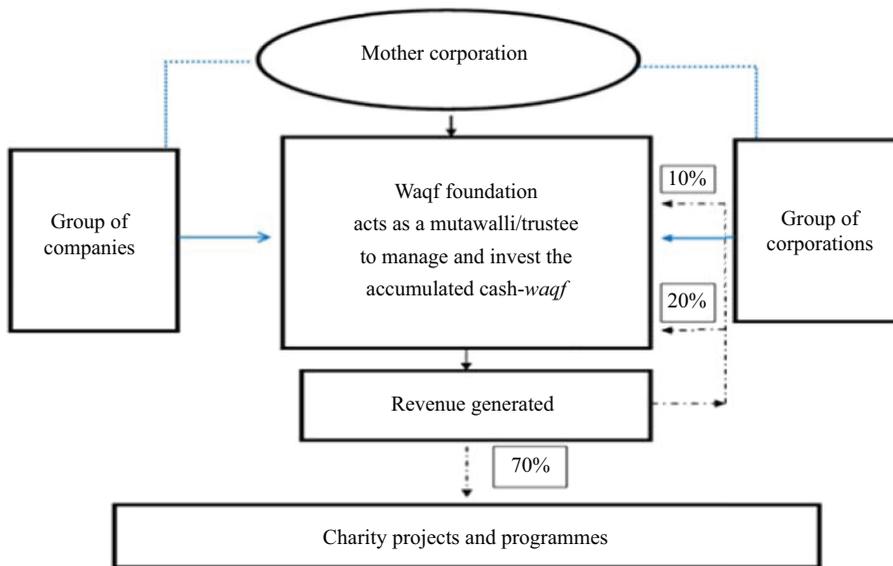
Second, the Seetee Aishah Commercial Centre or Pusat Perniagaan Seetee Aishah, constructed by UDA Land North, comprising nine three-storey shops valued at RM10.90m belongs to MAINPP. This project completed using BOT and transferred to MAINPP on 30 October 2012. In addition to the nine shops, MAINPP received an additional return of about 30 per cent, due to the profit-sharing provision, based on the differences between the actual selling price and the projected selling price of the shops.

Corporate waqf

In line with the recent development of new financing modes to redevelop old *waqf* buildings, the emergence of cash *waqf* as one of the powerful modes is noticeable in different forms. One of these forms is the corporate *waqf* which is a recent phenomenon in four countries. Two models of corporate *waqf* have become a reality: the one established by family members as in Turkey, India and Pakistan, while the other established by the state government of Johor, Malaysia. The prominent ones are the Sabanci Foundation in Turkey, Hamdard National Foundation in India and Pakistan, and Waqaf An-Nur Corporation Berhad in Malaysia. Both models play a significant role in their respective countries.

Through these foundations many goods and services have been provided universities, clinics and hospitals. They also made available education from the primary up to tertiary levels, training programmes and vocational schools for the blind, as well as scholarship. These foundations also promote equitable environment in which women, young people and the disabled have equal opportunities to participate in the society. [Figure 8](#) shows the modus operandi of the corporate *waqf*:

- (1) The main founders, known as the mother corporation, can be family members or the state government.
- (2) In their role as founders, they can establish a *waqf* foundation to be the trustee to administer this foundation.
- (3) Founders can be individuals, corporations, organisations, companies and institutions and they may contribute to the *waqf* foundation in terms of cash, profit or shares.
- (4) The foundation, in its role as a trustee, can manage and invest the accumulated *waqf* funds.



Source: Author's own diagram

Figure 8.
Structure of the
corporate *waqf*

- (5) Revenues generated from this investment can be channelled according to the founders' conditions, for example as in the following proportions:
- 70 per cent to finance charity programmes, including financing the maintenance of old *waqf* buildings;
 - 20 per cent to be re-invested to increase the capital amount; and
 - 10 per cent to cover management and administrative expenses.

Al-istibdal (substitution and exchange)

This financing mode is one of the traditional ways, and it emerged from the fact that the *waqf* property cannot be sold. So, in this case, Muslim jurists are of the opinion that it is permissible to exchange the *waqf* property with another property or for money in order to renovate the old ones. According to them, if a *waqf* property becomes incapable of producing services or revenue, either because of its location or because of its age, such a property can be replaced with a new one through exchange. The advantage of this mode is that it provides the liquidity, which is needed to renovate part of the *waqf* property. The disadvantage is that a part of the *waqf* property or its good location may be lost.

Figure 9 shows the modus operandi of the substitution or *al-istibdal* model:

- (1) The trustee exchanges the old *waqf* property or part of it for another one or for money.
- (2) There are two options:
 - the trustee utilises the new property as a *waqf*; and
 - the trustee utilises the money to renovate the unsold part or other old *awqaf* properties.

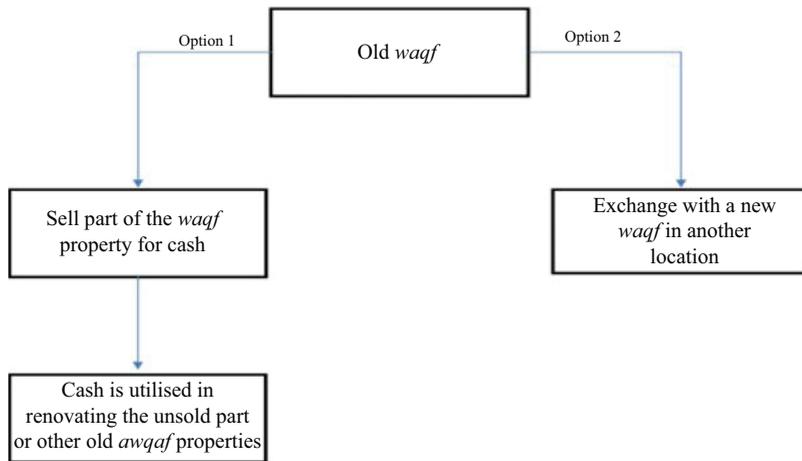


Figure 9. Structure of the substitution (*al-istibdal*) structure

Source: Author's own diagram

In recent times, the *istibdal* (substitution and exchange) model has also been practised in 1977 in Penang. The Penang State Government took over an old school building, Madrasah Al-Qur'an, which dates back to 1918, established by Habil Al-Mashoor Maahad, a prominent leader in Penang, and the school was renamed Al-Mashoor Al-Islami School, after the founder. The school was originally located in Lebuah Acheh (Masjid Melayu) before it moved to Lebuah Tek Soon (MAINPP, 2010).

Al-Mashoor Al-Islami School ceased operation in 1974 when the Penang State Government acquired the land which housed the school building for the purposes of developing and setting up the state administration building known as Kompleks Tun Abdul Razak (Komtar). In 1978, the Penang State Government took over the school building in Lebuah Tek Soon (Tek Soon Street) and replaced it with 2.8 acres of land in Jalan Air Itam, Penang. In 1979, the Ministry of Education's Religious School Division took over the administration of the school and it became known as Sekolah Menengah Agama Al-Mashoor (MAINPP, 2010).

In 1997, the Penang State Government agreed to hand over a piece of land measuring 31 acres at lot 100 and 103 Mukim G, Daerah Barat Daya, Penang, as *istibdal* for the original land of the school, now known as Madrasah Al-Mashoor Al-Islami and the *istibdal* property was registered under the State Religious Authority in October 1997. In June 2011, Maahad Al-Mashoor Al-Islami was officiated by His Majesty DYMM Seri Paduka Baginda Yang Di Pertuan Agong Sultan Mizan Zainal Abidin. It was renamed Maahad Al-Mashoor Al-Islami Education Complex, located at Simpang Ampat, Balik Pulau, Penang (MAINPP, 2010). Thus, with its new location and bigger size, it has created jobs for more teachers and can take in more students.

Ijara al-'ayn financing

The establishment of Pantai Puteri Hotel in Melaka (Malacca) was funded by JAWHAR, worth RM26.1m. The funds originated from the government through the Waqf Realty Development programme (Pembangunan Hartanah Wakaf,) which was one of the programmes under the Tenth Malaysia Plan (2011–2015) for the development of *waqf* lands in Malaysia. The collaboration between JAWHAR and Islamic Council of Melaka or Majlis Agama Islam Melaka (MAIM) took the form of a partnership, with JAWHAR providing the capital and MAIM providing the land. They later entered into *ijara al-'ayn* contracts whereby MAIM agreed to rent the building, upon its completion, to JAWHAR's subsidiary agency, Malaysia Waqf Foundation or YWM for 25 years; the rental price would be revised every three years. In

addition, the Department of Works or JKR agreed to build the hotel as an *istisna'* project. After the completion of the building, MAIM fulfilled its promise to lease the hotel to Waqf Foundation of Malaysia or YWM, based on its pre-agreement with JAWHAR.

The modus operandi of this mode of financing is as follows: in the joint venture contract between JAWHAR and the trustees, MAIM agreed to lease the hotel after the completion of the building to JAWHAR's subsidiary YWM. MAIM leased the hotel to YWM at a monthly rental of RM20,000 per month, the amount of which is to be revised every three years, in 10 per cent increments. Meanwhile, the profits gained by YWM will be used for maintenance, management and other activities. From an idle *waqf* land, it has been redeveloped into a three-star hotel, an eight-storey building equipped with facilities such as swimming pools, prayer rooms, meeting rooms, dormitory, twin standard rooms, standard double rooms, executive rooms, board rooms and seminar rooms.

PE and crowdfunding

PE is an alternative source of business funding. PE is technically Shari'ah-compliant by nature. It is one of the purest forms of Shari'ah-compliant investment since the funder is coming in as an equity investor at the same time sharing the risk of the underlying business in the same way as the existing shareholders are taking risks. PE holders face the same return and loss profile like that of the other shareholders. As long as there is no leverage or debt, PE firms are predominantly Shari'ah-compliant. The Islamic PE fund has surged in conjunction with the overall growth in the sector. The sovereign wealth funds and government-linked investment vehicles dominate the larger transactions. In terms of investment, Islamic PE is competing with the conventional counterpart. There are three methods of Islamic PE financing, namely:

- (1) the *mudarabah* scheme which is used to finance innovative small and medium enterprises and start-ups;
- (2) the *musharakah* financing mode where the Islamic PE representative sits on the board of the companies; and
- (3) finally, the *wakalah* financing where one party is authorised to act on behalf of the other based on agreed terms and conditions.

In Malaysia, it is a growing asset class, as more and more institutional investors and local companies are venturing into it. The Islamic PE is under the supervision of the Securities Commission under the Guidelines on Registration of Venture Capital and Private Corporations and Management Corporations. As at 31 March 2017, the total PE funds

Asset classes (in RM billions)	Overall (including Shari'ah)			Shari'ah		Total
	Inside Malaysia	Outside Malaysia	Total	Inside Malaysia	Outside Malaysia	
Equities	278.40	85.27	363.67	40.64	22.05	62.69
Fixed-income securities	119.17	28.59	147.76	22.10	11.30	33.40
Money market placements	161.61	0.89	162.50	48.07	0.00	48.07
Unit trust funds	10.72	11.72	22.44	0.95	0.40	1.35
Private equities/unquoted stocks	4.52	8.82	13.34	0.03	0.15	0.18
Others ^a	14.53	9.64	24.17	4.94	2.90	7.84
Total	588.95	144.93	733.88	116.73	36.80	153.53

Note: ^aOthers consist of other asset classes such as wholesale funds, REITs, ETFs, closed-end funds, derivatives, business trusts, payables, receivables, accruals and un-invested cash

Source: Securities Commission Malaysia

Table III.
Statistics of the fund management industry as at 31 March 2017

invested stood at RM13.34bn, of which RM0.18bn are Shari'ah investments, as reflected in Table III. The overall total Shari'ah asset under management stood at RM153.53bn. Another avenue for raising capital is through equity crowdfunding (ECF). Malaysia has introduced legislation for ECF and appointed six companies to manage the ECF platform. Under the guidelines, an issuer may raise a maximum of RM3m within a 12-month period regardless of the number of projects and an aggregate of RM5m via the ECF platform. This is an opportunity for the young Muslim entrepreneur to venture into business in the long term.

Conclusion and limitation

Islamic wealth management is all about managing wealth in a sustainable manner in sync with Shari'ah requirements. This is where ownership shareholding, *zakat*, philanthropic activities and *waqf* play a critical role in furthering the cause of preservation, generation and accumulation of wealth. The collaboration between JAWHAR and state religious authorities has had a positive impact by generating and unlocking the value of idle and old *waqf* assets. JAWHAR, through their arm, YWM (or Malaysia Waqf Foundation), has been successful in generating revenue from new as well as existing assets such as the Prima Hotel in Malacca and The Regency Hotel Seri Warisan in Taiping. The success of the Seetee Aishah project in Penang, where smart partnerships between government-linked companies like UDA Land North and the Penang State Religious Council were able to unlock an idle asset, has resulted in bigger revenues for the beneficiaries as well as for the state. Experience has shown that where the state religious authority proactively seeks such smart partnerships, the financial resources at the disposal of a *waqf* for funding its welfare activities would grow and, what is more, the *waqf* would expand with new asset acquisitions. The question of "state list" could be overcome through such smart partnerships. The idea of corporate *waqf* has been successfully through the Johor Corporation's corporate *waqf*. All indications are that other states are also looking at the same idea, to help their Muslim community.

In addition, *zakat* has been playing its role in supporting poverty eradication efforts in Muslim society. More than 80 per cent of contributors are individuals, and the funds are channel for education, health services and businesses, in addition to providing accommodation to the poor by building them new houses where their old ones damaged due to natural disasters or fire. The progressive increase in the ownership of shareholdings has led to more contributions towards *zakat* commitment. *Ar-rahnu* business activities have also benefitted rural Malaysia. The limitation is in verifying the accuracy of data gathering from the government agencies^{[3][4][5][6][7]}.

Notes

1. This portion is extracted from a research conducted by the author. The title of the research is: Innovative modes of financing the development of waqf properties in selected countries: principles and practices.
2. The beneficiary under the family category was Saedah, reportedly Sittie Aishah's only child. Therefore, the benefit of the half portion of the *waqf* is for Saedah and her future generations.
3. The global sukuk market heading into another solid year in 2015; available at: <http://saudigazette.com.sa> (accessed 16 March 2015).
4. Malaysia's capital market grew to RM2.76 trillion in 2014; available at: www.mifc.com/index (accessed 16 March 2015).
5. Data and statistics; available at: www.sc.com.my/data-statistics (accessed 23 March 2015)
6. Available at: www.bloomberg.com/news/articles/2015-05-19/Islamic-reit-shortage-seen-boosting-demand-for-johor-s-newtrust.
7. Available at: www.thesundaily.my/print/Government_hopes_to_implement_Ar_RahnuActnextear (accessed 12 January 2016).

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