



INHERITANCE OF HOUSE UNIT ON WAQF LAND FROM ISLAMIC AND MALAYSIAN LAW PERSPECTIVES



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ABSTRACT

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Waqf is considered as an important financial source in Islam. In Malaysia, *waqf* is held under the Department of Wakaf, Zakat, and Hajj (JAWHAR) at the federal level and the State Islamic Religious Council (SIRC) of the respective states for the state level. As the Malaysian population is growing nowadays, it has become necessary to develop *waqf* land into housing development. However, this research found that there are no specific works of literature on the concept of inheritance of housing units built on *waqf* land in Malaysia. Hence, this research aims to examine the concept of inheritance and *waqf* in Islamic law and Malaysian law, as well as *waqf* housing projects in Malaysia. This research is based on a qualitative and descriptive cross-sectional analysis through the governing statutes. The discussion from the Islamic perspective will be based on the Holy Quran, the traditions of the Prophet (PBUH), and the examination of the views of Muslim jurists of four well-known schools of law as well as the views of contemporary Muslim scholars. The research found that the inheritance of housing units on *waqf* land complies with Islamic law and Malaysian law. Its leasehold status makes it perpetual and inalienable, which coincides with the concept of *waqf* in Islam.

Contribution/ Originality: The paper's primary contribution is finding that the development of housing unit on *waqf* land complies with Islamic law and Malaysian law. Its status as a leasehold has made it perpetual and inalienable which coincides with the concept of *waqf* in Islam.

1. INTRODUCTION

Malaysia is listed as one of the developing countries, and development projects can be seen anywhere in the country (Investopedia, 2019). However, Malaysia is facing an issue of housing affordability due to the supply-demand mismatch and slower income growth (Cheah, Stefanie, & Ho, 2017). Meanwhile, a lot of *waqf* lands have been left abandoned, causing loss to the country and the Muslim community. This situation is detrimental to the country as well as the Muslim community as *waqf* possess the enormous potential for development and income generation (Syed, 2017). By developing *waqf* lands into housing development, the Muslim community will benefit in the form of protection of the objectives of *Shariah*, which are life and property. Al-Ghazali explains that:

“There are five *Shariah* purposes of creation: to preserve their religion, their souls, their mind, their offspring, and their money. Therefore, everything that includes preserving these five principles is considered as an interest (*maslahah*). In contrast, everything that is contrary to these principles is a harm

that should be fought and turned to an interest. The prohibition against failing or restraining these five principles has always been included in all religions and *Shariah*, as *Shariah* is for the best interest of humankind.” (Al-Ghazali, 1993).

The development of houses on *waqf* land fulfils the objectives of *Shariah*. In addition to food, education, health, and protection, shelter or housing is also a basic thing that is needed in a person’s life (Farhana & Azman, 2019). The Prophet (PBUH) said:

“Part of a man’s happiness is a spacious dwelling, a good neighbor, and a good mount.” (Al-Bukhari, 1989/1409)

There are many suggestions and recommendations to develop these *waqf* lands to enhance the country’s economy, as the *waqf* resources should be used to support the government in facilitating the public’s needs. The development of *waqf* should not only focus on religious activities but should also contribute to social services. Hence, there are several schemes under *waqf* development, namely education, health, mosque and school (*madrasah*), social care and welfare, trade and commerce, environment, infrastructure and art, culture and heritage (Anwar, Ahamed, & Muhammad, 2014). In consideration of the rise in Malaysia’s population and the sharp increase in the price of housing, it is urged that the *waqf* lands in Malaysia should be developed into housing projects. Therefore, the significance of *waqf* real estate should be developed as housing areas lie in the wide swathes of undeveloped *waqf* lands that can fulfil immediate affordable housing shortages in Malaysia (AbdulLateef, Abdul, Seong, Lee, & Naoto, 2016; AbdulLateef & Arazi, 2019). Limited income levels and subsequent exorbitant housing price levels have excluded medium and low-income earners from the housing market. As a result of this social mobility imbalance, the community’s well-being may be affected, giving rise to increased incidences of criminal cases (Siti et al., 2016). Nevertheless, to some extent, the misconceptions about the issue of inheritance of housing units built on *waqf* land affects development, where it is not as smooth as expected.

2. LITERATURE REVIEW

In general, there has been a lot of research on the issues of *waqf* land and the possible solutions conducted by scholars and academicians (Che, Nor, & Nor, 2015). The highest number of studies concentrates on the subject areas of management and development of *waqf*. The other subject areas of previous research include cash *waqf*; socio-economic role on *waqf*; the legal framework of *waqf*, and others (Salehuddin & Nor, 2019). However, it seems that there is an absence of literature on housing units built on *waqf* land, and the issue of its inheritance from the Islamic law perspective. Some works of literature discuss the issue of inheritance without discussing the issue of housing units built on *waqf* land as below.

Sami and Kenneth (1989) point out the fundamentals of Islam such as Allah the Unique, respecting the rights of others, being generous but not a squanderer, dealing justly and equitably, etc., and their effect on the Islamic economy. The authors also discuss the protection of the rights to property for both men and women, and the prevention of concentration of wealth through massive inter-generational transfer to heirs, which serves as a major check on the accumulation of property. In another research, Ghafar, Taufiq, and Najib (2014) conducted a comparative study on the inter-generational transfer between the Islamic inheritance system (*al-faraid*) and the Western conventional system, which is based on the principles of rationalism and utilitarianism. The authors suggested that the Islamic inheritance system in the inter-generational transfer is more comprehensive, has a broader framework, and is economically and socially more beneficial compared to the Western conventional system. From a historical perspective, Zahari (2007) wrote about the biography and contribution of a companion of the Prophet (PBUH) named Zayd bin Tsabit to Islamic inheritance law. The author acknowledged Zayd’s independent reasoning (*ijtihad*) in *al-faraid* as Zayd was a companion that was knowledgeable in *al-faraid* as recognised by the Prophet (PBUH). These include Zayd’s *ijtihad* in the issues of *al-musyarakah*, *al-kharqa*, *al-akdariyyah*, *al-muaddah*, and others.

Some authors have written about the basic concept of Islamic inheritance law. One example is Ahmad (2016). The author wrote about the basic concept of Islamic inheritance law in Malaysia; however, he did not present any numerical scenario. The author also highlighted issues and challenges in Islamic inheritance law in Malaysia, which include the lack of effectiveness of the administrative system as well as the understanding and attitudes of the community and the heirs themselves. In contrast, Siti, Abdul Malek, Ahmad, and Muhammad (2017) discussed the basic concept of Islamic inheritance law, and presented it together with some numerical scenarios and mathematical methods to solve the issues. Some mathematical methodologies were also applied in this study for the accurate calculation to calculate the property for each qualified heir. However, there was no discussion on the issues and challenges on Islamic inheritance law in Malaysia as found in Ahmad (2016). Some other authors such as Iman (2017) presented methods to calculate the numerical scenarios of Islamic inheritance law, similar to Siti et al. (2017).

Muhammad and Muhammad (2019) responded to the propaganda on equal distribution of Islamic inheritance shares between male and female heirs and its coinciding with the distribution set by the Holy Quran. The authors found that there is no dispute among Muslims regarding male heirs receiving double the shares of the female heir when they both inherit simultaneously. However, if no male heir exists and a female heir inherits alone, she receives half of the shares, and two-third of the shares if two or more female heirs inherit, with no male heir present. In another research, Kamarudin and Abdullah (2016) wrote on the legal framework of Islamic inheritance law and its practices in Malaysia. The authors also discussed alternative methods of estate distribution and some restrictions in implementing Islamic inheritance law in the Federal Land Development Authority (FELDA) lands, Malay reserved land, and customary land. From another point of view, Daud and Azahari (2019) write on the obligatory (*wajibah*) will, which is an alternative wealth transition for individuals who are prevented from gaining inheritance as they are not the legal heirs of the deceased person. Examples of such individuals are adopted children and illegitimate children. The authors also provided information on the practice of the obligatory will because of the plurality of the Indonesian people, and how it is an appropriate instrument to attain justice and the well-being of the community.

Looking at another perspective, Umar and Junaidu (2019) discussed the inheritance of a business from an Islamic accounting perspective. Islam emphasizes that a business should be a continuing concern to generate income to sustain the welfare of the heirs. Therefore, the assets of an inherited business should be measured in fair values, with liabilities and legacies deducted therein with the view of arriving at the equity (or residue). The equity is then distributed among the heirs based on the sharing ratio established according to the principles of Islamic inheritance. Noordin, Ismail, Abd Rahman, Haron, and Abdullah (2016) attempted to re-evaluate and recommend possible ways of improving the practice of *hibah* trust in Malaysia. *Hibah* trust was introduced in 2013 and has become a new model of Islamic estate planning. Despite the intention of *hibah* trust to expedite the lengthy and complex procedures of inheritance, the study found that the *hibah* trust product mirrors the conventional living trust, which provides a high degree of freedom to the benefactor to decide the distribution of his or her wealth without taking into consideration the interest of eligible heirs under Islamic inheritance law. Thus, the Islamic inheritance law and the rule of will (*wasiyyah*) in Islam should be observed in the agreement of *hibah* trust. Last but not least, Azila and Srazali (2019) wrote a preliminary study of Shariah-related matters in the development of housing projects on *waqf* land in Malaysia. The authors listed the *waqf* lands in Malaysia and categories of their development, with some fatwas in Malaysia concerning *waqf* and development as well as Shariah considerations and construction procurement. The authors also touched upon the issues of inheritance, ownership, and bankability, but without any details.

From the above works of literature, it would seem that no author has discussed housing units built on *waqf* land and the issue of inheritance from the Islamic law perspective.

2.1. Inheritance in Islamic Law and Malaysian Law

In Islam, the concept of inheritance refers to the entitlement of an eligible person to a deceased's estate upon the latter's death, either by intestate succession or by way of testate succession (Al-Zuhayli, n.d; Cyril, 2003).

Intestate succession is usually referred to as allotments (*al-faraid*), which are prescribed in the Holy Quran and the traditions of the Prophet (PBUH). *Al-Faraid* means the distribution of the estate among the legal heirs who will receive a certain percentage of the estate as prescribed and established by Allah the Almighty in the Holy Quran (Muhammad Khairy Al-Mufti, n.d). In other words, it is the right of legal heirs to be entitled to some percentage of the estate, which is established after the death of someone who has a certain relationship between them or by reason of marriage as indicated by Islamic law (Al-Ahdil, 2007/1427). In Islamic law, it is Allah Himself, who out of His Knowledge, Wisdom, and Justice, established the distribution of inheritance to give each eligible person his or her share. He has commanded humankind to remain within the limits of His legislation. Hence, anyone who deviates from His system in the distribution of shares offends his Lord. Allah the Almighty mentions the principles of inheritance in three verses of the Holy Quran. Therefore, it is prohibited for one relative to deprive another eligible relative of his or her inheritance through deceit and dishonesty (Ibn Kathir, 1999/1420). The ruling is that only the legal heirs of the deceased person have the right to inherit the deceased's property. It is narrated that the Prophet (PBUH) said:

“I am, according to the Book of Allah, the Exalted, and Majestic, nearest to the believers of all human beings. So, whoever amongst you die in debt or leaves behind destitute children, you should call me for help and his guardian. Who amongst you leaves the property, his inheritor is entitled to get it, whoever he is.” (Muslim, n.d).

This tradition of the Prophet (PBUH) explains that only the legal heirs have the right to inherit the property of the deceased. This tradition of the Prophet (PBUH) revoked inheritance by way of oath and other ways used by people other than the legal heirs (Qadi 'Iyadh, 1998/1419). On an important occasion during the time of the Prophet (PBUH), one of two women of Hudayl killed the other, where each of them had a husband and sons. The Prophet (PBUH) fixed the blood-money for the slain woman to be paid by the woman's relatives on the father's side. The Prophet (PBUH) then declared her husband and the child innocent. Eventually, the relatives of the woman who was killed said that they shall inherit from her the woman. The Prophet (PBUH) replied:

“No, her sons and her husband should inherit from her.” (AbĒ DÉwĒd, n.d).

Based on the above tradition of the Prophet (PBUH), it is clearly shown that only legal heirs inherit rather than others. In contrast, testate succession is a disposition of property by way of a *wasiyyah*, which is also known as a testamentary disposition. *Wasiyyah* means to authorize possession of one's wealth or possessions to someone else after the death of the owner of the property by way of charity or donation, whether in terms of the property itself or term of its benefit (Al-Zuhayli, n.d). Nevertheless, the making of a *wasiyyah* by a Muslim is subject to some limitations as far as the beneficiary is concerned, and also as to the quantum of the *wasiyyah*. The limitation regarding the beneficiary is that the person must not be the legal heir of the testator, and it should not exceed one-third of the net estate (Muslim, n.d).

In Malaysia, under Item 1, List II (State List), Ninth Schedule, the Federal Constitution sets out that Islamic law is only applicable to the personal laws of Muslims, inter alia, in matters such as succession, intestate, testate, and Baitulmal. Nevertheless, the procedure for the administration of estates is governed by the Rules of Court 2012, the Probate and Administration Act 1959, the Small Estate (Distribution) Act 1955, and the Public Trust Corporation Act 1995. Generally, there are two types of property, namely movable and immovable properties. Movable and immovable property is defined in section 3 of the Interpretation Acts 1948 and 1967, which reads as follows:

“*Immovable property*” means land and any interest in, right over or benefit arising or to arise out of land.”

“*Movable property*” means all property other than immovable property.”

In the law of succession, an estate can be divided into two categories, which are testate and intestate. Testate means a deceased left a will and appointed two executors before he died (Akmal, 2018). Section 2 of the Wills Act 1959 defines 'will' as:

“A declaration intended to have legal effect of the intentions of a testator with respect to his property or other matters which he desires to be carried into effect after his death.”

On the other hand, intestate means a deceased died without leaving a will; or, left a will, but did not appoint two executors; or, left a valid will and appointed two executors, but the executors were unable or refused to accept the obligation (Akmal, 2018; Akmal, Wan, Nora, & Mohd Hisham, 2009). In the administration of estates, two factors that must be considered are whether the estate is testate or intestate, and the value of the estates. Testate estates are dealt with by the High Court without taking into account the value of the estates of the deceased. Section 24(f) of the Courts of Judicature Act 1964 provides the jurisdiction of the High Court by stating that:

“Jurisdiction to grant probates of wills and testaments and letters of administration of the estates of deceased persons leaving property within the territorial jurisdiction of the Court and to alter or revoke such grants.”

For an intestate estate, if the value of the property without deduction of the debt is more than RM2 million, whether immovable or partly immovable, or if the property is movable only and the value is more than RM600,000, the administration of the estate is also vested in the High Court based on section 5(1) of the Small Estates (Distribution) Act 1955. For an intestate estate, if the value of the property without deduction of the debt is below RM2 million, whether immovable or partly immovable, it is vested in the Small Estates Distribution section of the Department of Director General of Lands and Mines (JKPTG) (Department of Director General of Lands and Mines, n.d). Section 3(2) of the Small Estates (Distribution) Act 1955 provides:

“For the purposes of this Act, a small estate means an estate of a deceased person consisting wholly or partly of immovable property situated in any State and not exceeding two million ringgit in total value.”

Finally, if the intestate property is wholly immovable and the value without deducting the debt is below RM600,000, the jurisdiction falls under section 17(1) of the Public Trust Corporation 1995 (Akmal, 2018).

In short, if a deceased died leaving a will and appointed two executors despite the value of the property, or in the case of if the deceased dying without leaving a will and the value of the property without deduction of the debt is more than RM2 million, the estate will be handled by the High Court. The executor must apply for a grant of probate for the purpose of administration of estates which are governed by the Probate and Administration Act 1959, and the procedure for obtaining this grant of probate is governed by Order 71 and Order 72 of the Rules of High Court 2012 for non-contentious and contentious probate proceedings respectively. In addition, a deceased who died partially testate, which means a deceased died leaving a will but without appointing two executors, or left a valid will and appointed two executors, but the executors were unable or refused to accept the obligation will also be dealt with by the High Court. However, the personal representatives must obtain a letter of administration with the will attached. After the representative applies for the grant of probate or letter of administration, they will attend the hearing and the Registrar of the High Court will make an order for the distribution of the estates. Unfortunately, there are cases where the remaining funds cannot be distributed because of several factors, namely the recipient is a minor, insane, missing, refusal to accept the payment, or others. These remaining funds are classified as undistributed funds, and a personal representative will discharge his obligation to the Public Trust Corporation, also known as Amanah Raya Berhad, by virtue of section 86 of the Probate and Administration Act 1959 (Akmal, 2018).

Apart from the above situation, if the deceased died without leaving a will and the value of the property without deduction of the debt is below RM2 million, whether immovable or partly immovable, the property will be administered by the Small Estates Distribution Section of JKPTG, which is governed by section 3(2) of the Small Estate (Distribution) Act 1955. The representatives of the estate will apply for a letter of administration from the Land Administrator to administer the estate. After the order of distribution has been granted, the Land

Administrator shall endorse the issue document of title to give effect to it. Similar to the procedure in the High Court, there are some cases where the remaining funds cannot be distributed because of several factors, namely, the recipient is a minor, refusal to accept the payment, insane, missing, or others. These remaining funds are classified as undistributed funds, and the Land Administrator will deposit it with the Public Trust Corporation as stated in section 16(3) of the Small Estate (Distribution) Act 1955 (Akmal, 2018).

Furthermore, if the deceased died without leaving a will and left the estate of the immovable property, which is not more than RM600,000 without deducting the debt, the purpose of administering this estate will be handled by the Public Trust Corporation governed by section 17(1) of the Public Trust Corporation Act 1995. The representative will apply to the Corporation to administer the property, and the Corporation will summarily administer the property. Likewise, regarding the distribution of the estate in the High Court and the Estate Distribution Division, there are cases where the remaining funds cannot be distributed because of several factors, namely the recipient is a minor, insane, missing, or others. These remaining funds are classified as undistributed funds, and will be transferred to the Public Trust Corporation as explained in section 20 of the Public Trust Corporation Act 1995 (Akmal, 2018).

Finally, under the States Enactment of Administration of Islamic Law, the Syariah Court has the jurisdiction to hear and determine all actions and cases relating to the division and inheritance of testate or intestate property or the determination of the persons entitled to share in the estate of a deceased Muslim or the shares to which such persons are respectively entitled. In this regard, on the application of any person who claims to be a beneficiary or his representative, the Syariah Court may determine the persons entitled to share in the estate or the shares to which such persons are respectively entitled by issuing the inheritance certificates (*sijil faraid*). In practice, in an application for the administration of a Muslim's estate, the *sijil faraid* is required to ascertain that the distribution order was made by the High Court or the Estate Distribution Division for non-small estate or small estates respectively, which is consistent with the Islamic law on succession (Akmal, 2018).

The procedure of the administration of an estate in Malaysia is illustrated in the figure below: (Akmal, 2018).

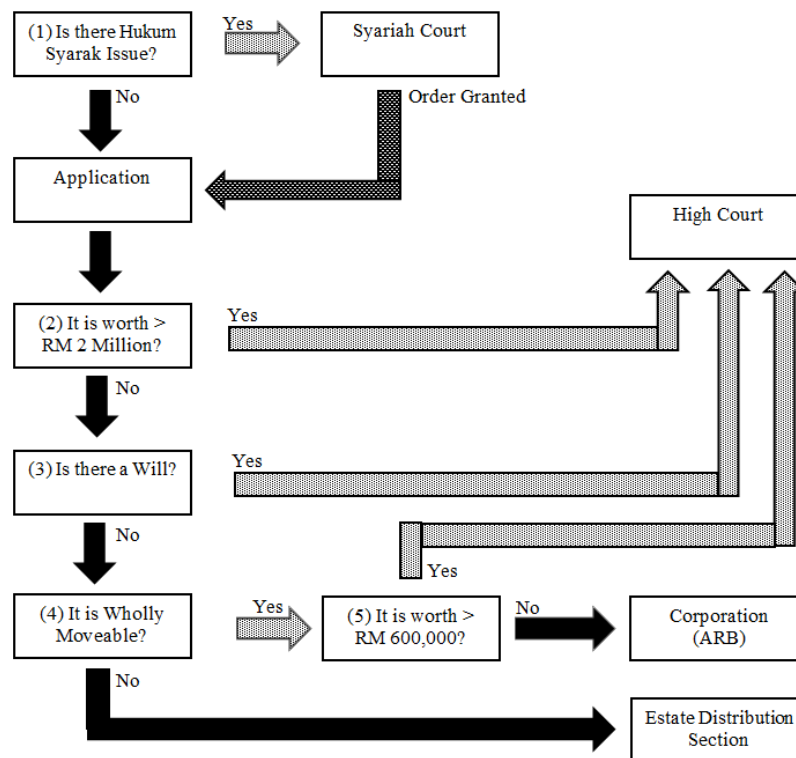


Figure-1. The Administration of Estates in Malaysia.

2.2. Perpetuity and Inalienability in Waqf from an Islamic Law Perspective

The word *waqf* is an infinitive noun that is derived from the Arabic language, which means to stop, to prevent, or to restrain (*al-habs*). When the word relates to property such as land, animals, and others, it means freezing property rights for certain benefits (Ibn Manzur, 1414). An example of *waqf* is restraining a tree and donating its fruits (Ibn Qudamah al-Maqdisi, n.d).

Technically, Abu Hanifah defined *waqf* as the appropriation of property in such a way that the donor's right to it shall continue, and the advantage or benefit from it goes to some charitable object (Al-Zuhayli, n.d). Based on this definition, *waqf* does not eliminate the ownership of the donor, and it is permissible for the donor to withdraw the *waqf* (Al-Zuhayli, 2012; Ibn Qudamah al-Maqdisi, n.d). In contrast, according to Abu Yusuf and Muhammad Hasan from the Hanafi school of thought, *waqf* is to hold a permanent property that can be taken advantage of, whereby the donor loses the management rights to the property. For expenditure items that should either be taken from the *waqf* itself or as a result of the intended welfare, they are approximated to God, and the property's change of ownership belongs to God (Al-Zuhayli, 2012). Thus, it is legally meant to protect something, by preventing it from becoming the property of a third person (Al-Sarakhsi, 1993). The Maliki school of thought defines *waqf* as the detention of property from disposal, while its ownership remains with the proprietor, and its income is donated to any person intended by the proprietor or to any charitable institution (Al-Zuhayli, 2012). The same definition is given by the Shafi'i and Hanbali schools of thought, who define *waqf* as the restraining of property from being disposed while it can be used and be utilized (Al-Bahuti, n.d; Al-Khatib & Shams, 1994). The Holy Quran and the traditions of the Prophet (PBUH) enjoin *waqf*. For example, the Holy Quran mentions people who rightly spend their wealth and possession as Allah says:

“And in their wealth and possessions was remembered the right of the needy, him who asked, and him who for some reason was prevented from asking.” *Al-Quran*, (Surah Al-Dzariyat) 51: 19.

As the rephrase of definitions by the classical jurists above, it is concluded that *waqf* is a permanent endowment of a corporeal property (*'Ayn*) for the benefit of the donor's family or someone else or something. The endowment is in perpetuity, which is not capable of transfer, gift, and transmission thereafter (Mohammad, Iman, & Hamid, 2006). Historically, there are some dominant examples of *waqf*, namely date-palm tree gardens (Ibn Kathir, 2007), a piece of land (Al-Bukhari, 1422) (Ibn Hajar Al-'Asqalani), a well for drinking, and household needs (Al-Bukhari, 1422). In contrast, the *waqf* is void if the subject matters of *waqf* have no benefit or the benefit is not everlasting such as dogs, pigs, and food, as according to the Shafi'i and the Hanbali schools of thought (Al-Zuhayli, n.d).

Moreover, there are two types of *waqf*, which are specific and unspecific *waqf* (Al-Zuhayli, 2012). Al-Nawawi, a prominent Muslim scholar from the Shafi'i school of thought said:

“If a person makes the endowment for a specific individual or group, then the condition is that transfer of ownership be possible, as it is not valid for the beneficiary to be an unborn child.” (Abu Zakaria Muhyiddin Yahya Bin Sharaf Al-Nawawi, 1425/2005).

A short explanation by al-Khatib al-Shirbini remarks that if an endower of the *waqf* (*al-waqif*) makes the endowment for a specific beneficiary, whether it is a person or two or a group of people, then the condition is that transfer of ownership is possible in circumstances where the beneficiary of the endowment exists externally (Al-Khatib, 1994/1415).

The second type of beneficiary is an unspecific beneficiary. Al-Nawawi said that:

“If a person makes an endowment for the benefit of something general but constitutes disobedience, such as building a church, it would be invalid. As for something general constituting obedience, such as giving to the poor, the scholars, mosques, and schools, this would be valid. More to something general in which drawing nearer to Allah is not manifest, such as for the benefit of the wealthy, is also valid according to the most correct position.” (Abu Zakaria Muhyiddin Yahya Bin Sharaf Al-Nawawi, 1425/2005).

Al-Khatib al-Shirbini explains that general *waqf* constituting disobedience would be invalid such as building a church and the like, or building other places of worship that disbelievers use for worship, their mats, their candles, and their servants, the books of the Torah and the Injil, and weapons for highway robbers. These acts would be assisting in disobedience, whereas *waqf* has been legislated for drawing nearer to Allah, and thus it would be contradictory. Hence, *waqf* which constitutes obedience to Allah is valid (Al-Khatib, 1994/1415).

Further, there are three characteristics of *waqf*: irrevocability, perpetuity, and inalienability. The characteristics are deduced and interpreted from the tradition of the Prophet (PBUH), where it was narrated by ‘Abd Allah bin ‘Umar that ‘Umar bin Al-Khattab got some land in Khaybar and he went to the Prophet (PBUH) to consult him about it. He said:

“O Allah’s Messenger (PBUH), I got some land in Khaybar better than which I have ever had. So, what do you suggest that I do with it?” The Prophet (PBUH) said, “If you like you can give the land as endowment and give its fruits in charity.” So ‘Umar gave it in charity as an endowment on the condition that it would not be sold nor given to anybody as a present and not to be inherited, but its yield would be given in charity to the poor people, to the kith and kin, for freeing slaves, for Allah’s cause, to the travellers and guests, and that there would be no harm if the guardian of the endowment ate from it according to his need with good intention, and fed others without storing it for the future.” (Al-Bukhari, 1422).

Irrevocability is a state of being incapable of revoking after the beneficiaries of the *waqf* accept the contract of *waqf* (Al-BughÉ, 1989). The majority of Islamic scholars are of the opinion that it is prohibited and unlawful for a person to donate either in the name of gift (*al-hibah*) or charity (*al-Īadaqah*) or endowment (*al-waqf*) to revoke his or her donation after the donation has been made. Al-Qadi said that the exception to the above is a donation made by a father to his child (Al-Mubarakfuri, n.d). Hence, the *waqf* is irrevocable after it has been made.

Furthermore, the *waqf* must be in perpetuity, which means it remains so forever. It is a consensus of Muslim scholars that real estate is an ideal subject matter of *waqf* which has the characteristic of perpetuity (Mohammad et al., 2006). Some scholars view that the subject matter of the *waqf* should be perpetual, i.e. either immovable property such as land or a house, or moveable property which is permitted by Islamic texts or by sound reasoning (*al-qiyas*) such as a slave, garment, coat of mail, mats, candles, and carpeting in mosques (Al-Khatib, 1994/1415; Abu Zakaria Muhyiddin Yahya Bin Sharaf Al-Nawawi, 1425/2005). Some scholars such as Abu Yusuf and Muhammad Hasan from the Hanafi school of thought view that the dedication of *waqf* must be perpetual (Al-Zuhayli, 2012). Yet, although the perpetuity of dedication is intended, the perpetuity of the object is subject to interpretation (Mohammad et al., 2006). Lastly, *waqf* must be inalienable, which means the subject matter of the *waqf* is prohibited to be alienated since the argument of the majority of the Muslim scholars is based on ‘Umar’s narration above (Al Dubyan, 1432). Another argument is Jabir’s narration regarding the inalienability of *waqf* property as he said:

“I do not know anyone who has money either from al-Muhajirin (the emigrants from Makkah) or the al-Ansar (the helpers who live in MadĒnah) except they will treat the *waqf* property accordingly by not buying the property, nor give the property as a present, and not inherit the property.” (Al Dubyan, 1432)

Therefore, according to them, it is clear that *waqf* land is inalienable. Inalienability may however be disputed. The basic legal ruling is that *waqf* needs to be guarded from being idle. If there is no other way to benefit from the asset, then it is better to sell it Ibn Qudamah al-Maqdisi (1968/1388); Al-Zuhayli (n.d). According to the early jurists, in circumstances that are appropriate for the purpose of *waqf*, it is permitted for the qadi to sell or modify the *waqf* management laws, even though they were specifically prohibited by the endower of the *waqf*. Also, it was held that the endower could permit the contracting of debts for repairs and taxes, the mortgaging of the land, or the development thereof when the *waqf* had no revenue. They also allowed the sale of part of the land dedicated to the above-listed purposes, including mosques. The Hambali Hanbali school of thought allowed mortgage (*al-rahm*) on *waqf* property to raise *waqf* profits (Mohammad et al., 2006). Hanafi jurists permitted the substitution of non-mosque *waqf* assets, with some conditions (Al-Zuhayli, n.d).

For some Muslim scholars, although they represent their school of thought, they agree that the asset of the *waqf* is permitted to be sold and substituted (*ibdal*) with the other if it is necessary to do so (Al-Zuhayli, n.d). Among them are Ibn al-Humam from the Hanafi school of thought, al-Khatib al-Shirbini from the Shafi'i school of thought, Ibn Qudamah, Ibn Taymiyah and Ibn Qayyim from the Hanbali school of thought (Al-Khatib, 1994/1415; Ibn al-Humam, n.d; Ibn Qayyim al-Juziyah, n.d; Ibn Qudamah al-Maqdisi., 1968/1388; Ibn Taymiyah, 1995/1416). Examples of such are that the asset of the *waqf* is ruined, and the asset no longer benefits the beneficiary. The argument is it is unlawful to establish a *waqf* which is not beneficial in the first place as it is also unlawful to sustain it when it is ruined. In other words, the rule at the beginning of the *waqf* is a rule applies at the end of the *waqf* (Ibn Qudamah al-Maqdisi, 1994/1414).

Furthermore, selling the ruined *waqf* asset is more beneficial than leaving it idle, more beneficial to the beneficiaries (*maxwuf alayh*), and fulfilling the purpose of the donor (Abu Zakaria Mohiuddin Yahya Bin Sharaf Al-Nawawi, n.d; Rahbani, 1994/1415). Some other Muslim scholars like Abu Yusuf from the Hanafi school of thought, a narration from the Hanbali school of thought, and al-Shawkani are of the view that it is permissible to sell the assets of *waqf* if it is more profitable, despite the asset still being beneficial (Al-Mardawi al-Hanbali, n.d; Ibn Najim, n.d). The consideration of substituting the *waqf* asset is public interest (*al-maslahah*) (Al-Qahtani, 1433/2012). It is reasonable and acceptable according to Islamic law for a more profitable *waqf* asset, and it is the purpose of *waqf* itself (Al-Shawkani, n.d.).

As a contemporary view, it is permissible to substitute *waqf* assets and purchase a new one instead of maximizing the interest of the *waqf* (The Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI), 2015). This, in essence, goes against the opinion of those who advocate the inalienability of title to *waqf* assets.

2.3. The Inheritance of Housing Unit on Waqf Land

Waqf housing development is typically cheaper than a conventional housing project of a similar type. Bumiputera developers price their properties below market value to ensure that the target group can afford them. Such development is expected to fulfil the demand for safe, comfortable, and secure housing (Sharen, 2017).

First, it is to know that the State Islamic Religious Councils (hereinafter referred to as 'SIRC') will be the sole trustee of *waqf* situated in their states as mentions in section 89(a) of the Administration of the Religion of Islam (State of Johor) Enactment 2003, section 4 of the Wakaf (State of Selangor) Enactment 2015, section 27 of Wakaf Enactment (Perak) 2015 and other related enactments. For example, section 77 of the Administration of the Religion of Islam (State of Malacca) Enactment 2002 provides:

"Notwithstanding any provision to the contrary contained in any instrument or declaration creating, governing or affecting it, the Majlis shall be the sole trustee of - (a) all wakaf, whether wakaf am or wakaf khas; (b) all nazr am; and (c) all trusts of every description creating any charitable trust for the support and promotion of the religion of Islam or for the benefit of Muslims in accordance with Hukum Syarak; - to the extent of any property affected by the wakaf, nazr am or trust and situated in the State of Malacca."

Second, the statutes related to *waqf* make it clear that *waqf* must be subjected to the characteristic of perpetuity. For example, section 2 of the Administration of Islamic Law (Federal Territories) Act 1993 defines general *waqf* as:

"A dedication in perpetuity of the capital and income of property for religious or charitable purposes recognized by Islamic Law, and the property so dedicated;"

The characteristic of perpetuity is also contained in the definition of specific *waqf* as the section mentions:

"A dedication in perpetuity or for a limited period of the capital of property for religious or charitable purposes recognized by Islamic Law, and the property so dedicated, the income of the property being paid to persons or for purposes prescribed in the wakaf."

Third, the statutes related to *waqf* make it clear that *waqf* must be subjected to the characteristic of inalienability. For example, section 4 of the Wakaf Enactment (Perak) 2015 states that:

“A wakaf which has come into operation shall not be sold, transferred, given by way of hibah or inherited by any person.”

Fourth, there are three situations where *waqf* lands are developed into housing development. First are *waqf* lands which are acquired by the government and have been developed into housing development. Second are *waqf* lands which are developed into a housing development by SIRC and SIRC's joint venture partners. Third are *waqf* lands which are developed into a housing development by SIRC and SIRC's corporation.

The first situation, where *waqf* land is acquired by the state government, the land is considered as the property of the government (Mohd, 2008). Section 3 of the Land Acquisition Act 1960 states that:

“The State Authority may acquire any land which is needed; (a) for any public purpose; (b) by any person or corporation for any purpose which in the opinion of the State Authority is beneficial to the economic development of Malaysia or any part thereof or to the public generally or any class of the public; or (c) for the purpose of mining or for residential, agricultural, commercial, industrial or recreational purposes or any combination of such purposes.”

The SIRC involved will be awarded compensation based on the market value guided by the first schedule of the act. The ownership of the land is vested in the state's government, and any development and transactions that arise no longer relate to *waqf* lands. The SIRC involved in the acquisition must substitute the land under the concept of substitution (*al-istبدال*). For example, the implementation of this concept occurs due to several types of development in the state of Johor.

Among them is a planned village development project implemented in Kampung Paya, Mukim Layang-Layang, Kluang by the state government. In the development, a piece of *waqf* land was involved, namely PTD 5944 HS (D) 54611 with an area of 8.95 acres. The implementation is based on the needs and benefits of the people in the State of Johor in addition to facilities and benefits in general. In this situation, any development on the land and transactions arising afterward is no longer related to *waqf* land. Further, the SIRC of Johor substituted the acquired land with another piece of land, namely PTD 10390 with an area of 9.5 acres in Kampung Paya, Mukim Layang-Layang, Kluang (Afiffudin, Muhamad, & Khalilullah, 2019).

In the second situation whereby the *waqf* lands are developed into a housing development by SIRC and SIRC's joint venture partners, the ownership will have been changed to the buyer within the details of the sale and purchase agreement. One example is the housing project development in *waqf* Seetee Aishah. In this project, the Penang State Islamic Religious Council (MAINPP) had a joint venture partnership with UDA Holdings Bhd (UDA), with all financing and development costs funded by UDA. UDA completed 76 units of two-storey terrace houses and nine units of three-storey shops.

The housing units were sold from RM281,800.00 to RM439,600.00 per unit by a lease of 99 years. This lease method is used to guarantee the perpetuity of the land as well as the possession of SIRC of Pulau Pinang on it. From this joint venture, the SIRC received 30 percent of the profit from the sale of the house as well as nine three-storey office units (Hydzulkifli & Asmak, 2012).

Similar to *waqf* Seetee Aishah is a project that is being developed on 27.23 acres of *waqf* land, which is a housing development named Taman Sultan Sallehuddin at Telok Chengai, Alor Setar. The project is a joint venture between UDA Waqf Sdn. Bhd. and SIRC of Kedah. The project will provide 286 units of properties including 136 units of 2 storey semi-detached houses, 69 units of 2 storey terrace houses, 64 units of low-cost single-storey houses, 15 units of 2 storey office shops, and 2 units of 3 storey office shops. Low-cost houses will be sold for RM45,000 while other houses start from RM370,000. Offices and shop lots are sold with prices starting from RM600,000. Through this joint venture, MAIK will receive 6 units of 2 and 3 storey office shop lots as well as a cash return of RM12 million (Nor & Latifah, 2018).

In the third situation whereby the *waqf* lands are developed into a housing development by SIRC and SIRC's corporation, the ownership also has been changed to the buyer within the details of sale and purchase agreement. For example, 10 units of two-storey terrace housing with an area of 20' x 55' for each unit in Jalan Tembusu, Bandar Taiping will be developed by the Perak Islamic Economic Development Corporation (PKEINPk), a corporation of SIRC of Perak.

The corporation will be developed 26 units of double-storey terrace housing with an area of 20' x 55' per unit with a minimum floor space of 1,400 square feet (Perak Islamic Economic Development Corporation, 2020). Another example is the Selangor Wakaf Corporation (PWS), a corporation under SIRC of Selangor, which is developing five housing projects on *waqf* lands. These projects are UME Teratai Avenue and UME Ehsan Residence in Shah Alam as well as UME Impian Taman Desa Kencana, UME Idaman Taman Desa Kencana and UME Gemersik, Taman Meru Makmur in Klang, with a cost of approximately RM135 million (Petaling District and Land Office, 2016).

Fourth, in the second and the third situation, the houses' tenure is leasehold for 99 years. In other words, the purchaser of the houses will receive a lease title. This is as mentioned in section 221 of the National Land Code 1965:

"Subject to the provisions of sections 225 and 226, the proprietor of any alienated land may grant leases of the whole or any part thereof in accordance with the following provisions of this section."

The lease agreement is determined when the expiration of the term (under section 240 and 313 of NLC 1965) or upon surrender of the lease before the expiration of term under (section 239 of NLC 1965), or a valid notice to quit is served to the lessee, or the lease is forfeited by the lessee (Sharifah, 2008). Consequently, the land and any buildings constructed on the land will revert to the SIRCs. However, according to section 90A of the act, the period of the lease can be extended subject to an application that is made before the expiry of the lease. It is important to clarify here that, it is necessary to have the lease agreement of the housing unit on *waqf* land as the agreement is not against Islamic law and it maintains the characteristics of *waqf* property which are perpetuity and inalienability (Affudin, Rusnadewi, Rohayati, & Niy, 2015).

Finally, in both situations, a legal heir of the deceased who is a lessee of the housing unit on the *waqf* land is entitled to inherit the property in the period of leasing. If there is a will left behind, which is recognised as testate estate, the will should be dealt with by the High Court without taking into account the value of the estates of the deceased. If there is no will left behind, which is recognised as an intestate estate and the value of the property without deduction of the debt is below than RM2 million, it is vested in the Small Estates Distribution Section (JKPTG). For example, if a man died without any will and left behind a house on *waqf* land, which he had purchased from the SIRC, and the price of the house is estimated to be less than RM500, 000, then the procedure of inheritance will be dealt by the Small Estates Distribution Section (JKPTG).

3. CONCLUSION

In conclusion, the inheritance of housing unit on *waqf* land complies with Islamic law and Malaysian law. Its status as leasehold makes it perpetual and inalienable, which coincides with the concept of *waqf* in Islam. Continuous explanations need to be made to enlighten the public at large on the concept of inheritance in Islamic law and Malaysian law as well as its procedure to keep them away from misconceptions about housing projects on the *waqf* land.

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REFERENCES

- AbdulLateef, O., Abdul, R. A. A., Seong, Y. T., Lee, L. T., & Naoto, M. (2016). Market Analysis of Housing Shortages in Malaysia. *Procedia Engineering*, 164, 315-322. Available at: 10.1016 / j.proeng.2016.11.625.
- AbdulLateef, O., & Arazi, I. (2019). What is determining affordable housing shortages in the greater Kuala Lumpur, Malaysia? *Property Management*, 38(1), 52-81.
- AbÊ DÊwÊd, S. B. A.-A. A.-A. A.-S. (n.d). *Sunan AbÊ DÊwÊd*. BayrÊt: Maktabah al-Asriyah.
- Afiffudin, M. N., Rusnadewi, A. R., Rohayati, H., & Niy, N. (2015). *Application of lease concept in Waqf land development in Kedah Darul Aman*. Paper presented at the Mukhtamar Waqf Iqlimi li 2015 organized by Universiti Sains Islam Malaysia, Nilai.
- Afiffudin., M. N., Muhamad, H. H., & Khalilullah, A. A. (2019). Implementation of Istibdal Wakaf Land for development purposes in the State of Johor Darul Takzim. In Mohammad Mahyuddin Khalid, Azri Bhari and Mohd Afandi Mat Rani (Ed.), *Empowerment of Islamic Philanthropy in Malaysia* (pp. 277-281). Shah Alam: Academy of Contemporary Islamic Studies and UiTM Zakat Study Institute.
- Ahmad, R. M. S. (2016). Concept of Islamic inheritance law (faraid) in Malaysia: Issues and challenges. *Research Journal of Applied Sciences*, 11(12), 1460-1464.
- Akmal, H. H. (2018). *Administration of estates in Malaysia: Law and procedure*. Subang Jaya: Sweet and Maxwell.
- Akmal, H. H., Wan, N. M. S., Nora, A. H., & Mohd Hisham, M. K. (2009). *The law of wills and intestacy in Malaysia*. Gombak: Department of Islamic Law AIKOL and Harun M. Hashim Law Centre IIUM.
- Al-Ahdil, A. B. M. B. Y. (2007/ 1427). *INÊnah al-Êlib fi BidÊyah NÊlm al-FarÊil*. n.p : DÊr Êq al-NajÊh.
- Al-Bahuti, A.-H. M. B. Y. B. S. A.-D. B. H.B. ID. (n.d). We revealed that the 'masked mode'. NB: House of Books.
- Al-BughÊ, M. D. (1989). *Al-TazhÊb fÊ Adillah Matan Al-GhÊyah wa Al-TaqrÊb Al-MasyhÊr bi Matan AbÊ ShujÊ 'fÊ Al-Fiqh Al-ÊfiNÊ*. BayrÊt: D Ibnr Ibn KathÊr.
- Al-Bukhari, A. A. A. M. B. I. B. I. B. A.-M. B. B. A.-J. F. (1989/1409). *Al-Adab al-Mufrad*. Beirut: Dar al-Bashair al-Islamiyyah.
- Al-Bukhari., A. A. A. M. B. I. B. I. B. A.-M. B. B. A.-J. F. (1422). *Sahih Bukhari*. NB: *Dar Touq Al-Najah*.
- Al-Ghazali, A. H. M. B. M. (1993). *Al-Mustasfa*. n.p. Dar al-Kutub al-Ilmiyyah.
- Al-Khatib, A.-S. A.-S. I., & Shams, A.-D. M. B. A. (1994). *Mughni al-Muhtaj ila Ma'rifah Ma'ani Alfaz al-Minhaj*. n.p: Dar al-Kutub al-Ilmiyyah.
- Al-Khatib., A.-S. A.-S. I. S. A.-D. M.B. A. (1994/1415). A singer in need of what'the country of what'y words of approach. NB: Bright Books House.
- Al-Mardawi al-Hanbali, A. A.-D. A. A.-H. A. B. S. (n.d). *Al-Insaf fi ma'rifah al-Rajih min al-Khilaf*. n.p: Dar Ihya 'al-Turath al-'Arabi.
- Al-Mubarakfuri, A. A.-U. M. A. A.-R. B. A. A.-R. (n.d). *Tuhfah Ahwadzi Sharh Jami' al-Tirmidhi*. Beirut: Dar al-Kitab al-Ilmiyyah.
- Al-Nawawi, A. Z. M. Y. B. S. (1425/2005). Approach of the students and 'Muftis spent it in jurisprudence. NB: *House of Fikr*.
- Al-Nawawi, A. Z. M. Y. B. S. (n.d). The collector've explained the polite. NB: Dar Fikr, N.D.
- Al-Qahtani, U. B. C. S. (1433/2012). *Mouse'ah al-Ajami in Islamic jurisprudence*. Saudi Arabia: Dar Al-Fadila, the Night of Publishing and Distribution.
- Al-Sarakhsi, M. B. A. B. A. S. S. (1993). *Al-Mabsut*. Beirut: Dar al-Ma'rifah.
- Al-Zuhayli, W. B. M. (2012). *Mawsa'ah al-Fiqh al-Islam wa al-Ghadaya al-Mu'asarah*. Damascus: Dar al-Fikr.
- Al-Zuhayli, W. B. M. (n.d). *Al-Fiqh al-Islami wa Adillatuh*. Damascus: Maktabah al-Shamilah.
- Al Dubyan, A. U. D. b. M. (1432). *Al-Mua'malat al-Maliyyah Asalah wa Mua'sarah*. Riyadh: Maktabah al-Malik Fahd al-Wataniyyah.
- Anwar, A. P., Ahamed, K. M. M., & Muhammad, Y. S. (2014). Priority of Waqf development among Malaysian cash Waqf donors: An AHP approach. *Journal of Islamic Finance*, 3(1), 13-22.

- Azila, A. S., & Srazali, A. (2019). A preliminary study of Shariah related matters in the development of housing projects on Waqf Land in Malaysia. In Nor Asiah Mohamad et.al (Ed.), *Waqf in Selected Asian Countries* (pp. 55-130). Kuala Lumpur: IIUM and Global Waqf Conference.
- Che, Z. I., Nor, J. S., & Nor, J. A. H. (2015). Administration and management of Waqf land in Malaysia: Issues and solutions. *Mediterranean Journal of Social Sciences*, 6(4), 613-620.
- Cheah, S. L., Stefanie, J. A., & Ho, S. W. (2017). Affordable housing: Challenges and the way forward. Bank Negara Malaysia. Quarterly Bulletin. Retrieved from <http://www.bnm.gov.my/files/publication/qb/2017/Q4/p3ba1.pdf>. [Accessed November 11, 2020]
- Cyril, G. (2003). *The new encyclopedia of islam*. Lanham: Rowman Altamira Press.
- Daud, Z. F. M., & Azahari, R. (2019). The wajibah will: Alternative wealth transition for individuals who are prevented from attaining their inheritance. *International Journal of Ethics and Systems*.
- Department of Director General of Lands and Mines. (n.d). Estate distribution section. Retrieved from <https://www.jkptg.gov.my/en/korporat/profil-bahagian/bahagian-pembahagian-pusaka-bpp>.
- Farhana, M. S., & Azman, A. R. (2019). Housing endowment in economic development: Its implementation according to Maqasid Syariah. *Journal of Fatwa Management and Research Journal of Fatwa Management and Research*, 16(2), 31-42.
- Ghafar, I. A., Taufiq, P., B., & Najib, A. K., M. (2014). Inter-generational transfer under Islamic perspective. *Humanomics*, 30(2), 95-121.
- Hydzulkifli, H., & Asmak, A. R. (2012). Wakaf property development Management: The experience of the Penang islamic religious Council (MAINPP) towards Seetee Aishah Wakaf. *International Journal of Management Studies*, 19(2), 103-123.
- Ibn al-Humam, K. A.-D. M. B. A. A.-W. (n.d). Fath al-Qadir. n.p.: Dar al-Fikr.
- Ibn Kathir, A. A.-F. I. I. B. A. A.-Q. B. K. A.-D. (1999/1420). *Interpretation of worthy't that the mode is great*: NB: Taiba for me Publishing and Distribution.
- Ibn Kathir., A. A.-F. I. I. B. A. A.-Q. B. K. A.-D. (2007). *Tafsir Ibn Kathir (Abridged)*. trans. by Muhammad Anis Gad Khalil. Jeddah: Dar al-Manarah.
- Ibn Manzur, M. b. M. b. A. b. A. b. M. a.-A. a.-I. a.-M. a.-K. J. a.-D. A. a.-F. (1414). *Lisan al-'Arab*. Beirut: Dar Sadir.
- Ibn Najim, Z. A.-D. B. I. B. M. A.-M. (n.d). *The empty sea explain the flour treasure*. NB: Islamic Book House.
- Ibn Qayyim al-Juziyah, M. B. A. B. B. A. (n.d). *Looked'a benefits*. Beirut: Arab Book House.
- Ibn Qudamah al-Maqdisi, A. M. M. A.-D. A. M. A. A. B. A. B. M. B. M. B. N. B. A. A. (n.d). *Al-Mughni*. Cairo: Maktabah al-Qahirah.
- Ibn Qudamah al-Maqdisi, A. M. M. A.-D. A. M. A. A. B. A. B. M. B. M. B. N. B. A. A. (1968/1388). *Al-Mughni*. n.p: Maktabah al-Qahirah.
- Ibn Qudamah al-Maqdisi, A. M. M. A.-D. A. M. A. A. B. A. B. M. B. M. B. N. B. A. A. (1994/1414). *Al-Kafi*. n.p. *Dar al-Kutub al-Ilmiyyah*.
- Ibn Taymiyah, T. A.-D. A. A.-A. A. B. A. A.-H. (1995/1416). *Majmu'al-Fatarwa*. Saudi Arabia: Majma'al-Malik Fahd li Tabaah al-Mushaf al-Sharif.
- Iman, I. S. (2017). A simple way for me to calculate the jurisprudence of inheritance. *Journal of Islamic Sciences Mode*, 15, 80-118.
- Investopedia. (2019). Top 25 developed and developing countries. Retrieved from [https://www.investopedia.com/updates/top-developing-countries/#:~:text=Malaysia%20is%20not%20considered%20a,over%20the%20past%20five%20decades.&text=The%20International%20Monetary%20Fund%20\(IMF,an%20emerging%20and%20developing%20country](https://www.investopedia.com/updates/top-developing-countries/#:~:text=Malaysia%20is%20not%20considered%20a,over%20the%20past%20five%20decades.&text=The%20International%20Monetary%20Fund%20(IMF,an%20emerging%20and%20developing%20country).
- Kamarudin, M. K., & Abdullah, A. (2016). The practice of faraid distribution in malaysia. *Journal of Global Business and Social Entrepreneurship*, 2(3), 11-19.
- Mohammad, M. T. S., Iman, M., & Hamid, A. (2006). Obstacles of the current concept of waqf to the development of waqf properties and the recommended alternative. *Malaysian Journal of Real Estate*, 1(1), 27-38.

- Mohd, A. M. R. (2008). *Wakaf Fatwa In Malaysia: Specific analysis of Wakaf land acquisition Fatwa by State authorities*. Paper presented at the National Convention of Estate Management, Wills and Endowments organized by Universiti Kebangsaan Malaysia and the Islamic Religious Council and Malay Customs Council, Terengganu.
- Muhammad Khairy Al-Mufti. (n.d). Alfred's science and inheritances in Islamic poetry and Syrian law. NB: The comprehensive library.
- Muhammad, S. I. A.-M., & Muhammad, N. A.-D. A.-M. (2019). Vanities about the inheritance of the Dziker and the female. *Street College Magazine'ah and Islamic Studies*, 36(2), 49-72.
- Muslim, A. A.-U. A. A.-D. M. B. A.-A. B. M. B. W. B. K. A.-Q. A.-N. (n.d). *Sahih Muslim*. Beirut: Dar Ihya'al-Turath.
- Noordin, N. H., Ismail, M. I., Abd Rahman, M. A. H., Haron, S. N., & Abdullah, A. (2016). Re-evaluating the practice of hibah trust in Malaysia. *Humanomics: The International Journal of Systems and Ethics*, 32(4), 418-436.
- Nor, H. K., & Latifah, O. (2018). Uda introduces the first Wakaf land development in Kedah. Media Broadcast. Retrieved from http://www.uda.com.my/assets/front_assets/upload_pdf/SIARAN_MEDIA_-_MAJLIS_PERASMIAN_PECAH_TANAH_WAKAF_TELOK_CHENGAI_15_11_2018.pdf.
- Perak Islamic Economic Development Corporation. (2020). Hartanah. Retrieved from <http://www.pkeinpk.com/index.php/aktiviti-perniagaan/hartanah>.
- Petaling District and Land Office. (2016). MAIS develops five Wakaf property development projects. Retrieved from <https://www.selangor.gov.my/petaling.php/pages/view/397>.
- Qadi 'Iyadh, A. A.-F. I. B. M. B. I. B. A. A.-Y. (1998/1419). *Ikmal al-Mu'lim bi Farwaid Muslim*. Egypt: Dar al-Wafa lil Tabaah wa al-Nashr wa al-Tawzi.
- Rahbani, A.-H. M. B. C. D. (1994/1415). Ali demands because it explains the purpose of the end. NB: *The office, Ismail*.
- Salehuddin, M. D., & Nor, A. M. (2019). *Waqf literatures from Malaysia: 60 Years after independence*. In Nor Asiah Mohamad et.al (Ed.), *Waqf in Selected Asian Countries*. Paper presented at the Kuala Lumpur: IIUM and Global Waqf Conference.
- Sami, M., & Kenneth, W. H. (1989). Islamic economics: Foundations and practices. *International Journal of Social Economics*, 16(5), 5-17.
- Sharen, K. (2017). House ownership: Unlocking potential of Wakaf Land. New Straits Times. Retrieved from <https://www.nst.com.my/property/2017/05/242573/house-ownership-unlocking-potential-wakaf-land>. [Accessed 25 October 2020].
- Sharifah, Z. S. A. K. (2008). Leases and tenancies. In Ainul Jaria Maidin et.al (Ed.), *Principles of Malaysian Land Law* (pp. 213-232). Petaling Jaya: Lexis Nexis.
- Siti, N. M. A., Abdul Halim, M. N., Noraini, J., Nurul, S. F., Nor, N. C., & Nor, R. P. I. (2016). *Hungry for housing: Waqf real estate development - a social welfare alternative*. Paper presented at the MATEC Web of Conferences, 66 (00068).
- Siti., F. A. R., Abdul Malek, Y., Ahmad, A. F., & Muhammad, F. S. (2017). Asset distribution among the qualified heirs based on islamic inheritance law. In *Contemporary Issues on Zakat Waqf and Islamic Philanthropy* (pp. 465-474). Shah Alam: Academy of Contemporary Islamic Studies.
- Syed, K. R. (2017). Awqaf development in India: A Case Study. In Syed Kalid Rashid (Ed), *Waqf Laws and Management* (pp. 331-350). Kuala Lumpur: IIUM Press.
- The Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI). (2015). *Shari'ah standards for islamic financial institutions 2018*. Manama: AAOIFI.
- Umar, H. U., & Junaidu, M. K. (2019). Business succession from an islamic accounting perspective. *International Journal of Islamic Finance*, 11(2), 267-281. Available at: 10.1108/IJIF-06-2018-0059.
- Zahari, B. M. M. (2007). Zayd b. ThÉbit r.a. and his standing in certain faraid cases. *Journal of Sharia*, 15(2), 153-184.

Statutes

Administration of Islamic Law (Federal Territories) Act 1993.

Administration of the Religion of Islam (State of Johor) Enactment 2003.

Administration of the Religion of Islam (State of Malacca) Enactment 2002.

Courts of Judicature Act 1964.

Federal Constitution

Interpretation Act of 1948.

Land Acquisition Act of 1960.

National Land Code 1965.

Probate and Administration Act of 1959.

Public Trust Corporation Act 1995.

Rules of Court 2012.

Small Estate (Distribution) Act of 1955.

Wakaf Enactment (Perak) 2015.

Wakaf (State of Selangor) Enactment 2015.

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