

**POTENTIAL OF *WAQF* IN ENHANCING BRUNEI DARUSSALAM'S
ECONOMY**

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of the requirements for the degree of
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SUPERVISION

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DARUSSALAM'S ECONOMY**

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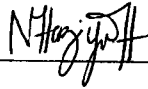
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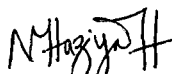
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POTENTIAL OF WAQF IN ENHANCING BRUNEI DARUSSALAM'S ECONOMY

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ABSTRACT

POTENTIAL OF *WAQF* IN ENHANCING BRUNEI DARUSSALAM'S ECONOMY

Waqf institution used to be a renowned philanthropic tool simultaneously used in generating economic activities and ensuring a continuous accumulation of benefits to the society. The contribution of *waqf* in Brunei Darussalam are mostly channeled towards religious purposes such as mosques and cemetery to the extent where its potential as an economic booster has been neglected. This has made *waqf* a missing commercial manner in our economic system that needs to stand out in promoting economic growth. Thus, this research attempt to determine the crucial factors that limit the potential of *waqf* towards enhancing the economy. Current utilization of cash and land *waqf* in Brunei Darussalam will also be highlighted in order to measure the involvement of *waqf* towards the economy. This research uses a qualitative method which is based on in-depth interview sessions with several government bodies related to *waqf* practices in Brunei Darussalam. The significance of this research is to assist the highest authority and related government bodies in developing and widening the potential of *waqf* towards economic purposes. It will also give a broad view on the potential of *waqf* as an economic booster. It is concluded that the potential of *waqf* towards enhancing the country's economy is underdeveloped. This is due to several limiting factors such as human resources, expertise, support from top management, working partnership, general *waqf* enactment and public awareness. At the end of the research, several recommendations will be given by the researcher for each of the constraints which can be implemented by related government bodies in further improving and widening the potential of *waqf* towards enhancing Brunei Darussalam's economy.

Keywords: Potential, Waqf, Economy, Brunei Darussalam

ABSTRAK

POTENSI WAKAF TERHADAP PERTUMBUHAN EKONOMI DI NEGARA BRUNEI DARUSSALAM

Institusi wakaf telah dijadikan sebagai alat filantropi yang terkenal untuk menjana aktiviti ekonomi. Dalam masa yang sama, ianya juga dilihat dapat memberikan manfaat yang berterusan kepada masyarakat. Kebanyakan sumbangan wakaf di Negara Brunei Darussalam telah disalurkan bagi tujuan keagamaan seperti pembinaan masjid-masjid dan tanah perkuburan sehingga mengabaikan potensinya sebagai penggerak ekonomi. Perkara ini telah menyebabkan institusi wakaf tidak berkembang dalam sistem ekonomi negara ke arah memajukan dan menggerakkan perkembangan kemajuan ekonomi. Oleh itu, kajian ini telah diusahakan bertujuan untuk mencari faktor-faktor yang menjadi penghalang bagi kemajuan institusi wakaf sebagai penggerak ekonomi yang berpotensi tinggi. Selain itu, penglibatan wakaf tunai dan tanah wakaf di Negara Brunei Darussalam terhadap aktiviti perekonomian negara juga akan ditinjau dalam kajian ini. Kajian ini menggunakan metod kualitatif yang berdasarkan sesi temubual dengan badan-badan kerajaan yang berkaitan dalam perlaksanaan wakaf di negara ini. Kajian ini dihasratkan untuk membantu pihak berkepentingan dan badan-badan kerajaan dalam membangunkan dan memperluaskan potensi wakaf ke arah pembangunan ekonomi. Disamping itu, kajian ini juga dapat memberikan pandangan yang lebih luas terhadap potensi wakaf sebagai penggerak ekonomi negara. Melalui kajian ini, dapat dilihat bahawa potensi wakaf sebagai penggerak ekonomi masih memerlukan sokongan dan sambutan yang tinggi. Ini disebabkan oleh beberapa faktor penghalang seperti sumber manusia, kepakaran, sokongan daripada pengurusan atasan, perkongsian rakan kerja, enakmen wakaf yang umum dan kesedaran awam. Kajian ini diikuti pula dengan membentangkan beberapa cadangan bagi setiap faktor penghalang yang boleh dimanfaatkan dan dilaksanakan oleh badan-badan kerajaan dalam meningkatkan dan memperluaskan potensi wakaf ke arah meningkatkan ekonomi Negara Brunei Darussalam.

Katakunci: *Potensi, Wakaf, Ekonomi, Brunei Darussalam*

الملخص

إمكانية الوقف في تحسين اقتصاد بروني دار السلام

كانت مؤسسة الوقف أداة خيرية مشهورة تستخدم معا في توليد الأنشطة الاقتصادية وضمن تراكم المنافع المستمرة للمجتمع. إن إسهام الوقف في بروناي دار السلام غالبا توجه نحو الأغراض الدينية مثل المساجد والمقبرة إلى الحد الذي أهملت فيه قدرتها المعزز الاقتصادي. وقد جعل الوقف طريقة الإعلان المفقودة في نظام اقتصادنا التي تحتاج إلى أن توضح في رفع النمو الاقتصادي. وهكذا، فإن هذا البحث يحاول تحديد العوامل الحاسمة التي تحد من قدرة الوقف نحو تحسين الاقتصاد. قد اهتم باستخدام نقد وأرض الوقف في بروناي دار السلام في وقت الراهن لقياس مشاركة الوقف نحو الاقتصاد. ويستخدم هذا البحث الطريقة النوعية تستند إلى جلسات مقابلة متعمقة مع العديد من الهيئات الحكومية ذات الصلة بممارسات الوقف في بروني دار السلام. وتكمن أهمية هذا البحث في مساعدة أعلى سلطة والهيئات الحكومية ذات صلة في تطوير وتوسيع قدرة الوقف نحو الأغراض الاقتصادية. سوف يعطي نظرة واسعة حول إمكانية الوقف كداعم الاقتصاد. ويستنتج أن إمكانية الوقف نحو تعزيز اقتصاد البلاد متخلفة. ويرجع ذلك إلى عدة العوامل المحدودة مثل الموارد البشرية، والخبرة، والدعم من الإدارة العليا، والشركة في العمل، قانون الوقف العام، والوعي العام. وفي نهاية هذا البحث، سيتم بتقديم بعض التوصيات من قبل الباحثة عن كل من القيود التي يمكن أن تنفذها الهيئات الحكومية ذات الصلة في زيادة تحسين وتوسيع إمكانية الوقف نحو تعزيز اقتصاد بروني دار السلام.

الكلمات الرئيسية: الإمكانية، الوقف، الاقتصاد، بروناي دار السلام

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ABBREVIATION

BIBD	Bank Islam Brunei Darussalam
BT	Badan Tanmiah
CSR	Corporate Social Responsibility
<i>et.al</i>	<i>et alia</i>
IBF	Islamic Business and Finance
<i>ibid</i>	<i>ion beam induced deposition</i>
IEF	IIUM Endowment Fund
IIUM	International Islamic University Malaysia
IKIM	Institut Kefahaman Islam Malaysia
KAPF	Kuwait Awqf Public Foundation
KUPUSB	Kolej Universiti Perguruan Ugama Seri Begawan
M	Masihi
MMEs	Micro and Medium Sized Enterprises
MoD	Ministry of Development
MoRA	Ministry of Religious Affairs
MUIB	Majlis Ugama Islam Brunei
MUIS	Majlis Ugama Islam Singapura
n.d.	no date/ no year
<i>Op. Cit</i>	<i>opus citatum est</i>
p.	page
PERKEM	Persidangan Kebangsaan Ekonomi Malaysia
pp.	pages
PPP	Purchasing Power Parity
Pte. Ltd.	Private Limited
SMEs	Small and Medium Enterprises
UKM	Universiti Kebangsaan Malaysia
USD	United States Dollar
Vol.	volume
WIFE	Workshop in Islamic Economics and Finance

CHAPTER I

INTRODUCTION

1.1 Introduction

Waqf is one of the Islamic institutions residing beneath the Islamic legislative system where its conduct is based on the Qur'an and *hadith*¹. It has also been widely known as the oldest Islamic institution capable of improving self-being, generating social benefits and enhancing economy². Hence, *waqf* institution should be further emphasized to the society in order to develop our country particularly in enhancing its economic sector.

Waqf is regarded as a voluntary act of kindness which is highly encouraged in Islam to be implemented in the field of health, education, military purposes and social affairs with the aim of protecting the well-being of the Muslim *ummah*. Even though there is no particular legal reference of *waqf* stated in the Qur'an, there are some verses that carries the essence of *waqf* as stated in the Qur'anic verses below:

﴿إِن تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ ۖ وَمَا تُنْفِقُوا مِن شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ﴾

Means: “By no means shall ye attain righteousness unless ye give (freely) of that which ye love, and whatever ye give, of a truth God knoweth it well.”³

The above-mentioned Qur'anic verse highlights the act of giving sincere charity in order to gain reward and His blessings. Thus, this verse encourages Muslims to practice *waqf* as a charity for the betterment of their own as well as for the society.

Waqf also derives its validity through several general directives Qur'anic verses which urges Muslims to perform benevolent and sincere conducts for social purposes.

¹ Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. p. 35

² Magda Ismail Abdel Mohsin. (2012). *Cash Waqf: A New Financial Product*. Prentice Hall, Pearson Malaysia Sdn. Bhd. p.5.

³ Al-'Imran, 3:92

Below are some verses in the Qur'an which encourages Muslims to spend their wealth in the way of Allah.

﴿وَأَنْفِقُوا فِي سَبِيلِ اللَّهِ وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ﴾

Means: "And spend in the way of Allah and do not throw (yourselves) with your (own) hands into destruction (by refraining). And do good; indeed, Allah loves the doers of good"⁴

The Qur'an has stated in the above verse that Muslims should spend their wealth for the cause of Allah and hence those who do good will obtained Allah's love.

In the same surah, the Qur'an once again states:

﴿مَثَلُ الَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ فِي سَبِيلِ اللَّهِ كَمَثَلِ حَبَّةٍ أَنْبَتَتْ سَبْعَ سَنَابِلٍ فِي كُلِّ سُنْبُلَةٍ مِائَةُ حَبَّةٍ وَاللَّهُ يُضَاعِفُ لِمَنْ يَشَاءُ وَاللَّهُ وَاسِعٌ عَلِيمٌ﴾

Means: "Those who spend their wealth for Allah's cause may be compared to a grain of corn which sprouts into seven ear, with a hundred grains in each ear: for Allah grants manifold increase to whom He wills; Allah is infinite and all knowing."⁵

All of the Qur'anic verses above similarly convey that Allah has encourages His servants to do good and spend their wealth in the way of Allah such as through *sadaqah* and *waqf* that would benefit the society and hence gain reward and blessings from only Him.

The validity of *waqf* can also be deduced from a *hadith* from Imām Muslim, mentioned by Abū Hurairah who reported the Prophet Muhammad (peace be upon him) as saying: "When a man dies, his acts come to an end, but three, recurring charity, or knowledge (by which people) benefit, or a pious son, who prays for him (for the deceased)"⁶. From this *hadith*, majority of the Muslim jurists have agreed and understood that the 'recurring charity' is referred to the basis for *waqf*. Other scholars have also

⁴ Al-Baqarah, 2:195

⁵ Al-Baqarah 2:261

⁶ Sahih Muslim. Kitab al-Wasiyya. Book 13, Hadith No. 4005. Retrieved from: <http://www.quranexplorer.com/Hadith/English/Index.html> (1st November 2016)

believed that it is the institution of *waqf* that enables a believer to perform all the good deeds as mentioned in the above *hadīth*.

Therefore, the evidences from the Qur'an and *hadīth* urges and encourages Muslims to perform more *waqf* as it will bring both multiple rewards for themselves as well as benefits to the society at large.

1.2 Definitions

There exist numerous definitions of *waqf* ranging from Arabic to economic perspective. The word '*waqf*' originates from an Arabic word '*waqafa*' which literally means to stop, to prevent or to restrain⁷. Legally, it refers to an act of protecting or preventing something from becoming a third person's property⁸. According to *Kamus Dewan* (2007), the word '*waqf*' is used to define something that is endowed for public benefits or anything that is endowed for the purpose of religious affairs.

On the other hand, A Concise Encyclopedia of Islam (2013) views *waqf* as a religious fund made in perpetuity where the owner has limited access to the usufruct but no ability to dispose of the principle⁹. In economic sense, *waqf* is an act defined as a combination of both saving and investing where funds are being diverted from the current consumption and simultaneously putting it into a productive investment which is capable of increasing the accumulation of capital in the economy¹⁰.

Although there are several different definitions given to *waqf*, the meaning of *waqf* can be concluded as an endowment of properties that are capable of contributing to socio and economic benefits for the purpose of getting closer to Allah in order to obtain His blessings.

⁷ Magda Ismail Abdel Mohsin. (2012). *Cash Waqf: A New Financial Product*. Prentice Hall, Pearson Malaysia Sdn. Bhd. p.6.

⁸ Abdul Nasir bin Haji Abdul Rani, Dr. (2012). *Wacana Pemangkin Ekonomi Ummah*. Sultan Sharif Ali Islamic University. p. 91

⁹ Gordon Newby. (2013). *A Concise Encyclopedia of Islam*. Oneworld Publications. p.212.

¹⁰ Mochammad Arif Budiman (n.d). *The Significance of Waqf for Economic Development*. Banjarmasin State Polytechnic, Indonesia. p. 25

1.3 History of *Waqf*

Waqf has been a debatable subject as to its origin. Western orientalist and scholars have claimed that *waqf* was first discovered and centred on the Near Eastern particularly in Byzantine and Rome. Scholars have also emphasized that several similarities in the structure of legislative charity systems implemented in both regions are similar to those in *waqf* institution particularly in their social welfare and religious affairs purposes¹¹.

However, this speculation has not been accepted in the world of Muslim scholars. Islamic scholars and *ulama* view *waqf* as a responsible act originated from the inspiring al-Qur'an and *hadith* which is strengthened with *ijma'* of *ulama*¹². *Waqf* in Islam is giving sincere charity with the aim of solely providing benefits to the Muslim *ummah*. Charity given should provide long-term benefits which could generate value.

Several *waqfs* have been implemented throughout the Islamic history and civilization. *Al-Bait al-Haram* and *al-Asqa* mosque are amongst the first greatest *waqf* made in the history of Muslims¹³. *Quba* Mosque on the other hand is also a *waqf* of Prophet Muhammad (Peace be upon him) during the year 622M out of his *taqwa* to Allah Subhanahu Wa Ta'ala¹⁴. It is indeed that these properties provide Muslim *ummah* with the benefits of performing their prayer at ease and a place to seek for knowledge. *Waqf* have also evolved during the era of *sahabah*, when Sayyidatunah Hafsa (may Allah be pleased with her) made a *waqf* of jewellery at a price of 20 thousand dirham dedicated to the women of *al-Khattab* family¹⁵.

There are also several greatest purposes and contributions of *waqf* used as a medium for financing in developing the *ummah*. This has started since the reign of *Uthmaniyyah*. *Waqf* practiced during this era have made a positive impact to the Muslim *ummah*

¹¹ Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. pp. 38-45

¹² *ibid.*

¹³ *ibid.* p.36

¹⁴ *ibid.* p.70

¹⁵ Drs. H. Farid Wadjdy. (2007). *Wakaf & Kesejahteraan Umat: Filantropi Islam yang Hampir Terlupakan*. Pustaka Pelajar. Yogyakarta. p.20

particularly in alleviating poverty¹⁶. Several complex and greatest buildings known as *külliyeh* were solely developed and managed by the *waqf* institution. These buildings serve as an institution which provide support to religion, spiritual, social as well as economical needs. The *Süleymaniye* Mosque in Istanbul is a *külliyeh* and one of the most precious landmark which is designed to provide services to both religious and cultural needs such as hospital and school¹⁷.

1.4 Overview of Waqf Institution in Brunei Darussalam

Waqf Institution in Brunei Darussalam has been fully managed under Brunei Islamic Religious Council (MUIB) based on the written Laws of Brunei Darussalam through the Religious Council and *Kadis* Court Act Chapter 77, Section 100. The act declares that the *Majlis* should be the sole trustee responsible for any *waqf* related matters and any other trusts that are capable of creating charitable conduct with the aim of supporting Islamic religion or for promoting the well-being of Muslims in Brunei Darussalam¹⁸. With the responsibility given to the *Majlis*, a particular body known as *Waqf* and *Baitul Mal* has been authorized to manage *waqf* institution at its best to contribute socio-economic benefits to the society at large.

Waqf dedicated to mosques, cemeteries, religious schools, books and worshipping facilities such as praying mat continue to dominate *waqf* institution in Brunei Darussalam¹⁹. This has indeed improved the betterment of Muslim community. This coincides with His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah, the Sultan and Yang Di-Pertuan of Brunei Darussalam's *Titah* where the monarch has encouraged Muslims in Brunei Darussalam to perform *waqf* as an act which prepares oneself for *akhirah*. In

¹⁶ Mahadi Ahmad. (2015). Cash *Waqf*: Historical Evolution, Nature and Role as an Alternative to *Riba*-Based Financing for the Grass Root. *Journal of Islamic Finance*, Vol.4 No.1. IIUM Institute of Islamic Banking and Finance. p.63

¹⁷ IslamicLandmarks. (n.d). *Suleymaniye Mosque*. Retrieved from: <http://www.islamiclandmarks.com/turkey/suleymaniye-mosque>. (5th November 2016)

¹⁸ Laws of Brunei. (Revised Edition 1984). Chapter 77: Religious Council and *Kadis* Courts, Section 100. p.54

¹⁹ Abdul Hadi Arif. (2012). *Waqf* Management in Brunei Darussalam. Sultan Sharif Ali Islamic University. p. 42.

conjunction to His Majesty's *Titah*, *waqf* funds dedicated to building mosques have been accumulated over half a million dollars for the first four months²⁰.

Despite the huge support in the usage of *waqf* towards religious affairs, the function of *waqf* as an economic booster have been neglected. The importance of *waqf* in contributing to the economy has not receive much public awareness. It seems that *waqf* has become a foregone income generating Islamic philanthropy capable of enhancing the economy. Little is also known about *waqf* except its name to the extent that most Muslims are unable to give both a proper definition and its role.

1.5 Waqf as Economic Tool

Waqf can be seen as a fundamental economic institution used simultaneously in generating economic activities and ensuring a continuous accumulation of benefits to society²¹. The dynamism of *waqf* and its mechanism could together bring about contributions to the economic development. *Waqf* as an economic booster may reduce deficit financing, eradicating poverty, and encouraging the culture of entrepreneurship and other economic activities that will enhance the country's economic progress²².

Cash *waqf*, for instance can be used for the creation of commercial activities. *Waqf* premises and shops could be built and the revenue generated from renting these premises will generate income and wealth for the economy. Through these *waqf* premises, wealth creation and job generation will directly occur. Thus, reduces the unemployment in Brunei Darussalam. *Waqf* may also be implemented in investing economical projects where revenues generated could be further used to finance smaller projects²³. This encourages further development in creating more economical projects in enhancing Brunei's economy.

²⁰ The Brunei Times. Reap rewards by contributing to building of mosques. Saturday, November 14, 2015. Wail Wardi Wasil. Retrieved from: <http://www.bt.com.bn/news-national/2015/11/14/reap-rewards-contributing-building-mosques>

²¹ Nik Mustapha Nik Hassan (2013). *Asas Memacu Ekonomi Ummah: Satu Pandangan*. Institut Kefahaman Islam Malaysia (IKIM). Attin Press Sdn. Bhd, Kuala Lumpur. p.121

²² Mochammad Arif Budiman (n.d). *The Significance of Waqf for Economic Development*. Banjarmasin State Polytechnic, Indonesia. p. 26

²³ Magda Ismail Abdel Mohsin. (2012). *Cash Waqf: A New Financial Product*. Pearson Malaysia Sdn. Bhd. Kuala Lumpur. p.44

1.6 Background of the Study

Although Brunei is known as the fifth richest country based on purchasing power parity (PPP) per capita²⁴, the current state of Brunei's economy begins to decline especially after the decrease in oil prices²⁵. Moreover, the increase in the number of unemployment also add in worsening the economic state of Brunei Darussalam.

These economic concerns have given the researcher an opportunity to find the best and harmless Islamic tool for improving the current state of the economy. Amongst the best Islamic tool in developing the economy is through *waqf*. *Waqf* is an Islamic endowment system that is believed to have the capability in providing income generating benefits to the economy and thus improving population's standard of living. However, it is known that the utilization of *waqf* in Brunei Darussalam is still underdeveloped and undiversified. Thus, this research study will focus on factors affecting the potential of *waqf* institution in generating economic benefits to Brunei Darussalam such as human resource, public awareness, management support and so forth. This study will also suggest some effective ways in promoting *waqf* as a financial mechanism.

1.7 Problem Statement

The public interest towards practicing *waqf* is seen to be concentrated to only the religious purposes such as giving charity for building mosques and prayer halls (*surau*). This has also been stressed by Dato Seri Setia Hj. Metussin bin Hj. Baki, a *Syari'ah* High court Judge on his speech regarding *waqf* which took place in Seri Begawan Religious Teachers University College (KUPUSB) on January 28, 2016. Due to limited knowledge and narrow perceptions on the act of *waqf*, this has made the institution a missing commercial manner in our economic system that needs to stand out in promoting economic growth²⁶. Although

²⁴ Jonathan Gregson. Global Finance Magazine. The Richest Countries in the World. February 13, 2017. Retrieved from: <https://www.gfnag.com/global-data/economic-data/richest-countries-in-the-world?page=12> (accessed on 24th February 2017)

²⁵ Matthew Prusak. The Diplomat. Brunei's Economy Running on Empty. February 17, 2016. Retrieved from: <http://thediplomat.com/2016/02/bruneis-economy-running-on-empty/> (accessed on 24th February 2017)

²⁶ Rasidah Hab. The Brunei Times. *Wakaf* not just for building purposes. Thursday, January 28, 2016. Retrieved from: <http://www.bt.com.bn/news-national/2016/01/28/wakaf-not-just-building-purposes> (accessed on 25th August 2016)

knowledge and understanding on *waqf* are still far behind, it is seen that *waqf* could be the bigger Islamic institution used in generating economic contributions.

On January 29, 2016 a speech delivered by Dr. Hj. Noralizam bin Hj. Aliakbar, KUPUSB's Dean of Student Affairs have also stressed on *waqf* as a crucial component in Islamic economic activities in Brunei Darussalam. Effective practice of *waqf* on wealth creation may be able to enhance Brunei's economy. However, more efforts should be implemented in producing an effective *waqf* institution to achieve an effective outcome²⁷. Therefore, it is believed that *waqf* institution could be the missing tool in further enhancing economic activities in Brunei Darussalam.

1.8 Significance of Research

Since *waqf* used to be one of the greatest Islamic philanthropy, it is believed that *waqf* could be that next Islamic tool to enhance the economic growth. This research is significant because the implementation of a developed *waqf* institution will not only assists the government in ensuring the well-being of Muslims in Brunei Darussalam, but it can act as an alternative financial source for the economy. This research also provides a broader view and understanding for the readers on the potential of *waqf* towards enhancing the economy.

The findings of this research will assist the highest authority and related government bodies by providing potential factors that seem to be the constraints which limit the potential of *waqf* in enhancing Brunei Darussalam's economy. These constraints could later be improved for more efficient and effective economical *waqf* outcomes. In addition, the findings of this research could offer useful information about the type of *waqf* instruments that could be further developed to enhance the country's economic activities. The outcome of this research could not guarantee an accurate prediction for the future. However, it could be a basis for improving and developing *waqf* institution towards becoming one of the financial resources in Brunei Darussalam.

²⁷ Rosera Mohd Andkhai Zem Mat Sani. The Brunei Times. *Zakat and Wakaf* Crucial to Islamic Economic Activities. Friday, January 29, 2016. Retrieved from: <http://www.bt.com.bn/news-national/2016/01/29/%E2%80%98zakat-and-wakaf-crucial-islamic-economic-activities%E2%80%99> (accessed on 25th August 2016)

1.9 Research Questions

This study is designed at providing answers to the following questions:

1. What are the factors affecting the feasibility of *waqf* in enhancing Brunei's economy?
2. How far has *waqf* institution in Brunei Darussalam contributed at enhancing the economy?
3. What is the preferred type of *waqf* that could be implemented to develop Brunei's economy?
4. What are the challenges associated with promoting *waqf*?

1.10 Research Objectives

This research study specifically tries:

1. To determine the crucial factors needed in implementing *waqf* to enhance Brunei's economy.
2. To identify the potential of *waqf* in enhancing the economy.
3. To study the type of *waqf* that could be further developed to enhance Brunei's economy.
4. To determine the challenges in implementing *waqf*.

1.11 Research Scope and Limitation

This research study will involve several related government bodies such as Ministry of Religious Affairs (MoRA), State Mufti's Office and Ministry of Development (MoD).

The department of *Waqf* and *Baitul Mal* Unit which resides beneath MUIB, MoRA will be involved throughout completing this research study. This department have been given the authority in the management of all *waqf* properties. Decisions involving the usage of those funds will be decided among the heads of department for approval. Data, views and perspectives from this department are needed in measuring the potential of *waqf* as an economic booster for Brunei Darussalam. Therefore, it is essential to have *Waqf* and *Badan Tanmiah* department within this research study.

Fatwa department of the State Mufti's Office will also take part in this research study. The State Mufti's Office is one of the most crucial and influential government bodies capable of giving opinions (*fātwās*) on any legal matters and social affairs according to the Qur'an, *hadīth*, *ijma'* and *qiyas*. *Fātwās* with regard to the feasibility and implementation of different form of *waqf* such as cash *waqf* and land *waqf* in generating economic benefits will be taken into account in this research study.

Departments which reside beneath MoD such as Land department and Town and Country Planning department will also be involved in providing data, views and opinion regarding *waqf* lands, the importance of *waqf* institution in enhancing Brunei's economy and the implementation of a *waqf*-based model. As majority *waqf* contributing to society involving land for building mosque, cemeteries and religious school, it is therefore essential to include both Land, Town and Country Planning department in this research study. Data on *waqf* land may be accessed through the assistance of these government bodies.

Throughout completing this research study, the researcher has encountered with some problems which may affect the quality of the finding. Having access to the resources and reading materials regarding economic contribution of *waqf* in Brunei Darussalam are limited. Hence, most of the researcher's references are mainly derived from international authors such as Malaysia and Indonesia.

The researcher also encountered some problems during the process of interviewing, particularly in getting the approval from the most relevant person in delivering the information needed. Full cooperation in answering and delivering information has not been received while conducting some of the interview sessions. Thus, the researcher is incapable to provide sufficient information and strong recommendation on issues such as *istibdāl*.

CHAPTER II

LITERATURE REVIEW

2.0 Introduction

This chapter will highlight some studies on the implementation of *waqf*, the basis in performing a *waqf*, types of *waqf* and its approach towards enhancing the economy. The studies will give some views and experiences of performing *waqf* in other countries. In addition, the effectiveness of *waqf* in promoting the well-being of the economy will also be highlight in this chapter.

2.1 Pillars of *Waqf*²⁸

There are four elements which constitute the pillars of *waqf*. These are the endower (*wāqif*), endowment (*mauqūf*), beneficiaries (*mauqūf ‘alaīh*) and the contract (*sighah*).

2.1.1 *Wāqif*

A *wāqif* refers to a person who endows his property for the purpose of sincere charity. A *wāqif* should meet certain conditions to be eligible in performing a *waqf*. Such eligibility include factors such as maturity (*bāligh*), mentally fit (*‘āqil*), freedom of choice and the ability to donate.

Razali Othman (2015) views *bāligh* as a crucial factor which enables a *wāqif* to practice a *waqf*²⁹. *Bāligh* in his perspective represents the highest level of mindful thoughts and sincerity. Therefore, it is ineligible for a child either *mumayyiz* or not to perform a *waqf*³⁰. A *wāqif* should also be in his full possession of his physical and mental state. Thus, *waqf* is invalid if it is performed by an insane person. Another condition for a valid *waqf* is the freedom of choice. A person shall willingly endow any beneficial property of his own will without being forced to do so. The *wāqif* should also have the ability and affordability to donate of his own property. Thus, a *waqf* from a *muflis* person is not valid.

²⁸ Wahbah Zuhaili. (2010). *Fiqih Imam Shāfi’i*. *Op. cit.* p.344

²⁹ Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. p.17

³⁰ *ibid.*

According to Wahbah Zuhailī (2010), a *wāqif* does not restricted to only Muslim. A charity or endowment from non-Muslims is also accepted because they are also eligible to donate³¹. For instance, a non-Muslim may donate and endow a certain property with the intention for developing and constructing a mosque. In this case, the endowment made by him is still valid because the validity of *waqf* does not depend on the *wāqif*'s intention (*niat*). Razali Othman (2015) further strengthened this view. The researcher stated that a *wāqif* can be consisted of Muslims or any other individuals or social organizations that are willing to act upon activities which are considered as beneficial and religious³².

2.1.2 *Mauqūf*

Another crucial condition for a valid *waqf* is *Mauqūf*, which refers to an endowed asset for charitable purposes³³. These assets should be *halal* and beneficial to the society that is legally owned by the waqif himself. *Waqf* assets should possess a perpetual characteristic in order to ensure a long-term benefits. Razali Othman (2015) also support the perpetual characteristic of the *waqf* assets by viewing the term 'perpetuity' as a rational characteristic. This does not mean that the *mauqūf* would stay everlasting³⁴.

According to Zuhailī (2010), imam al-Shafī has stated that a *mauqūf* must be tangible and present during the contract (*sighah*). *Mauqūf* should also be beneficial and in compliance with the *sharī'ah*³⁵.

Mohd. Zain (1982) has stated that there are no objections for the validity in implementing an immovable *waqf* such as land and houses³⁶. However, in contrast to the validity of immovable *waqf*, Mughniyah (2006) mentioned that there are conflicts existed

³¹ Wahbah Zuhailī. (2010). *Fiqih Imam Shāfi'ī*. *Op. cit.* p.346-347

³² Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. p.17

³³ Haron, Kamarudin, Fauzi, Ariff & Zainuddin. (2016). Cash *Waqf* Collection: Any Potential Factors To Influence It?. *International Journal of Business, Economics and Law*. Vol 9, Issue 2. Kelantan, Malaysia. p.29.

³⁴ Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. pp.18-19

³⁵ Wahbah Zuhailī. (2010). *Fiqih Imam Shāfi'ī*. *Op. cit.* pp.349-351

³⁶ Mohd Zain Othman. (1982). *Islamic Law with Special Reference to the Institution of Waqf*. *Op. cit.* p.55

in *mauqūf* that are movable to a certain extent that most scholars refuse to accept the validity of movable *waqf* properties³⁷.

2.1.3 *Mauqūf 'alaīh*

Mauqūf 'alaīh refers to the person who are subjected to get the benefits generated from the *mauqūf* made by the waqif. In other words, *mauqūf 'alaīh* are those beneficiaries entitled to get the benefit from the return *waqf*³⁸. Among the conditions for the validity of a *mauqūf 'alaīh* is that the acceptance of a *waqf* has to be solely for the purpose of seeking Allah's love and blessings. *Mauqūf 'alaīh* should also constitute of those who are present and able to seek ownership from the *wāqif*³⁹.

Mauqūf 'alaīh can be specific or non-specific⁴⁰. It became specific when a *mauqūf 'alaīh* is present during that particular time and is clearly subjected for the benefits generated from the *waqf* made. Thus, a *waqf* for someone who is absent for instance, a foetus in the womb is not valid. In contrast with specific *mauqūf 'alaīh*, for the non-specific beneficiaries, the *waqf* assets should be endowed to a specific group such as the poor.

Mauqūf 'alaīh should not be the *wāqif* himself⁴¹. The beneficiary of *waqf* property can be a non-Muslim provided that it is not intended for the purpose of immorality. However, *waqf* assets such al-Qur'an and Islamic religious books are invalid for them. In the case of apostates (*murtad*), it is also not valid for them to be the recipients of *waqf*.

2.1.4 *Sighah*

Sighah refers to the way in which a *wāqif* gives his or her asset as *waqf*. It occurs when a declaration of endowment is made by *wāqif* to a person or any other social organization⁴². Razali Othman (2015) also explained *sighah* as a pronouncement (*ijab*) of *mauqūf* from a

³⁷ Muhammad Jawad Mughniyah. (2006). *Fiqh Lima Mazhab*. Jakarta: Penerbit Lentera. p.646.

³⁸ Haron, Kamarudin, Fauzi, Ariff & Zainuddin. (2016). *Cash Waqf Collection: Any Potential Factors To Influence It?* International Journal of Business, Economics and Law. Vol 9, Issue 2. Kelantan, Malaysia. p.29.

³⁹ Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. p.19

⁴⁰ Wahbah Zuhailī. (2010). *Fiqh Imam Shāfi'ī*. Op. cit. pp.355-358

⁴¹ *ibid*.

⁴² Haron, Kamarudin, Fauzi, Ariff & Zainuddin. (2016). *Cash Waqf Collection: Any Potential Factors To Influence It?* International Journal of Business, Economics and Law. Vol 9, Issue 2. Kelantan, Malaysia. p.29.

wāqif to a *mauqūf* 'alaīh⁴³. This pronouncement can be made either orally, documented or using a sign language. However, a *sighah* that is unuttered by a *wāqif* who has the ability to speak is invalid.

Pronouncements can be divided into two forms⁴⁴. *Ṣarīḥ* refers to a clear pronouncement with specific meanings such as saying: “I intend to *waqf* this building for the poor”. Another form of pronouncement involves declaration of endowing that generates several purposes. This is known as *kināyah*. An example of this type of pronouncement is: “My assets are for charity to the orphans”.

There are five factors for the validity of a *sighah* in the view of the *fuqaha*⁴⁵. These factors include permanent (*ta'abid*), instant declaration, willingness, relationship with *waqf* recipients and that it does not initiated with any factors that may abandon the validity of the *sighah*.

2.2 Types of *Waqf*

There are numerous approach towards the classification of *waqf* properties. Some *ulama* have classified *waqf* from the perspective of its beneficiary and the property endowed⁴⁶. According to Obaidullah (2008), *waqf* properties are categorized into three types of *waqf*, namely; *Waqf Khayri*, *Waqf Zurri* and *Waqf al-Mushtarak*⁴⁷. *Waqf khayri* is also known as the General *Waqf*. *Waqf* in this form refers to the act of giving sincere endowment without specifying a certain purpose for the endowment being made⁴⁸. In this case, the *waqf* properties could be used for anything which does not contradict the *syarak*. *Waqf* properties in this form usually aims to benefit general society. On the other hand, *Waqf Zurri* is referring to family *waqf*. This is usually made by a *wāqif* to benefit his family

⁴³ Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. pp. 19-20.

⁴⁴ Islamic Religious Council of Singapore (MUIS). (2015). Religious Aspect of *Wakaf*. Retrieved on: 18th November 2016. Retrieved from: <http://www.muis.gov.sg/wakaf/About/Religious-Aspect-of-Wakaf.html>

⁴⁵ Razali Othman. (2015). *Institusi Wakaf: Sejarah dan Amalan Masa Kini*. Mahkota Enterprise. Dewan Bahasa dan Pustaka Kuala Lumpur. p.20

⁴⁶ *ibid.* p.20

⁴⁷ Mohammad Obaidullah. (2008). Introduction to Islamic Microfinance. International Institute of Islamic Business and Finance (IBF) Net (P) Ltd. India. p. 32.

⁴⁸ Sanep Ahmad and Nur Diyana Muhamed. (2011). *Wakaf Institutions and National Economic Development: A Case on Wakaf Land Development in Malaysia*. *Prosiding PERKEM VI*, Jilid 1 (2011) 138-147. Universiti Kebangsaan Malaysia, Selangor. p. 139.

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