

## **The Growth of Waqf Properties through Infrastructure Development According to Al-Hadith**

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### **ABSTRACT**

Waqf is an Islamic institution to serve as a catalyst for Muslim economic development. The existence of this socio-economic institution started with Prophet Muhammad (pbuh) and it became the root of success for the Islamic social security system. The expansion of waqf properties through investment or *istithmar* is one of the possible ways to utilise waqf. It was found that 75% of the hadith related to waqf in *al-Kutub al-Sittah* debated on waqf infrastructure. This shows the importance of infrastructure development in the expansion of waqf properties.

*Keywords:* Al-Hadith, development, waqf, infrastructure, properties

### **INTRODUCTION**

Even though the endowment concept has existed long before Islam, nevertheless Islam has developed waqf institution based on rules stipulated by shariah (Islamic laws) and catalysing its growth until it appears

to be the source of financial development of Muslims (Razali, 2015). Waqf is widely accepted and adopted as a supporting economic institution and its implementation has gone through several changes. On the issue of the development of waqf properties, the mechanism of investment or *istithmar* to develop infrastructure is a best method to ensure the perpetuity of waqf properties.

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### **CONCEPT OF WAQF**

Waqf is long-established institution in Islam and has been accepted as a socio-economic development institution for Muslims in Malaysia. Waqf is defined

as property, where the right of the *waqif* (endower) is put on hold from any business affairs, inheritances, grants and wills while maintaining the physical resource. The benefits from properties under waqf are for general welfare or stated with the *waqif* intention to get closer to Allah (Jabatan Wakaf, Zakat dan Haji, 2006). Whereas the property to be donated should be useful to the public as well as valuable by shariah (al-mal mutaqawwim).

The existence of waqf is not stated explicitly by using the term waqf itself in the holy book al-Qur'an but there are some marks from the al-Qur'an that encourage people to improve the welfare of society by donating properties. Every individual who performs waqf sincerely will be rewarded continuously by Allah. There are points from al-Quran that describe waqf;

“The example of those who spend their wealth in the way of Allah is like a seed [of grain] which grows seven spikes; in each spike is a hundred grains. And Allah multiplies [His reward] for whom He wills. And Allah is all-Encompassing and knowing.” (Al-Qur'an 2:261)

“And if someone is in hardship, then [let there be] postponement until [a time of] ease. But if you give [from your right as] charity, then it is better for you, if you only knew.” (Al-Qur'an 2:280)

“Never will you attain the good [reward] until you spend [in the way of Allah from that which you love. And whatever you

spend - indeed, Allah is knowing of it.” (Al-Qur'an 3:92)

All of the verses in the al-Quran reflect indirectly to waqf. Arguments of waqf in the hadith can be found abundantly in books of hadith, however, in the chapter of fiqh (Islamic jurisprudence) of the books, the argument for waqf is focused on hadith related to waqf land of Umar in *Khaybar* and Abu Talhah's dates farm and *Bayruha* well. The hadiths regarding waqf in *al-Kutub al-Sittah* (*Sahih al-Bukhari*, *Sahih Muslim*, *Sunan Abu Dawud*, *Sunan Al-Tirmidhi*, *Sunan Al-Nasa'i* and *Sunan Ibn Majah*) there are 36 hadith including the two above-mentioned hadith. Prophet Muhammad (pbuh) once explain about waqf in *Khaybar* land which belongs to Umar through this hadith:

“It is narrated Yahya Bin Yahya Al-Tamimi has reported to us Sulaym Bin Akhdar from Ibn 'Aun from Nafi' from Ibn 'Umar reported: Umar acquired a land at *Khaybar*. He came to Allah's Apostle (may peace be upon him) and sought his advice in regard to it. He said: Allah's Messenger, I have acquired land in *Khaybar*. I have never acquired property more valuable for me than this, so what do you command me to do with it? Thereupon he (Allah's Apostle) said: If you like, you may keep the corpus intact and give its produce as *sadaqah*. So 'Umar gave it as *sadaqah* declaring that property must not be sold or inherited or given away as gift. And Umar devoted it to the poor, to the

nearest kin, and to the emancipation of slaves, aired in the way of Allah and guests. There is no sin for one, who administers it if he eats something from it in a reasonable manner or if he feeds his friends and does not hoard up goods (for himself). He (the narrator) said: I narrated this hadith to Muhammad, but as I reached the (words)” without hoarding (for himself) out of it.” he (Muhammad’ said:” without storing the property with a view to becoming rich.” Ibn ‘Aun said: He who read this book (pertaining to Waqf) informed me that in it (the words are)” without storing the property with a view to becoming rich.” (Sahih Al-Bukhari: Hadith no. 2532, 2565, Sunan Abu Dawud: Hadith no. 2493, Sunan Al-Tirmidhi: Hadith no. 1296, Sunan Al-Nasa’i: Hadith no. 3542, 3543, 3544, Sunan Ibn Majah: Hadith no. 2387)

“Malik related to me that Ishaq ibn Abdullah ibn Abi Talha heard Anas ibn Malik say, “Abu Talha had the greatest amount of property in palm-trees among the Ansar in Medina. The dearest of his properties to him was *Bayruha*’ which was in front of the mosque. The Messenger of Allah, may Allah bless him and grant him peace, used to go into it and drink from the pleasant water which was in it.” Anas continued, “When this ayat was sent down ‘You will not obtain rightness of action until you expend of what you love,’ (Al-Qur’an 2: 176), Abu Talha went to the Messenger of Allah, may Allah

bless him and grant him peace, and said, ‘Messenger of Allah! Allah, the Blessed, the Exalted, has said, “You will not obtain until you expend of what you love.” The property which I love the best is *Bayruha*’. It is *sadaqah* for Allah. I hope for its good and for it to be stored up with Allah. Place it wherever you wish, Messenger of Allah.’ “The Messenger of Allah, may Allah bless him and grant him peace, said, ‘Well done! That is property, which profits! That is property, which profits. I have heard what you have said about it and I think that you should give it to your relatives.’ Abu Talha said, ‘I will do it, Messenger of Allah!’ Abu Talha therefore divided it among his relatives and the children of his paternal uncle.” And said Ismai’l and Abdullah Bin Yusuf and Yahya Bin Yahya from Malik: “(This is the treasure which the reward) continue to flow.” (Sahih Al-Bukhari: Hadith no. 2562, 4189, 5180, Sahih Muslim: Hadith no. 1664).

The above-mentioned hadith shows Prophet Muhammad’s call to his companions to perform waqf. Prophet Muhammad explained to Abu Talha that the best charity happens when you give away your most cherish treasure. Hearing this Abu Talha without further delay gave away his most cherished wealth which were a date farm and *Bayruha*’ well as waqf properties (Al-Sharbini, 2006).

According to al-Mawardi, there are two fundamental concepts of waqf; i.e.: the *waqif* is prohibited from selling the waqf property and the *waqif* perform waqf with

its benefits according to a specific way (Ibn Hajar, 2003). It can be stipulated here that there are two basic things when performing waqf (Hydzulkifli & Asmak, 2013), namely:

1. *Tahbis al-Asl*: Controlling and maintaining the assets donated from being damaged or lost.
2. *Tasbil al-Thamarah*: Channelling the benefits of asset to *mawquf 'alayh* (the beneficiaries).

The responsibility to maintain and channel the benefits of waqf properties is that of the waqf trustee who is known as *mutawalli* or *nazir*.

The role of the trustee includes ensuring the safety of waqf properties to preserve their value. Waqf properties which are managed properly, will be able to reduce any incurred cost such as costs of repairing waqf assets. There are several approaches that can be considered to ensure the use of the waqf properties (Hydzulkifli & Asmak, 2013), including:

1. Lease out existing waqf properties. Only a trustee has the right to rent out the waqf properties to a leaseholder. *Qadi* or the authority also have right to lease out the properties to any leaseholder (Ibn al-'Abidin, 1966). However, the transaction should be reported to the trustee. Income from the revenue can be channelled to beneficiaries or be used to develop other waqf properties.

2. Conduct agricultural activities and stockbreeding on waqf properties. The trustee needs to ensure marketability of agricultural products and livestock, and calling for systematic planning to prevent losses that may affect the original capital of waqf properties.
3. Construct a commercial building on waqf property to earn revenue.

Infrastructure development is one of the new alternatives that can generate benefits as well as to ensure perpetuity of waqf property. Construction of commercial buildings such as supermarkets, hotels, resorts and others can develop waqf assets while contributing to the continuation of the benefits of property ownership to the public.

## GROWTH OF WAQF PROPERTIES

Among the basic objectives of waqf is to make waqf assets beneficial and productive, namely *Tasbil al-Thamarat* (Hydzulkifli & Asmak, 2013). The development of waqf properties has to go through an instrument that can bring good returns and profit of the waqf. Profits derived from waqf properties has to be beneficial to the welfare of Muslims Ahmad Faizul, et al., 2015). Investment is regarded as the best mechanism to ensure waqf growth and at the same time generate profits. Investment or *istihmar* is no stranger in sharia. The word *istihmar* is a derivative word from *masdar al-sudasi* from the root word *al-thamara*.

There are some experts who use *al-tathmir* with the purpose of increasing the property and developing it (al-Qal'ahji, 1997). Ibn Faris said that the word *istithmar* is something produced from something, such as a servant prayer to Allah in a statement "*thammar Allahu malahu*" which can be understood as *nammahu* which means develop (Ibn Faris, 1994). Ibn Taymiyyah stated that *al-istihmar* is developed with the intention to increase wealth (al-Tabari, 1968), while Muslim jurist used *istihmar* to mean to get profit or revenue. The word is also used for the purpose of nourishing properties and multiplying it (al-Khin et al., 1996).

Abandoned waqf properties have to be developed so that it can be a valuable asset. Thus, the proposed infrastructure development of waqf properties means investment of waqf properties (al-Fazran, 2005). In this context, development through investment in developing infrastructure is the best way to achieve the true meaning of waqf which is *Tasbil al-Thamarah* (channel benefit of properties to the beneficiaries) and *Tahbis al-Asl* (control and maintain waqf properties from damaged or lost).

The act of associating waqf term to any infrastructure that being constructed using waqf fund should be reviewed its functions and role. Indeed, there are some infrastructure built using waqf funds, yet does not function as waqf as it supposed to be. Profit maximization are being emphasized rather than original waqf goals as stipulated by sharia, although undoubtedly it is deemed as one of the mechanism in

developing waqf properties. For example, the Department of Awqaf, Zakat and Hajj of Malaysia (JAWHAR) has built four waqf hotels nationwide namely Hotel Grand Princess (JAWHAR-MAIDAM) in Terengganu, Hotel The Regency Seri Warisan (JAWHAR-MAINPk) in Perak, Klana Beach Resort (JAWHAR-MAINS) in Negeri Sembilan and Princess Beach Hotel (JAWHAR-MAIM) in Melaka (Jabatan, Wakaf, Zakat dan Haji, 2016). The hotels were built using waqf funds but it is not endowed for public use. The hotels are operated and managed as conventional hotels. They are not waqf hotel in the sense recommended in the hadith.

#### **THE CONCEPT OF WAQF INFRASTRUCTURE**

The term waqf infrastructure is a combination of words from waqf and infrastructure and basic services or facilities (Noresah, 2013). Waqf infrastructure can be defined as a trust fund established specifically for the purpose of providing basic facilities and services required for the development and growth of an organization, society and the state in the name of Allah S.W.T.

The main source for waqf infrastructure is obtained either through traditional waqf involving waqf that consists of immoveable property (fixed assets) such as land and building (Murat, 2011) or cash waqf; the waqf that existed with money, whereas the profits is used for charity to be closer to Allah (Magda, 2009), whereas the purpose is specific for constructing infrastructure that can be beneficial or generate continues

revenue. The difference between waqf infrastructures with any other waqf is from the point of specification in constructing infrastructure that can be beneficial and physically exist.

The purpose of waqf infrastructure is specifically discussed compared to other waqf i.e., to preserve the basic concept of waqf stipulated in the time of Prophet Muhammad (pbuh) namely the retention of waqf in the point of 'ain or physical condition and the outcomes are used continuously. Although many Muslim scholars make great effort to diversify and improvise the concept of waqf, but the concept of waqf infrastructure fulfil the stipulated goal of waqf and at the same time satisfy the intention of *waqif* by means of physical waqf infrastructure resulting from the use of waqf funds particularly involving cash waqf.

Waqf infrastructure does not deny the role played by other types of waqf since the diversity of waqf actually complement each other. Highlighting the concept of waqf infrastructure will assist waqf stakeholders in planning waqf property development so that it can fulfil the two basic goals mentioned earlier. Moreover, waqf infrastructure meets the perspective of the hadith related to waqf.

### **PROPHETIC PERSPECTIVE IN WAQF INFRASTRUCTURE**

Al-Quran and al-Hadith are the two main sources of sharia, leading towards an understanding, and determination of Islamic law. Debate regarding waqf through the Prophetic perspective can be obtained by

referring to the hadith related to waqf. To get the original and authoritative sources, reference is made to six major venerated hadith, known as *al-Kutub al-Sittah* and which consists of *Sahih al-Bukhari*, *Sahih Muslim*, *Sunan Abu Dawud*, *Sunan al-Tirmidhi*, *Sunan al-Nasa'i* and *Sunan Ibn Majah*.

Debates related to waqf in *al-Kutub al-Sittah* do not specifically discuss everything under the title *al-Waqf* or *al-Ahbas*. After looking through the words related to waqf, such as the word *waqf*, *al-waqf*, *waqif*, *al-waqif*, *mawquf* and *al-mawquf*, as well as identifying hadith discussed in a special chapter linked to *al-waqf* or *al-ahbas*, it can be concluded that there are 36 text hadith in *al-Kutub al-Sittah* which discuss waqf. *Sahih al-Bukhari* and *Sunan al-Nasa'i*, respectively contain 15 hadith text representing 84% of the whole hadith of waqf. It is followed by *Sunan al-Tirmidhi* and *Sunan Ibn Majah* which each contain 2 hadith texts relating to waqf representing 10% of the entire hadith. While only one text of hadith found in *Sahih Muslim* and *Sunan Abu Dawud* that represent 6% of the entire hadith.

From the study of the 36 hadith texts, it was found there are several texts which mention waqf infrastructure. Analysis found that the debate in the hadith can be divided into two categories i.e. management of waqf and waqf infrastructure. The debate related to the management of waqf include a discussion of waqf conditions, the priority in granting waqf, permission for *waqif* and trustee to use waqf, the waqf administration,

witnessing the waqf and waqf for the poor, the rich and guests. Discussions on waqf infrastructure also includes waqf land, waqf's well for public use, waqf for horse ride and waqf *Nabawi* mosque.

Analysis found that from 36 hadith texts, 9 hadith which is 25% of total hadith related to the management of waqf while 27 hadith represent 75% of the hadith discusses waqf infrastructure. A high percentage of infrastructure-related discussions proves their importance.

## CONCLUSIONS

Developing waqf properties is an obligation in ensuring waqf institution prosper and be a catalyst to Muslim's economic progression. Waqf property development must meet two primary objectives i.e. *Tahbis Al-Asl* which control and preserve assets that are under waqf from being lost or damaged and *Tasbil al-Thamarah* which delivers benefit from waqf assets. Both of these goals can be achieved through the development of waqf infrastructure conducted in accordance with the perspective of Prophet Muhammad (pbuh). Indications from the hadith of the Prophet Muhammad (pbuh) related to waqf should be studied more carefully in order to make sure the implementation to this waqf infrastructure is effective and achieves their objectives.

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