

# Wakalah Waqf: An Agency-Based Model for the Sustainable Development of Productive Waqf Properties

Amal Hayati Ishak\*

Universiti Teknologi MARA, 40450 Shah Alam, Malaysia

**Abstract:** Waqf plays an important role in uplifting socio-economy. Nevertheless, waqf development in Malaysia is yet to meet the expectation. Report shows that quite a number of waqf properties are still undeveloped. As the sole trustee or 'mutawalli' of waqf property in the country, the State Islamic Religious Councils (SIRCs) are having constraint in getting the "know-who" and "technological know-how" to develop the property. With the major role to administer Muslim affairs, the SIRCs capability limitedly extends to managing development projects. It is therefore crucial in this regard, to find a way to solve the issue. Employing a content analysis approach, this study tries to seek the solution by analyzing the importance of wakalah to be applied in a waqf structure, as wakalah has been widely adapted in Islamic banking and finance products to clear out ambiguities and impediments. This study concludes on a conceptual framework of wakalah waqf structures that emphasises the fulfilment of wakalah and waqf pillars. The framework inductively highlights the interaction between significant stakeholders in a wakalah waqf structure. Consequently, this article highlights the function of wakalah in developing waqf property towards ensuring the sustainability and productivity of waqf produce, regardless of the property types.

**Keywords:** Productivity, SIRC, Sustainability, Wakalah, Waqf.

## 1. INTRODUCTION

Waqf is an Islamic charitable endowment in which a person donates property or assets for public or religious purposes, such as building schools, hospitals, or assisting the destitute. Once classified as a waqf, the asset is inalienable—it cannot be sold or inherited—and its advantages are used indefinitely for the community. It is a trust fund or foundation in which the capital (land, building, or money) is preserved while the income or services generated are used for long-term public good.

Waqf is a social financing tool for socioeconomic advancement. The accomplishment of waqf, notably in the Middle East and the West, had received a widespread recognition. The philanthropic method of endowment resembles waqf, but waqf in Islam is a form of worship carried out by the Muslims for the sake of Allah (Mahamood *et al.*, 2015; Cizakca, 2000). Throughout history, waqf institutions have been recognized for its key role in social improvement. These organizations have supported a variety of industries, including agriculture, health care, education and construction besides providing maintenance for mosques and cemeteries as well as public utilities and townships (Ishak *et al.*, 2025b). In addition, waqf has been a source of aid funds for the poor and needy in addition to creating employment opportunities and commercial spaces for businesses (Norma *et al.*, 2017). Indeed, waqf also funds a major portion of religious schools (Imam & Ilyas, 2021), commercial structures

(Omar & Ab Rahman, 2013;) and agricultural activities (Jamal *et al.*, 2022).

Fundamentally, waqf property continues rewarding the donors as long as it is benefiting the beneficiaries. Thus, undeveloped waqf land violates the spirit of waqf as a medium of worship in generating rewards for the contributors and benefiting the beneficiaries at the same time. Hence, waqf challenges the trustee towards sustained and productive waqf development projects. In similar spirit, Ishak *et al.* (2025a) proposed five critical success factors that need to be considered in ensuring a productive and sustainable waqf-agricultural projects.

In Malaysia, the State Islamic Religious Councils (SIRC) act as the sole trustee for waqf property, in a decentralized and exclusive waqf management at the state level. Hence, the SIRC is responsible to take all means to initiate and maintain development activities, in ensuring consistent benefits for the sake of waqf donors as well as the beneficiaries (Ishak *et al.*, 2025a; 2025b). Nevertheless, previous studies by Hassan *et al.* (2022) and Muhammad *et al.* (2022), had concluded on the inefficient waqf management that undermine the potential of waqf development and expansion and they suggested on improved governance and management of waqf development as a solution. Furthermore, waqf affairs is vested under small-scale department or unit in the SIRC, with limited personnels.

The issue can be explained with the incompatible function of SIRC for project development. As contained in the state enactments, the legit responsibilities of SIRC's are mainly related to the judiciary of Muslim

\*Address correspondence to this author at the Universiti Teknologi MARA, 40450 Shah Alam, Malaysia;  
E-mail: amalhayati@uitm.edu.my

affairs in marriage, divorce, child custody, family maintenance, administration of Baitul and zakat and administration of fatwa. On a similar note, the state enactment of Johor and Pahang limitedly address the task of waqf department in managing and administering waqf property. However, development of waqf land for construction of commercial spaces or residences requires technical expertise in construction and financial management. Fundamentally, according to Graaskamp (1992), real estate development involves mainly two stakeholders; the consumers and construction team. Consumers are the users who purchase or rent the infrastructure, while the construction team involves the architect, engineer, lawyer, planner, valuer and financial analyst, that properly plan, design and construct structures. Nevertheless, with the scope of administering Islamic affairs, SIRC personnels are lacking with project development 'know-how', causing ineffective development of waqf property.

Many conceptual waqf structures based on muamalah contracts have been proposed in previous literature, and some have been realistically applied. Al-ijarah (lease), al-istibdal (exchange), and agricultural development contracts of al-musaqah and al-muzara'ah are examples of classical and commercial strategies (Kahf, 1998), to develop waqf property. These instances highlight the role of wakalah as agents, who permit financial institutions or other organisations to operate as SIRC's agents in collecting cash. Hence, reliable agency contract is important in facilitating the agency relationship when waqf development projects are outsourced to reputable businesses.

Nevertheless, wakalah has been marginally addressed in the literature (Mohd Suhaimi *et al.*, 2016), despite the fact of its potentials in arranging the relationship between the waqf trustee and other agencies having sufficient expertise, experience and funding, as the agent to develop waqf property. Only Hairunnizam *et al.* (2021) proposed the conceptual application of wakalah contract, but confined to zakat payment. Hence, this research is design to analyse the importance of wakalah contract to be applied in a waqf structure targeting a sustainable and maintained waqf development projects. Understanding the significance of wakalah in waqf development allows the relevant authority to plan and instruct development of waqf, while peruse on its sustainability. Hence, critical analysis on the importance of wakalah to be applied in waqf structure is significant in tackling the issue of ineffective management and lack of competent personnel.

## 2. LITERATURE REVIEW

### 2.1. The Wakalah (Agency Contract)

Often translated into 'agency', wakalah is one of the service-based contracts that is least researched in Islamic finance despite the fact that most Islamic banks and financial institutions provide wakalah, besides kafalah and hawalah, as part of their services (Mohd Suhaimi *et al.*, 2016). Wakalah has a profound function in supporting a complete Islamic financial transaction. This is due to the function of bank as an intermediary between surplus and deficit units, theoretically and practically, as elucidated in Ab Rahman *et al.* (2010). Wakalah can be applied in waqf development projects to ensure a project is in "good hands" by giving it over to an expert or professional with particular terms and restrictions.

The legal evidence on permissibility of wakalah is derived from the agreed ruling sources in Islam; the Quran, the Sunnah and Ijma'. In verse 19 Surah al-Khafī (18:19): "... so send one of you with this silver coin of yours to the city and let him look to which is the best of food and bring you provision from it", which describes the appointment of agent for a certain task. In addition, the recognition of assigning agents for zakat collection and distribution is also prevalent in verse 60 Surah al-Tawbah (9:60): "The alms are meant only for the poor and the needy and those who are in charge thereof". The Prophet also approves agency as depicted in a hadith reported by Urwah: "The Prophet gave him a dinar to buy a sacrificial animal or a sheep. He bought two sheep, sold one of them for a dinar, and brought him a sheep and a dinar. So the Prophet invoked a blessing on him in his business dealing, and he was such that if he bought dust he would make a profit from it" (Sahih Bukhari, Hadith no. 3370). Based on these evidences, the jurists had collectively agreed that wakalah is permissible and recommended based on the concept of helping each other (ta'awun). The conclusion of wakalah contract requires four conditions; the person who has the authority (muwakkil), the person to perform the task (wakil or agent), the subject matter (the authority) and offer and acceptance (BNM, 2016).

Based on the Shariah Standard No. 31 of AAOIFI (2020) wakalah is defined as "the act of one party delegating the other to act on its behalf on what can be a subject matter of delegation." The definition concludes on the conclusion of wakalah contract requiring four conditions; the person who has the authority (muwakkil), the person to perform the task (wakil or agent), the subject matter (the authority) and offer and acceptance.

In Malaysia, there are two standards of wakalah issued by the Central Bank. In 2013, the Wakalah Shariah Requirements and Optional Practices is endorsed with the objective to ensure shariah-compliance of wakalah arrangement, and in 2016, BNM endorsed wakalah policy document, to provide a standard reference for the licensed financial institutions. However, waqf institutions are not listed as Islamic financial institutions due to its function as a state level agency to administer religious affairs. Hence, it is important for waqf institutions to have a proper wakalah structure to further expand its function involving finance.

## 2.2. Waqf Development Structures

Previous literature had proposed many conceptual waqf structures based on muamalah contracts. Kahf (1998) for instance, has concluded on classical and commercial measures to develop waqf asset such as al-ijarah (leasing), al-istibdal (exchange) or agricultural development contracts of al-musaqah and al-muzara'ah. The Perak State Religious Council has initiated a collaboration between the state's council, and Maybank Islamic, whereby the bank acts as the agent in collecting fund from the public and corporate sectors. The collected fund will be used to purchase boats to be leased to the fishermen as a physical capital for them to generate income (Asharaf, 2019). Another study by Rosele and Johari (2016) elaborate on the waqf-based takaful model whereby the participants make an agreed payment to the takaful operator, collected as a cash waqf fund. The fund will be invested to generate profit, which are then plough back into the cash waqf fund to benefit individuals affected by calamity or difficulty. The collected fund will be taxed for administrative costs, while the takaful operator will receive agency fees. In a similar instance, waqf-based takaful for flood victims proposed by Marhanum *et al.* (2020) requires the takaful operator, as the trusted agent, to collect fund from the public and distribute accordingly.

In a nutshell, these instances reflect on the function of agents via wakalah to allow financial institutions or other agencies to act on behalf of SIRC in collecting funds. Waqf structure for micro enterprise (Mohamed Asmy, 2018) or cooperative (Pitchay *et al.*, 2018), also necessitate wakalah contract to be clearly outlined so that the contracting parties are clear on their rights and responsibilities. Proper contracts help to avoid and settle future disputes besides providing clear guidance on management, governance and funding of waqf development projects. Hence, in a waqf development project, wakalah contract can be applied to appoint a selected agent to act on behalf of the waqf trustee. The wakalah contract represents an agreement between

SIRC and another party to manage the development of waqf property, ensuring its productivity and sustainability.

## 3. RESEARCH METHODOLOGY

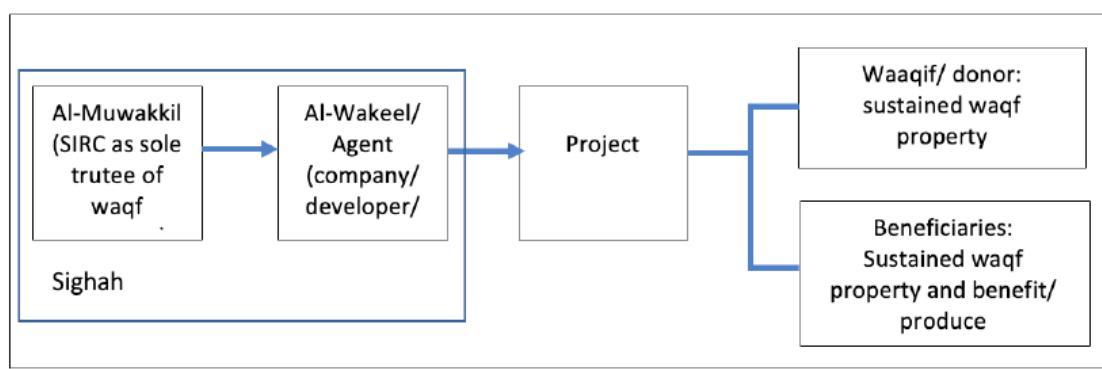
This study adopts a qualitative approach and applies content analysis on selected articles focusing on waqf structures and the functions of wakalah contract. Content analysis is applied to serve three purposes; to guide conceptualization of the content, facilitate critical examination of the resources, and to single out the evaluation of the content (Krippendorff, 2004).

The selection of articles employs a Systematic Review Literature (SLR) process within established stable databases of Scopus and Web of Science (WoS). A systematic literature review (SLR) is important research endeavor by itself and not merely a review of previous writings. It responds to a specific topic and is a methodology that locates existing studies, proper selection, focused analyses and reports reasonably clear conclusions of the topic under research. Adapting SLR of Thome *et al.* (2016), this research is arranged in four consecutive major steps; framing the topic, identifying and selecting relevant publications, data extraction and interpreting.

The search utilized the keyword 'waqf AND wakalah' and had generated a number of articles; four from Scopus database and another one from WoS. Another database, Google Scholar indicated 68 articles. These articles were then further appraised accordingly. Only English-written article journals were selected, open access articles published within 2018 to 2023. After careful scrutiny of the articles' title, abstract and keywords, only ten articles were selected for data extraction and interpretation.

## 4. ANALYSIS AND DISCUSSION

In a waqf development structure, the prevalent hindrance of professionalism can be empowered via wakalah arrangement. This study proposes the conceptual framework of waqf wakalah structure (Figure 1), that fulfills the pillars of both waqf and wakalah contract. The pillars of waqf refers to waqif (the donor), mawquf 'alaih (beneficiary), mawquf (subject matter or the waqf property) and sighah (offer and acceptance between contracting parties). And the pillars of wakalah refers to muwakkil (the principal; person or organization in authority), wakil (agent who agrees to act on behalf of principal), muwakkil bih (subject matter or the initiated project) and sighah (offer and acceptance between contracting parties). Based on Figure 1, SIRC as the sole trustee can appoint a



**Figure 1:** Waqf-Wakalah Conceptual Framework.

capable agent to act on their behalf to ensure sustained productivity of waqf property and benefits. In this case, the agent can be an established company or developer or entrepreneur who have professional expertise according to the development project. For instance, SIRC may appoint an established farming company to cultivate farming activities on the waqf land or appoint an established property developer to develop commercial projects on the waqf land.

Wakalah contract in waqf development structure is significant in ensuring a productive and sustainable waqf property and benefit. In a wakalah structure, the waqf trustee retains ownership and control over the waqf property, while the agent assumes the responsibility of managing and safeguarding the property on behalf of the owner, for the benefit of the beneficiaries. Hence, wakalah can provide significant advantages of:

#### 4.1. Professional Waqf Development

In a construction project development, technical expertise to consult construction and financial matters is required to ensure the project is well-planned, well-executed and well-maintained and consequently able to generate sustained income (Jui *et al.*, 2013). In Malaysia, SIRC as the sole trustee are lacking with experts in these two important fields, due to their major function in handling personal matters of Muslim. Wakalah allows for the appointment of professional, qualified, skillful and experienced individuals or institutions as agents to manage waqf properties. As concluded by Abid and Shafai (2017), the appointment of experts in property management, financial management and legal framework enables efficient and effective management of waqf assets.

As waqf property encompasses diverse assets, including land, buildings, and real estate, managing these properties requires specialized knowledge in property valuation, maintenance, leasing, and development. Qualified agents possess the expertise to handle these tasks effectively. They ensure proper

maintenance of sound management strategies, proper documentation of waqf properties, including regular inspections and repairs, to preserve their value and functionality. Agents also optimize rental income by assessing the market conditions, setting competitive rents and negotiating favorable lease agreements. Furthermore, they also can identify opportunities for property enhancement, such as redevelopment or refurbishment, to maximize the property's potential and generate greater returns for the waqf (Ardiyansyah & Kasdi, 2021).

Efficient financial management is vital for the sustainable utilization of waqf assets. As elaborated by Abas and Raji (2018), agents with expertise in financial management play a pivotal role in this aspect. They engage in financial planning, including budgeting and forecasting, to ensure the efficient allocation of financial resources. Agents also can develop investment strategies that align with the principles of Islamic finance, considering factors such as risk tolerance and expected returns. They monitor the financial performance of waqf properties, track income and expenses and conduct financial analyses to make informed decisions regarding optimal asset utilization. By employing the agents' financial expertise, the financial returns generated by waqf properties can be maximised, thereby supporting the long-term objectives of the waqf and its beneficiaries.

#### 4.2. Proper Administration of Waqf Property

Wakalah ensures a dedicated focus on the administration of waqf properties. By entrusting the responsibility to a specialized entity or individual solely dedicated to managing the property, focused attention on the administrative tasks of the waqf asset can be achieved. Agents can take charge of various administrative duties including documentation, record-keeping and coordination with relevant stakeholders, thus ensuring proper process and procedures are adhered to (Umam, 2022). Hence, wakalah offers specialization; when SIRC hands over

administration of waqf development project to an agent, SIRC can focus on its function to handle various Muslim affairs including marital, divorce, custody, faraidh, zakat and other related tasks. Nevertheless, as the sole trustee comprehensive contract need to be agreed upfront to allow monitoring of the waqf development project, to avoid any misuse or transgression from the original waqf intention.

#### 4.3. Sustainability of Waqf Benefit/ Income

A well planned waqf development project helps to sustain waqf benefit or income. Wakalah enables a dedicated focus by the appointed agent to plan how to optimize and sustain the utilization of waqf asset. The appointed agent may explore, survey and propose various opportunities to maximize benefits derived from the property by assessing market demand, identifying potential uses and exploring partnerships or development projects in alignment with the waqf objectives. Sustainable waqf benefit can also be achieved via thorough research, careful planning, sound management strategies, proper documentation and strategic decision-making to ensure that the waqf property generates significant social and financial returns (Hisham & Suhaimi, 2017). By focusing on asset utilization, the agent can unlock the property's potential and enhance its contribution to the intended charitable purposes (Amalia, 2020). In addition, independent and uninterrupted administration of waqf property is an important measure in ensuring the sustained fulfilment of charitable purposes as intended by the donor of waqf asset (Yusoff *et al.*, 2022).

In addition, effective rental or leasing management is crucial for generating income from waqf properties. According to Rusydiana *et al.* (2022), agents with specialization in property management have profound knowledge of the market trends, tenant requirements as well negotiation strategies. They can identify potential tenants, negotiate favorable lease agreements and ensure timely rental collection or revision according to current situations. Specialized agents are also equipped to handle tenant relations, address any issues or concerns and enforce lease compliance. Their expertise allows for efficient and profitable management of rental or leased properties, resulting in increased financial returns for the waqf.

Investment of waqf property to generate sustainable returns require proper investment strategies. Hence, appointment of experts in the area is crucial to analyze investment options, assess potential risks and make informed decisions aligned with the principles of Islamic finance. With their knowledge of financial markets, asset valuation, and investment strategies, specialized agents can optimize investment decisions

to maximize financial returns while ensuring compliance with ethical and Shariah principles. Their expertise enables prudent investment choices for waqf property that is align with its objectives and able to generate long-term sustainable income.

#### 4.4. Well-maintained Waqf Property

Proper maintenance is essential for preserving the value and functionality of waqf properties. Wakalah enables the appointment of experienced agents who possess specialized knowledge and skills in property maintenance. Through wakalah, the appointed agent is responsible for effective maintenance practices, preventive measures and ensuring the longevity of waqf properties. Proper maintenance includes regular inspection, timely repairs, prompt necessary maintenance works, appropriate allocation of resources for property upkeep and preventive measures to be scheduled or arranged systematically. Hence, agents with specialized knowledge and expertise can develop comprehensive maintenance plans, employ skillful personnels and ensure compliance with safety and quality standards. Such arrangements may help in preserving the property's condition, safeguard its value and contribute to its long-term sustainability (Abas & Raji, 2018; Hisham & Suhaimi, 2017).

#### 4.5. Preserved Accountability and Transparency

Accountability and transparency are two major values to ensure integrity is upheld in governance matters. Wakalah establishes a clear and distinct division of roles and responsibilities of waqf trustee and the appointed agent. The agent acts as a legit custodian of the waqf property and is accountable to the trustee as well as the beneficiaries. Accountability set by clear roles promotes transparency in managing waqf assets, as the agent is responsible to provide regular reports, financial statements and updates on the utilization of the waqf property to the trustee. Accountability of agents fosters transparency and trust between the stakeholders (Edriyanti *et al.*, 2021).

One of the key mechanisms for accountability and transparency is regular reports to the trustee. Reports should detail out the management activities, financial performance, and utilization of the waqf property. Regular reporting ensures that the trustee and beneficiaries are kept informed about the progress, challenges and achievements related to the waqf property. Transparency also allows the stakeholders to assess the agent's performance, track the impact of the waqf projects and ensure that the property is managed in accordance with the waqf's objectives and the principles of Islamic finance (Sukmana, 2020).

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Accountability can also be reflected and reinforced through the preparation and presentation of financial statements. Financial statements provide a comprehensive overview of the financial transactions, income, expenses and assets related to the waqf property. By presenting accurate and transparent financial statements, the agent ensures accountability and provide opportunity to assess the financial health and performance of the waqf property. Financial transparency is essential in maintaining the trust and confidence of the trustee, beneficiaries, and potential donors (Rofiqo *et al.*, 2021).

#### 4.6. Effective and Efficient Management of Waqf Asset

Wakalah facilitates immediate decision making when the waqf development project requires prompt ongoing decisions, such as rental agreement, maintenance issues or investment choices, in ensuring the continuity and sustainability of the project (Febriandika, 2022). Such decisions require proper and clear wakalah contract to avoid any mistake or invalid actions regarding the waqf property, avoid delays may affect other stakeholders of the project and ensures the decision is well aligned with intended objective of the donor. Specialized personnels in constructing and administering waqf development project helps in ensuring effective and efficient management of waqf asset.

#### 4.7. Preservation of Waqf Purpose

The appointment of agent through wakalah helps to safeguard the integrity and sustainability of waqf property, ensuring that their intended charitable purposes are fulfilled over time. The wakil acts as a custodian, responsible for managing the waqf property and upholding its charitable objectives. This dedicated role ensures that the property is utilized in accordance with the waqf's mission, benefiting the intended beneficiaries and the wider community, preserving the philanthropic legacy and the impact of waqf over generations (Medias & Pratiwi, 2019). Dedicated agents appointed by waqf trustee will ensure the waqf asset is properly developed according to the intention of the donors.

#### 4.8. Ensuring Adherence to Legal Framework

Waqf properties are subject to various legal and regulatory requirements, necessitating prudence of

trustee in handling waqf assets. Hence, agents with a profound understanding on legal matters play a crucial role in ensuring compliance towards various rules and regulation. Legal experts possess legal knowledge in handling land ownership, registration procedures and tax obligations based on relevant local laws. Whenever an exchange of land or istibdal is implemented, legal expert can handle the registration and transfer of title properly and maintain proper documentations for future reference. Thus, the appointed agents may handle waqf property with meticulous care, ensuring proper documentation and adherence to the existing legal frameworks. In case of legal disputes, they act as legit mediators, striving to resolve conflicts efficiently while safeguarding the waqf's interests. Moreover, as highlighted by Syamsuri *et al.* (2020), careful observance of legal compliance can mitigate legal risks and provide a solid foundation for the secure and lawful management of waqf properties. Legal expertise is needed to ensure current legal requirements is adhered to (Umam, 2022). They are also significant in settling any dispute regarding the waqf property (Emha *et al.*, 2022) to ensure the development process is not hindered.

Waqf property also may be subject to various other regulations depending on their location and nature. These may include zoning regulations, landscape rules, necessary permits or approvals, building codes, environmental regulations, or local governance requirements. The appointed agent, with expertise and understanding on these regulations, can ensure that waqf property complies with the rules and standards. Compliance to these rules will safeguard the legal status and development of waqf property (Zami & Huda, 2021).

#### 5. CONCLUSION

In this study, the analysis is focused on how wakalah contract serves as a reference framework for sustainable waqf development projects. This is in response to the constraints faced by SIRC in developing waqf property, especially related to technicalities in project development, which unfortunately leaves the property undeveloped, idle or non-profit generating, that contradicts to the spirit of waqf. Hence, developing waqf property need to be properly arranged to ensure its sustainability and further strengthen the position of waqf as a competitive Islamic social finance instrument. As a solution to the highlighted issue, this article proposes the application of wakalah contract in handling the development of waqf property to experts and professional depending on the type of development project.

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