

# ***Waqf through Sukuk Al-Intifa'a: A Proposed Generic Model***

**Muhamad Kholid**

Postgraduate Student

Kulliyah of Economics and Management Sciences (KENMS)

International Islamic University Malaysia

P.O Box 50728, Kuala Lumpur Malaysia

[kholidti@yahoo.com](mailto:kholidti@yahoo.com)

**Raditya Sukmana**

Postgraduate Student

Kulliyah of Economics and Management Sciences (KENMS)

International Islamic University Malaysia

P.O Box 50728, Kuala Lumpur Malaysia

[momyadit@yahoo.com](mailto:momyadit@yahoo.com)

**Kamal Abdul Kareem Hassan**

Postgraduate Student

Kulliyah of Economics and Management Sciences (KENMS)

International Islamic University Malaysia

P.O Box 50728, Kuala Lumpur Malaysia

[kamal@aoofi.com](mailto:kamal@aoofi.com)

## **ABSTRACT**

*For the last few decades, we have witnessed increasing importance in the role of waqf. This type of ongoing charity has been helping many people in need around the Muslim world. However, continuously depending solely on the property received from waqifs (donators of waqf) can create sustainability problem in waqf contribution. Waqf institution should create profitable projects in which it could finance the essentials sectors needed by many. Therefore, this paper attempts to provide a model that depicts the significant role of Sukuk Al-intifa'a in empowering waqf performance. Based on the ijarah concept, this type of sukuk can generate a new source of fund for waqf institution that can generate its own income to support primary projects of waqf. This paper is structured as follows: after the introduction, the paper will discuss on the practices of the waqf institution and its management in some selected countries. Then features of sukuk will be observed in the next section. Next, the process of embedding the sukuk al-intifa'a into the waqf, which is the most important discussion in this paper, will be elaborated in details. Then the paper will discuss on some prerequisites that have to be fulfilled in order to implement the model. Lastly, as the conclusion, is explanation of the authors' belief that this model will be an alternative model that could provide more benefit to the people in need.*

**Keywords:** redistributive measure, waqf project, primary project, secondary project, sukuk al-intifa'a, BOT

## **1.0 Introduction**

Islam is a comprehensive religion whereby it explains the way to worship God not only through ritual manners but also through many aspects of human life. Islam promotes justice to human being. It discourages a certain group of the rich people to benefit only among themselves but they should redistribute the wealth to the needy ones. Notice that Qur'an already stated in Surah 59 verses 7,

”Wealth must not circulated only among the rich ones among you”.

In order to redistribute the wealth from the rich to the poor, Islam teaches the concept of Sadaqah. It can be in the form of money/material and non money/non material also it has the component of obligatory and voluntary. A smile is also a sadaqah but not in form of money while endowing land is a sadaqah in form of tangible asset. One kind of obligatory sadaqah is Zakah, whilst Waqf is one kind of voluntary payment.

Waqf institution has long been recognized and had a vital role in the history of the Muslim world. However, current waqf institution through out the Muslim world has declined in effectiveness due to lack of management. Hence, waqf institutions need enhancement to revive back its vital role. The institution can be revitalized by turning it to become a productive waqf. Productive waqf will not only be a self-financing waqf but it also can finance the primary project of the waqf (Sadeq, 2002).

A productive waqf needs investments to be put in place. There are some ways to finance waqf project, among the others those are, output share, partnership share, lease bonds (sukuk ijarah), hukr share and muqaradah bond (sukuk muqaradah). There are some other sukuk, however, this paper only focuses on how to finance investment waqf using sukuk al-intifa'a. In discussing the operation of sukuk al-intifa'a, this paper also provides a generic model for financing investment waqf using sukuk in general.

Sukuk al-intifa'a is also called as time sharing bond. It is basically a derivative form of sukuk al-ijarah. Its flexibility makes it as feasible instrument to finance waqf project.

Sukuk al-intifa'a as a financial instrument to finance waqf project is basically can be adopted by any waqf institution. However, there are some issues that should be addressed to successfully implement such sukuk and project. This paper highlight issues of prerequisite and guideline governing the operations of al-intifa'a waqf project. While there are many factors that have to be catch up by waqf institution, implementation of sukuk al-intifa'a to the waqf project would revitalize waqf institution in the long run.

## **2.0 Literature Review**

### **2.1 Waqf as Redistributive Measure**

Waqf is an endowment made by the rich to benefit the poor. It is one of the important elements in Islam in alleviating poverty through providing basic needs to increase general welfare of people (Sadeq, 2002). Alleviation poverty through waqf is basically a mechanism to reduce gap opportunity between the rich and the poor in accessing or acquiring basic needs. Some basic needs provided by waqf are education, health and shelter. In this context, waqf's characteristics are similar to those of zakah in the sense that it redistributes the income from the rich to the poor. However, zakah tend to be in the form of cash but Waqf is more toward a property, although there is a certain form of cash waqf. Waqf defines as a voluntary act of charity that comes under the general terms of sadaqah and infaq. It simply means “stand still, hold still, not to let go” (Ahmed, 2004). Another way in explaining the Waqf is that it is the locking up of the title

of an owned asset from disposition and allotment of its benefits for a specific purpose or purposes. (Sadeq, 2002).

## **2.2 The Waqf Role in the Past and Present**

### **2.2.1 The Waqf Role in the Past**

According to Rashid (2002), waqf has long history in Muslim civilization. As he quotes Imam Syafi'i, it gradually developed with the help of prophetic tradition. Waqf has been started since 7<sup>th</sup> and 8<sup>th</sup> centuries AD. Many of these waqf still exist today which were created more than 1000 years ago (Rashid, 2002).

According to Cizakca (2004), in the Ottoman Empire era, waqf as an economic measure functioned very well, many activities in the society was serviced by waqf. Waqf was not only servicing society for their basic needs, but further it also covered so many areas in society that for today may be regarded as something uncommon, like providing gift for the poor brides or even taking care animal like birds. All was being financed by waqf. In 15<sup>th</sup> century, cash waqf, a new kind of waqf, has also been approved by the Ottoman courts. Cash waqf was a Trust Fund established with money to support service to mankind in the name of Allah. A century later, cash waqf becomes extremely popular all over Anatolia and the European province of the empire. The gifted capital of the waqf "transferred" to the borrowers who after a certain period, usually a year, returned to the waqf the principle plus a certain "extra" amount, which was then, spent for all sorts of pious and social purposes. In the Ottoman context, where health, education and welfare were entirely financed by gifts and endowments, waqf include cash waqf carried serious implications for the very survival of the Ottoman social fabric. The above concise description has shown a great waqf role in the past history of Muslim society. However, the great role of waqf institution is greatly deteriorated during imperialism era throughout Muslim countries. In the early of 20<sup>th</sup> centuries while most of Muslim countries were independent, waqf institution had already been marginalized in the economy system.

### **2.2.1 The Waqf Role in the Present**

This section tries to depict waqf institution role in the 20<sup>th</sup> centuries. Today, waqf institution has been marginalized even in the Muslim society. There are some factors that make this situation happened, among the other things, are past history of colonialism in the Muslim world and mismanagement of waqf. We present waqf experience and roles in some countries in order to better depict the waqf institution in the present day.

Waqf has been existed long time ago in India, however, it still has a problem especially in the administration. The management of waqf is not efficient and some of the administrator and manager were not quite honest in taking care of this ongoing charity. Ones should notice that waqf property belongs to Allah Almighty therefore mismanaging and intervening the waqf in not in the correct way would also mean intervening properties of Allah. Overcoming that problem is not an easy task and could not be done in one time. It takes some phases or stages.

In Pakistan, Awqaf (as a plural of waqf), were administered by the voluntary organization. However, the government of Pakistan enacted waqf in year 1959 in order to avoid the mismanagement and moral hazard. Awqaf in Islamabad were managed by Awqaf department that consist of two wings those are the mosque wing and shrine wing. These kind of waqfs is not generating income in nature. Therefore the expenditure to

operate waqf is depended on donations of devotees. The expenditures of Awqaf are for paying the employees of the mosques and shrine, celebrating certain festivals, organizing competition is Qur'an recitations, feeding the poor and doing development work to maintain the mosques and shrines. In Punjab, Awqaf are administered by Religious Affairs and awqaf Department. Incomes for Awqaf are 30% from leasing and rents while more than 50% from donation. For the expenditure side as much as a third was given for administrative purposes and another third for religious affairs.

In Malaysia, Islamic Religious Council deals with the religious issues including waqf. The first law related to waqf was enacted in the state of Selangor in 1952 (Ahmed, 2004) and it has been followed by other states. The role of mufti in each states plays is important in supporting and managing religious endowment projects. However the problem exists since only a few of the waqf properties are income generating. Mostly are in the form of mosques, religious places and Islamic schools. For instance, about 71% of the total waqf land in the state of Johor is reserved for cemetery. Islamic Council in the federal level experienced the same things that most of the waqf are mosques.

In United Kingdom, one institution named as Islamic Relief has been successfully manages waqf fund that they collect through cash waqf. Islamic Relief sells waqf share which worth for £890 each. The share holder with his/her own discretion can decide what areas that will be funded by his/her money, although Islamic Relief would like it to be a general waqf<sup>1</sup>. For the last 4 years, Islamic relief has been doing a great job. It has assisted many projects in many countries in the world that consist of primary and secondary project. Kharan Water Project in Pakistan, Orphan Home's Reconstruction Project in Bosnia, Rehabilitation of Primary Education Infrastructure in Kandahar and Tsunami Response in Indonesia are some of the project provided by Islamic Relief.

Based on the information above, we can conclude that currently waqf is mainly used for unproductive activities such mosque, cemetery, school etc. Hence there is a high dependency of waqf institution towards people donation in order to keep run. A movement to make waqf institution be a self-fulfillment institution is an important thing to ensure development and continuity of waqf institution. Though Islamic Relief has shown a good example of good waqf management, most of the waqf institution has not been optimally managed. One way to solve the problem is through reforming the waqf administration; however, it would not be sufficient. Legislative should also be reformed with a strong political will. The role of government is inevitably essential in developing waqf institution. Lastly society and people in general should also be responsive in it. By the work of all elements, the problems would be significantly reduced or even disappear.

### **2.3 Sukuk Al-intifa'a as Islamic Finance Instrument**

In simple definition, Sukuks (Islamic bond) is asset backed, stable income, tradable and Shariah compatible trust certificates. The different between sukuk and conventional bond is on the underlying assets. Bond is a debt and there is no such direct link between the debt and asset financed by the debt. However, fund raised in sukuk is already has a link on the specific project. Raise money by issuing conventional bond will not need an asset but, in Islamic, an asset should be identified first before issuing sukuk. The more money needed is the more assets should be found. The value of an asset should be equal to the nominal value stated in the sukuk (Tariq A, 2004).

There are many types of sukuk, among the others are, pure ijarah sukuk, hybrid/pooled sukuk, variable-rate redeemable sukuk, zero-coupon non-tradable sukuk, and embedded sukuk. Each will be described in brief.

1. Pure Ijarah Sukuk: this type of sukuk is stand alone asset. In this case asset can be in the form of land or leased equipment. The return from this sukuk can be fixed or variable.
2. Hybrid/Pooled Sukuk: this pooled sukuk can be a combination of Istisna', Murabahah receivables as well as Ijarah.
3. Variable-rate redeemable Sukuk; for some corporation, this type of sukuk can be referred as Musharakah Term Finance Certificates (MTFCs). From the point of view of Jurist this sukuk is preferable since it use the concept of musharakah,
4. Zero-coupon non-tradable Sukuk: this is a special type of sukuk whereby assets do not exist yet. It can be done by creating some more assets on the balance sheet company through Istisna'
5. Embedded Sukuk: this is sukuk embedded with option to convert into other asset.
6. Sukuk al-intifa': Sukuk al-intifa' this is also called time sharing bond (TSB) and represents ownership of specific time (usufruct) in a specific residential complex for a specific number of years. It is basically a variant of Sukuk Al-Ijarah.

There are two types of certificate on ownership of usufruct: Firstly, certificate of existing assets. Assumption in this type is that the asset is already exist. The owner will then issue sukuk al-intifa'a using that asset as underlying asset. Since it is based on the Ijarah concept, the owner will receive a rent in the form of fund paid by subscriber/sukuk holder. Secondly, certificates of usufructs to be made available in the future as per description. This type of certificate will be issued in order to finance the construction of the assets. Therefore the subscribers become owners of the usufruct of these future assets. This type of sukuk has been applied in early year of 2000 in Makkah by King Abdul Azis Waqf (KAAW) (Ahmed, 2004).

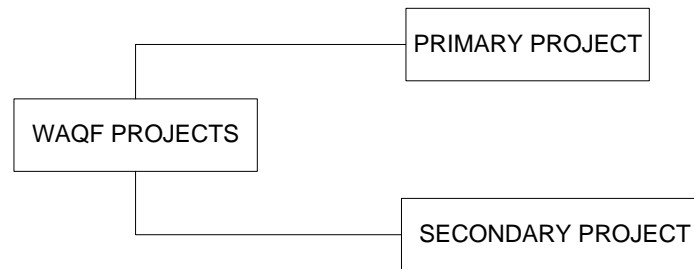
### **3.0 Sukuk Al-intifa'a in Practice: Lesson from Saudi Arabia**

Sukuk al intifa'a has been applied in the early year of 2000 in Makkah. King Abdul Azis Waqf (KAAW) in this case acts as a nazir. Nazir is a body that is not only collects waqf properties from the waqif (the waqf payer) but also manages those properties so that it can be used properly. KAAW leased one of the waqf property, in this case a piece of land in the center of Makkah, to the Binladin Group on a BOT (Build-Operate-Transfer) concession contract for 28 years. According to the contract, Binladin Group should build shopping complexes, towers and a hotel for KAAW as a payment. Binladin then subcontracted the construction projects of the tower to Munshaat, a real estate company based in Kuwait. With this project, Munshaat will finance the construction, operate it and transfer it back to Binladin after 28 years. This building has spaces ranging from the low prices until royal suites. To be able to finance the project, Munshaat issued US\$ 390 million Sukuk Al-intifa'a (timeshare bond) for 24 years. This usufruct right will be divided into weekly time shares. Investors who bought this sukuk are able to rent a space for a specific time or sub-leased their space to others. Munshaat will then gain the profit from the rent rate difference between the rate received from sukuk holders and the rate paid to Binladin Group. Munshaat estimates 26% rate of return on this investment (Ahmed, 2004).

## 4.0 Revitalization Waqf Through Sukuk Al-intifa'a

### 4.1 Primary and Secondary Waqf Project towards Ummah Welfare

**Figure 1 Type of Waqf Project**



Waqf project is divided into two types those are primary project and secondary project (Sadeq, 2002). Primary project (non-investment)<sup>2</sup> is a waqf project aimed to provide needs of the waqf beneficiary. This type of waqf is a charity project in nature; it is more towards giving the basic needs to needy people and children. For instance: waqf for orphanage, this waqf will provide the essential need such as the food, shelter, and clothes. Waqf could also be channeled for the education purposes. Basic education should be provided to everybody especially for the poor. However the best student may be given assistance to pursue higher level of education. Health care is also an important element in human life. Some medical treatments are very costly that cannot be afforded by the poor. The above reasons make the role of Waqf is inevitably important. Further, other than the above projects, there are many projects that can be in the form of primary project. Those projects are, for example, water project, sanitation project and emergency project. Those above projects usually are finance using donation fund. Hence, it creates dependency that will impede development and long term continuity of primary project.

Primary project is a social project in nature, however, it has a potential to be a self-finance or even a profit generating project. A good and creative management of primary project is required to realize it. UNDP in its 2006 report on human development stated that people under poverty line in South East Asia in average is 14% and much more in some other developing regions. These people need assistance or subsidy to fulfill their basic needs such as education and health service. On the other hand, there are roughly 80% people in this region are not categorized as poor people. Generally speaking, if we use Pareto theory on wealth proportion in the society, we might get 20% of the population is able to afford normal or even mark-up price for the service providing by primary projects such as education and hospital. Good and creative management will be able to make cross-subsidy scenario among the people who use the primary project. Through this way there will be a self-financing or even a profitable primary project. It is important to create a self-financing waqf institution as it is a pre-requisite for best allocation of resource. Muslim resource is limited; therefore best allocation of resource will be a critical to be considered. Donation fund, in this scenario, that previously is used to finance operation expense can be used to create new primary project or secondary project to support the existing primary project.

Secondary project (investment waqf) is basically a waqf project which aimed is to provide financial support for the primary project. This second type is a profitable project in nature. The project can be building hotel, shopping malls, leased office building and

other profitable projects. The profit gained from this project can be used to support primary project or it can also be accumulated in order to make another investment projects. Organizational structure, administration, operation and financial management of the above two waqf projects in the context of sukuk al-intifa'a will be elaborated on section 5.

#### **4.2. Distribution and Redistribution Effect of Waqf Projects**

Waqf has an important role in Islamic economic framework as it is play as redistributive measure. While zakat annually transferring funds from the rich to the poor, waqf role as redistributive measure is not through transferring fund like zakat, except cash waqf, rather it more on transfers perpetuity benefit of the rich wealth to serve the poor. The process of the two measures might be different in nature, however, both stand as redistributive measure for its role in narrowing economic and social gap between the poor and the rich. Rich people who endowed his wealth as waqf has provided means for society to ease them in fulfilling their need. Thus waqf project whether it is a primary project or secondary project in nature play role as redistributive measure.

Investment waqf, on the other hand, not only plays a role as redistributive measure but also as catalyst for distributive measure creation. Investment waqf, for example, shopping complex and commercial centers in Daka city provide employment to a large number of people during development as well as operation of the project (Sadeq, 2002). In this way, investment waqf creating job for the poor therefore it becomes catalyst for distributive measure through income creation.

#### **4.3 Development of Secondary Project through BOT Scheme and Sukuk Al-intifa'a Finance**

Many of waqf assets are either abandoned or underdeveloped. This becomes a concern since waqf has potential role in increasing society welfare therefore development of waqf certainly becomes an important issue. Through development of investment waqf, as we have described in previous section, sustainability of waqf institution to contribute to the society welfare can be maintained or even be improved. Investment waqf which, in nature, is a profit oriented type of waqf should be in existence to support primary waqf.

There are some ways to finance investment waqf such as mudharabah investment, musharakah investment and fund from issuing sukuk. Currently, there are some investment waqfs that have been financed through issuing sukuk musharakah. The stated projects were conducted to revitalize waqf asset in Singapore (Rahman, 2005). However, this paper only focus on financing investment waqf through issuing sukuk, particularly, sukuk al-intifa'a. The investment waqf in this scenario is conducted through Built and Operation Transfer (BOT) scheme and finance by issuing sukuk al-intifa'a. This paper argues, based on some reasons, that sukuk al-intifa'a is a viable instrument to finance investment waqf. Beside sukuk al-intifa'a is sharia compliance as it is based on ijarah contract, the sukuk has some characteristics that make it as a favorable financial instrument, and those characteristics are:

1. Securitization of leases: the sukuk holder will have a benefit of using the assets or re-lease to another party (the latter is of course the holder will receive a regular payment).
2. Secondary Market tools /tradable: the sukuk holder is able to sell (tradable) it to other party (in the secondary Market) when he needs an urgent cash

3. Changeability the duration of the sukuk; that is the duration of the leased either can be changed or be divided into some periods of lease. The flexibility of the duration gives a better cash flow management for waqf institution. Further discussion on this matter is elaborated on section 5.
4. Optional transfer of the sukuk right to a particular following year

Without exaggerating the good characteristics of sukuk al-intifa'a, the shortcoming will be more on the underdevelopment of Islamic financial market in which the instrument is supposed to be traded efficiently.

BOT scheme gives advantage for the waqf institution as the owner of the asset i.e. land on which the building/other assets will be developed without need to finance it. Further BOT scheme provides assurance of preservation ownership of the waqf asset remain on the waqf institution. This assurance is important since, according to Imam Shafi'i, once an asset is endowed then it owned by Allah, the Almighty. However, there are also some disadvantages of using BOT scheme as a way to develop investment waqf. BOT scheme requires developer to build the waqf asset followed by operating the developed asset and transferring the asset back to the waqf institution upon the completion of the tenure duration. Under this scheme, waqf institution will get back the developed waqf asset i.e. office building, after developer operating it a long the duration of BOT contract i.e. 25 years. In this situation, waqf institution is exposed to some risks, some of the risks associate with this condition are:

1. The developed asset may has been obsolete by the time it transfers from the developer to the waqf institution
2. The developed asset may be in the improper condition
3. Change in environment that can not be foreseen at the time of development of the investment waqf. Example for such situation is where the project could have a high demand at the period of leasing, however by the time the asset transferred to the waqf institution the situation has changed into unfavorable situation for the business related to the investment waqf.

In principle, a long term business perspective in entering BOT contract will reduce the waqf institution risk. Based on the above possible risk that may be faced by waqf institution, the institution should anticipate it. There are some preventive actions that should be done, those are, first, waqf institution should foresee future situation i.e. business and economic environment related to the investment project and second, waqf institution should ensure an agreement with the developer on preservation of the developed waqf asset to avoid improper condition of the asset at the time transferred to waqf institution.

## **5.0 Implementation of Sukuk Al-intifa'a in Investment Waqf**

### **5.1 Prerequisite the Implementation Sukuk Al-intifa'a in Investment Waqf**

There are several prerequisites that must be fulfilled in order for Sukuk Al Inifa'a to play a significant role in supporting the waqf management.

The most important prerequisites can be put forward in the following points:

- 1) Rule and regulation on Sukuk. Sukuk in nature is very different with the conventional bond, although the objective is similar that is, to raise fund. The difference is on the



underlying asset, which is needed in the Sukuk whilst not in the conventional bond. However, for instance in Indonesia, currently the regulation on the sukuk has not established yet. Therefore, government and parliament should work together on this issue. In addition to the point above, the concept of sukuk should be promoted to prospective investors, business sector and individuals. So that when regulation on sukuk is enacted, users are already well-informed;

2) A comprehensive law on waqf is inevitably one of the most important prerequisite. It should explain the right and obligation of parties involved namely waqif, nazir, beneficiaries and others. Moreover, the law should also explain about the nature of waqf itself, whether it is public or private, perpetuity or temporarily, and so on;

3) Institution who manage waqf. Majority of previous studies which regard to the waqf management by government states that its management should be taken care by non-governmental institution. This argument is due to the fact that governments in many of the Muslim countries are doing corruption, mismanagement and etc (Rashid, 2002). This condition leads to the unwillingness of waqif to make a donation since they are afraid that the waqf will then be used for its own benefit not for public benefit<sup>3</sup>.

Firstly, In order to initiate and develop the waqf, the role of the government is certainly very significant. The negative portrait above should be re-imaged into a positive picture in which governments really works for the people. With this new image government will get a respect and people will then be willing to donate waqf to be managed by the government.

In this paper, we argue that waqf institution should be an independent body appointed by the government. However, government could not intervene on the management.

In the case of Indonesia, a good example would be the institution of zakah (BAZNAS<sup>4</sup>). It is an independent body created by government which main tasks are to collect and distribute zakah in Indonesia. Government cannot intervene into the management of BAZNAS. Although this body is not under any ministry, the director is directly appointed by the President of Indonesia for a specific number of years and it can be re-elected.

It has been aware that Indonesia is not declared itself as Islamic country such as Iran whereby Islamic law can be implemented as a positive law. Consequently, Indonesian Government cannot force Muslim to pay zakah. At the most, Government may socialize the zakah and remind the people that zakah is obligatory in Islamic perspective.

The same thing holds in the case of Waqf institution. The director shall be appointed directly by the President. This institution can be a separate institution or it is an expansion of BAZNAS. This issue needs further study, which regards to advantages and disadvantages of merging or separating these two institutions. However, it is beyond our scope of discussion in this paper;

4) Support by the government especially on the non-direct policy for the development of waqf. An example of this policy could be a reduction on the rate or even an exemption of tax for the waqef;

5) Waqf Information System should be well established in order for the model to be implemented. Our model needs a detail identification of the party involved especially on the beneficiaries. The detail identification will be very helpful to implement cross-subsidy scenario among beneficiaries who use primary project towards self-financing primary project;

6) Development of Islamic financial market. Development of Islamic financial market will attract investors to invest in the derived sukuk al-intifa'a as the market increases liquidity of Islamic financial instrument.

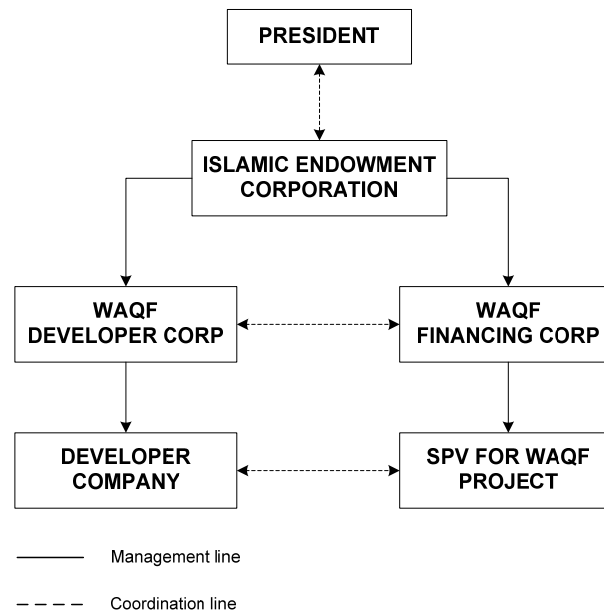
## 5.2 Guidelines Governing the Operations of Al-intifa'a Waqf Project

This section provides a guideline for waqf institution in organizing, administering and operating investment waqf under BOT scheme and financing by sukuk Al-intifa'a. This proposed model is a generic model for investment waqf using BOT scheme and sukuk al-intifa'a. This model can be adjusted for another kind of sukuk. However in this paper we put emphasize on the use of sukuk al-intifa'a as the financial instrument to finance the project.

### 5.2.1 Organization Structure of Investment Waqf

Our model of investment waqf is based on model developed by Mohsen. According to Mohsin (2005), Islamic Endowment Corporation (IEC) is an independent waqf body formed by government. The institution is responsible directly to the president. IEC is a national body which main role is to administers, maintain, generate and develop waqf. The existing waqf which is already in used should also be managed by this waqf corporation. Two important divisions should be established to cater the body duties. The two divisions are Waqf Financing Corp (WFC) and Waqf Developer Corp (WDC). Each division has its own arm by which the division manages development of waqf projects. WDC appoints Developer Company to develop waqf project while WFC creates SPV to finance the project. There are close coordination among WDC, WFC, Developer Company and SPV prior, during, after development of waqf project.

Figure 2 Organization Structure of Investment Waqf



## 5.2.2 Generic Model of Investment Waqf

Generic model of investment waqf provides a guideline in developing waqf project. This model shows the way Islamic Endowment Corporation (IEC) maintains and develops waqf asset toward a self-financing waqf institution. Through its two divisions, namely, Waqf Financing Corporation (WFC) and Waqf Development Corporation (WDC), IEC manage the primary project as well as secondary projects (1a&1b). Below is the elaboration on function, duties and coordination of the divisions in supporting IEC.

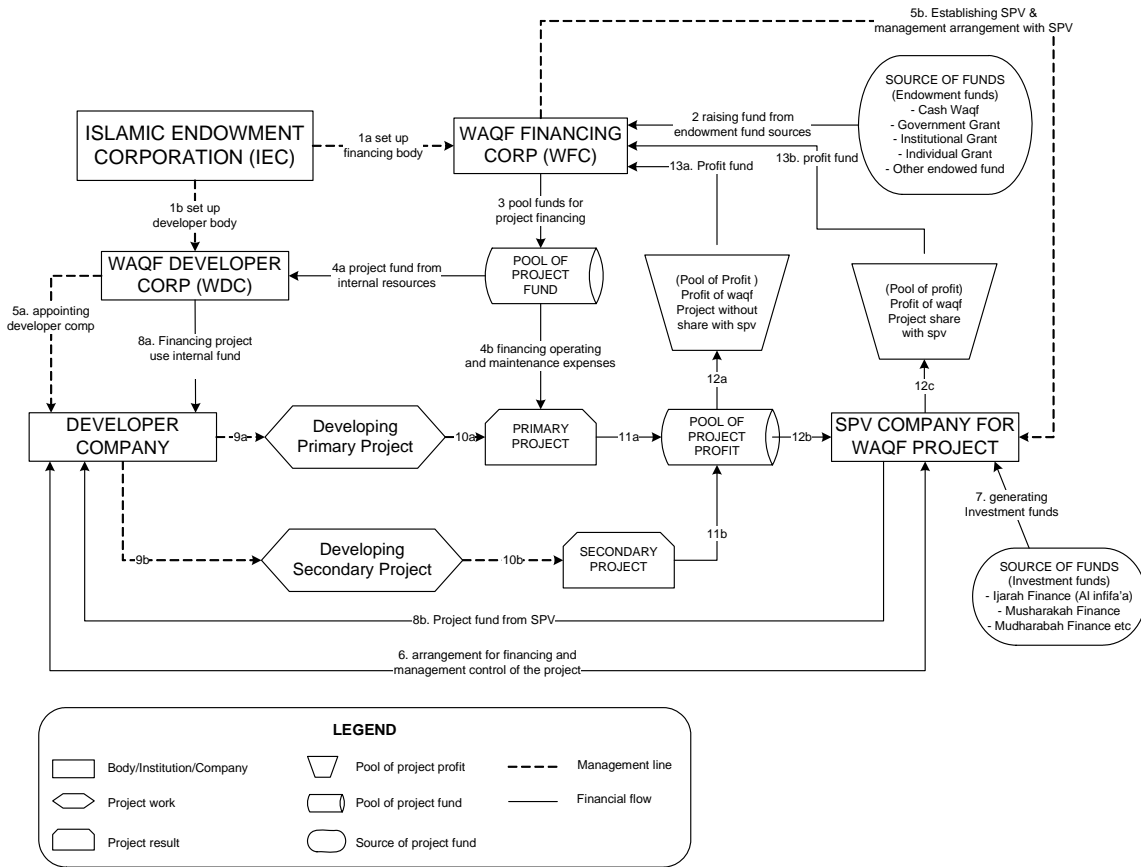
WFC's main functions/duties are mainly raising, collecting and allocating fund for operating expense, maintenance and development of waqf project. Having this massive responsibility, the appointed manager of WFC should fulfill some criteria such as amanah, honest and has a good sense in management. Also, He has to be able to find new sources of fund in order to maintain the waqf property and further to develop it. Manager should have a capability in allocating a fund to be distributes to primary project and secondary project.

In operation, WFC collects fund from three resources those are, endowment fund, profit from current waqf project and investment fund. All of the funds collected are then put in the pool fund that serves as the internal fund (3). Endowment fund is a donation fund in nature; it may in the form of cash waqf, government grant, individual grant, etc (2). WFC also receives profit generated by waqf project which is mainly sourced from the secondary project (13a & 13b). The pool of fund from profit and endowment is used to finance operation and maintenance expense of current primary project, to finance development of new primary waqf and to finance (partially) secondary project (4a&4b). The third source of fund for WFC is investment fund which is raised from investors who invest in investment waqf through participating in musharaka financing, mudharabah financing, ijarah financing and etc (7). This fund mainly used to finance secondary project. However, in the next section, this paper emphasized the use of sukuk al-intifa'a in financing investment waqf.

In financing secondary project, WFC is not collected fund directly from the investor rather it creates a Special Purpose Vehicle (SPV) (5b). SPV is a company created to raise fund from investor to finance the secondary project and might be also the operator of the secondary project finance by the SPV itself. Hence, a new SPV will be established when there is a new project. If there is a new project; Developer Company and SPV will make arrangement to finance and to transfer the management control from Developer Corporation to SPV upon the completion of the project (6). Thus after the completion of the project, SPV becomes the operator of the project. However, this arrangement is not a compulsory. IEC may become the operator of the project. The arrangement varies according to agreement between IEC and SPV. Based on the financial agreement with Developer Company, SPV will then raise fund from investors to finance the project (7). The fund collected from the investors is used to finance secondary project (8b). However, WDC may also request WFC to use internal fund to fully finance primary project or partially finance secondary project (8a). In the case WFC contributes in financing secondary project, profit of the secondary project is divided between WFC and SPV (12a&12b).

**Figure 3 Generic Model of Investment Waqf**

Waqf being donated to waqf institution mostly are in the form of property, which



sometimes are not ready to be used such as old building, old houses, land etc. The existing waqf properties also need to be maintained in order to function properly. In order to enhance the above waqf asset IEC establish Waqf Development Corporation whose main functions are to provide maintenance service for the existing primary project as well as developing new waqf project. In addition to that, WDC should be able to create a profitable project or secondary project to support primary project. When WDC needs to develop a new waqf project, WDC appoint Developer Company to develop the stated waqf project (5a). Developer Company then develop waqf project as requested by WDC (9a&9b). Once the WDC has finished develop the project, SPV or IEC will then manage it (10a&10b). Therefore the role of WDF is mainly on the construction and maintenance physically.

The secondary project that has been developed will generate profit that in turn will support in financing primary project (11b). On the other hand, thought it is not compulsory in nature, some primary projects with a good management may generate profit as we have elaborated in section 4.1 (11a). All profits gained from those two projects are then transferred to WFC to be pooled with other funds in a pool of fund. This pool of fund is the internal financial source for WFC to finance maintenance expense, operating expense and development of new waqf project. In sum, this model provides an alternative to manage waqf institution towards self-financing institution in order to ensure continuous development of the waqf institution.

### 5.2.3 The Operations of Al-intifa'a Waqf Project in Investment Waqf

In the previous section we already elaborate that there are many of the waqf assets still underdeveloped/underutilized. This condition has reduced its potential to enhance ummah welfare. In order to revitalize the waqf asset, waqf institution needs fund to finance the development of the asset. One of the ways to raise fund from investor is through issuing sukuk al-intifa'a. Hence, this section mainly will discuss utilization sukuk al-intifa'a as financial instrument to finance secondary project that will support primary project.

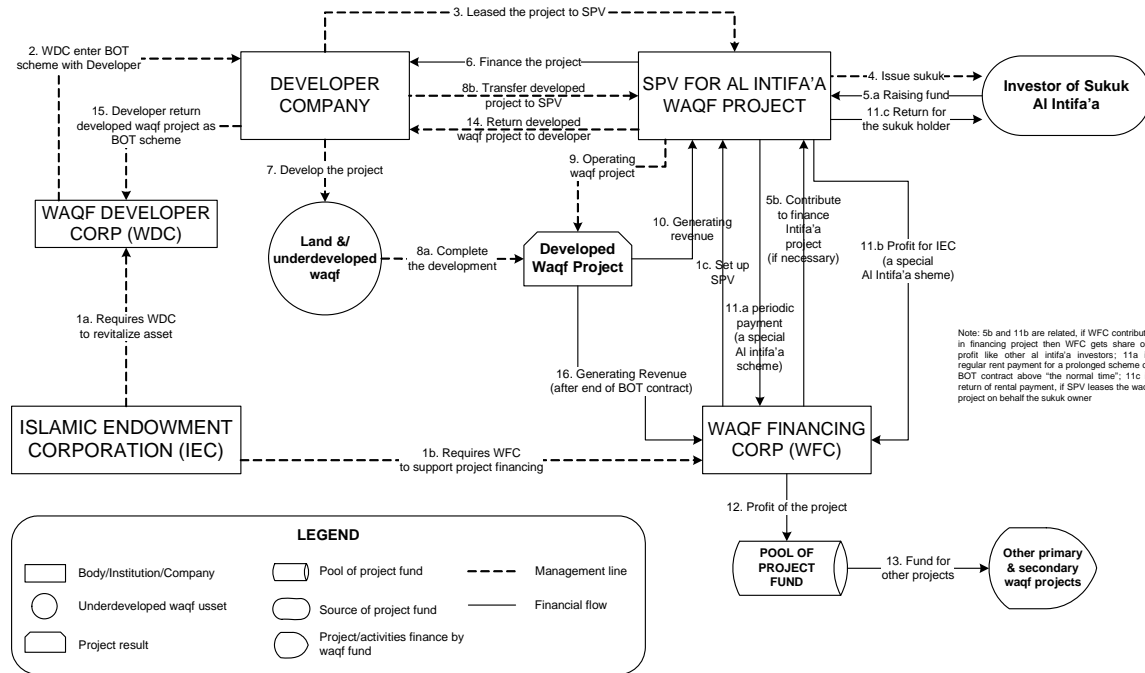
Waqf institution in our scenario is represented by Islamic Endowment Corporation (IEC). IEC requires Waqf Development Corporation (WDC) to make list of underdeveloped asset (i.e. land or building) and seek for suitable secondary project for the asset (i.e. office building, shopping complex, hotel etc) (1a). After finding a suitable project, WDC propose a proposal for development of the project to the IEC. IEC then requires Waqf Development Financing (WDF) to support WDC in revitalizing waqf asset (1b). WFC responds by setting up Special Purpose Vehicle (SPV) (1c). WDC and WFC then make coordination on how to finance the project.

There are three schemes that might be used to finance the project. First, the project is fully financed with sukuk al-intifa'a issues. Second, similar to the first one, however there is an option to prolong the period of tenure above "the normal" period. Third, the project is partially financed through issuing suku al-intifa'a while the balance is financed using internal fund. Sources of the internal fund are profit of the other projects and endowment fund in the pool of fund.

After choosing the scheme of financing, WDC enters Built Operation and Transfer (BOT) contract with Developer Company (2) and then followed by leasing the contract project to SPV which later on will operate the project (3). The underlying asset for the leased is the BOT contract between Developer Company and WDC. Developer Company under this contract will develop and then transfer the completed project to the SPV. However, the contract period will depend on the finance scheme used in financing the project. BOT period of a project is shorter under the first scheme than the second scheme. Under the second scheme the contract is prolonged to compensate periodical income received by Waqf Finance Corporation (WFC).

Here is the example for the above scenarios. BOT contract between WDC and Developer Company for a particular secondary project is 25 years. This is "the normal" period for the contract. However, under the second scheme, WDC may require the BOT contract to be prolonged above "the normal" period, for example, 30–35 years. In return, WFC receives periodical payment i.e. monthly or yearly from operator of the project (SPV) who leases the project from Developer Company. In the first scenario, WFC does not receive any income from the secondary project until the project has been returned back to IEC 25 years later (period of BOT contract). However, IEC will receive the secondary project sooner to be operated by it self to generate income. On the other hand, second scheme will take longer time for IEC to get the right to operate the secondary project i.e. 30–35 later (5 – 10 years longer). However, this scenario offers periodical payment from SPV to WFC. The payment is income for WFC. The income can be used to finance operation and maintenance expense of primary project or it can also be used to prepare human resources for primary project like doctors and teachers.

**Figure 4 The Operations of Al-intifa'a Waqf Project in Investment Waqf**



After signing lease contract with Developer Company, SPV then issues sukuk al-intifa'a to finance the project (4a). Investors subscribe the sukuk that represents ownership of right to use the asset for a period of time. Investor has right to use the stated asset in the sukuk during a specific time for a specific period. However, investor may sub-leased the sukuk to other party who want to utilize the asset. This is one of the reasons that explain liquidity of sukuk al intifa'a.

SPV receives fund from subscribers to finance development of secondary project (5a). However, WFC may also contribute to finance the secondary project through buying sukuk al-intifa'a or through other investment scheme like musharakah investment or mudharabah investment (5b). SPV pool the investment fund and then finance the development of the secondary project (6). Developer starts to develop the project and after the completion of the project developer will transfer the project to the SPV (7,8a&8b). The completed secondary project is now under SPV's management. SPV operates the project from the time the project completed until the time when BOT contract ended (9). The secondary project continuously generates revenue for SPV (10). The revenue then is shared between SPV, WFC and sukuk holders according to these conditions:

1. The revenue will be paid partly to WFC every particular period i.e. monthly or yearly (11a). SPV make periodical payment to WFC because SPV has chosen the second scheme of financing in which the project was fully financed through issuing sukuk al-intifa'a. However, the parties has chosen option to prolonged period of operating the project above "the normal" time. "The normal time" in the example is 25 years.
2. The revenue will be shared between SPV and WFC according to contribution of the parties in the project (11b). The contribution of WFC in the project is through buying sukuk al-intifa'a or with any other permissible investment contract such as musharakah or mudharabah investment (5b). In this case, WFC invests in the project through buying sukuk al-intifa'a. However, WFC does not

use the asset, therefore WFC requires SPV to sub-lease it to other party to generate income. This income is then transferred to WFC after SPV deducting management fee for managing WFC's asset.

3. SPV pays return to the sukuk holders in the case they do not use the property and left the property to SPV who sub-leased it to other party on behalf the sukuk holders (11c).

Return received by the WFC is pooled in a pool of project fund (12). This pool of fund is sourced of internal fund that is used by WFC to finance primary project as well as invest in the future secondary project. This process is continued until end of the BOT contract. SPV return the asset to Developer Company at the end of BOT contract (14). Developer Company is then returned the asset back to the WDC who gave the BOT contract (15). The secondary project now is wholly owned by IEC and it continuously generates income for WFC. In conclusion, this paper has demonstrated a model by which waqf institution receives perpetual benefit from revitalizing waqf asset through sukuk al intifa'a.

## **6.0 Conclusion**

Islam is a complete religion whereby it teaches how to worship God not only through worshipping rituals, but also through economics, politics, medics, and so on. One of the Islamic concept which regards to economic is redistribution of wealth. Besides zakah, waqf has gained more popularity especially in the recent condition of Muslim ummah. It assists many of the poor people, orphan and others for their basic needs. The role of waqf could have increased significantly had the waqf has been properly managed. Corruption and self-enrichment have been the image in the Muslim countries. This situation leads to the unwillingness of the waqif to make donation.

Other problem that can create slow development in waqf performance is excessive dependency on the properties provided by the waqif. Primary project that provides basic needs such as education, medical treatment, etc., shall not be continuously funded by the waqif. Secondary project, which is profitable in nature, should be established in order to maintain the primary project. The manager of this secondary project should be able to create projects that could generate income, as well as he/she should have capability in raising fund.

The role of sukuk al-intifa'a as a financial instrument is important and can fit in the context of fund raising for the secondary project mentioned above. The purpose of this paper is mainly to depict a propose model on the role of sukuk al-intifa'a in supporting waqf management. To be able to implement this model, some certain prerequisites should be fulfilled in advance. The authors believe that this model can be an alternative model for the better performance of waqf.

**Notes:**

1. In this type (general waqf), the waqeef give the right to the Islamic Relief to decide the area to be assisted based on the priority (greater flexibility by the Islamic Relief when it comes to helping those most in need).
2. The terms of primary project/non-investment waqf and secondary project/investment waqf are interchangeably used in this paper
3. Own here means government staff which manage the waqf.
4. BAZNAS stands for Badan Amil Zakah Nasional.

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