Financing the Development of Waqf Property: The Experience of Malaysia and Singapore

Prof. Dr. Hajah Mustafa Mohd Hanefah
Abdullaah Jalil
Asharaf Mohd Ramli
Hisham Sabri
Norhaziah Nawai
Syahidawati Shahwan

Fakulti Ekonomi dan Muamalat
Universiti Sains Islam Malaysia
mustafa@usim.edu.my
(06-7986300)

Abstract

The paper studies financing mechanisms used by waqf institutions in Malaysia and Singapore in developing various types of waqf properties. In Malaysia, the duty of managing and developing waqf assets is under the jurisdiction of state government through State Islamic Religious Councils (SIRCs). The problem of getting enough funds and inefficient staffs has hindered the development of a large number of waqf assets especially land waqf. In addition to traditional mode of financing such as long lease (hukr), modern schemes and self-financing have been used by the authority to develop waqf properties. The development of waqf assets in Singapore is encouraging especially after the establishment of Warees Pte Ltd: a subsidiary of Singapore Islamic Religious Council (MUIS). The source of financing is mainly generated through cash waqf contributed monthly by Muslims in Singapore. Besides that, a modern mode of financing such as sukuk musyarakah has been introduced in developing commercial buildings on waqf land. This paper compares the financing methods adopted to develop waqf properties in Malaysia and Singapore. Recommendations are made as to the best form of financing that can be adopted in developing waqf properties in Malaysia.

Keywords: Waqf property, financing, development, cash waqf

Introduction

In Malaysia, the developments of Waqf activities and institutions have increased tremendously. In recent years, ideas have evolved particularly on the contemporary waqaf activities in Malaysia. For example, JCorp has come up with their innovation on corporate waqaf (JCorp Annual Report, 2007). Former Prime Minister of Malaysia Dato' Seri Abdullah Ahmad Badawi has also suggested the establishment of World Waqaf Fund (Tabung Waqaf Sedunia) (Siti Mashitoh Mahamood, 2007) and also establishment of Waqaf Bond offered under Waqaf Enactment (Negeri Sembilan) 2005 (Siti Mashitoh Mahamood, 2007.) All these are among new innovations towards modern and contemporary platform for waqf development in Malaysia.

General Landscapes of Waqf in Malaysia and Singapore

Waqf Development in Malaysia

Historically, it is presumed that waqf institutions existed in Malaya later known as Malaysia, since the advent of Islam in the country around 1500CE (Mashitoh, 2006). The origin and development of waqf in the country can be divided into three different periods; pre-colonial, colonization and post-independence. At the latter stage, great efforts have been taken by waqf authorities towards developing as well as establishing new types of waqf assets. Continuous supports from the government and private agencies also play a key role in enhancing and stimulating this philanthropic institution to achieve its main objective of improving the socio-economic welfare of the people in the country.

Not much information on the development of waqf practice during pre-colonial period of Malaya can be obtained. However, Pahang Laws enacted in 1596CE thought to be the first codified laws pertaining to Waqf in the country (Mashitoh, 2006). Besides acknowledging Shafi'i rulings in matters relating to Shariah, the law also recognizes two

types of waqf assets; movable and immovable, as well as classifying waqf properties into two main categories; public and special waqf. In term of waqf assets, three mosques, namely; The Kg. Hulu Mosque, Kg Laut Mosque and Sultan Abu Bakar are considered to be among the earliest waqf creations in Malaysia (Mashitoh, 2006).

Waqf institutions continued to survive although Malaysia was colonized for more than four hundred years. This practice became widespread, in particular during British occupation in which the implementation of secular policies by the British forced the Muslims to safeguard their religious rites. Muslims were encouraged to donate their lands for the purpose of building mosques and religious schools. Late 19 centuries had seen the development of the traditional pondok education[1] in Peninsula Malaya (Ahmad Zaki et.al, 2006). Muslims generously dedicated their assets for the establishment of accommodation for teachers and pondok accommodation for students. The trusteeship of waqf assets during this period was placed under various parties, for example penghulus, the qadis, and religious school teachers. As no written documentation was in place, it is difficult to trace the actual number of waqf properties including the ownership of waqf assets transferred to the trustee's heirs.

Waqf developments and activities in the post-independence era of Malaysia have been encouraging. All matters relating to waqf assets are vested under the State Islam Religious Councils (SRIC), in accordance to Ninth Schedule (State List) of Federal Constitution of Malaysia (Ahmad Ibrahim, 1997). As the sole trustee of waqf properties, SRICs are empowered by law to appoint any individual or committee acting as its representative and also use waqf assets to generate income through yields and rentals. In contrast to past experience, waqf authorities not only develop waqf for establishing religious places but also build shop lots and commercial properties on waqf lands. To overcome the problem of getting enough funds for waqf development projects, various financing mechanisms have been used by waqf managers including hukr, ijaratain, istibdal and sukuk musyarakah (Mohd Tahir Sabit, 2006). Waqf authorities also

[1] Refers to the traditional system of Islamic teaching.

introduced the cash waqf concept for fund raising purposes and the proceeds channeled to finance waqf activities. Various types of cash waqf concept such as waqf shares models, takaful waqf model and corporate cash waqf models have been developed by waqf authorities in Malaysia (Magda, 2008).

In recent years, various steps have been taken by the government and private companies towards accelerating and stimulating waqf developments in the country. The establishment of the Department of Waqf, Hajj and Umrah in 2004 under the Ministry of Prime Minister Department shows the commitment of Federal Government to consolidate waqf activities at national level (www.jawhar.gov.my). Among the main duties of the Department are to coordinate, facilitate and enhance SRIC in administrating and developing waqf properties in their respective areas. In 2008, the Waqf Foundation of Malaysia (YWM) was set up to strengthen waqf developments in the country. Currently, the foundation actively promotes its waqf fund projects and cash waqf scheme (www.ywm.org.my). Corporate waqf share launched in 2006 by Johor Corporation demonstrates the company's assurance to be one of the leaders in promoting corporate social responsibility via philanthropic waqf practice. Kumpulan Waqf An-Nur, a subsidiary of JCorp has been successfully developed a number of clinics known as An-Nur Waqf Clinic in various places and a hospital in Pasir Gudang (www.jcorp.com.my). The initiative taken by JCorp can be used as a model for other private companies to actively involve in promoting, establishing and developing waqf properties in Malaysia.

Waqf Development in Singapore

The historic origin and development of waqf in Singapore can be traced back to the period of British colonization when the country was known as Strait Settlements. Similar to the experience of Malaysia, most of waqf assets developed in Singapore are in the form of mosques and religious schools. The Mosque of Omar Kampung Melaka built in 1826 is thought to be the earliest waqf creation in the country (Shamsiah, 2006). Waqf funds are also used to establish two famous religious schools in the country; Madrasah al-

Iqbal built in 1907 (Abdul Halim and Kamaruzzaman, 2006) and Madrasah al-Junied established in 1927 (www.aljunied.edu.sg).

Waqf administration in Singapore is vested under Majlis Ugama Islam Singapore (MUIS). The promulgation of The Administration of Muslim Law Act (AMLA) in 1968 empowered MUIS to administer all matters relating to waqf. Section 58 of AMLA in particular clearly mentioned that all awqaf created are vested in MUIS (www.muis.gov.sg). Being a sole trustee of waqf properties, MUIS has taken a bold step in founding its own subsidiary; Warees Plc, to handle, develop and monitor waqf projects. (Shamsiah, 2007) Since its establishment in 2003, Warees has successfully transformed a number of unproductive waqf lands into huge commercial residential areas (www.warees.com). As far as financial resources are concerned, cash waqf scheme and modern financial mode of Sukuk Musharaka bond have been introduced to fund waqf development activities. By becoming the investor of modern sukuk musyarakah instrument, Muslims in Singapore as well as abroad can directly involved in developing various waqf assets.

Jcorp's [Kumpulan Waqf An-Nur Berhad] Experience in Developing Waqf Properties in Malaysia

JCorp plays a very important role in developing waqaf properties in Malaysia particularly in corporate sector. Thus, its contribution in managing waqaf property is proven and recognized by many parties.

As a private institution, JCorp is one of the prominent institutions which contributes directly towards this development. Waqaf activities anticipated by JCorp is diversified to various activities via Kumpulan Waqaf An Nur Berhad like waqaf activity in medical-based institution known as Waqaf An-Nur Clinic which was the first waqaf hospital launched by JCorp in 2006. Until 2007, the expansion of Waqaf An-Nur Hospital and Clinics reached not only the state of Johor, but also to Kuching, Sarawak in collaboration

with Baitulmal Sarawak (JCorp Annual Report, 2007). With the implementation of cash waqaf in Waqaf An-Nur, it has contributed towards the society in its own range.

A unique agenda planned by JCorp for the ummah is through its Corporate Shares of Waqaf Corporation. This concept is a key institutional strategy towards making a success of its corporate mission of "Business Jihad". As a proof, via its corporate waqaf agenda as reported in 2007 JCorp pledges to dedicate 25% of the annual dividend payout from the shares transferred into waqaf. (JCorp Annual Report, 2007). Thus, the dividend is useful to organize various activities for Muslims and non-Muslims and arranged for charitable and religious activities that benefit and fulfill the needs of the society as a whole. In 2006, JCorp launched the idea of "Corporate Waqaf" which involved the transfer of 12.35 million unit shares owned by JCorp Kulim (M) Bhd, 18.60 million unit shares in KPJ Healthcare Bhd and 4.32 million unit shares in Johor Land Bhd to Kumpulan Waqaf An-Nur Bhd as trustee (JCorp Annual Report, 2007).

As for da'wah activities, JCorp with Jabatan Kemajuan Islam Malaysia (JAKIM) produces an academic-based programme to instill business mind-setting amongst Malaysian community with Islamic outlook. The programme invites callers and viewers to donate via SMS (Short Messaging System) which is then distributed to the poor and needy in most of JCorp's programme.

Thus, waqaf activities in business, its Waqaf An-Nur Clinics and Hospital and other Islamic driven corporate social responsibilities activities have brought JCorp as Muslims corporation that devoted towards Muslims ummah as a whole and directly alleviate poverty amongst Muslims. The focal activity of JCorp via corporate share and medical-based contribution has benefited the ummah.

Financial Performance of Kumpulan Waqaf An-Nur

Kumpulan Waqaf An-Nur Berhad (KWANB) started its operations on 25 October 2000 as Pengurusan Klinik Waqaf An-Nur Berhad. It was established to manage the waqaf clinics and dialysis centres under Jcorp and managed by KPJ Healthcare Berhad. The establishment of KWANB has aptly reflected the effort by Johor Corporation to implement corporate endowment in the service of business jihad. The first corporate waqaf involved the endowment of RM200 million Net Asset Value of JCorp shareholdings in Kulim (M) Berhad, KPJ Healthcare Berhad and Johor Land Berhad on August 3, 2006. In 2007, JCorp continued the endowment fund with 75 percent of JCorp's share in Capaian Aspirasi Sdn Bhd (CASB) into KWANB. CASB is a company that operates a *Shariah* compliant insurance agency and also acts as a Zakat collector.

A fund under the name of Dana Waqaf Niaga has also been established as a pilot scheme for the purpose of aiding small businesses facing problems in securing financing for start-ups or for business. The fund provides interest free financial assistance in the form of micro credit. An initial fund of RM100, 000 has been set aside from the provision of 25 percent of *Fisabilillah* and this is expected to reach RM1 million within 3 years. A total of 21 businessmen have benefited from the fund. Besides that, Briged Amal Waqaf was set up as a voluntary team to assist victims of disasters such as earthquake and flood. The team consists of five groups based on their capabilities and expertise in providing assistance and are tapped from such companies within JCorp Group. In 2007, four more Waqaf An-Nur clinics have been set-up to make a total of nine Waqaf An-Nur clinics including a Waqaf An-Nur Hospital.

In 2007, the revenue received by KWANB from shares that have been endowed totalled RM3.23 million, which is a reduction of 19.6 percent from RM4.02 million in 2006. This decrease was due to the decreasing dividend returns of company shares that had been endowed. The pre-tax profit of KWANB was RM2.28 million, a decrease of 75.8 percent compared to RM4.03 million in 2006. The decrease was due to the effect of the decrease in dividends received and the increase in the expenditure. However, the total share value

that had been endowed to KWANB is RM141.9 million, an increase of 57 percent compared to RM90.4 million in the previous year. The total assets of KWANB have increased to RM145.3 million in 2007 from RM94.3 million in 2006. A total of RM177,360 was expended on *Fisabilillah* and welfare and a total of RM58,727 was channelled to the Johor Islamic Religious Affairs Council.

Financial Performance of MUIS Waqaf Funds

In Singapore, MUIS acts as the overall administrator of all Waqaf funds through Waqaf Funds group. The group consists of the Board and Fusion Investments Pte Ltd. The principal activity of the MUIS Waqaf Funds is the management of the assets and the related distributions in accordance with the respective trust deed of each waqaf. An individual waqaf fund is managed either by the Waqaf Funds or Trustees appointed under the instrument creating and governing a Waqaf Fund. As at December 31, 2007, the number of trustees appointed under Waqaf instrument totalled 24 compared to 23 in 2006.

In 2007, the pre –tax income received by the Waqaf Funds is $98.9 million increased from $6.3 million from 2006 because of an increase on the fair value of investment properties. The total capital owned is $65.4 million and the asset revaluation reserve is $8.4 million. The accumulated funds received are $341 million increased from $130.7 million in 2006.

Jcorp's Experience and Warees's Experience in Dealing with Waqaf Fund

In Malaysia, JCorp represents the corporate entity in contributing towards waqaf development, whereas Warees represents Singapore. Both JCorp and Warees are involved in various partnership contracts which is based on *Musyarakah* concept like the development of food outlets by Warees and development of An-Nur Clinic by JCorp.

Both JCorp and Warees implement the concept of Cash Waqaf in running their activity especially in the development projects. The source of fund comes mainly from corporate shares for JCorp and Warees receives partnership fund from Majlis Ugama Islam Singapura (MUIS). However, the major fund for JCorp is the corporate shares but Warees receives compulsory monthly salary deduction from Muslims in Singapore. In terms of activity, the focus area of JCorp in mainly in medical-based institution and contribution, but Warees is more concerned towards development of Commercial Avenue for Muslims. These two different approaches might be related to the need of the people of these two countries. Demands from Malaysian are more towards medical facilities rather than business avenues that are more crucial in Singapore. Economically, Muslim minority in Singapore are behind as compared to the other communities.

In order to contribute towards human development agenda, JCorp at the same time trains interested individuals via its intrapreneur concept by means of Waqaf Fund. The aim is to produce Muslim entrepreneurs who are able to bring inner development towards them and then contribute materially towards the society. Warees, however, has not yet ventured into this development project. Their activity is more towards investment in commercial property that involves business entity but not for human development in particular.

Opportunities for Waqf Development in Malaysia

The future of Waqaf development in Malaysia is constantly bright and inspiring with the full support by the Malaysian government. Many institutions would be able to absorb waqaf concept in its corporate social activities by Malaysia government-linked companies (GLC) such as Petronas, TNB, Khazanah Nasional and others. In addition, in third Islamic Economics Congress on 12th January 2009, the concept of corporate waqaf has been selected to be a main strategy to run the idea of Business Jihad.

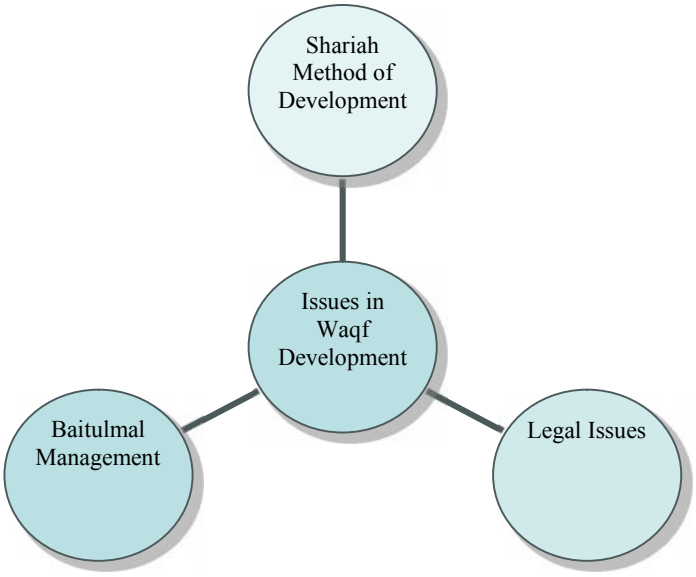
Besides putting hope on the GLCs, government agencies like JAWHAR under Prime Minister Department and Religious State Council of all states should play an important and pro-active role in managing waqf development. Proper management of waqf property can lead towards successful planning and implementation of Waqf development for the benefit of Muslims. These innovations also might bring better economic development for Muslims and Malaysia as a whole. For example, Religious State Council of Pulau Pinang has established a subsidiary with 100% equity known as Permodalan Wakaf Pulau Pinang Sdn. Bhd. (*Berita Harian, May 30th 2007*)

Issues in Waqf Development: An Analysis

There are several critical issues related to the development of Waqf assets. Shakrani *et al* (2003) have examined the preliminary issues that restrict the proper implementation of waqf in economic planning in Malaysia and concluded that there are three main critical issues. The issues are:

1. The clarification on how to develop the waqf according to the Islamic scholar's opinion (Shariah issues);
2. Legislation obstacles (Legal issues); and
3. The problem of Baitul Mal's administration that is inefficient and unsystematic (human resources and management issues).

Figure 1: Issues in Waqf Development



Methods of Development

There are a number of methods that has been suggested by the scholars for the development of waqf property. Most of the literatures have suggested the involvement of private entity in the development of waqf assets. Tahir Sabit (2006) has divided the development of waqf assets into three (3) main methods. They are:

1. Credit based finance;
2. Joint venture or equity and income sharing; and
3. Self-financing.

The combination of these three methods of financing or two of them may be deemed necessary by the managing authorities based on the situation where the waqf assets are operated. The main issue in these methods of development is on the protection and security of the *waqf* assets. Waqf assets are owned by Allah SWT or by the beneficiaries (in according to different opinions of Islamic jurists) and hence, the transfer of the ownership of waqf assets either through *ibdal* or *istibdal* is highly unfavorable from the

fiqh perspective. Even though, there are Islamic scholars and jurists who permit the practice of *ibdal* and *istibdal*, there are, however, several conditions that should be fulfilled. Some Islamic schools of law have a very strict opinion on the practice of *ibdal* and *istibdal*.

The problem in selection of the most suitable Shariah method to develop the waqf properties could be overcome with the involvement of Fatwa and Mufti department. It is necessary that decisions related to the Shariah rulings on waqf assets and management being referred to Fatwa Council of the state or federal territory. In another words, the involvement of Mufti Department in the development of waqf property is crucial. JCorp has appointed Dato' Noh Gadot – the former Mufti of Johor – as a member of the Board of Directors for its waqf programme. The involvement of Mufti and Fatwa Council in the development of waqf property may improve the effectiveness of Shariah decision making process in waqf development.

Baitul Mal Management

The problem of Baitul Mal lies with the lack of human resources especially those with professional backgrounds. The root of the problem is very much related with the employment scheme and policy adopted by the state or federal territory. The effort to improve the Baitul Mal management should begin with the improvement of the employment scheme and policy. Unattractive employment scheme and policy will not be able to attract professionals to work with Baitul Mal. It is the responsibility of the State Council to review the employment scheme at Baitul Mal especially and State Islamic Council generally in order to revive its function in the development of waqf property. Placing too much responsibility on Baitul Mal as well as the State Islamic Council which lack employees and professionals exposes the institutions to critics by public without the right understanding on the root of the problem.

As for the mean time, it is suggested that Baitul Mal or the State Islamic Council appoint or cooperate with private and professional institutions that are able to manage and develop the *waqf* assets based on a win-win formula. A trustee body could be established to monitor the waqf development project undertaken by the managing institutions. The trustee body should also ensure that the purpose of waqf and the distribution of waqf proceeds to the beneficiaries are carried out accordingly.

Legal Framework

In Malaysia, the authority of Islamic affairs – including Waqf affairs – according to the Ninth Schedule, List 2, State List, Constitutional Law is under the purview of the State. As for waqf management, this leads to the different set of rules regarding the administration of waqf assets between the states in Malaysia. Additionally, differences in rules lead to differences in the management practices and problems raised in managing the waqf assets (Mashitoh, 2003).

The legal issue is perhaps the most difficult issue faced by the waqf manager (*nazir*) in Malaysia. In most situations, the laws related to waqf administration in the state enactments are not comprehensive. They only cover managerial aspects as well as the brief procedure for making waqf (Mashitoh, 2003). Selangor was the fist state in Malaysia that introduced new enactment in waqf administration that touches on substantive areas and more updated (Mashitoh, 2007).

According to the most of the states enactments, the State Islamic Council acts as the trustee of waqf property, either the waqf is general/public or specific. The nature of trustee is to abide by the conditions laid out by the donor (Mashitoh, 2007). Hence, this does not give the flexibility to the state Islamic council to manage the waqf property. In order to provide flexibility related to the legal framework of waqf property, it is important to educate the public especially the donors to make general waqf instead of

specific waqf. General waqf provides the managing institutions ample space to manage and develop the waqf assets.

There are other legal issues such as the nature of waqf property, the changing of waqf assets status from leasehold to freehold, the power of Mufti, Shariah and civil courts related to waqf assets and etc. However, these issues require in-depth studies and political will before they could be fully resolved. The establishment of Waqf Foundation of Malaysia is considered as one of the critical milestones in the development of waqf concept in Malaysia.

The Significance of Private Initiatives

Based on the experiences of JCorp in Malaysia and Warees in Singapore in the development of waqf fund and properties in their respected areas, it is evident that the initiatives carried out by private entity with corporate and professional backgrounds could help the religious authorities in developing the waqf assets as well as diversifying the sources and application of waqf funds.

The involvement of private institutions could diversify the concept of waqf as could be seen by the practices of JCorp and Warees. Previously, waqf concept is only associated with fixed or immovable properties. Furthermore, the private institutions are seen to be more creative and capable in the development of waqf assets.

Conclusion and Recommendations

This paper compares the practices of waqf financing and development in Malaysia and Singapore. JCorp and Warees were chosen as case studies since these two bodies have been actively involved in the development of waqf in both countries. Both countries can learn from each other and improve the ways waqf properties can be better managed according to the Shariah laws. It is recommended that more concerted efforts must be

taken by the waqf bodies in both countries to better manage and finance waqf properties according to Shariah.

References

Abdul Halim Ramli and Kamarulzaman Sulaiman. (2006) *Pembangunan Harta Wakaf: Pengalaman Negara-Negara Islam.* Konvensyen Wakaf Kebangsaan. Kuala Lumpur.

Ahmad Ibrahim. (1997). *Pentadbiran Undang-Undang Islam Di Malaysia.* Kuala Lumpur: IKIM.

Ahmad Zaki et. al. (2006). *Pengurusan Harta Wakaf Dan Potensinya Ke Arah Kemajuan Pendidikan Umat Islam Di Malaysia.* Konvensyen Wakaf Kebangsaan. Kuala Lumpur.

Johor Corporation, *Annual Report, 2007*. Johor Bharu.

Magda Ismail Abdel Mohsin. (2008). *Awqaf: The Social and Economic Empowerment Of The Ummah*. International Seminar On Awqaf. Johor Bahru.

Mohamad Tahir Sabit et. al. (2005). *An Ideal Financial Mechanism For The Development of The Waqf Properties In Malaysia.* Shah Alam Selangor.

_____. (2006). *Innovative Modes Of Financing The Development Of Waqf Property*. Konvensyen Wakaf Kebangsaan. Kuala Lumpur.

Mohd Saharudin Shakrani, and Mohd Saifoul Zamzuri Noor, and Jamal Ali, (2003) *Tinjauan Isu-Isu Yang Membataskan Penggunaan Wakaf Dalam Pembangunan Ekonomi Ummah di Malaysia.* Jurnal Syariah, 11 (2). pp. 73-98. ISSN 0128 – 6730

Shamsiah Abdul Karim. (2006). *Pengalaman Majlis Ugama Islam Singapura Dalam Pengurusan Harta Wakaf*. Konvensyen Wakaf Kebangsaan. Kuala Lumpur.

Siti Mashitoh Mahamood. (2001). *The Legal Principles of Waqf: An Analysis*, Syariah Journal, 9:2 (2001) 1-12.

_____.(2002). *Pelaksanaan Istibdal Dalam Pembangunan Harta Wakaf di Malaysia*. Kuala Lumpur: Jabatan Syariah dan Undang-Undang, Akademi Pengajian Islam, Universiti Malaya.

_____. (2006). *Waqf in Malaysia: Legal and Administrative Perspectives*. Kuala Lumpur: Penerbit Universiti Malaya

_____. (2006). *Perundangan Wakaf dan Isu-isu Berbangkit*. Konvensyen Wakaf Kebangsaan. Kuala Lumpur.

_____. (2007). *Perundangan Wakaf dan Isu-isu Berbangkit*. Jurnal Syariah, 15:2 (2007).

Websites

www.aljunied.edu.sg
www.jcorp.com
www.jawhar.gov.my
www.muis.gov.sg
www.warees.com
www.ywm.org.my