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# **CORPORATE WAQF MODEL AND ITS DISTINCTIVE FEATURES: THE FUTURE OF ISLAMIC PHILANTHROPY**

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# Presentation Outlines

- ▶ Introduction
  - ▶ Problem Statement and Objectives
- ▶ Conceptualization Of Corporate Waqf
  - ▶ Corporate Waqf Models
  - ▶ Shariah Considerations of Corporate Waqf
- ▶ Conclusions

# Introduction

- In Malaysia, the initiative to develop corporate waqf turns into a national agenda for empowering the socio-economic condition of Muslims in the country
- Prime Minister in his speech during Bajet 2013 had outlined the focus on establishing corporate waqf at the national level.
- Recently, during the launching of Bumiputera Economic Empowerment Program, Prime Minister was again reiterated the main role of corporate waqf entity towards enhancing the value of idle lands belonging to Bumiputera Muslims.
- The corporate culture of accountability, prudence and transparency applied in corporate waqf concept is expected to bring new dimension into current waqf practice.

# Problem Statement and Objectives

- Corporate Waqf has not been recognized well as an independent and standalone category of waqf practices.
- The concept of corporate waqf is yet to be conceptualized and defined academically and independently

This study aims to:

- Identify the models of corporate waqf, and
- Highlight the Shariah considerations on this new form of waqf concept

# Conceptualization Of Corporate Waqf

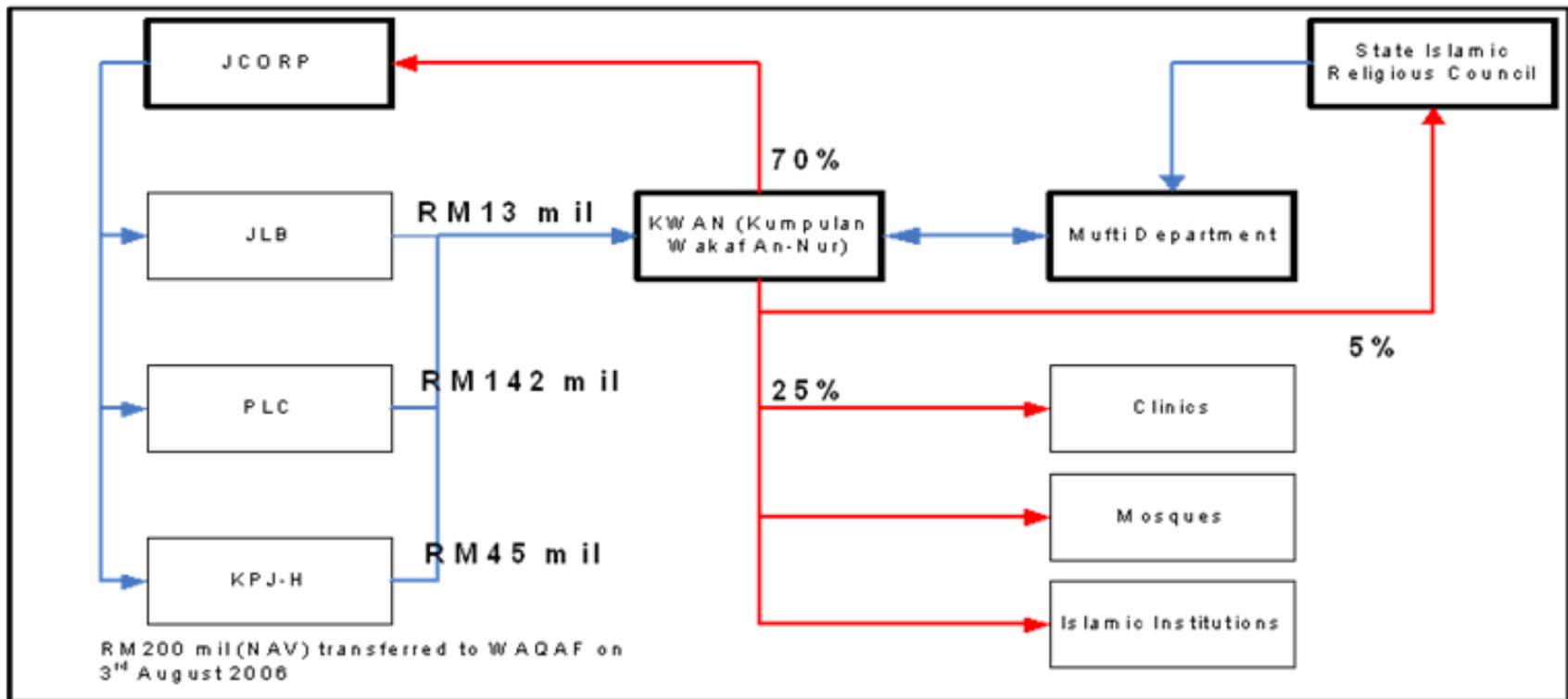
## 1. Corporate Waqf Models

- Tan Sri Ali Hashim (2012) outlines six models of corporate waqf that could be structured including:
  - (i) business entity or corporations, (ii) banking and financial institutions, (iii) universities, (iv) foundations, (v) cooperatives, and (vi) hospitals or clinics.
- Currently in Malaysia, corporate waqf structured on Business Corporation and Banking and Financial institution have been applied by Johor Corporation and Bank Muamalat Malaysia Berhad
- The conceptual corporate model based on university is expected to be adopted by public universities for income generating purposes.

# Corporate Waqf Model

## 1. Business Corporation

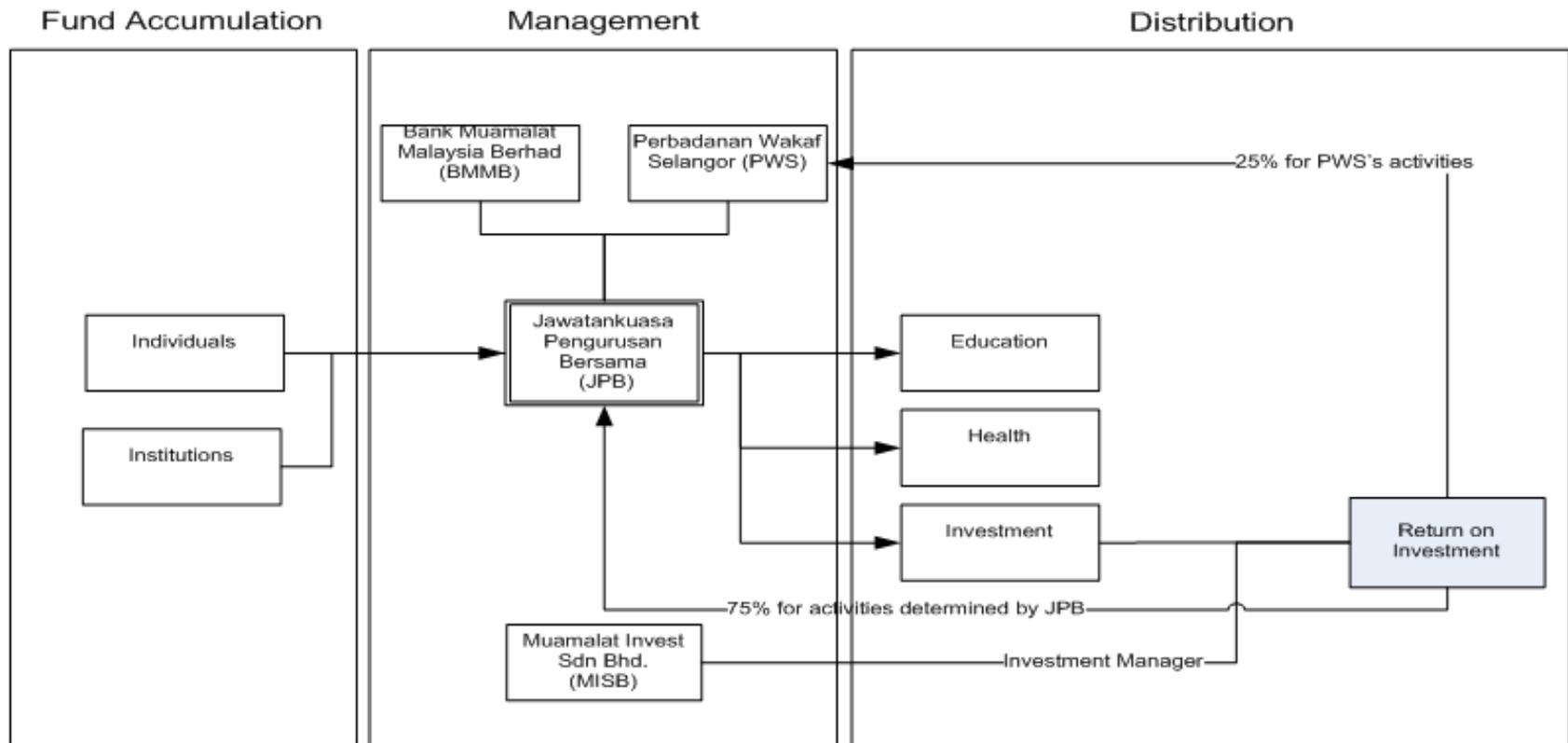
Figure 1: The Structure of Business Corporation Model (Asharaf & Abdullaah, 2012)



# Corporate Waqf Model

## 2. Banking and Financial Institution

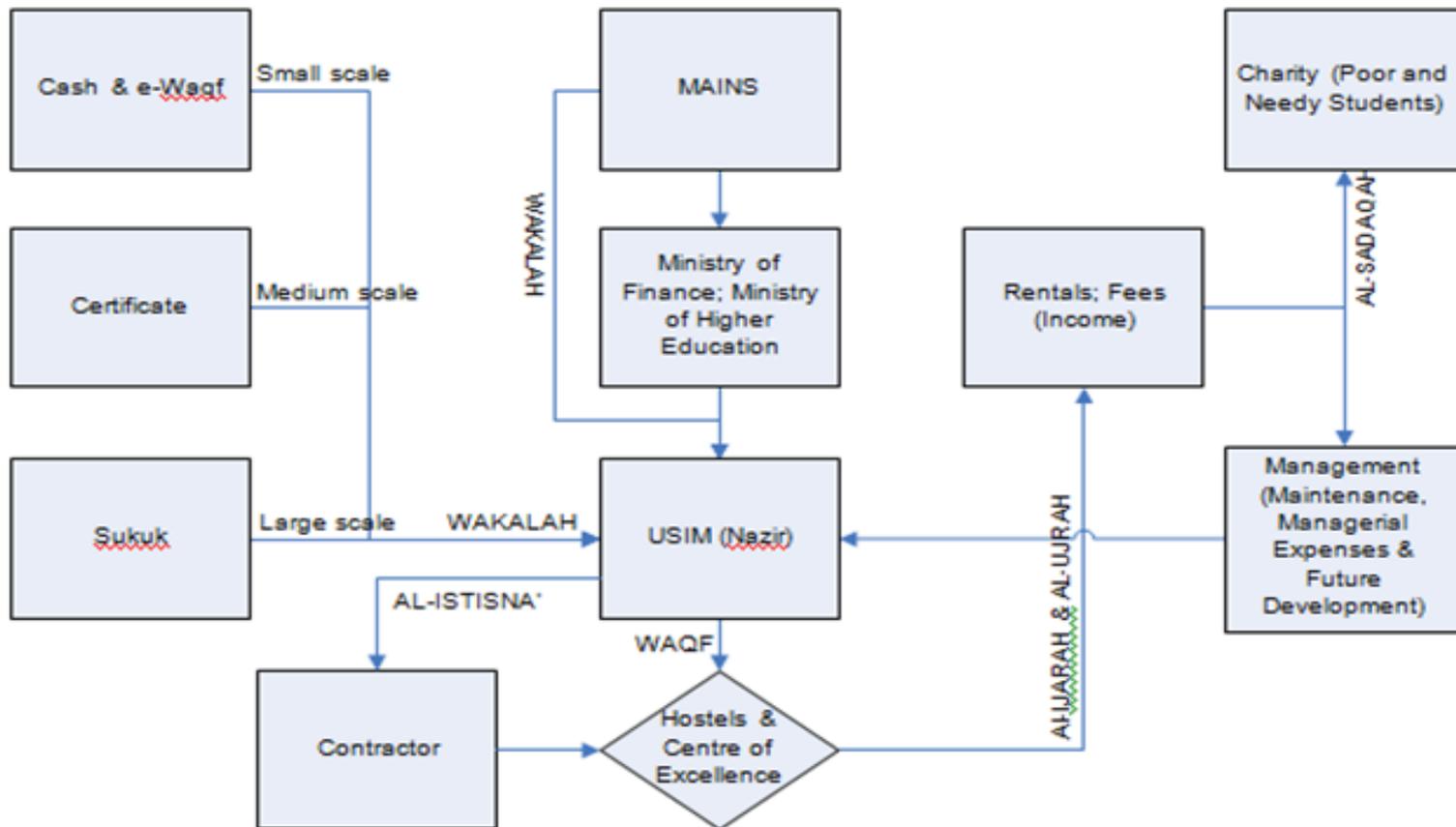
Figure 2: The Structure of Banking and Financial Institution Model (Asharaf & Abdullaah, 2013)



# Corporate Waqf Model

## 3. Universities

Figure 3: The Structure of Universities Model (Abdullaah & Asharaf, 2008)



# Conceptualization Of Corporate Waqf

## 2. Shariah Consideration

- Shakhsiyyah I'tibariyyah: Ahliyyah (Legal Capacity) and Wilayah (Legal Authority)
- Waqf of al-Waqif on Himself
- Al-Waqif Stipulates the Waqf's Proceeds (al-Ghallah) for Himself
- Hybrid Waqf (Waqf Mushtarak): Combination of Waqf Khayri and Waqf Ahli/Dhurri
- Istibdal

## Cont..Shakhsiyyah I'tibariyyah: Ahliyyah (Legal Capacity) and Wilayah (Legal Authority)

- The two most important requirements that must be enjoyed by the representative (*mumaththil*) of this *shakhsiyyah i'tibariyyah* are *ahliyyah* (legal capacity) and *wilayah* (legal authority).
- The second requirement means that the donor must be the owner of the subject matter or an agent (*wakil*) appointed by the owner who performs the contract based on *wakalah* (agency) contract.
- If the donor has neither *wilayah* nor *wakalah* on the subject matter, his transaction on the subject matter is known in Islamic jurisprudence as *fadalah*.
- Hanafiyyah, Malikiyyah and an opinion of Imam Ahmad validate the contract of *fadalah* but it is suspended and subject to the approval of the owner. On the other hand, Shafi'iyyah and an opinion of Imam Malik dan Imam Ahmad state that the contract is invalid

## Cont... *Waqf* of *al-Waqif* on Himself

- The mainstream stance of the Islamic jurists on this matter view this matter as invalid as the waqif could not re-own himself what he already owns. This is the stance of al-Malikiyyah, al-Shafi<sup>c</sup>iyyah in their strongest view (*al-asahh*), the authorized view of al-Hanabilah (*al-madhhab*) and Muhammad Ibn al-Hasan of al-Hanafiyyah.
- On the other hand, this practice has been approved by Abu Yusuf of al-Hanafiyyah, and this is their (al-Hanafiyyah) formal stance, an opinion of al-Shafi<sup>c</sup>iyyah and a view of al-Imam Ahmad.
- The authors favor the second opinion with regard to the practice of corporate waqf as the institutions usually do not really mean to re-own the waqf asset.
- Such practice is carried out to give the corporate institutions full flexibility and right in managing, distributing and channeling the waqf proceeds or even utilizing it.

## **Cont...*Al-Waqif* Stipulates the *Waqf's* Proceeds (*al-Ghallah*) for Himself**

- Another issue which may seem to be similar with the previous one is the situation where the waqif stipulates himself as the sole beneficiary or the major beneficiary or amongst the beneficiaries of the waqf's proceeds.
- Hanabilah, Hanafiyyah and an opinion of Shafi<sup>c</sup>iyyah view such practice as permissible in order to encourage the people to make endowments and based on several Shariah evidences.
- On the other hand, Shafi<sup>c</sup>iyyah and Muhammad Ibn al-Hasan of Hanafiyyah view such practice as generally impermissible with certain exceptions.

## **Cont... Hybrid Waqf (*Waqf Mushtarak*): Combination of Waqf *Khayri* and Waqf *Ahli/Dhurri***

- From a fiqh perspective, the combination between *waqf khayri* and *waqf dhurri* is known as *waqf mushtarak*.
- From a managerial perspective, *waqf mushtarak* could provide advantages for the institutions that involve in the corporate waqf. The institution may design its corporate waqf scheme to be in tandem with its CSR programmes.

## Cont...Istibdal

- The corporate waqf model as pioneered and practiced by WANCorp has undergone the practice of *Istibdal* i.e. replacement of waqf asset with its similar.
- The practice has taken place on 29<sup>th</sup> June 2009 where the waqf shares of Johor Land Berhad has been replaced with shares of Al-'Aqar KPJ REIT since Johor Land Berhad has been delisted from Bursa Malaysia.
- The istibdal practice was based on the (market) value of the shares and not the quantity (units) of the shares. The 4.32 million units of waqf shares of Johor Land Berhad which have current market value of RM 13 million has been replaced with 12.62 million share units of Al-'Aqar KPJ REIT which have the same market value of RM 13 million.

# Conclusions

- The advantages of corporate waqf could be observed from several aspects. With the huge size of assets and funds, professional management team, public confidence towards their practices and government's recognition, the corporate waqf could be viewed as the most promising star in the area of waqf development.
- However, such potentials may only be cultivated and enriched optimally with the support of the authorities such as MAINs, JAWHAR and Malaysian fatwa bodies.
- The synergy between the institutions could bring up further the waqf corporate practice to rejuvenate and reconstitute the waqf system of the ummah.

**Thank you.**

**Q & A Session.**