ADMINISTRATION OF ZAKAT AND WAQAF PROPERTY IN NEGERI SEMBILAN AND ITS CONTRIBUTION TO ISLAMIC EDUCATIONAL INSTITUTIONS.

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بسم الله الرحمن الرحيم

I hereby declare that the work in this academic project is my own except for my information from Islamic Religious Council in Negeri Sembilan.

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Abstract

Penulisan projek ilmiah ini adalah bertujuan untuk menjelas tentang pentadbiran harta zakat dan waqaf di Negeri Sembilan dan sumbangan harta tersebut kepada institusi pendidikan islam dan masyarakat. Ia turut menerangkan tentang bagaimana cara untuk memohon sumbangan harta zakat di bawah pentadbiran Negeri Sembilan dan golongan yang layak menerima harta zakat. Penulisan ini turut menjelaskan tentang sumbangan harta waqaf daripada orang ramai untuk tujuan pendidikan. Ia juga menerangkan tentang pengertian, tujuan, kepentingan dan pentadbiran harta tersebut mengikut undang-undang pada masa kini.
Abstract

The purpose in writing this research is to clarify the administration of zakat and waqaf property in Negeri Sembilan and its contribution to Islamic education and to the Muslim society. It also examines how to apply the zakat contribution under the administration of Islamic Religious Council in Negeri Sembilan and who are the groups qualified to receive the zakat property. To ascertain this project complete, we used two methods, first, library and second, is an interview. This writing also clarifies the contribution of waqaf property from other people for education purpose. It also study the meaning, purpose, importance and the administration this property based on the current law.
ملخص البحث

ينتطرق هذا البحث لتوضيح التدبيرات للزكاة والوقف في نكرى سهيلان وإعاناته في تشذيب المجتمع الإسلامي. ويوضح هذا البحث كيفية طلب هذه الإعانة تحت تدبير مجلس دين الإسلامي في نكرى سهيلان والجماعة التي تنحص صرف الزكاة. المنهج المستعمل في هذا البحث فاعدين هما المكتبي والمقابلة. هذا البحث يبحث أيضاً عن إعانة مال الوقف من المجتمع الذي تتعرض إليه فناء لدراسة.

يبحث أيضاً عن معنى الإعانة أهميتها وكيفية تدبير هذه الأموال وفق القانون الأئمة.
Abbreviation

Ibid ibidem- in the same place
R.a Radhi Allahu ‘an hu
S.a.w. Sallallahu alaihi wasallam
S.w.t. Subhanahu wa ta’ala
Vol volume
MAINSS Majlis Agama Islam Negeri Sembilan
KWAN Klinik Waqaf An-Nur
p.p Pages
p. Pages
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Al-Quran</td>
<td>The holy book revealed by Allah s.w.t. to prophet Muhammad s.a.w.</td>
</tr>
<tr>
<td>Hadith</td>
<td>Saying of the Prophet s.a.w.</td>
</tr>
<tr>
<td>Prophet</td>
<td>The messenger of Allah in this world</td>
</tr>
<tr>
<td>Sunnah</td>
<td>Saying, deed, and approval of the prophet s.a.w.</td>
</tr>
<tr>
<td>Ulama</td>
<td>Plural of alim: Islamic jurist</td>
</tr>
<tr>
<td>Auliya</td>
<td>helpers, supporters, friends, protectors</td>
</tr>
<tr>
<td>Al-Ma'ruf</td>
<td>Islamic monotheism and all that Islam orders one to do</td>
</tr>
<tr>
<td>Al-Munkar</td>
<td>polytheism and disbelief of all kinds, and all that Islam has forbidden</td>
</tr>
<tr>
<td>Irka'</td>
<td>bow down or submit yourselves with obedience to Allah</td>
</tr>
<tr>
<td>Musolla</td>
<td>The place for Muslims to perform the pray</td>
</tr>
<tr>
<td>Caliph</td>
<td>Leader of Muslims after the Prophet Muhammad s.a.w passed away.</td>
</tr>
<tr>
<td>Sadaqah</td>
<td>To give contribution like property to the way of Allah.</td>
</tr>
<tr>
<td>Mujahidun</td>
<td>Those fighting in the holy wars</td>
</tr>
<tr>
<td>Ghina</td>
<td>Who have a many of property and can dispense with the material help of others.</td>
</tr>
<tr>
<td>Tajarrub</td>
<td>An approach to Allah</td>
</tr>
</tbody>
</table>
al mutawalli  who is merely a manager of the waqaf

fuqaha  who is expert in feqah

jahiliyyah  The period before Islam

syarak  The Islamic rules created by the Allah

ummah  The name for group of Muslims

Asnaf  Who is qualified to get the zakat property.

Nasikah  dependant where it is compulsory like by the father to his family

Muallaf  Who embraced the Islam
CHAPTER ONE
1.0 Background of research.

1.1 Introduction

Zakat is one of the obligations to Muslim to fulfill because its one of the five pillars in Islam. Allah commands every Muslim to pay their Zakat. Allah says in the Quran regarding the important the Zakat:

```
ألَمْ نَرَ إِلَى الَّذِينَ قَبِلَ لَهُمْ كُفُوًا أَيْدِيكُمْ وَأَقِيمُوا الصَّلَاةَ وَأَنْعَموا الرَّكَأةَ
```

Have you not seen those who were told to hold back their hands (from fighting) and, perform As-Salat (Iqamatas Salat), and give Zakat.¹

Therefore who is ignore that order their will get sin from Allah, but its not compulsory to all of Muslim, who is inability to make its such as poor man In this case there is freedom from the sin. Zakat is very important because its is one of the way to help other people especially Muslim.

Waqaf is not an obligation to Muslims, but it’s also one of the ways to help other people. It’s also a god way to get reward and blessing from Allah. In some case waqaf will be compulsory when someone vowed to make it.

¹ Al-Quran, Surah An-Nisa’ 4:77.
1.2 Problem statement

Generally, the public is confused about the administration of zakat and waqaf property. So, this problem will be discussed in the research. The problem is:

1. How this institution manage the zakat property?
2. Who are competent to get the zakat property?
3. What are the conditions to who want applying the zakat and waqaf property?
4. What are the contributions of the zakat institutions to Muslims?
5. What are the procedure in collecting of zakat?
6. What are the contributions of zakat and waqaf properties to Islamic educational institutions?
7. Who are competent to receive the waqaf property?

1.3 Scope of research.

The research will focus in Islamic Religious Council in Seremban and Institutions of Zakat in Seremban (Baitulmal). This is to know about the administration and the contribution made is this institutions in Islamic education and Islamic institutions.

1.4 Objective of research.

There are several objectives in conducting in research they are as follows:

1. To know how these institutions manage and administer the zakat and waqaf properties.
2. To know the methods they use in collecting the zakat and waqaf properties.
3. To know the contributions made by these institutions to Islamic educations and the Islamic institutions.
4. To find out how these institutions applying these to get this property.
1.5 Significance of the study.

A study the administration of zakat and waqaf property and its contributions to Islamic educational institution is very important. The significance of the study is to know about the administration zakat and waqaf property in Seremban, Negeri Sembilan.

This study will focus of zakat and waqaf property. So, it is important to know how these institutions get the property and where they used it. It is also to inform the society about the importance of zakat and waqaf institutions to the development of the Islamic educational institution in Seremban.

This study cases about this topic also to understand and know how to apply this property and the important this property in modern world.

1.6 Literature Review.

In making the research proposal, there are books that can help in writing the review of literature, but it’s very difficult to find the related review to this proposal.

The book Guidance to complete a zakat, by Abdullah discussed about the obligations to zakat it’s involved the meaning of zakat, and the types of zakat. This book also discuss the advantage of zakat to Muslim, how to give the zakat, and also the penalization to who are ignore the obligations of giving zakat. This research will use all subject in this book which are related to this research research. This will come up with the procedure that required every Muslim to pay the zakat.

(Issue of syariah and law, from Mohamad Zaina Yahya, Abdul Basir Mohamad, Anwar Fakhri Omar, and Mohd Zamro Muda in Department of Syariah, Faculty of Islamic Education, University Kebangsaan Malaysia). This book discussed the current issues involving the aspect in administration of property, law, issue of fiqh, and other. This book discuss about the waqaf involving the meaning of waqaf, the commandment of waqaf, and also the position of waqaf under the Malaysia law. The
article of waqaf will be use as a reference to get information the administration and management of waqaf properties. The different methods will be used such as the interview method in collecting the required data for the research.

1.7 Research methodology.

The objective of this research is to get information how these institutions manage to administer the zakat and waqaf properties. It's also to know what is the contribution made by the zakat and waqaf institutions to the Islamic education or Islamic institutions in Seremban.

Therefore, in research will involve the procedure and methodology in collecting the information regarding waqaf and zakat. This interview will be the main method to be used gathering while getting the required data for the subject of this study. This is to know the procedure in administration the zakat and waqaf properties by asking the related question in interview. The collected data through interview will be gathered to be analyzed through several methods in analysis of data. Here are some of the libraries where we can find the required data of libraries as a place to find the required data:

Islamic University College of Malaysia library.

Library of Tun Seri Lanang, UKM Bangi.

Islamic Center Library, Kuala Lumpur.

Some of the collected data which are to be used in this research are from analyzing article, journal, newspaper, and through internet.
CHAPTER TWO
2.0 The Alms (zakat).

Another unique and remarkable institution that is part of the major pillar of Islam is zakat. The Quranic word zakat and the meaning it conveys, has no equivalent in any other language as far as we know. It is not just a form of charity or almsgiving or tax or tithe. The meaning of the Quranic word zakat not only includes charity, alms, tithe, kindness, official tax, voluntary contributions and so on. It also combines with all these God-mindedness and spiritual as well as moral motives.

The literal and simple meaning of zakat is purity. As a technical term, the word designates the amount in kind or coin which a Muslim with means must distribute annually among the rightful beneficiaries.

The exact meaning of the Arabic word, zakat (زکاة) is growth, and by extension, growth in purity of the soul through honest actions and dealing. The word “zakat” occurs in the Quranic text in this sense. It also occurs in a figurative sense to designate the contribution that every Muslim, man or woman, of means must make to further social assistance and subsidize establishment and works of public welfare for the benefit and progress to the Islamic Nation. Allah says in the Qur'an:

وَالْمُوسِّيْنَ وَالْمُؤْمِنَاتَ بَعْضُهُمْ أُولُو الْمَلَاتِ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ

وَيُقِيمُونَ الصَّلاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ ﷺ

The believers, men and women, are Auliya’ (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) Al-Ma'ruf (i.e. Islamic Monotheism and all that Islam orders one to do), and forbid (people) from Al-Munkar (i.e. polytheism and disbelief of all kinds, and all that Islam has forbidden); they perform As-Salat) and give the Zakat, and obey Allah and His Messenger.

3 Al-Quran, Surah At-Taubah 9:71.
2.1 Importance of the Zakat (Poor-Due).

The third pillar of Islam is zakat (Poor-due). As it has already been stated that no act is as important in Islam as the prayer, but it would be illogical to say that the position of zakat in Islam is exactly similar to that of the prayer. We shall be led to the conclusion that zakat ranks next to the prayer based on two instances:

1. After making a mention of faith, the Quran frequently mentions two acts of piety, the prayer and the zakat. The image of a true Muslim is set forth by the Quran usually in words like these:

وَأَقِمُوا الْصَّلَاةَ وَآتُوا الزَّكَاةَ وَارْكَعُوا مَعَ الرَّاكِعِينَ

And perform As-Salat (Iqamat-as-Salat), and give Zakat and Irka (i.e. bow down or submit yourselves with obedience to Allah) along with Ar-raki’un.

Allah considers the prayer and zakat as the twin foundation stones of practical faith. If a person performs these two acts properly, he provides a solid guarantee and practical evidence of following the religion in full. A logical division of the injunctions of faith would make two categories of them:

i. First, the injunctions which related to the right of Allah and the right of man.

ii. Second, the injunctions which related to the right of mankind on man.

Thus, the practice of the faith really means that one should acquit himself of the right of Allah as well as of mankind. From the discussion on the prayer already

---

3 Al-Quran, Surah Al-Baqarah 2:43.
made and the debate on zakat that follows, it would transpire that prayer is the essence of the right of Allah, and zakat is the essence of the right of man.

2. The payment of zakat is precondition and an insignia of faith. The prophet s.a.w. elucidated this point when he said:

"I have been commanded to fight against people till they testify that there is no good but Allah, and they establish prayer and pay zakat and if they do it, then blood and property are guaranteed protection on my behalf and their affairs rest with Allah".

It was not only for the new Muslims that the Quran prescribed the condition of zakat, it was for all without any exception. If any Muslim refused to pay zakat, an Islamic government was duty bound to punish him.

During the time of Caliph Abu Bakr (r.a), some of the tribes refused to pay zakat. He declared war against them. When Umar, the Great (r.a), shown some hesitation in endorsing his action. Abu Bakr (r.a) declared:

"By Allah I would fight definitely against him who makes a distinction between the prayer and zakat (poor-due) (because they are put together in the Quran)"

This contention was not only accepted by Umar the Great but by all of the companions (r.a). It leads to the inference that the life and property of a Muslim deserve respect as long as he performs the prayer and pays zakat.

---

4 Hadith narrated by the Muslim "Islam ideology and the way of life" by Afzalur rahman New edition 1995.
2.2 Objectives of Zakat (Poor-Due).

Now we must know the purpose for which zakat (poor-due) has been made obligatory and what are the objective which are achieved by it. From the study of the Quran and traditions of the Prophet (s.a.w.) transpires that there are three objectives of zakat. These are:

2.2.1 Purifications of Soul.

The basic and the objective of zakat is the purifications of soul. It purges the lust of wealth, infuses the fear of Allah in man’s heart and makes one amenable to good deeds. The Quran says:

وَسَيِّحْنِبْهَا الْأَلْقَى الَّذِي يُؤْتِي مَالَهُ يَتَرَكُّى

And Al-Muttaqun will be far removed from it (Hell) He who spend his wealth for increase in self-purification⁶.

On another occasion Allah addresses and exhorts the Prophet s.a.w in these words:

خَذْ مِنْ أَمْوَالِهِمْ صَدَقَةٍ تَطُهِّرُهُمْ وَتَرَكِيبَهُمْ بِهَا وَصُلُّ عَلَيْهِمْ إِنْ صَلَّتُنَا سَكَنَّ لَهُمْ وَاللَّهُ سمِيعٌ عَلَيْهِم

Take Sadqah (alms) from their wealth in order to purify them and sanctify them with it, and invoke Allah for them. Verily! Your invocations are a source of security for them, and Allah is All-Hearer, All-Knower.⁷

This verses make the real importance of zakat quite clear. It aims to emancipate the heart from the temporal preoccupations and purifies the soul. Thus the

⁷ Al-Quran, Surah At-Taubah 9:103.
effect of zakat is not limited to the process of purification of the heart alone. It makes a more positive contribution, by providing a stimulus for doing well. The quotations mentioned above highlight these qualities of zakat.\(^8\)

Literally zakat means both “purifications and growth”. To give a portion of one’s income to the needy, for the pleasure of Allah, is called zakat because it purifies the soul and subscribes to its growth and purification.

2.3 Pre-Conditions of Purification.

2.3.1 Pleasure of Allah.

The pleasure of Allah should be the first and foremost considerations while paying zakat. It must be free from every other motive.

\[
\text{وَمَا نُنفِّقُونَ إِلاًَّا إِبَابِيَاءٌ وَجَهَّةٌ لِلَّهِ وَمَا نُنفِّقُونَ مِنْ حَرَّمٍ يُعْفَفَ عَنْهُ إِلَّا كَمِّ أَنْفَسُونَ}
\]

When you spend not except seeking Allah’s Countenance. And whatever you spend in good, it will be repaid to you in full, and you shall not be wronged.\(^9\)

2.3.2 Income from honest means.

The second important precondition for zakat is that it should be paid out of the income earned only by fair and honest means:

\[
\text{يَا أَيُّهَا الْدِّينُ إِمَّا أَنفِقْتُمْ مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمَا أُحْرِجْتُمْ لَكُمْ مِّنَ الأَرْضِ}
\]

O you who believe! Spend of the good things which you have (legally) earned, and of that which we have produced from the earth for you\(^10\)

---


\(^9\) Al-Quran, Surah Al-Baqarah 2:272.

2.3.3 Only the good things to be paid.

The third important pre-condition of zakat is that whatever is paid should be of good quality. If cheap and worthless stuff is given in zakat, it will go in vain. It will be no better than a hypocritical gesture.

وَلَا تَبْعَثُوا الْخِبَابَ مِنْهُ تَفْقُوْنَ وَلَسْتُمْ بِآثَارِهِ إِلَّا أنْ تَعْمِصُوا فِيْهِ

And do not aim at that which is bad to spend from it, (though) you would not accept it save if you close your eyes and tolerate therein.\textsuperscript{11}

2.3.4 The recipient’s self respect should not be hurt.

The fourth pre-condition of zakat is that it beneficiary should neither be made to feel grateful for it, nor his feelings and self-respect hurt. Otherwise zakat would cease to have any meaning.

بَيْنَ أَيْدِيهِ الَّذِينَ آمَنُوا لَا تَبْطِلُوا صَدَقاتَكُم بِالْمَنْهِ وَالْأَذَى كَالَّذِي يُنفِّي مَاثُلَهُ رَأْيَ الْعَالَمِ

وَلَا يَؤُمْنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ

O you who believe! Do not render in vain your Sadaqah (charity) by reminders of your generosity or by injury, like him who spends his wealth to be seen of men, and he does not believe in Allah, and in the Last Day\textsuperscript{12}

\textsuperscript{11}Al-Quran, Surah Al-Baqarah 2:267.  
\textsuperscript{12}Al-Quran, Surah Al-Baqarah 2:264.
2.4 Help the Poor.

The second objective of zakat is to help of the poor. The Prophet said:

"Verily Allah has ordained the payment of zakat on them (Muslim). It will be taken from the rich and returned to the poor"\textsuperscript{13}

Allah said in the Holy Qur'an:

وَآتِي أَمْلَاكَ عَلَى حُبِّ ذَوٍّ يَدِي أُفْرَتِي وَأُلَّدِي وَأَلْمَسَأَكِي

And gives his wealth, in spite of love for it, to the kinsfolk, to the orphans, and to Al-Masakin (the poor)\textsuperscript{14}

This verse makes it quite obvious that there is also a social and economic aspect of zakat without which its Islamic concept remains incomplete. A person who set apart a portion of his income for the poor undoubtedly arranges for the purification of his soul. That is the reason why the Qur’an regarded zakat as a right of the poor to the affluent class of the society.

Allah said in the Holy Qu’ran:

وَالْدِينِ فِي أَمَالِهِمْ حَقًّا مَعْلُومَةً لِّلسَّائِلِ وَالْمَحْرُومُ

And those in whose wealth there is a known right, for the beggar who asks, and for the unlucky who has lost his property and wealth, (and his means of living has been straitened)\textsuperscript{15}

This is a right for which an Islamic Government will be prepared even to fight. It is amply illustrated by the instance of the Caliph Abu Bakr (r.a) cited above. Although, this objective of zakat is of secondary importance, yet its vital position

\textsuperscript{13} Hadith narrated by the Muslim “Islam a concise” introduction by Neal Robinson First publisher in 1999.

\textsuperscript{14} Al-Quran, Surah Al-Baqarah 2:177.

\textsuperscript{15} Al-Quran, Surah Al-Ma’arif 70:24-25.
in Islam cannot be underestimated. It possesses a superb importance in this world and in the Hereafter.

2.5 Support of Islam.

Among the secondary objectives of zakat is to the help and support Islam. In giving the details of the beneficiaries of zakat, the Qu’ran says:

إِنَّمَا الصَّدَقَاتُ لِلَّفَقَرَاءَ وَالْمَسَاجِدَ وَالْمَرْمَاشِيِّنَ وَالْعَامِلِيِّنَ الْغَالِبِينَ فِي الْإِرَاحَةِ وَالْمَوْجِبِينَ وَفِي الْعَامِرِينَ وَفِي سَبِيلِ اللَّهِ وَلِيْسَ سَبِيلِ فَرِيضَةٍ مِّنَ اللَّهِ وَلِلَّهِ عَلِيمُ حَكِيمٌ

As-Sadaqat (here it means Zakat) are only for the Fuqara’ (poor), and Al-Masakin (the poor) and those employed to collect (the funds); and for to attract the hearts of those who have been inclined (towards Islam); and to free the captives; and for those in debt; and for Allah’s Cause (i.e. for Mujahidun - those fighting in the holy wars), and for the wayfarer (a traveller who is cut off from everything); a duty imposed by Allah. And Allah is All-Knower, All-Wise.16

The words “the cause of Allah” denote the struggle made for Islam, particularly for meeting the requirements of the holly wars. It clearly means that meeting the financial requirements of the holy war is also an objective of zakat.

2.6 The Due Recipients of Zakat.

The Holy Qu’ran classifies the due recipients of zakat as follows:17

1. Poor Muslims, to relieve their distress.

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16 Al-Quran, Surah At-Taubah 9:60.
2. Needy Muslims, to supply them with means whereby they can earn their livelihood.

3. New Muslim convert or potential convert, to enable them to settle down and meet their adjustment needs.

4. Muslim slaves, to free them, and Muslim prisoners of war, to liberate them by payment of ransom money.

5. Insolvent Muslim in debt, incurred under pressing needs, to help free them from their liabilities.

6. Muslim employees appointed by a Muslim governor for the collection of zakat, to pay their wages.

7. Muslims in service of the cause of God by way of research or study or propagation of Islam or Islam in defense of Muslim right.

8. Muslim wayfarers stranded in a foreign land and in need of help.

2.7 The Administration of Zakat.

According to Islamic law, the basic lawful material necessities of life are: sufficiency in food, clothing, and shelter, basic education and medical care. This is the minimum standard of material well-being recognized by Islam.

Sufficiency in food, clothing and shelter constitutes the first stage of what, in Islamic terminology, is called “Ghina” (الغني) the state in which one can dispense with the material help of others. The state of “Ghina” excludes a person from the category of beneficiary of zakat and forbids any lawful claim of the zakat funds. Moreover, when the state of “Ghina” reaches the state legitimate ownership of wealth taxable for zakat, the person in question automatically acquires the status of zakat prayer.

In the broader sense, as in the following “Hadith” the term “Ghina” also indicates the state of self-sufficiency that proceeds from a satisfied attitude of mind and the enjoyment of physical fitness.

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18 "Islam a concise" introduction by Neal Robinson First publisher in 1999.
Haditha Zahir bin Hab and Ibin Numdis have related unto us, saying: Sufyan bin Uaynah has related unto us, on the authority of Abu Az-Zinad, (who said) on the authority of Abu Hurairah who said: The Messenger of Allah said: "sufficiency does not depend on an abundance of worldly possessions. Sufficiency means the self-sufficiency of the (Satisfied and capable) soul."

The lawful beneficiaries of *zakat* are designated in verse 60 surah 9 of the Qur’an to the effect:

### أَيُّمَاهَا الصَّدَّاقَاتُ لِلفَقْرَاءِ وَالمَسَاعِبِينَ وَالْعَامِلِينَ عَلَيْهَا وَالمُوَلَّةَ قَلْوُبُهُمْ وَفِي الرَّقَابِ وَالْغَارِمِينَ

As-Sadaqat (here it means *Zakat*) are only for the *Fuqara’* (poor), and *Al-Masakin* (the poor) and those employed to collect (the funds); and for to attract the hearts of those who have been inclined (towards Islam); and to free the captives; and for those in debt; and for Allah's Cause (i.e. for *Mujahidun* - those fighting in the holy wars), and for the wayfarer (a traveller who is cut off from everything); a duty imposed by Allah. And Allah is All-Knower, All-Wise.

1. The poor of straitened means (الفقراء)These include all Muslims whose means are, in spite of their best efforts or due to some physical disability,
insufficient to adequately provide for the basic lawful material necessities of life.

The poor destitute (المساكين). These include all Muslims whose means are, in spite of their best efforts or due to some physical disability, either totally lacking or are so deficient as to deny them the basic lawful material necessities of life22.

The zakat officials (المالكون على الصدقة). As a principle, all authorized zakat official, all Muslims who regularly serve as members of the various zakat staffs, are entitled to receive remuneration payable out of the zakat funds. It is generally accepted that such persons comprise23:

a) The collector (المصدوقون), whose duty is to collect the zakat dues and deposit them in the authorized zakat centers.

b) The distributors (القسمون), whose duty is to apportion the zakat funds.

c) The custodians (الحافظون), whose duty is to keep safe and disburse the funds to the lawful beneficiaries. The custodians include: the treasurers, the caretakers, of the zakat granaries and zakat storehouses, and the caretakers of the domestic animals levied as zakat (shepherds, herdsmen, waterers, etc.)

d) The measurers (الكيلانون), whose duty it is to measure, or weigh, the cereals and other kinds of agricultural produce levied as zakat.

The scribes or clerks (الكاتبون), whose duty it is to keep the zakat files and records.

e) The accountants (الحسابيون), whose duty it is to keep account of the zakat revenue and expenditure.

f) The informer (اللاعرون), whose duty it is to seek out those persons who are deserving of receiving zakat assistance and to inform the zakat official of their condition and whereabouts.

g) The assemblers (الحاشرونون), whose duty it is to assemble the zakat payers, or the beneficiaries of zakat, when required.

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22 "Islam a concise" introduction Neal Robinson First publisher in 1999.
23 "Islam a concise" introduction by Neal Robinson First publisher in 1999.
h) The officers of charge (رؤساء العاملين), whose duty it is to direct and manage the various zakat centers, and who are directly responsible to the state and to the public for the proper functioning of their respective centers.

2.8 Zakat under the Modern World

During the colonial era, the state-sponsored collection of zakat ceased in most part of the Muslim world. It is widely held, however, that a genuinely Islamic government should organize the collection and distribution of zakat, because this comes under the rubric of ordering what is right and forbidding what is wrong.

In recent years, several Muslim countries have therefore taken measures to put this into effect. For example, in Pakistan, since 1981, individuals and corporations have been liable to pay 2 ½ percent zakat on accumulated wealth in excess of 2,000 rupees and this has been deducted directly from bank accounts.²⁴

Needless to say, adapting what was originally a levy on surplus gold, silver and livestock to the conditions of modern industrial societies is not without difficulty. Classical Islamic jurisprudence allows the use of analogy in dealing with cases for which there is no direct precedent in the Quran or the hadith. Nevertheless, on such matters the jurists sometimes differ. For example, should zakat be levied on the means of production, factories, machinery and the like? It is widely assumed that these are exempt because they do not constitute capital. However, if as some jurists have argued, livestock are not just capital but are analogous to modern means of production, then industrial plant ought to be zakatable.

²⁴ "The Law and Institution of zakat" by Faristha G. de Zayas Edited by A.Z Abbasi The Other Press Kuala Lumpur 2003
CHAPTER THREE
3.0 Definition of *Waqaf*.

The word *'waqaf'* in the Malay vernacular parlance may mean one of two things depending on the context of its use. If used by itself, it denotes an open and roofed structure meant as public outdoor ‘furniture’ for people to stop and rest by sitting or lying down. This form of traditional public outdoor furniture or pavilion is almost always made of timber with a minimum of four columns and a low timber platform. However, if the word *‘waqaf’* is used along with another such as *‘harta waqaf’* or *‘tanah waqaf’* or in the verb *‘diwaqafkan’* it means the property or land which has been endowed for public use or the act of endowing a property.

Many Muslim countries, special *waqaf* institutions are set up to manage the endowed properties for the benefit of the public in this world and to fulfill the trust of those who had relinquished their rights of ownership in the hope of continued blessings in the afterlife.

*Waqaf* (plural *'waqaf*), used in Islamic law covers religious endowments, family trusts, etc. While in North Africa in particular, the term *“hubs”* (*ahbas*) or *“hibis”* (*hubis*) is more commonly used. The word *“tasbil”* is also used in the same sense, devote to the way of Allah. The only point concerning waqaf on which all Muslim lawyers seem to agree is that their basic purpose is a “good work” (*gurbah*), or “an approach to Allah” (*taqarrub*).

The term *waqaf* literally means to prevent or restrain. In legal terms it means “to protect thing, to prevent it from becoming the property of a third person (*tamlık*)”

According to Islamic jurists, *waqaf* is the permanent dedication by a Muslim of any property, in such a way that the appropriator’s right is extinguished, for charity

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27 Sarakhsi, mabsut, xii, p.27.
or for religious objects or purpose, or for the founder of the waqaf during his lifetime and after his death, for his descendants, and on their extinction, to a purpose defined by the founder.\textsuperscript{28} It follows that there are two categories of \textit{waqaf}. (charity \textit{waqaf} and a family endowment). According to Abu Hanifah:

"It signifies the appropriation of any particular thing in such a way that the appropriator's right in it shall continue, and the advantage of it shall go to some charitable objects; or it is the detention of a specific thing in the ownership of the \textit{waqif} or appropriator, and the devoting or appropriating of its profits or usucrupt in charity, or the poor, or other good objects."\textsuperscript{29}

Islamic jurists hold the view that \textit{waqaf} is an imperfect form of ownership in which ownership and utility are never combined at the same time by the same person.\textsuperscript{30} The \textit{waqaf} is considered a juristic person to be represented by the administrator thereof (\textit{al mutawalli}) who is merely a manager of the \textit{waqaf}. Under the shariah, when \textit{waqaf} is created, all right of property passes out of the \textit{waqif} and rest in God Almighty. The founder of a \textit{waqaf} may constitute himself the first \textit{mutawali}. A \textit{mutawalli} may be a female, or even a non-Muslim. Equally, a body of persons in the form of a committee may be entrusted with the administration of the \textit{waqaf}, but no minor or person of unsound mind can be appointed a \textit{mutawalli}.

According to the Sunni Law, the essentials of a valid \textit{waqaf} are:

i. A permanent dedication of property.

ii. The dedicator (\textit{waqif}) should be a person professing the Muslim faith, of sound mind, and of age\textsuperscript{31} and must have full right of disposal over his property.

iii. The dedication should be for a purpose recognized by Islamic Law as religious, pious or charitable.

The essentials of a valid \textit{waqaf} under the Shia Law are as follows:

\textsuperscript{28} Yakan, Waqaf, p. 7.
\textsuperscript{30} Abu Zahra. on waqaf. p 89.
\textsuperscript{31} Minority under Muslim law terminates on completion of the 15\textsuperscript{th} year. A Muslim who had attained the age of 15 is competent to make a will disposing of his property (Amir Ali, 4\textsuperscript{th} edt, Vol 1, pp.212-213).
i. It must be perpetual.
ii. It must be absolute and unconditional.
iii. Possession must be given of the item dedicated.
iv. It must be taken out of the dedicator. That is, he should not retain any interest.

3.1 History of *Waqaf*.

According to the general opinion of the Muslims jurist there were no *waqaf* in Arabia before Islam, either in houses or land, and this is just an opinion, since there is no evidence otherwise. Furthermore, one of the best known books on Islamic law strongly supported that there were no *waqaf* before Islam to be regarded as philanthropic institutions but as thing to boast of.

As far as the Islamic law is concerned, the Muslim lawyer (*fuqaha*) traced the institution to the Prophet himself under the following circumstances. In the tradition of Anas bin Malik, it is said that Prophet wished to purchase gardens from Banu al-Najjar in order to build a mosque. They refused to take the purchase money however and gave the land for the way of Allah.

In human history, the institution of *waqaf* started in Greek community. During the Arabians jahiliyyah period, the Arabian practiced the *waqaf* until the appearance of Islam. So, when Islam comes, it was continues the practice the *waqaf* in accordance with the Islamic Law.

An example of this the mosques of Kubah and Nabawi in Madinah built with *waqaf* property. Because the *waqaf* is very important, it was practiced in Islam since the period of Prophet S.A.W until now. An addition to this the institutions of higher education like University of Al-Azhar in Egypt and Qurawiyyin. Universities in Maghribi were built with *waqaf* property.

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32 Shafi‘e op. cit., p.58.
When we look at the importance of *waqaf* institution under the Islamic system, the Christian communities from the west followed this method based on the success of the *waqaf* institution during the period of Prophet Muhammad s.a.w. until the period of Islamic magnificence in Baghdad, Spain, Egypt, and so on\(^{35}\).

Some of the institutional educations in west were built with *waqaf* property. An example in the Oxford University and University of Cambridge in England. The Billionaires gave part of their properties which are necessarily for the individual. An example of this Bill Gates who gave part from the property to support the researcher in making a research to solve and find antidote in deceases like H.I.V, cancer, heart, and so on.

### 3.2 Motive of Waqaf.

Without shadow of a doubt the motive in *waqaf* is always religious\(^{36}\). The basic purpose of a good work is "qurbah" or an approach to Allah "taqarrub"\(^{37}\). The motive of law on authorising *waqaf* is to enable the "founder" *waqif* to secure spiritual advancement in life in part and also popularity in this life in the same way as by gift and bequests but in a higher degree.

According to the general principles of Islamic law regarding dispositions of property, a *waqaf* would be legally valid, even though the proper motive might be wanting; for instance, a non-Muslim may make a *waqaf* for meritorious purposes, but he does not believe in the one of Allah Who alone can bestow such reward.

As far as Muslim jurists are concerned, they refer to the essential features of *waqaf* to its religious motive, a desire to approach Allah. It is not stated that the approach to Allah can only be made by an object that is charitable in the sense of

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English law. Thus “sadaqa” which is a gift made with a desire to approach Allah, may be made equally to the rich and poor.\(^{38}\)

According to the majority of Muslim Islam,\(^{39}\) *waqaf* is not exclusively intended for lawyers, it is sufficient if the purpose of a *waqaf* is merely permissible. In Shafei law-books it is expressly stated that a *waqaf* may even be extended to the advantage of the rich. Many *waqaf* such a mosque, cemeteries, and water supplies, are intended for the rich as well as for the poor.

Under the shariah, *waqaf* may be made for any purpose whatever which is recognized by Islam. Thus a Muslim cannot create a waqaf for a church or synagogue. A *waqaf*, being a form of *sadaqa* cannot be used for purposes unpleasant to God. *Waqaf* in all systems may be created for the support of the founder’s own immediate descendants, and for collaterals with the remainder to go to the poor. It is to be noted that in “Abadi Law” if a man leaves property as *waqaf* for his descendants, whether for one or two generations, or in perpetuity, his immediate children can either confirm the *waqaf* or reject it, and deal with the property as their own property\(^{40}\).

The property capable of being given as *waqaf* are firstly, *Al-Mal al-Mutaqawim* (capable of legal ownership and legal transfer), secondly is a *mulk* (in actual ownership it must be in existence at the time of creation of the *waqaf* and must be capable of immediate delivery.

\(^{38}\) Baillie, op.cit., I, p 564.

\(^{39}\) Tyabji, F.B., Principles of Muhammadan law, Bombay, 1913 p. 361.

3.3 The form of Creating a *Waqaf*.

It takes to follow the following methods\(^1\):

i. Divesting of ownership: the founder of the *waqaf* must strip himself of all title in the property settled. According to all systems, a *waqaf* that is recoverable is not valid.

ii. Formalities of *waqaf*: a *waqaf*, as explained above, may be made either verbally or in writing.

iii. The formalities by a will: a *waqaf* in death-illness is subject to the same restrictions as, and does not have any priority over, other gifts or legacies.

iv. It must not be subject to a condition that is not in existence at the time of the constitution of the *waqaf*.

v. It shall not be timed to commence after death, otherwise it will be tantamount to a will.

vi. It shall not be subject to an option.

vii. It shall not be subject to a condition that is inconsistent with the essence of the *waqaf*.

viii. It must indicate either explicitly or implicitly, the permanence of the *waqaf*, and cannot be revoked after his dedication has been completed.

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\(^1\) "Law of waqaf and analytical and critical study" by S.A Kader Former Judge, High Court Of Madras, Calcutta New Delhi Eastern Law House 1999.
3.4 Condition of Validity of Waqaf.

The conditions required for the validity of waqaf are as follows:

i. The settle "waqif" must be of full age, sound mind, and unrestrained in the use of his property.\(^42\)

ii. The property to be make waqaf "mawqaf" must be tangible. An incorporeal right cannot be dedicated as waqaf and upon movable property there is a conflict of opinion, the prevalent view being against their dedication. Yet upon beneficial uses, some exceptions have been recognized in favour of a movable accessory to an immovable property. Similarly the dedication of a Quran for reading, and also animals, can be made waqaf.\(^43\)

iii. The property must be declared waqaf with clear intention by the founder. No particular form is necessary and the dedication may be either oral or written.\(^44\) The founder must clearly express his wishes either by "waqaffu", "sabbaltu" or if he uses other formula.

The use of any specific term, or phrase, or even the word "waqaf" is not necessary for the validity of a waqaf, provided there is a clear declaration of the endowment. It is sufficient for the settler to indicate his intention to make the property waqaf and to specify the charitable purpose to which it is to be devoted.

It is generally accepted that this declaration is sufficient in itself for the creation of a waqaf and that the delivery of possession to the mutawalli or administrator is not an essential condition of validity.\(^45\)

It is a settled rule of Islamic law that to create a waqaf it is not necessary to use the word "waqaf". If the intention to make waqaf is apparent, or can be inferred from

\(^{42}\) Al-Larabulsi, op.cit., p.10; Juynboll, Th.W., po.cit., p.878.
\(^{43}\) Abdul Rahim, op cit., p.307.
the general tenor of the deed, or from the conduct of the donor, or from the nature of
the object in favour of which the grant is made, or from surrounding circumstance at
large, it will constitute a valid and binding waqaf, though the word "waqaf" might
have not been used.

3.5 Registration of Waqaf.

3.5.1 36. Registration. (1) Every waqaf, whether created before or after the
commencement of the Act shall be registered at the office of the board.

(2) Application for registration shall be made by the mutawalli, provided that
such applications may be made by the waqif or his descendants or a
beneficiary of the waqaf or any Muslim belonging to the sect to which the
waqaf belongs.

(3) An application for registrations shall be made in such form and manner and
at such place as the Board may by regulation provide and shall contain
following particulars:

a) A description of the waqaf properties sufficient for the identification
thereof.
b) The gross annual income from such properties.
c) The amount of land revenue cesses, rates and taxes annually payable in
respect of the waqaf properties.
d) An estimate of the expenses annually incurred in the realization of the
income of the waqaf properties.
e) The amount set apart under the waqaf for:
   i. the salary of the mutawalli and allowances to the individuals
   ii. purely religious purposes
   iii. charitable purpose; and

46 "Law of waqaf and analytical and critical study" by: S.A Kader, Former Judge, High Court Of
iv. any other purpose

f) Any other particulars provided by the Board by regulations.

(4) Every such application shall be accompanied by a copy of the waqaf deed or if no such deed has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the waqaf.\(^{47}\)

(5) Every application made under sub-section(2) shall be signed and verified by the applicant in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908) for the signing and verification of pleadings.

(6) The Board may require the applicant to supply any further particulars or information that it may consider necessary.

(7) On receipt of an application for registration, the Board may, before the registration of the waqaf make such inquiries as it thinks fit in respect of the genuineness and validity of the application and correctness of any particulars therein and when the application is made by any person other than the person administering the waqaf property, the Board shall, before registering the waqaf, give notice of the application to the person administering the waqaf property and shall hear him if he desires to be heard.

(8) In the case of waqaf created before the commencement of this Act, every application for registration shall be made, within three months from such commencement and in the case of waqaf created after such commencement, within three months from the date of the creation of the waqaf: