

The Management and Implementation of Zurri Waqf in Malaysian Waqf Institution

(Pengurusan dan Pelaksanaan Wakaf Zurri dalam Institusi Wakaf Malaysia)

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ABSTRACT

In accordance with Islamic sharia, zurri waqf (family waqf) has been used as an instrument for estate planning and family inheritance. The issue of abandoned property management has yet to be fully resolved, and zurri waqf is one option for the estate distribution. In Malaysia, the State Religious Council is the administrator of zurri waqf practices. The implementation, on the other hand, is minimal and not proactive. Hence, the objective of this study is to identify the practice of zurri waqf implementation in Malaysia. This study employs a qualitative interview method with eight respondents. This study discovered that the practice of zurri waqf implementation is at a passive level, but the improvements can still be made. For instance, the rectification in the management procedures can be done as zurri waqf assets have the potential for economy development and ongoing benefit to the family and society in general. The findings of this study in terms of restructuring the existing procedures according with the experts' suggestion such as lineage restrictions on beneficiaries and appointment of zurri waqf consultants may aid in the proactive implementation of zurri waqf as well as the preservation of Muslims' equity in strengthening the economic stability of the family and society in general.

Keywords: Zurri waqf; property; practices; economy; and wealth instruments.

ABSTRAK

Berdasarkan syariat Islam, wakaf zurri (wakaf keluarga) telah digunakan sebagai instrumen untuk perancangan harta dan harta pusaka keluarga. Isu pengurusan harta terbengkalai masih belum dapat diselesaikan sepenuhnya dan wakaf zurri merupakan suatu alternatif yang boleh dipilih bagi pengagihan harta pusaka. Di Malaysia, Majlis Agama Negeri adalah pentadbir bagi pelaksanaan wakaf zurri. Namun begitu, pelaksanaannya adalah minimum dan tidak proaktif. Justeru itu, objektif kajian ini adalah untuk mengenal pasti amalan pelaksanaan wakaf zurri di Malaysia. Kajian ini menggunakan kaedah kualitatif iaitu temubual terhadap lapan responden. Kajian ini mendapati bahawa amalan pelaksanaan wakaf zurri adalah pada tahap pasif, tetapi penambahbaikan masih boleh dilakukan. Sebagai contoh, penambahbaikan dalam prosedur pengurusannya boleh dilakukan kerana aset wakaf zurri mempunyai potensi untuk pembangunan dan penjanaan ekonomi serta manfaat yang berterusan kepada keluarga dan masyarakat secara amnya. Dapatan kajian ini di dalam aspek penstrukturan semula prosedur yang sedia ada selaras dengan cadangan pakar iaitu penghadan penerima manfaat dan lantikan perunding wakaf zurri diharap dapat membantu dalam pelaksanaan wakaf zurri secara proaktif serta memelihara kesaksamaan umat Islam dalam mengukuhkan kestabilan ekonomi keluarga dan masyarakat amnya.

Kata kunci: Wakaf zurri; harta; amalan; ekonomi; dan instrumen harta.

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INTRODUCTION

Wealth management is an important aspect to be dealt with upon the death of a parent or guardian. It is hoped that the inherited property will provide continuous and unlimited benefits. This is one of the main criteria found in *zurri waqf*, and it differs from other property management methods currently in use. According to Islamic Sharia, the methods of property management or distribution used are *faraid* (as prescribed in the Quran), will, and *hibah* (giving). However, the practical

and realistic suitability of the method varies depending on the situation and problem at hand. Apart from the three mechanisms mentioned above, Muslims have another option for property management which is *zurri waqf*. Whenever a property is endorsed as *zurri waqf*, the benefits will be passed down through generations of families, indirectly leading to the unity of the Muslim community.

These key characteristics are summarised in the table below:

TABLE 1. Wealth instrument in Malaysia

	Will	<i>Faraid</i>	<i>Hibah</i> (giving)	<i>Zurri</i> waqf
Retention of ownership	No	No	No	Yes
Limited beneficiaries	Yes	Yes	Yes	No
Potential for long-term economic growth	No	No	No	Yes
Practice existence in Malaysia	Yes	Yes	Yes	Yes

Source: Author (2021)

According to the above table, the *zurri* waqf provides a greater benefit if the waqf assets are managed properly. The existing methods of property management must be maintained, but the *zurri* waqf appears as an alternative property management method that can be

implemented. Furthermore, being benevolent towards families is required by the Quran. The following table contains an example of Suras and hadiths related to kindness, among others:

TABLE 2. Narration of kindness among families

Name of Sura / hadith	Narration
Ali Imran :92	You will never achieve righteousness until you donate some of what you cherish. And whatever you give is certainly well known to Allah.
Al-Maidah : 2	Cooperate with one another in goodness and righteousness, and do not cooperate in sin and transgression. And be mindful of Allah. Surely Allah is severe in punishment.
Abi ‘Abdullah Muhammad bin Ismail, (2002). Sahih al-Bukhari	Leaving children and wives in luxury is better than leaving them in hardship

Source: Author (2021)

Based on the above table, it is possible to conclude that Islam encourages the benefit of families, relatives, and society by sincerely donating a portion of one’s wealth as waqf. Allah has promised that the rewards from these deeds will protect the family from poverty if the assets of *zurri* waqf are fully utilised and capable of generating income. Furthermore, if a person has heirs, it is preferable to do so in prosperous circumstances rather than in difficult circumstances and relying on others. Ironically, when the necessities of life are sufficient to support an abandoned family, it will be good enough as they can live without relying on others. The *zurri* waqf can serve as the foundation for the expansion of property benefits, resulting in continued benefits for the heirs. These benefits can be enjoyed not only by their families and descendants, but also by other Muslims, if waqf assets are developed appropriately.

The management of property among Muslims is still unmanageable which results to inadequate execution of the distribution. This causes the property to become frozen. According to Norisah (2019) As-Salihin estate planning consultant, a total of RM66 billion ringgit of Muslim property has been unclaimed and unmanaged over the years. In fact, by 2020, this number has increased to 70 billion ringgit (Azrin & Asyraf 2020). These statistics are of particular concern, and result in unmanageable idle assets. Furthermore, many of the heirs fail to administer the estate, resulting in family feuds, of which only some were resolved. (Shahril 2019). This is deemed unjust to the heir and owner of the deceased’s property, as the property should be distributed to the

eligible beneficiaries. However, according to Islamic scholars and financial consultants, various Muslim *maslahah*¹ cannot be implemented without proper property management.

Aside from wills, *faraid*, and *hibah*, Islam permits the practice of *zurri* waqf in preserving property so that its benefits reach the heirs and their descendants. The importance of the three above is undeniable, but the benefits of the property do not extend beyond a few descendants. It differs from the qualities found in the *zurri* waqf. In Islamic history, *zurri* waqf has been used as a tool for estate planning or succession planning. This type of waqf seeks to protect the fate of the family. According to Islamic law, a person who owns property and wishes to surrender it as waqf, it shall go to family members first. If some of them require financial aid; waqf is preferably given to those in need (Tjek 2013).

The concept of sharing family property and its descendants has existed in the Chinese society for years. Statistics from Forbes (2020) have listed the richest individuals in Malaysia and there are several names which are individuals who run family businesses that are inherited from generation to generation. For example, giant companies in Malaysia such as Sunway Holding, Genting Property, IOI are supported by capital and funds from the family’s own descendants. It implies that *zurri* waqf in Islam can bring great benefits if the implementation can run successfully. If *zurri* waqf is successfully practised in Malaysia, it will be a benchmark for other Islamic countries to jointly practise it.

Zurri waqf is not widely practised in Malaysia. However, *zurri* waqf is permissible in Malaysia based on the Shafie *madhab*. In Malaysia, this waqf is known as ‘*wakaf ahli*’. The State Islamic Religious Council (SIRC) in each state is the party responsible for the management and administration of waqf. The Waqf (Perak) and (Selangor) Enactments 2015 explain about ‘*wakaf ahli*’. Meanwhile, the Wakaf (Terengganu) Enactment 2016 uses the term “waqf to heirs”. For some states, ‘*wakaf ahli*’ is known as ‘*wakaf khas*’. As for now, only four SIRC are involved in *zurri* waqf implementation in Malaysia, raising the question of the extent to which *zurri* waqf implementation has existed in Malaysia and how the *zurri* waqf procedure is managed by (SIRC). Therefore, the objective of study is to identify the practice of *zurri* waqf implementation in Malaysia. This study manages to add into waqf management literature in terms of *zurri* waqf which is rarely found in Malaysia. Other than that, this study contributes to the adaptation of social exchange theory to the practice of *zurri* waqf, as it entails the cooperation and participation of the endower, SIRC, and beneficiaries. Finally, this study recommends rectification of management procedures that require significant improvement in terms of beneficiary restrictions, extended recipients of *zurri* waqf revenues, and beneficiary cooperation with SIRC.

The paper is arranged as follows. The following section presented the literature, history and implementation of *zurri* waqf globally. The subsequent section provides a discussion on adaptation of social exchange theory and *zurri* waqf practices and followed

by research methodology. The next section presented the literature on enhancing governance through regulatory and legal framework and followed by research methodology. Lastly, the paper concludes with some policy implications and limitation of the study.

LITERATURE REVIEW

HISTORY OF ZURRI WAQF

Waqf has historically played a significant role in the development of Muslim communities. Waqf has aided the Muslim community (ummah) in almost every field, including religion, education, medicine, and socioeconomic development. *Zurri* waqf is one of the types of waqf. The Prophet (p.b.u.h.) established *zurri* waqf when he told Abu Thalhah that the benefits of his property were given to his family. In addition to Abu Thalhah, the Prophet’s companions who practised expert waqf included Abu Bakar, who donated his land in Makkah to his children and descendants, and Awwam, who dedicated his house to his children and descendants. Abu Talhah’s example was followed by others, including Usman, Ali Muaz, Saad bin Abi Waqas, Amru, Aisyah, Fathimah, and others, who donated their property to their descendants and relatives (Tjek 2013).

Zurri waqf implementation began with the Prophet and has continued to the present day. Below is the example of *zurri* waqf²:

TABLE 3. Zurri waqf practices during the Prophet’s era

Endower	Prophet	Saidina Usman Al-Affan	Fatimah r.a	Abu Bakar as Siddiq
Types of asset	Small village around Madinah, horses, land	Land	-small village in Madinah -orchard where the Prophet (p.b.u.h.) once performed ablution in it and there is fruiting crops - small village originally given by the Prophet (p.b.u.h.)	house
Recepients among heirs and family	immediate family, orphans, the poor, food for the wives of the Prophet (p.b.u.h.).	Son	- the poor Bani Hashim and Bani Abdul Mutalib who are also members of his family	Children

Source: Author (2021)

Until then, *zurri* waqf was practised in various Middle Eastern countries, with variations in *mazhab* rules depending on the country. In some ways, this

demonstrates the success of *zurri* waqf over the centuries, and it has both virtues and flaws in its implementation.

TABLE 4. Zurri waqf practices across the world

	(Stibbard 2012; Nizri 2015)	(Layish, 2008; Joseph 2015)	(Doumani 1998)	(Menage 1990; Reiter 1995)	(Lienhardt (1996)
Country	Turkey	Aleppo- Syria	Nablus&Tripoli Syria	Palestine	Zanzibar
Specification	Family and semi family	family	family	family	family
Administration	<i>Mutawalli</i> , beneficiaries	Founder, <i>nazir</i>	-	-	-
Dynamic/flexible	possible to sell or substitute transactions relating to waqf properties	-	-	-	-
Impact	.By the 18 th and 19 th centuries, less than 20% of the income from <i>awqaf</i> was reserved for the family members	half the revenue for charities	approximately 79% of the 211 waqfs endowed in Tripoli and more than 96% of the 138 waqfs endowed in Nablus between 1800 and 1860 are of the family type (<i>zurri</i>).	many waqf houses have been held by mosque officers	-
Property types	Immovable property	Land, agricultural land of various kinds: cultivated land, planting a variety of fruit trees, as well as roads, irrigation canals, pools and cisterns, irrigation rights, water rights in the Qūt River	-fruit orchards, olive and mulberry groves, vegetable gardens -houses	house	house
Allocation		- took place only after the payment of his debts, maintenance	-	- right to endowment income should be distributed equally, without distinction, between male and female beneficiaries -61% (24 out of 39) of the <i>waqfiyyat</i> family stipulate that the descendants of female beneficiaries are permit to a share in the usufruct of waqf only after the death of all male descendants of all generations.	-

Source: Author (2021)

Despite the challenges that must be overcome, history shows that the implementation of *zurri* waqf in these countries has a positive impact.

ZURRI WAQF IMPLEMENTATION

The implementation of *zurri* waqf can be seen in various countries, especially the Middle East. For example; Turkey, Kuwait, Singapore, Malaysia, and Indonesia

are based on responses to realise great benefits that are encouraging people to waqf and increase waqf property (Fahrurroji 2018). For example; the state of Kuwait limits *zurri* waqf to two generations through regulations related to waqf 1951 (Sadique et al. 2018). Whereas in Turkey, the waqf system was one of the economic and social contributors of the Ottoman government. Waqf was established by sultans, their family members and high-ranking government officials such as viziers and generals where the waqf was placed in its own class in

the waqf system. The country is the largest economic and social institution where it has extensive agricultural land and estates that produce diverse income, manage vast budgets and provide social, educational and religious services (Orbay 2016). For example; waqf of Hattab bin Mehmed (Ahmed bin Rahat El-Hattab), (Anon 2014) who intended that 1/5 of the waqf income should be spent for relatives in need of waqf and the elderly, orphans and widows, people who are paralysed, blind and suffering from leprosy and for the purchase of funeral shrouds and the funeral process for the poor. It clearly shows that *zurri* waqf is given priority before the benefits of waqf is given to other groups.

The simple typology of waqf practice is that it exists from the main incentives of an individual to move their property. In most cases occurring in Turkey, the founder is a common individual consisting of women and widows. They intend to spend their wealth for the good of themselves and their descendants. In 1720, several units of houses obtained partly from sell-buy transaction and part of the estate were set up for the three females and their future children. After the death of all the descendants of his family, one-third was given to the muezzin in the minaret of al-'Urus Masjid Umayyad. The remaining *zurri* waqf is distributed to poor Damascene Muslims, while vows remain with the beneficiary. In addition, twelve qurushes from the annual income of the *zurri* waqf were handed over to one Sheikh for the recitation of the Qur'an in *mazhab* Syafi'e Mihrab of the Umayyad Mosque, and another sheikh in Mihrab Hambali. The purpose of such *zurri* waqf is clearly to preserve property as one of the guarantees of economic stability in Muslim families and communities (Van Leeuwen 1999).

Another example is where Al-Muhibbi rented a house in Damascus, a factory, a building, a coffee shop and eleven plots of land, for himself during his lifetime, his descendants, and his brother's children, where her daughter was given a waqf portion of a house and shop, for the benefit of her sister's son Zaynab. Upon the death of all beneficiaries, the waqf property is now handed over to the Trustees of Awqaf Al-Haramayn Al-Sharifayn, as specified in the *waqfiyya* (Van Leeuwen 1999).

Zurri waqf in Indonesia practised is by individual named Fuad Wardi take the initiative to utilise the 2.5 hectare waqf land in Taktakan Serang Banten (BWI 2009). The waqf land was not optimally and productively managed. Before the founder died, he had a will that the land is dedicated to his family. He had decided on three resolutions; firstly, the family should cooperate with the Indonesian Waqf Board (BWI) in revenue management and generation. The second resolution is to maintain the waqf land as a *zurri* waqf while the third is the utilisation of waqf land for the purpose of the benefit of families, communities and Muslims.

In Singapore the implementation of *zurri* waqf is based on four generations. Net income from waqf property will be distributed equally to four heirs for their respective lives. After the death of all heirs; the

remaining part will be used for their funeral expenses. For parentless children; distribution period is only for one year. Upon expiry of the period; all benefits will be channelled to Madrasah Alsagoff. Net income from the property will be used for the purchase of rice to be distributed among the poor Mohammedans in Singapore. It is done proportionally and at times deemed appropriate by the trustees (Islamic Religious Council of Singapore 2019). Among the examples of Alsagoff waqf are; North Bridge Road No. 518, 520, 522 524 and Commercial complex with 7 storey buildings. Even after the death of Syed Mohamed bin Ahmad Alsagoff; the Alsagoff family put great effort into their waqf. Twelve properties founded by this family are still effective as waqf (Shinsuke 2016).

Therefore, the practice of *zurri* waqf is implemented actively despite various challenges in managing it. This is because, despite these obstacles, the implementation of *zurri* waqf has a positive impact on the recipient and, indirectly, the community as a whole.

THE IMPLEMENTATION OF *ZURRI* WAQF IN MALAYSIA

The power of Islamic administration and its affairs in Malaysia is outlined in Article 3 of the Malaysian Constitution. It outlines the power of Malay religious and customary affairs, which put rights on the Malay rulers and their respective state governments (Siraj 2012). Based on this, all administrative matters of waqf are under the State Islamic Religious Council (SIRC) which is available in all 14 states in Malaysia.

The main factor of the appointment of MAIN as trustee of waqf assets is to improve the management of existing waqf (Cizacka 1998a; Siti Mashitoh 2006; Ahmad 2007; Abu Bakar 2007). The determination of 'sole trustee of waqf assets' indicates that MAIN has been legally appointed by their respective legislatures to oversee all waqf assets and is responsible for its management and development'. Malaysia allows the practice of *zurri* waqf based on the understanding of *mazhab* Syafi'e and the provisions of the law established. Legislation in Malaysia permits the practice of waqf and is clearly stated in: Ninth Schedule of The List in Two Lists of Federal Constitutions which is the section that places the jurisdiction of waqf to states (Farhana 2018).

However, due to some obstacles and challenges that must be overcome in order for *zurri* waqf to be successful in Malaysia, the implementation of *zurri* waqf has yet to reach proactive levels in the fourteen Malaysian states.

Nevertheless, the development of *zurri* waqf assets is significant and valuable. The assets are still actively managed and the proceeds are distributed among the heirs to date. Hence, the states that have been identified implementing the *zurri* waqf are Kelantan, Terengganu, Penang and Kedah. Kelantan is the earliest state to practise *zurri* waqf. The waqf was waqf Tengku Kaya Pahlawan in 1921. One example of the *zurri* waqf asset

that has been developed is the business building at Jalan Kelochor, Kota Bharu, Kelantan. The proceeds from the rental of this premise have been distributed as the intention of *pewakaf* Tengku Kaya Pahlawan which is 1/10 for welfare and 9/10 for the founder's descendants. The second building is the Islamic Complex Perak Sultan Ismail Petra (KIJP) located in Panji, Kota Bharu. The complex was built on 11,969 acres of waqf land. Donations from waqf amounting to RM76,000.00 were distributed to 38 selected mosques throughout the State of Kelantan 2015 (Islamic Religious Council & Kelantan Malay Customs 2015).

While in Terengganu, the *zurri* waqf property recorded was 26 waqf land lots. 17 lots of waqf land have been leased for agriculture, business, residential and welfare purposes. While the remaining land lots were 9 i.e.; (34.6%) is still undeveloped (Farhana 2018). For Penang, the assets of the *zurri* waqf have been turned into rental form buildings and the *zurri* waqf assets in Kedah consist of paddy fields and lease-shaped buildings.

Although the importance and relevance of the *zurri* waqf can be visualised, there are also obstacles that the relevant parties must overcome if the *zurri* waqf is widely implemented in other states. SIRC does not encourage Muslim community participation in *zurri* waqf. It is less practised due to difficulties in the management of *zurri* waqf, where the value of waqf land is increasing and administration is difficult, despite the fact that the number is known. In addition, the lack of enforcement and institutional management to supervise *zurri* waqf makes it less practised. In addition, there are confusion and consistency problems with the interpretation and management of *zurri* waqf among the states. This should be analysed to find solutions to ensure the efficiency of the process and management of *zurri* waqf.

Furthermore, with the absence of clear procedures or implementation guidelines despite having limited special officers to handle the *zurri* waqf, it adds difficulty to the success of *zurri* waqf. MAIN's focus is on the existing general waqf which carry large amounts to be managed. Therefore, the solution to this obstacle needs to be refined in order for the *zurri* waqf to be manageable.

In summary, the *zurri* waqf begins with the intention of individual which is stated through a written document also known as '*Surat Cara Wakaf*' (waqf deed). That detail contains the asset specifications and intentions of the endower. This document is either handed over by the founder when he is still alive or to the heir if the endower has passed away. SIRC as administrator will act as a trustee where the *zurri* waqf asset will be registered under the name of SIRC. So it remains as waqf regardless if there are changes in governance structure. At the same time, SIRC is also required to identify the lineage until the latest year to ensure that the beneficiaries are complete when the distribution of benefits is given.

If the administration and development of the *zurri* waqf is fully managed by SIRC, then the management cost of 15% to 30% has been approved by the state fatwa

council to be taken from the proceeds of income from *zurri* waqf. For the development of *zurri* waqf assets, SIRC collaborates with corporate bodies specifically to plan and implement project developments whether as business complexes, shop houses and others. Upon obtaining the benefit or profit from this development, SIRC will distribute this to the beneficiary or descendants of the endower.

However, there is also SIRC in one of the states that takes responsibility for the registration of *zurri* waqf only while the development of the assets is managed entirely by the beneficiaries. Therefore, the beneficiaries need to cooperate with SIRC to develop the waqf assets in order to generate revenue as to fulfil the intentions of the endower. To make it a reality, the beneficiaries need to have expertise in asset development matters. Assets such as land, for example, need to be developed proactively in order to obtain revenue from it and this development process takes time before the income can be generated. Due to that, there is a need for a *shura* so that each beneficiary is clear with the actions they need to take in the process of asset management, distribution of benefits and also the retention of proceeds from *zurri* waqf assets.

As for the terms of the descendants' line; the practice in Malaysia still does not limit the number of beneficiaries who receive the benefits of *zurri* waqf. This means that the benefits of *zurri* waqf will be continuous even for hundreds of generations. As a result, the administration party involved in the registration of *zurri* waqf assets must obtain permission from the beneficiaries because they are concerned that it will lead to disagreements among them. When the name of a *zurri* waqf asset in the grants is changed to SIRC, changes in ownership are impossible, and the asset remains a waqf for an indefinite period of time. Aside from that, an independent body must be established to monitor the continuity of *zurri* waqf in order to hold the management accountable.

SOCIAL EXCHANGE THEORY

In this paper, the theory of social exchange will be adapted based on the assumption that an individual is rational. Social exchange theory provides a sociological framework for scrutinise charitable activities (Blau 1964). Since this exchange is universal and not limited to the economic markets, this theory may be a more useful model for evaluating donor behaviour, or in this case endower, when compared to pure economic theory. This is because social exchange theory aims to encompass all efforts that seek rewards to social experiences, human values or spiritual values, as well as personal strength and emotional satisfaction (Blau 1964). Therefore, the endower obtains a long-lasting reward exchange as long as the benefit from waqf assets reaches its descendants while the beneficiaries obtain the proceeds from the development of waqf assets. Whenever SIRC holds, manages, and distributes benefits to beneficiaries and

society (if any), SIRC receives positive feedback from the community in managing the *zurri* waqf, as well as being praised for carrying out its responsibilities as a trustee. SIRC accepts this charitable responsibility because it is the sole trustee of all waqfs in Malaysia.

As a result, the adaptation of this theory is well suited to the practice of *zurri* waqf, as it entails the cooperation and participation of the endower, SIRC, and beneficiaries, and all benefits obtained by his descendants will be converted and all benefits obtained by his descendants will be converted into a reward for the deceased (endower), while the reward and positive outlook of the community is also accepted by SIRC as the sole trustee and administrator of *zurri* waqf.

Figure 1 depicts the use of social exchange theory in *zurri* waqf practice, which benefits the endower, beneficiaries, and SIRC.

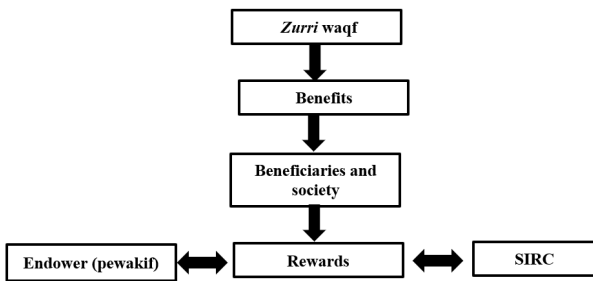


FIGURE 1. Diagram of social exchange theory in zurri waqf

Source: Author (2021)

METHODOLOGY

This study used a qualitative approach through the implementation of semi-structured interviews. The interview was held between 30-45 minutes to a maximum of 60 minutes. The conversation was recorded with the consent of the study participants. Respondents include four individuals representing waqf unit management from four SIRCS that are currently engaged in *zurri* waqf implementation. Other than that, respondents also include four experts on sharia, fiqh and economy such as, (i) two muftis, (ii) two academics.

TABLE 5. Respondent from SIRC

Respondent	List of SIRC
Waqf officer	Majlis Agama Islam Kelantan
Assistant head of waqf unit	Majlis Agama dan Istiadat Melayu Terengganu
Head of waqf unit	Majlis Agama Islam Negeri Pulau Pinang
Waqf officer	Majlis Agama Islam Kedah

TABLE 6. Respondent from Muftis and academic experts

Mufti	Qualification
Wilayah Persekutuan Mufti, Phd	Expertise in Islamic property law.
Selangor Deputy Mufti, Phd	Expertise in Fiqh and Usul
Academics expert	Qualification
Phd, Dr	Expertise in waqf and shariah pillars
Phd, Profesor	Expertise in waqf and shariah pillars

This study shows different perspectives of interviews to gain insights on the practice of *zurri* waqf implementation. The data consists of detailed descriptions of waqf activities, exposure, and experiences of participants. Once the interview is conducted, the data is transcribed after they have been collected. The first task in the analysis is to identify the appropriate category. Then, the categories are linked together to create a theme from a comprehensive source. This theme includes all the key information used when conducting case studies. Information is then edited, redundancies compiled, and merged to obtain discovery.

Patton (1990) explains that there is no exact point where data collection ends and analysis begins. Although in practice, analysis and interpretation will be neatly separated. While collecting data, ideas about analysis and interpretation occur. Those ideas are the beginning of the analysis. Based on the analysis, the sub-sections provide additional information about the situation in SIRC. Emerging themes are supported by transcripts collected during the interviews.

During data collection, ideas about analysis and interpretation will emerge. These ideas are the beginning of the analysis. Based on the analysis, each section provides more information on the situation of the implementation of *zurri* waqf in SIRC. Meanwhile, the transcripts collected during the interviews provided support for the emergence of new themes.

RESULTS

The implementation of *zurri* waqf in Malaysia that has been identified was discovered through a thematic analysis conducted on the transcripts of interviews with SIRC representatives who are involved in *zurri* waqf management and analysis of relevant documents.

The following table is among the thematic analysis of the transcripts of the interviews that have been conducted:

TABLE 7. Theme developed from transcript

Theme	Sub-theme	Interview statement
Waqf property management procedure	Registration at SIRC	“ <i>land register on SIRC</i> “ (PK-C (7.7.2020)
	Distribution to heirs	“ <i>to distribute the money, we need to go to the bank and notify the beneficiaries by letter</i> “ (PK-A (14.1.2020)
Preparation for <i>zurri</i> waqf property management	Asset development expertise	“We need a joint venture for development because we don’t have this expertise..” (PK-D (25.11.2020)
Asset’s Development Project	Leasing, shop houses rental	“rental 36 units of home....., rental shophouses on <i>zurri</i> waqf (PK-A (2-3PM-14.1.2020)intw1)
		“we also lease a storey building to Sentosa” (PK-D (9.44-11AM-25.11.2020) intw1)
Justification of <i>zurri</i> waqf	Survival	“the purpose of this <i>zurri</i> waqf to enable his descendants can live to at least with basic needs.” (PK-E (13/10/2020)
Zurri Waqf Management Challenges	Lack of understanding among beneficiaries	“ <i>When it comes to zurri waqf, the heirs are confused..</i> ”(PK-B 10.3.2020

There are five themes obtained from the thematic analysis which will be discussed below.

WAQF PROPERTY MANAGEMENT PROCEDURE

Specifically for these four states, the waqf property management procedure includes the intention of individuals who intend to surrender their assets as *zurri* waqf which is documented in ‘*Surat Cara Wakaf*’. Then, after the document is scrutinised by SIRC and decided as a *zurri* waqf, the registration of waqf assets will be done. The waqf instrument procedure is based on the enactment of waqf and the administration of the respective SIRC. Furthermore, SIRC as the administrator is permitted to charge a management fee in accordance with the fatwa. This fee, however, can only be deducted from the proceeds of *zurri* waqf asset development. Management fees can range from 5% to 20%, depending on the SIRC. In addition, SIRC will fully manage asset governance, which includes the development of a *zurri* waqf asset development plan until it is able to generate revenue for distribution to beneficiaries in accordance with the endowment’s intention.

The mechanism for updating the lineage of the waqf descendants is the next component. SIRC has a special committee tasked with identifying the list of endower families who will be beneficiaries. Following that, benefits will be distributed to all descendants in accordance with the deeds. This distribution is made by cheque or direct deposit to the bank account, and it is followed by a notification letter that is mailed to all beneficiaries.

PREPARATION FOR *ZURRI* WAQF PROPERTY MANAGEMENT

Zurri waqf management necessitates careful planning on the part of the administrator, endower, and beneficiaries. The first preparation is that SIRC requires expertise to

plan how the waqf assets can be developed so that they can eventually generate revenue. The leasing technique is currently used in cooperative partnerships with developers in asset development.

However, the need for expertise in planning the development of *zurri* waqf assets may grow in the future. Following that is the preparation in terms of enriching beneficiaries’ understanding, as the majority of them still lack knowledge regarding the law of *zurri* waqf, deals and transactions, deeds, and distribution methods among beneficiaries. There will be disputes over the distribution, seizure of *zurri* waqf assets, and denial of SIRC’s power as trustee and administrator of waqf assets due to a lack of understanding of the *zurri* waqf concept.

ASSET’S DEVELOPMENT PROJECT

SIRC’s asset development method has taken into account the approval of various parties before it is implemented. The leasing of shop lots is the first asset development tool. Shop house buildings are built on land endowed as *zurri* waqf and will be rented out later. After deducting management fees and other related expenses, the rental proceeds will be distributed to the beneficiaries. Leasing to the developer is the second asset development instrument.

The lease term is usually long, and specific terms are agreed upon between SIRC and the lessee. Meanwhile, when the waqf asset is in the form of a paddy field, SIRC will manage the cultivation process until the fields can be harvested and sold to generate revenue.

JUSTIFICATION OF *ZURRI* WAQF

There are several reasons for the implementation of *zurri* waqf in Malaysia. The first justification is that it is an

alternative method of managing Muslims’ property for heirs who are not listed among *faraid* recipients. The *zurri* waqf property that is developed should be capable of generating long-term income generation in order to strengthen the Muslim economy. The second justification is to strengthen relationships between heirs when they are consolidated in the list of beneficiaries when the infinite number of descendants are taken into account. This is due to the fact that unless specifically stated in the ‘*Surat Cara Wakaf*,’ there is no limit for the beneficiary of *zurri* waqf.

The final justification is that *zurri* waqf can help families survive so that they can continue to live after losing their family’s backbone. The type of assets surrendered as *zurri* waqf will undoubtedly influence the time required to generate revenue. However, in the long run, it greatly helps to strengthen the family’s economy.

ZURRI WAQF MANAGEMENT CHALLENGES

The administrators, specifically the SIRC, face challenges in the management of *zurri* waqf. The first challenge is the *zurri* waqf benefit limitations. When *zurri* waqf is only for the families and descendants of the endower, it cannot be distributed to other Muslims like general waqf. Furthermore, SIRC staff constraints are a challenge because the officers must manage the other waqf categories while also managing the *zurri* waqf, which has a number of issues that must be resolved. The next concern is the beneficiary’s behaviour, which may be is the dissatisfaction with certain aspects and demands that the officers find to be the best solution. Beneficiaries are sometimes dissatisfied with the selection of representatives among them to deal with SIRC on benefit distribution and other issues. Some of the beneficiaries request a higher distribution value than that to which they are entitled.

Furthermore, there is a management issue due to the lack of standard operating procedures and governance guidelines for the implementation of *zurri* waqf. The lack

of a clear management framework hampers the smooth implementation of *zurri* waqf and complicates the SIRC’s role as administrator. The next challenge, which is also closely related, is the lack of specific legal provisions for *zurri* waqf. The law is a binding instrument of all relevant actions from parties with interests on the *zurri* waqf, so this is the most important consideration.

The discussion continues with challenges such as not having restrictions specified for the lineage members who benefit from the *zurri* waqf. That is, the distribution of this benefit should continue for as long as the beneficiaries or descendants of the endower are alive, which involves many generations and takes time. SIRC must also track these beneficiaries because some may have moved, are living abroad, and so on. Beneficiaries must also be confirmed to prove that the individual is the rightful person in the lineage of the endower. As a result, the administrator is overburdened, especially since it is necessary to ensure that no one is omitted between the beneficiaries.

One of the issues that must be addressed is the ineligibility of beneficiaries. There are beneficiaries who are unconcerned about the growth of assets. They are just eager to know the time for the revenue distribution. In addition, they also lack expertise in the development of these *zurri* waqf assets, so all decisions are made solely by SIRC. In fact, a few of them do not want these assets to be developed because they intend to sell them without understanding that waqf assets are not similar as common assets. As such, asset development methods are a challenge to SIRC as they are responsible for ensuring that *zurri* waqf assets can continuously generate revenue to enable the revenue distribution. This study also considers the perspectives of muftis, who are sharia experts, as well as academic experts in economics and fiqh. Hence, there were three themes developed from the thematic analysis.

Among the results of expert opinions are shown in Table 8:

TABLE 8. Theme developed from interview transcripts

Theme	Statement
Zurri Waqf Implementation Requirements	“ yes, if we look at this now the Malays’ equity is also lacking..... So, family waqf may be one of the solutions” (PK -K (7/9/2020)
	“ property portion does not break down into individual portion, so even if it’s only ten acres of land, it has an economic impact. The family can benefit from doing projects and reaping benefits together. ...” (PK (I) 2/10/2020).
	“we should continue this <i>zurri</i> waqf for our mutual benefit, because the Prophet himself said, “Do not leave your child in poverty; it is better to leave your family in a state of wealth.” ...” (PK (J) 23/7/2020).

continue...

...cont.

Management challenges	<p>“ the main issue in Malaysia is registration....The main problem is that endower refuse to register with the SIRC.. Because he does not want SIRC to be a trustee. ...” (PK -K (7/9/2020).</p> <p>“ it means maybe nowadays if you want to develop zurri waqf, you cannot hope for passive income. (PK (I) 2/10/2020).</p> <p>“But, the issue is the economy all and so on. The issue is that the development of the project is not operating properly..” PK (I) 2/10/2020</p>
Management proposals	<p>“ SIRC has to guarantee that even if he’s a trustee, the family can still take care of the land... waqf assets.. Do one thing that can give assurance to the endower. ...” PK -K (7/9/2020)</p> <p>“perhaps discussion can be made with SIRC on how the land registered with SIRC... but the beneficiary is still in charge. Probably on appointment as trustee to, can make small agreement... with beneficiary” PK -K (7/9/2020)</p> <p>“ maybe hire a consultant... managing, could be the source... consultant waqf zurri ...” PK -K (7/9/2020)</p>

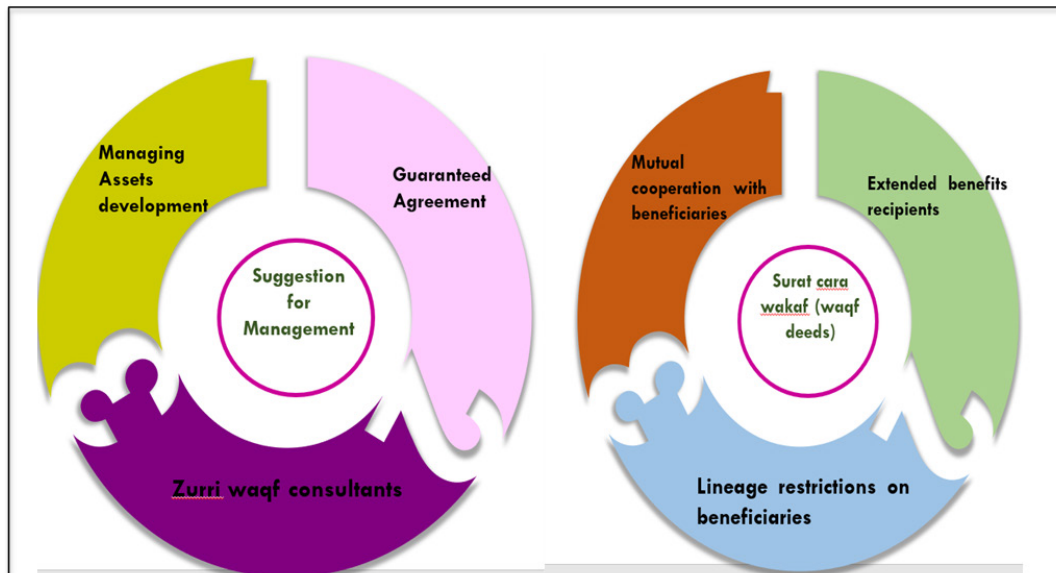


FIGURE 2. Improvements to zurri waqf management in Malaysia

Experts’ opinion on the need for *zurri* waqf implementation is encouraging and positive if it can be implemented. This is because in referring to the declining state of Malay-owned equity, the *zurri* waqf can be used as an alternative solution when the asset is retained as a waqf for its descendants. It also preserves the assets as they are not divided but remain at the same size. Consequently, the development of these assets will have a positive impact on the economy as there is no division in the waqf assets.

However, there are some issues that must be resolved in the management of *zurri* waqf.

Some object when assets are registered under SIRC and the registered name of the assets changes from the endower to SIRC. They are hesitant to entrust their assets to SIRC as trustees.

Furthermore, the development of *zurri* waqf assets cannot rely solely on passive income. An example is development in terms of lot rental for shophouses. *Zurri* waqf assets, such as agricultural projects, must be developed in novel ways. The impact is greater, and it includes societal benefits such as increased employment opportunities. Without a doubt, the development of these assets would be hampered by a lack of development funds. These issues can be addressed with the help of various parties and the beneficiary’s cooperation.

As a result, even though SIRC acts as a trustee, SIRC can guarantee in the form of a legal agreement that the beneficiary retains the right to safeguard the assets of *zurri* waqf. When the beneficiary can jointly manage the development of the *zurri* waqf assets by appointing a

representative from the heirs, it is more effective because the sense of 'belonging' can be felt, which fosters the character of accountability. This is clearly different if the beneficiaries are unaware of the asset development that is taking place, despite the fact that they are the ones who benefit from it. The proposal is to appoint a *zurri waqf* consultant to act as an advisory body on the management of *zurri waqf* assets, with the fees paid by the endower's family.

Figure 2 depicts the overview on the suggestion for the improvement on *zurri waqf* management in Malaysia. For instance, the appointment of professional *zurri waqf* consultants from SIRC management can advise on how to proceed on the development of *zurri waqf* assets to assist the family who is not knowledgeable on the property development. Hence, the waqf assets can be developed and utilised by the family of the endower as per the intention stated in waqf deeds. Apart from that, consensus among the beneficiaries and SIRC is important as SIRC serves as a trustee to fulfil the endowers' intention, and legally SIRC does not own the *zurri waqf* assets. Therefore, the beneficiaries shall mutually assist SIRC in the development of *zurri waqf* asset as they are the party who benefit from the income of the assets.

THEORY IMPLICATION

This study's theoretical implication is that; it adds new variants on waqf practises, particularly in Malaysia, whereby the discussion on *zurri waqf* is countable. This will lead to additional research and discussion on *zurri waqf* on critical aspects such as execution in SIRC, the long-term viability of revenue-generating waqf assets, and others.

PRACTICAL IMPLICATION

The practical implication is towards the SIRC and the society. SIRC may look at the suggestion on the management in terms of a need of *zurri waqf* consultant, guaranteed agreement between SIRC and the endower's descendants and the enhanced features of waqf deeds. Whereas for the society, this study highlights the alternatives of wealth management which caters the long term benefits given to the beneficiaries as well as preserving the Muslims equities ownership.

CONCLUSION

This paper highlights the pertinent issue of *zurri waqf* implementation in Malaysia. *Zurri waqf* is rarely discussed in the waqf management literature and this study manages to foresee the current practices in Malaysia. *Zurri waqf* is one of the options for Muslims wealth management, therefore this study is to identify

the practice of *zurri waqf* implementation in Malaysia. This study manages to foresee the execution of the *zurri waqf* implementation in SIRC and the loopholes in the implementation which begins with waqf deeds by the endower until the distribution of the income to the beneficiaries. There are suggestions by the study and the expert's opinion on the improvement of the *zurri waqf* implementation as it has a potential to be one of the Islamic wealth management.

Currently, four SIRC are involved in *zurri waqf* implementation, indicating that this practise is inactive due to a lack of participation and awareness about *zurri waqf*. The findings from this study can assist the management such as SIRC, beneficiaries, societies and government on the improvement that can be implemented with stakeholders in the *zurri waqf* to smooth the entire implementation of *zurri waqf* as an alternative for wealth management. SIRC can rectify the existing procedures in terms of the '*surat cara wakaf*' which might include the extended beneficiaries which fulfil the aims of the waqf. Other than that, the lineage restrictions on the beneficiaries might be imposed in Malaysia as they shorten the period on the income distribution and reduce the burden of SIRC.

Zurri waqf has its own benefits as an instrument of wealth management for Muslims. It is conceivable to apply the *zurri waqf* in Malaysia if it is done proactively after watching the success of positive economic growth in certain countries for decades. Its implementation apparently requires an established collaboration from various parties to realise the purpose of this *zurri waqf*. The implication of this study includes the improvements in the management aspect, greater understanding from the beneficiaries, as well as cooperation with the corporate developers to develop the *zurri waqf* assets are the main elements that can be discussed in detail to implement the *zurri waqf*.

Other than that, the adaptation of Social Exchange Theory is well suited to the practice of *zurri waqf*, as it visualises the cooperation and participation of the endower, SIRC, and beneficiaries in the whole process of *zurri waqf* practices. Previously, this theory is suited in a charity among the donor and the society in which the donor obtains positive perception from the society and it motivates them to contribute more to help the needy. Hence, this paper relates the theory to *zurri waqf* practices which are tailored to the three major stakeholders who obtain rewards on the *zurri waqf* practices.

The contribution of this research is to enrich the core knowledge especially in the aspect of *zurri waqf* in view of the deficiencies found in literature studies. It is also a starting point on the existence of wealth management instruments for Muslims as an alternative which can be considered by Muslims in managing and preserving the properties to be fully utilised by the beneficiaries and society.

However, this study has a limitation in terms of passive participation of *zurri waqf* in Malaysia, which

results in a small sample size. It is strongly suggested that future research be expanded to include practices from other countries such as Turkey, Kuwait, Indonesia, and others. The findings will be extensive and will contribute to a better understanding of *zurri* waqf implementation around the world.

NOTES

¹ Masalah is defined as any good attempt which results in positive outcome, extracted from <https://prpm.dbp.gov.my/> (2017).

² Abdullah Al-Hujayli (2011), *Darr Al Kutub Al I'lmiah*, Beirut, h.142,144.

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