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Banking Model of Corporate *Waqf*: An Analysis of Wakaf Selangor Muamalat

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Abstract

Purpose - This study aims to analyse the structure of the corporate *waqf* model applied in “Wakaf Selangor Muamalat” which has been jointly established by Perbadanan Wakaf Selangor (PWS) and Bank Muamalat Malaysia Berhad (BMMB).

Design/Methodology/Approach - This is an exploratory study primarily focused on the library research and secondary information. Since “*Waqf* Selangor Muamalat” was only launched on September 27, 2012, the empirical data of this instrument is not yet available for analysis.

Findings – BMMB is the first Malaysian Islamic banking institution which partakes in the accumulating and managing the *waqf* fund for investment with the State Religious Council. This latest collaboration offers a new dimension of *waqf* corporate models in Malaysia, specifically as a banking model of corporate *waqf*.

Originality/value – This is the first study on “*Waqf* Selangor Muamalat” structure since it was launched. The outcome of this study is expected to provide some insights on the potential *waqf* models that are applicable within the institutional framework of banking sector.

Keywords - Islam, Banking, *Waqf*, Corporate *Waqf*

Paper Type - Theoretical Research Paper

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1. Introduction

Current development of *waqf* activities in Malaysia is the participation of corporate entities in the development and management of *waqf* properties. Corporate entities' involvement in *waqf* practice could represent the ethical dimensions of the corporate world. This new concept of corporate *waqf* set the direction of managing *waqf* assets by corporate company, which known for their corporate culture of professionalism, accountability and transparency. A number of corporate figures and corporate bodies have been recognized to actively engage in the practice of *waqf* development and management comprehensively.

The engagement of corporate bodies in *waqf* affairs is imperative considering a number of issues associated with *waqf* authorities, for example, lack of management, mismanagement and accountability. *Waqf* authorities in a number of Muslims and non-Muslim countries have been blamed for under developed and negligent of *waqf* properties. Thus, collaboration between *waqf* agencies with corporate bodies could bring a new dimension of good governance in *waqf* affairs. With the emergence of cash *waqf* concept which requires the prudent and systematic management team, the expertise of personnel from corporate world benefits *waqf* authorities.

The paper starts with a brief discussion on *waqf* concept and the landscape of *waqf* in Malaysia. Then, the explanation on corporate *waqf* will be highlighted.

1.1 Problem Statement

The emergence of movable *waqf* assets, especially cash *waqf* has raised the issues of professionalism, accountability and transparency in the management of these assets. Cash *waqf* involves a number of activities such the accumulation of the fund, the

investment of fund and the distribution of the fund. These kinds of acts are usually executed by high skill and expert personnel in the area of fund management. The elements of professionalism accountability and transparency of managing the fund is a common practice in this corporate entity. Thus, the initiative taken by MAIS to collaborate with BMMB; a financial institution is a major step to rejuvenate corporate *waqf* practice in the country. The new partnership between the two parties could be a catalyst towards the replication of corporate culture of accountability, good governance and transparency into *waqf* management and administration. The confidence of the public towards *waqf* authorities will be raised that eventually leads to the increasing number of cash *waqf* donors.

1.2 Objective

This study aims to:

1. Analyse the managerial structure of “Wakaf Selangor Muamalat”.
2. Discuss the financial and operational framework of “Wakaf Selangor Muamalat”.
3. Deliberate on the Shariah consideration of “Wakaf Selangor Muamalat”.

2. Literature Review

This section shall discuss some of the main literatures of *waqf* in Islamic jurisprudence and its current development in Malaysia as well as the growth of corporate *waqf* in practices.

2.1 *Waqf* Concept

Waqf literally means detention or prevention. In Islamic jurisprudence, *waqf* is a form of gift in which the corpus is detained, and the usufruct is set free. The meaning of 'detention' of the corpus is its prevention from being inherited, sold, gifted, mortgaged, rented, lent or any type of disposition. As to dedication of the usufruct, it means its devotion to the purpose mentioned by the *waqif* (endower) without any financial return. Thus, *waqf* could be technically defined as dedication and donation of a property that can be utilized with the permanent existence of its corpus, without any right of disposition for its original endower or others to a permissible existing party or by channelling its yields or proceeds to charitable and good purposes for the sake of Allah. The *waqf* term is also commonly used to denote the endowed property (*al-mal al-mawquf*) itself.

In general, *waqf* could be categorized into several categories from three different aspects, i.e. the beneficiaries, the purpose of *waqf* and the subject matter of *waqf*. In terms of the beneficiaries, *waqf* could be either *waqf khayri* (charitable endowment) or *waqf ahli/dhurri* (endowment for offspring). In *waqf dhurri*, the *waqf* property is only for the benefit of specified relatives, family members and their offspring. In terms of the purpose, *waqf* could be either *waqf am* (general *waqf*) or *waqf khass* (specific *waqf*). In terms of the subject matter of *waqf*, a *waqf* could be either *waqf al-^caqar* (endowment of immovable asset) or *waqf al-manqul* (endowment of the moveable assets) (Abdullaah Jalil and Asharaf Mohd. Ramli, 2008). Hanafiyah does not approve *waqf al-manqul* with the exception of the moveable asset which is endowed together with the immovable ones or if there are proofs from the Shariah on the legality of such *waqf* such as swords and horses or if the practice has been

accepted by *al-urf* (customary practice) such as books and money. *Waqf* should be on the permanent basis (*al-ta'bid*) according to the majority of the Islamic jurists. However, Malikiyyah view that *waqf* could be on the temporary basis (al-Zuhayli, 1997). A permanent endowment made by the government for the public interest such as endowment of lands for hospitals or schools is named as *irsad* rather than *waqf*.

There are three main models of *waqf*, i.e. (i) real estate *waqf*, (ii) cash *waqf* and (iii) corporate *waqf* (which has been pioneered by JCorp) (Hajah Mustafa Mohd. Hanefah et al., 2010). In Malaysia, all matters relating to *waqf* assets are vested under the State Islam Religious Councils (SRIC), in accordance to Ninth Schedule (State List) of Federal Constitution of Malaysia (Ahmad Ibrahim, 1997). As the sole trustee of *waqf* properties, SRICs are empowered by law to appoint any individual or committee acting as its representative and also use *waqf* assets to generate income through yields and rentals. The establishment of the Department of *Waqf*, Hajj and Umrah in 2004 under the Ministry of Prime Minister Department shows the commitment of Malaysian Federal Government to consolidate *waqf* activities at the national level. The establishment of Malaysian *Waqf* Foundation (YWM) on 15th September 2008, under the purview of JAWHAR has also signed another milestone in *waqf* development in Malaysia's level.

2.2 *Waqf* Development in Malaysia

The transformation of *waqf* development and management in Malaysia for the last few years is encouraging. The Federal Government spearheads the initiative of improving and enhancing *waqf* administration through the establishment of *waqf* agencies at federal level and allocating funds for the development of idle *waqf* assets. The emergence of cash *waqf* concept in a number of Muslim countries has also been

influencing *waqf* authorities in Malaysia to create this type of *waqf* asset. Corporate entities participation into *waqf* affairs; also known as corporate *waqf* is another milestone towards reviving charitable act of *waqf*.

In view of the huge potential of developing sizeable amount of *waqf* assets, The Federal Government of Malaysia takes a huge step of founding two agencies, namely; the Department of *Waqf*, Zakat and Hajj (JAWHAR), and *Waqf* Foundation of Malaysia (YWM. Among the main duties of these two bodies are to coordinate, facilitate and enhance SRIC in administrating and developing *waqf* properties in their respective areas (Hajah Mustafa Mohd. Hanefah et al., 2010). Aiming at stimulating the development of *waqf* assets in the country, the Federal allocated RM200 million in the 9th and 10th Malaysia Plan for developing a number of *waqf* properties (JAWHAR, 2010). JAWHAR and YWM in this respect represent the Federal Government to implement and undertake the projects with the cooperation of SRICs. The detail of the projects is shown below:

Figure 1: *Waqf* Projects of MP 9 & 10

State	Projects	Cost (Financing)	Date of Completion	Category
Kedah	Orphanage Hostel,	2.08 mil, RMK-9	30.11.2009	Social
Selangor	Contruction works of land	160k , RMK-9	16.12 2009	Economic
Kelantan	Orphanage Hostel	1.5 mil, RMK-9	15.4. 2010	Sosial
Sarawak	Equipments for Islamic Complex of Kuching	10 mil, RMK-9	31.12. 2010	Social/commercial
Negeri Sembilan	1. Centre for new-convert	4.5 mil, RMK-9	31.12.2010	Sosial
	2. Wakaf Hotel and Baitul Hilal	18 mil, RMK-10	01.11.2011	Commercial
Johor	1. Hemodialicys Center	8 mil, RMK-10	7.12. 2010	Social
	2. Women Shelter	7.5 mil, RMK-10	31.12.2010	Social
Pulau Pinang	Maahad al-Mashoor Education Complex	41 mil, RMK-10	31.01.2011	Social
Perak	1. Shop lot	4.5 mil, RMK-10	31.12.2010	Social/Economy
	2. Wakaf hotel	19 mil, RMK-10	31.12.2011	Economy
Melaka	Wakaf Hotel	25.6 mil, RMK-10	25.08.2011	Economy

Source: JAWHAR

As depicted in the Table 1, the traditional way of developing *waqf* assets for the purpose of constructing religious buildings, for example, mosque is no longer applicable. *Waqf* assets are mainly developed for social and commercial purposes. Given the potential of generating income from *waqf* assets, the construction of commercial properties that later contribute its proceeds of *waqf* fund is appreciated. However, proper financial report must be in place to show the accountability and transparency of any transaction occurred and also to prevent mismanagement and embezzlement of *waqf* funds.

The emergence of movable *waqf* assets, particularly in the form of shares of the company and cash money implemented in a number of Muslim countries is also affecting *waqf* practice in Malaysia (Magda Ismail Abdel Mohsin, 2009). In 2006, Johor Corporation (JCorp) pioneered the participation of corporate entity in the administration *waqf* affairs by pledging the shares of its own company with the total amount of RM200 mil as *waqf* (Borham, 2011; Hajah Mustafa Mohd. Hanefah et al., 2009). This corporate *waqf* concept WANCORP; a subsidiary of JCorp is appointed as the trustee responsible to manage *waqf* fund and channel the proceeds to the beneficiaries.

In recent year's strategic partnerships between *waqf* authorities and corporate bodies and figures have been executed to develop *waqf* properties. For example, Tabung Haji (TH) and Majlis Agama Islam Wilayah Persekutuan agreed to collaborate in developing and managing Menara Bank Islam located in Jalan Perak, Kuala Lumpur. According to the agreement, TH financed the cost of construction and upon the completion, its subsidiary TH Properties manages the assets. Since its completion, the property is leased to Bank Islam and called Menara Bank Islam. Uda Holdings and

Majlis Agama Islam Pulau Pinang (MAINPP) have been joint ventured to develop a parcel of *waqf* land known as Setee Aishah. This arrangement contributes to the development of the asset, and a number of shop lots allocated to Majlis become a new source for *waqf* fund.

The establishment of Corporate *Waqf* in 2006 by Johor Corporation (JCorp) has transformed *waqf* practice in Malaysia. For the first-time *waqf* assets in the form of shares of company was issued and managed by corporate body. According to its founder; Tan Sri Muhammad Ali Hashim, the idea of creating corporate *waqf* derives from the notion of jihad business pioneered by himself with the main agenda is to improve socio-economy wellbeing of Malay society in the country (Muhammad Ali Hashim, 2012). Hajah Mustafa et.al (2009) and Abdul Shakur (2011) explains in detail the structure of corporate *waqf* which started with the pledged of share's amount RM200million as *waqf* to WANCORP; a subsidiary of JCorp as a nazir (trustee). WANCORP manages and distributes *waqf* proceeds to the beneficiaries as stated in *waqf* deed.

Perhaps, Koc Holdings in turkey is the first corporate bodies involved in the establishment and administration of *waqf* properties as early as 1967 (Cizakca, 2011b). Koc Holdings endowed 10, 000 shares of the company and entrusted to Koc Foundation as a trustee (nazir). Most of *waqf* fund managed by Koc Foundation channels towards the establishment education institutions, for example, Koc University. It is clear from the above explanation that the distinction of *waqf* management between Koc Holdings and JCorp lies in the trusteeship of *waqf* assets. While WANCORP a business entity responsible to manage *waqf* assets, Koc

Holdings established their Koc Foundation for administrating and managing *waqf* properties.

Realising the huge potential of mobilising cash *waqf* for the improvement of socio-economic of Muslim society has inspired Islami Bank Bangladesh Limited (IBBL) to establish the cash *waqf* certificate in 1997 (Mannan, 1999; Ramli and Sulaiman, 2006). Cash *waqf* certificate is created to accumulate *waqf* fund and channels the proceeds for the betterment of underprivileged Muslims. IBBL in this respect has become a pioneer in the establishment and management of cash *waqf* instrument at the global stage.

The above discussion shows that corporate entities in a number of Muslim countries such as Malaysia, Turkey and Bangladesh have played a major role in the development and management of *waqf* properties. It is worth to note that these institutions focus on developing movable *waqf* assets, in particular, shares and cash. Given the current state of underprivileged of Muslims in most Muslims countries, the participation of more corporate bodies in *waqf* activities could enhance and provide better living standard for them.

3. Analysis of Wakaf Selangor Muamalat

Waqf Selangor Muamalat is the first milestone of corporate *waqf* in Malaysia concerning the cooperation between a state-owned *waqf* management institution and an Islamic commercial bank i.e. Perbadanan Wakaf Selangor Berhad (PWS) and Bank Muamalat Malaysia Berhad (BMMB). Thus, such cooperation between these strategic partners in developing *waqf* through corporate *waqf* strategy is worth for study. The following section shall analyse Wakaf Selangor Muamalat from several

main aspects such as management, financial framework, and Shariah consideration (takyif fiqhi).

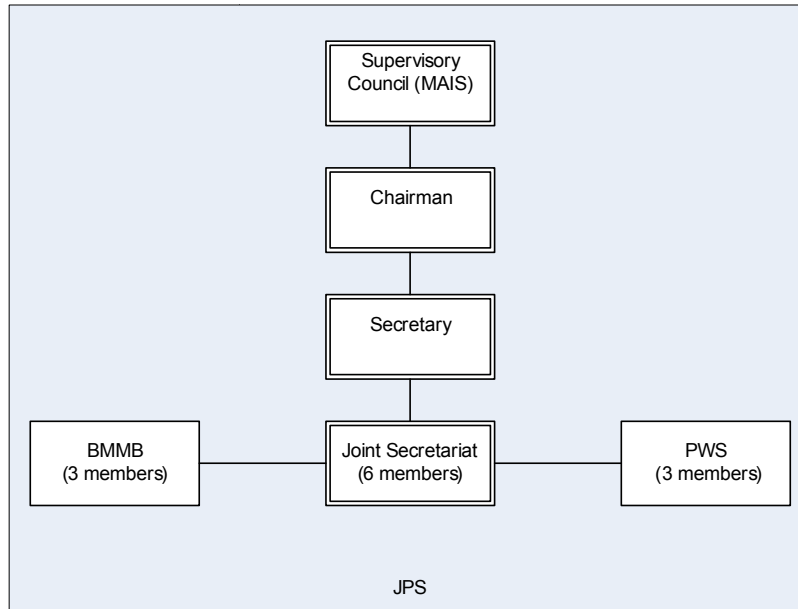
3.1 Management Structure

PWS and BMMB have established a joint committee to manage the operation of Wakaf Selangor Muamalat which is known as “Jawatankuasa Pengurusan Bersama (JPB)” or Joint Management Committee. JPB consists of:

- Supervisory committee form MAIS
- A chairman
- A secretary and
- A joint secretariat which consists of six members where three of them come from BMMB and another three are from PWS.

JPB is responsible in channelling the *waqf* fund to the agreed *waqf* projects, helping the needy beneficiaries for the educational and health purposes, and reinvest the proceeds of *waqf* fund and et cetera.

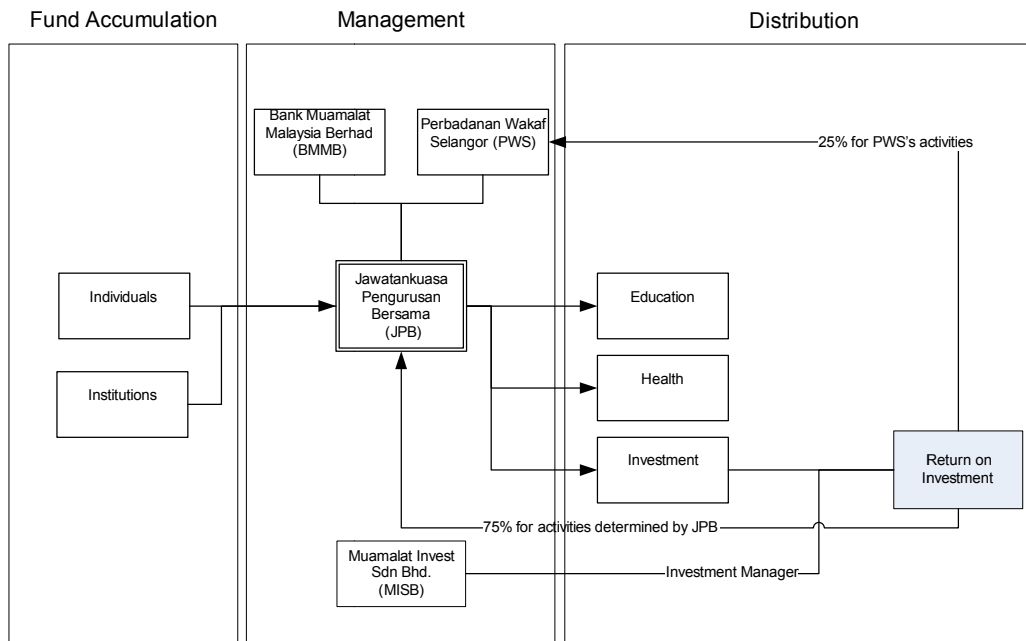
Figure 2: Management Structure of JPB



3.2 Financial and Operational Framework

In this section, the authors shall analyse the financial and operational framework of Wakaf Selangor Muamalat. The framework could be illustrated in the figure below.

Figure 3: Financial and Operational Framework of Wakaf Selangor Muamalat



The *waqf* fund is obtained through the Bank Muamalat banking services from the individuals and institutions. The minimum contribution is RM10 by individuals and RM100 by institutions and there is no maximum amount for contribution by both. The *waqf* fund aims to accumulate a sum of RM50 million in three years' time and Bank Muamalat itself has endowed RM1 million into the fund and its staff has contributed RM74,040 at the launching ceremony of Wakaf Muamalat-Selangor (xxxx). The fund will be managed and channelled by JPB to three main sections. The sections are:

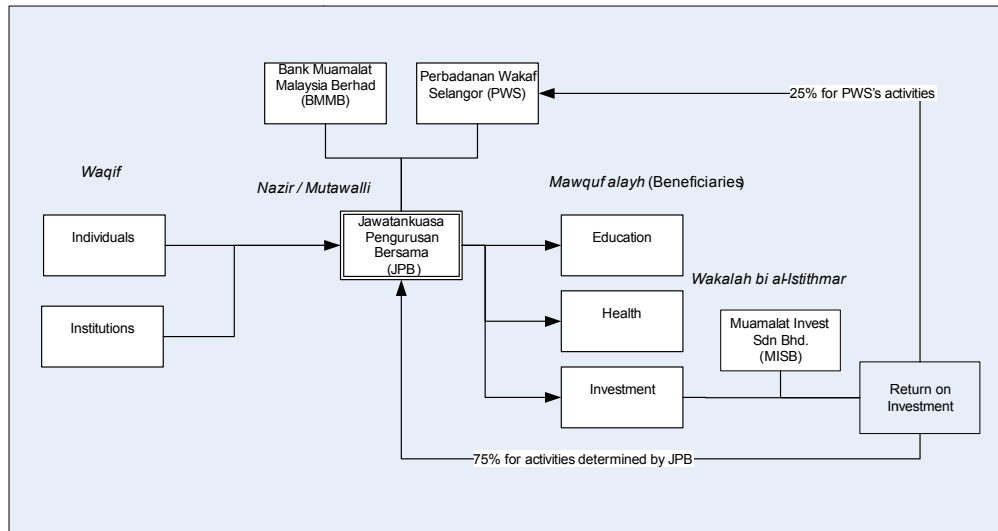
1. Education, such as infrastructure construction, equipment and etc.
2. Healthcare, such as dialysis machine and equipment, research and treatment.
3. Investment by Muamalat Invest Sdn. Bhd.

Muamalat Invest Sdn. Bhd. - a fund management company - will invest the allocated fund professionally in Shariah compaliant instruments to generate return. 25% of the return will then be distributed to the PWS and 75% of them will be channelled back to JPS for redistribution in areas deemed appropriate by them. The two main sectors aimed as beneficiaries of Wakaf Selangor Muamalat are healthcare and education for the needy people, both Muslim and non-Muslim. These two sectors have been the major area of *waqf* distribution in the history of Islamic countries. Murat Cizakca (2011a) believes that *waqf* distribution to the public will eventually help to mitigate the cost of living and government spending.

3.3 Shariah Consideration of Wakaf Selangor Muamalat

In this section, the authors attempt to rationalize the Shariah framework of Wakaf Selangor Muamalat based on the *modus operandi* of the program as in the below figure:

Figure 4: Shariah Consideration of Wakaf Selangor Muamalat



Wakaf Selangor is a form of cash *waqf* managed by a joint committee consisting representatives from corporate body and state authorities. Thus, it could be considered as corporate *waqf* since it is established and managed by corporate institutions of BMMB and its investment arm, Muamalat Invest Sdn. Bhd. The *waqf* could be institutions and individuals. JPB is assigned as *nazir/mutawalli* of the fund and responsible directly in managing the fund and channelling the fund's proceeds to the beneficiaries. MISD is appointed based on *wakalah bi al-istithmar* (agency for investment) contract. However, it is unclear whether MISD charges fee on the investment of the fund or not. Since the purpose of *waqf* is for healthcare and education purposes, it is clear that Wakaf Selangor Muamalat is a form of *waqf khairi*

(charitable *waqf*) and not a *waqf dhurri*. The main beneficiaries are the needy people in these two areas: (i) healthcare and (ii) education. The third beneficiary is PWS. However, PWS is only entitled to receive 25% of the *waqf* investment's proceeds and the rest of 75% will be returned back to JPB for determined activities later. Thus, in term of beneficiaries, it observed that the main beneficiaries are general (*‘amm*) in nature where no individuals are specified. However, the scope of beneficiaries is restricted by its purposes. Nevertheless, PWS is also specified as an entity (*khass*) who will receive 25% of the *waqf* fund's proceeds from the investment. Thus, beneficiaries of *waqf* are the combination between general and specific beneficiaries. The *waqf* fund is perpetual in nature. The Shariah consideration of Wakaf Selangor Muamalat could be summarized in the following table:

Table 1: Shariah Consideration of Wakaf Selangor Muamalat

No.	Aspect	Shariah Consideration
1	Subject Matter of <i>Waqf</i>	Cash
2	Purpose of <i>Waqf</i>	Khairi (Charity)
3	Beneficiaries of <i>Waqf</i>	‘Amm (General) and Khass (Specific): Needy party in the areas of healthcare and education and PWS
4	Waqif	Individuals and Institutions
5	Nazir/ Mutawalli	JPB
6	Management	Corporate
7	Investment contract	Wakalah bi al-istithmar
8	Timing	Perpetual

4. Conclusion

Wakaf Selangor Muamalat could be considered as a corporate *waqf* model that occupies the participation of the corporate entity in its management and decision making. Both BMMB and MIST have been appointed as the bank and the fund management company accordingly in accumulating and investing the *waqf* fund. Wakaf Selangor Muamalat is a form of *waqf khairi* in term of its purposes, a form of

corporate *waqf* in term of its management structure, and a combination between general (*‘amm*) and specific (*khass*) in term of its beneficiaries. The beneficiaries of the *waqf* fund could be further divided into direct and indirect beneficiaries. The needy public in the area of healthcare and education are the direct beneficiaries while PWS is the indirect beneficiaries of the *waqf* fund.

5. Bibliography

- Abdullaah Jalil and Asharaf Mohd. Ramli. (2008) Waqf Instruments for Construction Contract: An Analysis of Structure. *The Journal of Muamalat and Islamic Finance Research (JMIFR)* 5: 14.
- al-Zuhayli W. (1997) *al-Fiqh al-Islamiyy wa adillatuh*, Dimashq: Dar al-Fikr.
- Borham AS. (2011) Pelaksanaan Pembangunan Wakaf Korporat Johor Corporation Berhad (Jcorp): Satu Tinjauan. *International Conference on Humanities 2011*. Park Royal Hotel, Penang, Malaysia: USM.
- Cizakca M. (2011a) *Islamic capitalism and finance: Origins, evolution and the future*, Glos: Edward Elgar.
- Cizakca M. (2011b) Waqf in history and its implications for modern Islamic economies. In: Kahf M and Mahamood SM (eds) *Essential Readings in Contemporary Waqf Issues*. Kuala Lumpur: CERT, 1-42.
- Hajah Mustafa Mohd. Hanefah, Abdullaah Jalil, Asharaf Mohd. Ramli, et al. (2010) Waqf Models in Iskandar Malaysia: An Analysis. *4th Islamic Banking, Accounting and Finance Seminar*. Gombak: International Islamic University Malaysia.
- Hajah Mustafa Mohd. Hanefah, Asharaf Mohd. Ramli, Abdullaah Jalil, et al. (2009) Financing the Development of Waqf Property: The Experience of Malaysia and Singapore. *International Conference on Waqf Laws & Management*. Gombak: International Islamic University Malaysia.
- Magda Ismail Abdel Mohsin. (2009) *Cash Waqf: A New Financial Product*, Petaling Jaya: Prentice Hall - Pearson.
- Mannan MA. (1999) Cash-waqf Certificate Global Opportunities for Developing the Social Capital Market in 21st-Century Voluntary-sector Banking. *the Third Harvard University Forum on Islamic Finance: Local Challenges, Global Opportunities*. Cambridge, Massachusetts: Center for Middle Eastern Studies, Harvard University, 243-256.
- Ramli AH and Sulaiman K. (2006) Pembangunan Harta Wakaf: Pengalaman Negara-Negara Islam. *Konvensyen Wakaf Kebangsaan*. Kuala Lumpur.