

Analysis Factor And Management Of Cash Waqf Fund Generation Through Istibdal Implementation In The Federal Territory

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Abstract

This study was conducted to examine the factors and generation of cash waqf funds by implementing istibdal in the Federal Territory. This study was conducted based on the problem statement with respect to; waqf property could not be developed due to lack of funds, especially involving immovable waqf property. Thus, this study aimed to explore the implementation factors of istibdal waqf property and the generation of cash waqf funds in the Federal Territory. The qualitative approach was utilised in this study, where data were collected through library research and field study. Library research was conducted by collecting data from waqf books, articles, laws and relevant circulars, while field research was conducted through an unstructured interview method with two MAIWP officers, who directly involved in the implementation of istibdal waqf property. The results show that there are two factors in the implementation of istibdal waqf property in the Federal Territory, where the first factor is dealt by MAIWP initiative to develop waqf land that is not strategic, small, and uneconomical. The second factor is the acquisition of waqf land by the State Authority (PBN). The first factor has generated a high cash waqf fund for MAIWP in terms of profit from the sale of waqf property that has been implemented istibdal and rental income from waqf buildings that have been replaced, while the second factor has not yet generated funds because MAIWP is still planning to buy new waqf property instead. However, MAIWP plans to buy a new building for rent where the rental

proceeds will be put into the mosque trust account, which is the beneficiary of the waqf. The results also show the openness of Fatwa Committee to refer to other than the Shafi'i sect in the issue of istibdal waqf.

Keywords: Istibdal, Waqf, Federal Territory, Cash Fund, Fatwa.

Introduction

Waqf is one of the Islamic property institutions that has contributed a lot towards the infrastructure and social development of the Muslim community. Throughout the history, Islamic property institution has successfully developed and accommodated educational institutions, mosque development, cemeteries, libraries, welfare homes, health centres and so on (Abdullah 2010). Waqf management has undergone a reform, where the focus of waqf property is no longer focused on the immovable property but expanded to movable property (Asni & Sulong, 2017a).

The privileges and advantages of waqf have caused many Muslims to practice waqf. Most Muslims used to endow the lands they owned, whether in the city or the village. This is because they believe that as long as the land is there for the benefit of Muslim community, they will get a continuous reward until the Day of Judgment (Isamail et al., 2015). From a management perspective, before the establishment of the State Islamic Religious Council (MAIN), waqf properties were managed independently. However, for the well-being of waqf property, after the establishment of MAIN, waqf properties were placed under MAIN management legally and assisted by the Federal Government through the Department of Waqf, Zakat and Hajj (JAWHAR), and Yayasan Wakaf Malaysia (YWM). Thus, the funds to manage most of the waqf properties are gained through the state or federal government (Yaacob, 2013).

However, the fund injection model brings great challenges to MAIN in managing waqf properties. This is because small funds are not able to manage waqf property in the long run. Furthermore, waqf properties throughout Malaysia are numerous and involve lands in rural areas. Due to the fact that most of the waqf lands is agricultural base, it does not bring much beneficial return to the Muslim community. This has caused most of the waqf land to be in a state of disrepair and no development can be carried out (Mat Rani et al., 2014).

This problem occurs due to the waqf method practised by the Muslim community in Malaysia for a long time. For example, a waqif (an endowment donor) only endows a piece of land with the intention to build a mosque, school or orphanage. However, the waqif is not given the capital or allocation for the development. This is a problem for MAIN to develop the waqf land as intended by the waqif. In fact, the MAIN has to bear the burden to obtain sufficient funds and to succeed in attaining the intentions of the waqif (Othman, 2013).

Thus, some researchers suggest several alternative methods to generate waqf funds and cover the expenses in managing waqf property. This can also increase the well-being of waqf property and benefit the Muslim community. Among the alternative methods is through the method of istibdal waqf property (Shulthoni & Saad, 2018). It is recorded that MAIWP carries out several istibdal methods on waqf properties in the Federal Territory. Therefore, this study aims to examine the implementation factors of the istibdal and the extent to which the implementation factors lead to the generation of cash waqf funds.

From the study gap perspective and based on the highlights of previous studies, there is still no study concerning to this issue. However, several previous studies examined the implementation of istibdal in several states, and one of the examples is found in a study conducted by Mat Rani (2014) who made Terengganu a case study. A similar study was also conducted by Noor and Awang (2013), which focuses on the implementation of istibdal in the state of Kedah. Meanwhile, although Asni and Sulong (2017) had studied on the issue of istibdal, the study focuses more on the issue of standardisation of fatwas related to waqf. In addition, Asni et al., (2020) studied the implementation of istibdal through the GIS method, which is a modern and sophisticated software for capturing, storing, manipulating, analysing and presenting the data.

Literature Review

The concept of Istibdal Waqf

The word istibdal is taken from an Arabic word, badal which signifies change or substitute. Ibdal and istibdal also carry the same meaning which is to change something by taking something else instead. In short, istibdal waqf means to exchange a waqf property and replace it with another property by selling the original waqf property and buying a new property instead (Abu

Zahrah, 1971). Highlighting the views of scholars on the istibdal of waqf property, there are differences of opinion among the Islamic scholars of the sect about it (Asni et al., 2020).

According to the Hanafi school, istibdal method is allowed to solve problems related to the affected waqf property from the view of its utilisation. If the waqf property can no longer be utilised until it cannot achieve the original purpose for which it was endowed, then the istibdal method must be implemented to achieve its objective. However, before implementing istibdal, the first step it needs to do is get the consent of the Islamic judge so that the *maslahah* (well-being) can be achieved effectively and not abused by certain parties (Ikrimah 2008; Asni et al., 2021). Thus, the implementation of istibdal is intended to obtain more benefits and *maslahah* while not setting aside the objective of a waqf property (al-Zuhaili 2005; Ishak & Asni, 2020).

Meanwhile, the Maliki school allows istibdal on waqf property, it is implemented in the circumstances for public needs or interests such as expanding mosques, cemeteries, roads, or other facilities (Malik, 2019). In the Shafi'i school, the scholars are very strict in allowing the implementation of istibdal. This school stated that, when a property has been made waqf, then it is the property of Allah and cannot be exchanged in any way even if the property has been destroyed or asked to be returned to its original owner (al-Zuhaili, 2005). They argued based on the opinion of Sayidina Umar, who stated that waqf property could not be sold, gifted, or inherited. The scholars also put forward the proposition of *qiyas* (analogy) by stating the status of a waqf property as cannot be sold in any of these two situations; whether there is a benefit can be gained or there is no benefit at all. However, some Shafi'i scholars allow the implementation of istibdal if there is a benefit element provided, which must be obtained through judge's consent (al-Ramli, 1967).

According to the Hanbali school, istibdal can be applied absolutely to all categories of waqf property. The school argues that waqf property cannot be sold, given away, and inherited as long as it can be leveraged. However, when the waqf property is damaged and no longer useful, it must be replaced with another property to maintain the original purpose of the waqf, which is to remain useful forever (Ibn Taimiyyah, 2005). Summarising from this discussion, the majority of schools has adopted the concept of istibdal. This requirement significantly impacts waqf property management by making it more economical, competitive, and meet current needs.

Implementation factors of istibdal waqf

The implementation of istibdal organised by the scholars has brought many benefits to the properties that has been endowed. The benefit is whether it can repair the waqf property or expand the benefits of the existing waqf property (Isamail et al., 2015). It is known by all that a property that has gone beyond the passage of time will inevitably be torn, faded, damaged and destroyed. Waqf building or land will definitely damage if not properly maintained, and this can be seen through the damaged of orphanage school or the limited space of waqf land that cannot accommodate the growing number of graveyards over time (Laldin et al., 2012). These problems certainly need to be resolved by changing the following waqf property to a more appropriate waqf transition. For example, the orphanage school building is replaced with a new one that is more comfortable and has minimal maintenance costs. Among the initiative is done by selling a damaged hearse to replace a new one (Mar Iman & Haji Mohamad, 2017).

The implementation of istibdal also occurs when there is an intention to expand the utilisation of waqf property further, such as enlarging the mosque space to accommodate the increase in number of the local Muslim community, and converting agricultural waqf land to the construction of several lots of shophouses, where the monthly rental income is higher and simultaneously can increase the income of waqf funds (Thaker et al., 2016). This is similar to the previous study of Asni et al., (2020) that proposed the act of expanding the site of mosques and graves to accommodate the growing local community.

Importance of Waqf Fund Raising

Funds are an important element in development activities that involve large capital, including activities that lead to the expansion of waqf properties. Almost all MAINs do not have strong funds to support waqf land development projects. As a result, most of the waqf land is in a state of disrepair and there is no development can be carried out due to the insufficient resources. The income earned by MAIN through waqf land is very small compared to the cost of the proposed project (Mat Rani et al., 2014). Based on limited finances, MAIN has to bear all expenses for administering waqf properties such as repairing and maintaining assets at a cost over annual income (Mat Rani et al., 2014). At the same time, MAIN carries a huge responsibility in looking after the welfare of Muslims and Islamic affairs with a limited number of staff.

In Malaysia, the main problem faced by MAIN in developing waqf lands is due to very limited funding sources. For example, Johor's total cost as required by the Johor Islamic Religious Council (MAIJ) to implement waqf development is RM19,364,820.00. The amount includes the construction of a shop building at Fortune Point Nusajaya amounting to RM1,573,560.00, replanting of oil palm trees in the Mersing waqf plantation amounting to RM230,370.00, developing waqf of the Darul Furqan and Kluang tahfiz complex buildings of RM6,000,000.00 and RM10,000,000.00 respectively, and a fund project of special waqf by ANGKASA which amounting of RM1,560,890.00 (File MAIJ 2018). Apart from using the funds through the implementation of the Johor Waqf Shares, MAIJ also needs to borrow funds from the Johor State zakat to assist in waqf development activities.

Based on MAIJ's annual statement, the total zakat loan by MAIJ is RM20,318,428.00. The amount is included for financing the development of Johor State waqf assets abroad such as the Malaysian student hostel building in Egypt, the purchase of a house lot on Eden Street Australia, and the construction of a mosque in Cambodia. In addition, the funds are also used for the purchase of haemodialysis waqf machines (File MAIJ 2018). This shows that apart from the need for funds to develop waqf assets, MAIJ also needs funds to repay the debt of funds that have been borrowed from the Johor state zakat fund. Apart from MAIJ, MAIPs has also loaned zakat funds to develop waqf assets in Perlis (MAIPs File 2018). Even the studies on waqf development by scholars also raise the issue related to the lack of waqf funds to develop waqf properties in Malaysia.

In addressing insufficient funds to develop waqf properties in Malaysia, many parties have played their roles in assisting and channelling funds for the continuous efforts to develop the existing waqf assets. In addition to funds injected by local and federal governments, there are several alternative methods to generate waqf funds such as cash waqf, stock waqf, waqf shares, lease, rental, istibdal and istisna' (Zakaria et al., 2019). Theoretically and practically, such methods are capable of generating cash waqf funds and capable of managing waqf property.

Relevance of Istibdal Method as a Waqf Fund Generation Medium
Strategic location is an important criterion for a waqf asset to shape a place with economic development activities (Ngadimon, 2011). However, the scattered position of waqf lands and the

different purposes of waqf make it difficult to develop (Mat Rani et al., 2014). Among the problems that cause waqf property cannot be developed is because the location of waqf land that is not in the prime development zone. There are also waqf lands that are located too far inland or situated in a location that is not strategic and viable. In addition, land issues involving physical conditions and less strategic locations are among the challenges to the development of waqf land (Ismail, 2012). These problems are highlighted in several studies involving several states in Peninsular Malaysia.

Latif and Bahrom's (2008) study in the State of Melaka found that the problem of waqf land development is caused by the small and narrow size of the land and the location that is away from the main route and development centre. Hashim and Rahman's (2012) study in Penang found that some of the waqf lands are abandoned and undeveloped. In fact, there is also waqf land that cannot be developed due to its size of being too small or its non-strategic position. Mat Rani's (2015) study in Terengganu also raises issues related to the physical structure of waqf land, where the area is limited, scattered and small. In fact, most of the waqf land in Terengganu is less than half (1/2) hectare.

Noor and Awang's (2013) study in Kedah showed a small waqf land located in the middle between land owned by non-Muslims. This situation affects MAIN to develop the land. A study in Kelantan found that most locations of general waqf land are scattered and not concentrated in one area (Hamat, 2014). Meanwhile, the study of Ibrahim and Ibrahim (2018) in Perak found that there are waqf lands that are not used optimally due to non-strategic and economic location factors. Although there are some strategic locations, but the size is small for development. If these lands continue to be idle without development, any activities involving the generation of waqf funds cannot be implemented.

To overcome the physical barriers that hinder the development of waqf land in Malaysia, several recommendations have been put forward by researchers. According to Noor and Awang (2013), many lands in rural areas, growth centres, or development corridors make the waqf lands like imprisonment. The problem can be solved through the *istibdal* process, which replaces the waqf property with another more strategic property. Asni and Sulong (2019) argue that the conversion of waqf property by selling to buy another more economical property is in line with Shariah.

According to Ngadimon (2011), the approach of developing waqf assets through istibdal method is not only focused on exchanging waqf property by selling and buying other property elsewhere instead of the original property, even a more dynamic step is to perform istibdal of waqf property from non-strategic locations to more strategic locations so that asset quality capabilities can be improved. This is in line with the proposal forwarded by Zakaria et al., (2019) which is to sell waqf land that is not strategic or too small, while the proceeds are used to buy larger land that can generate cash funds.

Methodology

This study uses a qualitative method involving two types of data; secondary data through the library research method and primary data through a field study with unstructured interview sessions. Library research method is vital to obtain complete information on the concept of istibdal waqf and the provisions of the law on the implementation of istibdal in Malaysia, especially in the Federal Territory. This method encompasses the researchers' efforts to refer to relevant books, journals, circulars and official websites. As a result of the research reviews, a set of interview questions has been developed and confirmed by Shariah experts with the rank of professor to be used in the interview session.

From an empirical point of view, the researchers have interviewed two MAIWP officers, who are involved directly in the affairs of istibdal waqf. This interview session was conducted to obtain holistic information regarding implementing istibdal waqf property in the Federal Territory. In addition, the researchers also used the purposive sampling method in interviews by involving respondents who are experienced and knowledgeable about the problems and objectives of the study (Ethics & Alkassim, 2016). To protect the respondents' information, their names were encrypted. The approximate interview duration was 60 minutes.

To strengthen the data, the researchers have used the method of triangulation that can strengthen and consolidate the interview data; the researchers have asked the respondents to show confidential files related to the process of istibdal waqf property in MAIWP. The file will then be referenced along with the interview data so that the interview findings are stronger and complementary (Brewer and Hunter, 1989). Denzin (1984) identified four forms of triangulation and they are data source triangulation (retrieve data from a number of different sources to form one body of data), investigator triangulation (using multiple observers instead of a single observer in the form of gathering and

interpreting data), theoretical triangulation (using more than one theoretical position in interpreting data) and methodological triangulation (using more than one research method or data collection technique).

Once the information from the interview session has been obtained through the transcript process, the researchers will analyse the data based on qualitative analysis methods. In general, qualitative methods are used to describe the behaviour of research studies (Effendi, 2013). In more detail, the content analysis method is applied because this method provides a systematic and objective method that leads to valid conclusions from oral, visual or written data describing and measuring specific phenomena (Hsieh & Shannon, 2005). As a result, the researchers can achieve a comprehensive understanding of the implementation of istibdal waqf property in the Federal Territory and know the factors behind its implementation.

Result

To obtain complete information on the implementation process of istibdal waqf in the Federal Territory, fatwa permission, factors of istibdal waqf property implementation and the extent to which the implementation of istibdal generates waqf funds, the researchers have interviewed two waqf officers from MAIWP.

Table 1: Quotation and theme

	Quotation	Theme
1	<p>Based on the question on the implementation process of istibdal waqf property by MAIWP, the respondents stated,</p> <p>“The istibdal implementation process is related to the acquisition of waqf property by the authority as well as istibdal waqf property for cases of non-productive waqf property. The process can be seen as follows:</p> <p>a. Istibdal waqf for cases of confiscation of waqf property by the Authority begins with the MAIWP receiving a notice of summons for the proposed acquisition of waqf property. (2) MAIWP extends the notice to the Development and Investment Division for information. (3) MAIWP will check the status and background of the property such as:</p> <p>i. Review of files or title deeds.</p> <p>ii. Check the latest status through the official title search.</p> <p>iii. Check the type of waqf and the purpose of the waqf.</p>	<p>There are three istibdal implementation processes outlined by MAIWP, namely the acquisition of waqf property by the Authority, istibdal of waqf property for cases of non-productive waqf property and the purchase of new waqf property (istibdal).</p>

<p>(4) MAIWP will obtain information or project implementation reports from the relevant agencies. (5) MAIWP will prepare a brief report of the property related to the position of the land, the area of the acquisition, the structure involved and others. (6) MAIWP will hold a meeting with the following membership:</p> <ul style="list-style-type: none"> i. Baitulmal Division ii. Development and Investment Division iii. Finance department iv. Legal unit v. Internal audit unit vi. Other units (if applicable) <p>(7) MAIWP attends land acquisition hearings. At trial;</p> <ul style="list-style-type: none"> i. Property price compensation and building structure compensation will be paid to MAIWP, or ii. The developer will replace the affected building either to the same standard as the original build or better. <p>(8) MAIWP will prepare a report each time after attending the trial and recorded in the file. (9) MAIWP receives the award notice from the land administrator of the Land and Mines Office through form K-APT 1960. (10) MAIWP will receive a compensation payment check. (11) MAIWP will submit checks and notification memos to the Finance Division. (12) MAIWP will prepare a property acquisition notification paper. (13) MAIWP reviewed the property acquisition notification paper. (14) MAIWP presented an information paper in the Waqf and General Resources Committee Meeting. (15) MAIWP received an extract of the minutes of the Waqf and General Resources Committee Meeting on the original waqf property involved for the implementation of istibdal. (16) MAIWP submitted the minutes of the meeting of the Waqf and General Resources Committee to the Development and Investment Division for further action. (17) MAIWP will update the status of the original waqf property file in the waqf land information system (e-property).</p> <p>b. The sale of the original waqf property for non-productive waqf land cases begins when MAIWP identifies the waqf property that cannot be used as follows:</p> <ul style="list-style-type: none"> i. The area of waqf property is narrow and difficult to develop. ii. Waqf property that is idle and cannot be developed for the benefit of Muslims. iii. The position and location of waqf properties that are far apart, scattered and not suitable for development. iv. Results and benefits that cannot meet the goals and objectives of the waqf donor (special waqf). 	
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<p>(2) MAIWP obtains background information on waqf property and related documents. (3) MAIWP makes an investigation on the location and position of waqf property. (4) MAIWP obtains information on the value of the original waqf property from the Valuation and Property Services Department. (5) The Proposal Paper for the sale of waqf land is extended to the Baitulmal Division for review and approval of the Islamic Law Consultative Meeting and the Waqf and General Resources Committee Meeting. (6) Receive and review the Sale Proposal Paper from the Development and Investment Division. (7) Obtain the approval of the Islamic Law Consultative Meeting. (8) Obtain the approval of the Waqf and General Resources Committee Meeting. (9) Submit comments and approval of the Shariah law Consultative Meeting and the Waqf and General Resources Committee Meeting to the Development and Investment Division. (10) To receive and review the comments of the Baitulmal Division and the approval of the Shariah law Consultative Meeting and the Waqf and General Resources Committee Meeting. (11) Prepare a Sale Proposal Paper for the approval of the Development and Investment Committee Meeting. (12) Prepare a Sales Proposal Paper for the approval of the MAIWP Meeting. (13) Received the Extract of MAIWP Meeting Minutes. (14) Submission of MAIWP Meeting Minutes Extract to Baitulmal Division. (15) MAIWP implements the process of selling the waqf property concerned. (16) MAIWP updates file records and e-property system. (17) MAIWP updates the records and register of waqf Istibdal.</p> <p>c. The purchase of new waqf property (istibdal) begins with MAIWP identifying new waqf property that has the potential to be purchased by using the source of compensation money or money from the sale. (2) Prepare a Proposal Paper for the Purchase of new waqf property for the review of the Baitulmal Division and the approval of the Waqf and General Resources Committee Meeting. (3) Receive and review the Purchase Proposal Paper from the Development and Investment Division. (4) Obtain the approval of the Waqf and General Resources Committee Meeting. (5) Submit the comments and approval of the Waqf and General Resources Committee Meeting to the Development and Investment Division. (6) To receive and review the comments of the Baitulmal Division and the approval of the Waqf and General Resources Committee Meeting. (7) Prepare a Purchase Proposal Paper for the approval of the Development and Investment Committee Meeting. (8) Prepare a Purchase Proposal Paper for the approval of the MAIWP Meeting. (9)</p>	
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	Receive Extract of MAIWP Meeting Minutes. (10) Submission of MAIWP Meeting Minutes to the Baitulmal Division. (11) MAIWP implements the process of purchasing new waqf property. (12) MAIWP updates file records and e-property system. (13) MAIWP updates the records and Register of Waqf Istibdal.”	
2	<p>Based on the question on the factors of istibdal implementation in the Federal Territory, the respondents stated,</p> <p>“Among the factors implemented by istibdal on waqf land are;</p> <p>a) Istibdal waqf land which is not strategic, small and uneconomical</p> <p>MAIWP has taken innovative steps to cultivate waqf land that is not viable. The step taken is to implement the istibdal method on waqf land which is not strategic, small and uneconomical. The waqf land involved in the implementation of istibdal is Lot 107 QT (R) 867. This waqf land is located in Section 41, Jalan Raja Muda Abdul Aziz, Kampung Baru, Kuala Lumpur.</p> <p>This land was endowed in 1982 by Noorchahaya binti Abdul Majid with an area of 2,613.60 square feet out of the total lot of 16,465.68 square feet. The waqf land is ten parts out of 63 parts (10/63). However, the waqf land is less strategic to develop. This is due to the condition of the waqf land that being stuck, positioned behind the main road and there is no access from the main road to the location of the waqf land. In addition, the waqf land is small and cannot be utilised to the maximum.</p> <p>In 1995, MAIWP implemented the istibdal method on waqf land with respect to the method of sale. The waqf land was sold to RIBI Sbn. Bhd. (NAZA Motor Trading Sdn. Bhd.) with a price of RM300,000.00. Of the total sales, the total waqf share is RM230,769.90. In lieu of the waqf land that has been sold, MAIWP has purchased three units of three -storey terrace houses from Potential Development Sdn. Bhd. and they have been registered as a waqf asset. The three house units are located at Persiaran Pelangi, Taman Pelangi Jaya, Kuala Lumpur. The detailed information of the house that has been turned into a waqf asset is as follows:</p> <p>i. No. 151, Lot 29883 PM 739. Land area of 97 square meters. Building area of 125.75 square meters. The estimated value of the house in 2020 is RM386,000.00.</p> <p>ii. No. 153, Lot 29884 PM 740. Land area of 97 square meters. Building area of 125.75 square meters. The estimated value of the house in 2020 is RM386,000.00.</p>	There are two factors in implementing istibdal in the Federal Territory, namely the result of initiatives to develop waqf land that is not strategic, small and uneconomical, and istibdal of waqf land as a result of the acquisition by BPN.

<p>iii. No. 155, Lot 29885 PM 741. Land area of 97 square meters. Building area of 125.75 square meters. The estimated value of the house in 2020 is RM386,000.00.</p> <p>The three units of the houses have been rented since 1997. Until 2020, the rental income obtained by MAIWP is RM496,800.00 with an average rental of RM1,800 per month, and this obviously benefiting MAIWP. This is because the assets purchased at a price of RM230,769.90 in 1995 have experienced an increase in value of 401.8% which is RM927,230.10 in 2020 and make the three units of houses worth RM1,158,000.00.</p> <p>a) Road upgrade project</p> <p>There is a waqf land that has implemented istibdal following the project to upgrade the road of Gombak, Federal Territory of Kuala Lumpur for the purpose of transportation and communication facilities. In realising the project, there is a lot of waqf land that has been involved in the acquisition by PBN, namely Lot 3771 GM 1249 located at Batu 4, Jalan Gombak, Kuala Lumpur. The waqf land is a special waqf land of the mosque which was endowed by Liah binti Yusuf and her son Darwis bin Sulaiman in 1994. The waqf land is 26,325.26 square feet and has been built on it two units of rented shops and a mosque. However, on 12 August 2004, an area of 443.15 square meters equivalent to 4770.03 square feet of the total waqf land was taken by the Kuala Lumpur City Hall (DBKL) for the purpose of road upgrading projects.</p> <p>In order to comply with Islamic law so that the waqf land can be implemented istibdal, DBKL has paid compensation of RM391,601.60 to MAIWP at the rate of RM381,601.60 for waqf land, while RM10,000.00 for the demolished stone wall. So far, the compensation money has not been replaced with permanent assets. This is because the Committee plans to buy a piece of land located next to the existing waqf land. However, there is no certainty from the owner of the land to sell it to MAIWP.</p> <p>In addition, the value of the land is too high and the Council has to buy the entire area of land. Therefore, the replacement of the waqf land involved in the acquisition by DBKL is still under discussion and the Council recommends the purchase of properties in other locations. Subsequently, new assets that will be used as waqf property will be leased and the proceeds from the rental will be put into the mosque trust account, which is the beneficiary of the waqf."</p>	
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3	<p>Based on the question on the openness and support of the Fatwa Committee towards the istibdal implementation projects by MAIWP, the respondents stated,</p> <p>“So far, the Fatwa Committee is supportive and open in providing legal views regarding some of the implementation of istibdal by MAIWP. Although it was found that the main reference of the Fatwa Committee is based on al-Shafi'i school where it is quite rigid in the issue of istibdal waqf property, but the Fatwa Committee is opened to refer to other schools that are wider and open in istibdal as referring to Hanafi and Hanbali sects. This can be seen when the waqf land can still be utilised, but istibdal is also implemented on the land in order to further develop its benefits and well-being.”</p>	<p>The fatwa committee is open in referring to other sects in the issue of istibdal and supports all proposals submitted by MAIWP to expand waqf property through the istibdal method.</p>
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Discussion

Based on the results of the study on the three istibdal implementation processes outlined by MAIWP, namely the guidelines for the acquisition of waqf property by the Authority, istibdal waqf property for non-productive waqf property cases and the purchase of new waqf property after istibdal are implemented. The processes outlined by MAIWP are very good for the survival of waqf property in the Federal Territory. This is because such guidelines meet all the good elements in implementing istibdal so that the replaced property is equal in value or better than the previous property as outlined by the Islamic law (Hisham et al., 2013).

This can be seen in the guidelines of the istibdal process on the sale of the original waqf property for unproductive waqf land cases; among the guidelines is to identify the position and location of the waqf property that is far away, scattered and not suitable for development. Similarly, when seen in the guidelines of the istibdal process on waqf property involved in the acquisition by the BPN, the BPN is required to pay compensation to the MAIWP or the developer to replace the building involved either equal to the original or better. Thus, the guidelines are a level for good governance in the implementation of istibdal waqf property. Strengthening a good administrative system through structured guidelines can further strengthen waqf assets as supported by Sabri and Mahamood (2020) and Mohamad (2020). However, the researchers would like to suggest the addition of guidelines on

fundraising as a result of the istibdal process. If there is good planning, then every waqf property implemented by istibdal will generate cash funds for MAIWP.

The results of the study also found that the implementation of istibdal waqf property in the Federal Territory of Kuala Lumpur involves only two lots. One lot is general waqf land and another lot is special waqf land. One of the factors in the implementation of istibdal is the initiative of MAIWP to develop waqf land that is not strategic, small and uneconomical. The initiative taken by MAIWP in implementing the concept of istibdal on the waqf properties is very good. This is because if the waqf lands can be developed, then it can be utilised to the maximum. As suggested by Asni et al. (2020), the waqf administrator should always take drastic steps in developing waqf assets among others through the istibdal method. Similarly, the MAIWP ensures that the PBN must pay compensation for the land taken even though the PBN has the authority to take any registered land including waqf land at any time and without any legal obstacles (Mat Rani, 2010).

Table 2: Original and replacement waqf properties involved with non-strategic, small and uneconomical waqf land

Original Waqf Asset

No.	No. Lot & No. Grant	Location	Types of Waqf Property
1.	Lot 107 QT(R) 867	Kampung Baru, Kuala Lumpur	Land

Replacement Waqf Asset

No.	No. Lot & No. Grant	Location	Types of Waqf Property	Activity for the Generation of Waqf Fund
1.	Lot 29883 PM 739	Taman Pelangi Jaya, Kuala Lumpur.	Rumah	Rental
2.	Lot 29884 PM 740	Taman Pelangi Jaya, Kuala Lumpur.	Rumah	Rental
3.	Lot 29885 PM 741	Taman Pelangi Jaya, Kuala Lumpur.	Rumah	Rental

From the point of view of waqf fund generation, the results of the study found that the proceeds from the sale of waqf land were not strategically used to buy three units of residential houses instead. Then, the three units of the houses were rented starting in 1997.

Until 2020, the estimated rental income obtained by MAIWP is RM496,800.00 with an average rental of RM1,800 per month. This istibdal method is beneficial to MAIWP since the assets purchased at a price of RM230,769.90 in 1995 have experienced an increase in value of 401.8%, which is RM927,230.10 in 2020 and make the three units of houses worth RM1,158,000.00. However, the researchers suggest the MAIWP to diversify replacement property. For example, in addition to buying houses, MAIWP can also buy shop houses where the rental income from shop houses is higher and the value after purchase will rise higher than house assets.

Table 3: Result of cash fund generation through non-strategic, small and uneconomical istibdal waqf land

Bil.	Location	Type of Substitute Property	Fund Raising Rate / Month
1.	Kuala Lumpur	House	RM1,800.00

In addition, before the replacement of the waqf property was made with the purchase of three units of the house, the MAIWP obtained a cash generation of RM69,230.10 through the sale of the waqf land at higher price of RM300,000.00 compared to the current value of RM230,769.00.

Table 4: Revenue from cash fund generation from the sale of waqf land by MAIWP

Current Value	Selling Price	Fund Raising Rate
RM 230,769.900	RM 300,000.00	RM 69,230.10

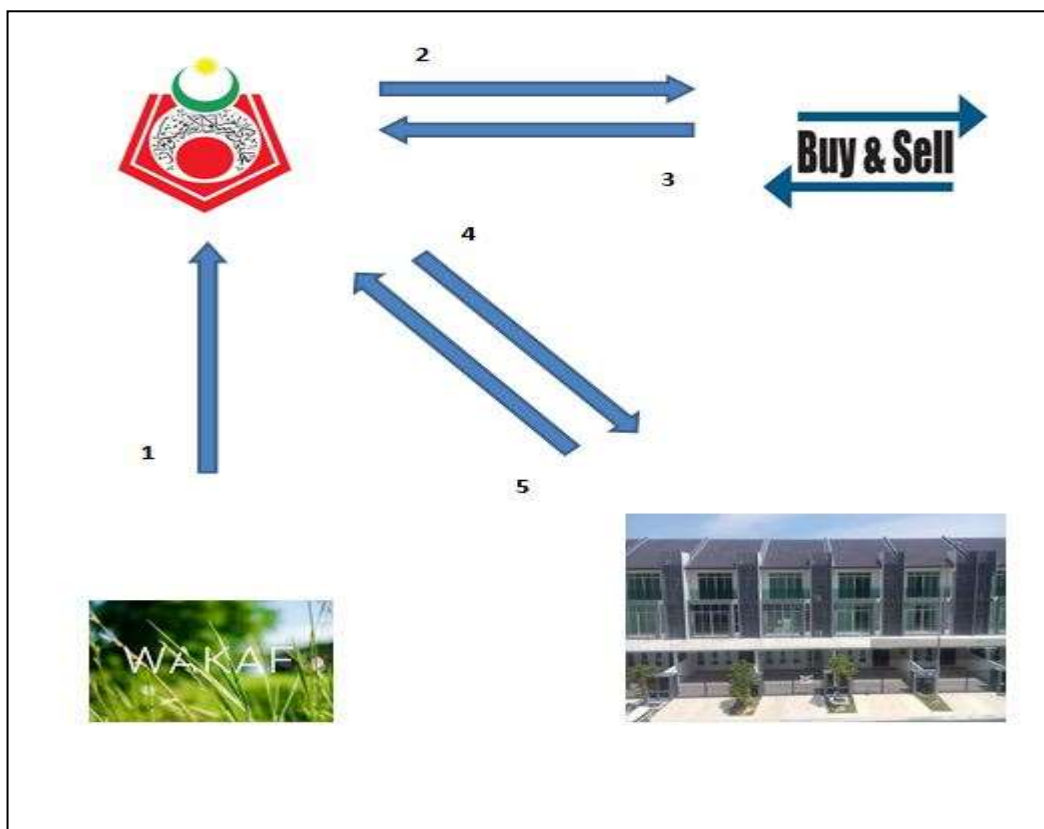
The efficiency of MAIWP in implementing istibdal has resulted in the generation of cash waqf funds through the method of profit from the sale of waqf property from the current value, as well as rental income from the replaced waqf property assets. The large cash fund obtained has enabled MAIWP to manage waqf property and benefit the Muslim community. The concept of istibdal can solve the lack of cash waqf funds for waqf administrators (Shulthoni et al., 2018) and can provide benefits to waqf stakeholders.

In addition, the permission of the Federal Territory Fatwa Committee in permitting MAIWP to implement the concept of istibdal on waqf land that is underutilised, shows that the fatwa

body is open to referring to the wider Hanafi and Hanbali sects in applying the istibdal method. This is because the Fatwa Committee's main reference in the fatwa process is the al-Shafi'i school (Asni & Sulong, 2017b). However, according to Abdullah (2010), al-Shafi'i school is very strict and limited in the implementation of istibdal waqf property, even if there is still even a small benefit to waqf property, as it is forbidden to be replaced, sold, or developed because it needs to be maintained as in its original state. Thus, in addition to meeting the enactment requirements, reference to other recognised sects that are well-being and can maximise the function of waqf lands is recognised to be an effective alternative. Extensive reference to several sects in this waqf issue is strongly supported as it can bring great *maslahah* to waqf assets as stated by Kader (2016), Noor et al., (2017) and Hasbullah et al., (2019).

Based on the form of fundraising obtained from the implementation of istibdal, the model of implementation of istibdal of waqf property is illustrated as follows:

Figure 1: Istibdal implementation model that generates cash fund for MAIWP



The evidence, (1) the waqf property involved was identified by MAIWP and MAIWP, applied for a decision from the Fatwa Committee in accordance with the prescribed procedure. (2) MAIWP sells the waqf property at a higher value rate than the current value. (3) The buyer pays the purchase money of the waqf property with the value that has been set to MAIWP. (4) MAIWP buys new waqf assets in the form of three units of three-storey terrace houses and rents out the assets. (5) MAIWP obtains profit from the sale of waqf property with a higher value as well as rental income in cash and is used as a cash waqf fund.

This study carries two major implications on practice and society, where from a practical point of view, the comprehensive istibdal method guidelines provided by MAIWP can be emulated by other states. It can standardise good standards in the implementation of istibdal on all waqf property. The absence of clear guidelines on the implementation of istibdal waqf property can lead to non-standard istibdal implementation and affect waqf property. In addition, the initiative played by MAIWP in implementing the istibdal method on waqf properties can be emulated by other waqf management because there is waqf management that only implements istibdal when it involves the acquisition of waqf land by state authorities alone. Similarly, the policy of MAIWP in generating waqf cash funds through the istibdal method is great to be emulated by other waqf administrators.

In addition, there are also great implications for a society, where when the waqf property can be developed, it can provide great benefits to the needy as well as increase funds for the welfare of Muslims through rental income, investment, development and so on. This certainly can fulfil the purpose or maqasid of a waqf property allocated by Islamic law. In addition, the progress and significant impact on waqf property can provide a high indicator of the efficiency of an organisation in managing waqf property. This can indirectly attract the public, especially the rich to always fulfil the welfare through the waqf mechanism and share wealth to the needy.

Conclusion

This study was conducted to examine the factors and generation of cash waqf funds by implementing istibdal waqf property in the Federal Territory. This study was implemented based on the problems of previous studies stating waqf property could not be developed due to lack of cash funds. Thus, this study will explore the factors for the implementation of istibdal waqf property and

see to what extent the istibdal method can generate cash waqf funds in the Federal Territory.

The results show that there are two factors in the implementation of istibdal waqf property in the Federal Territory, where the first factor is due to the initiative taken by MAIWP to develop waqf land that is not strategic, small and uneconomical. While the second factor is the acquisition of waqf land by PBN. The first factor has generated a high cash waqf fund for MAIWP in terms of profit from the sale of waqf property that has been implemented istibdal as well as rental income from waqf buildings that have been replaced. While the second factor has not yet generated funds because MAIWP is still planning to buy new waqf property instead. However, MAIWP plans to buy a new building for rent where the rental proceeds will be put into the mosque trust account, which is also the beneficiary of the waqf.

The results of the study also show that the implementation of istibdal implemented by MAIWP has obtained permission from the Federal Territory Fatwa Committee. This shows that the Fatwa Committee is open in referring to other sects other than the al-Shafi'i sect, which is known for its strict stand in the issue of waqf istibdal. Hence, this alternative allows waqf properties to continue to be maintained and expanded for the benefit of the Muslim community.

Limitation and recommendation

This study has a limitation that only examines the factors and the generation of cash waqf funds through the implementation of istibdal in the Federal Territory. Thus, this study can be expanded to other states such as Terengganu, Kelantan, Penang, Sabah and others. In addition, this study only interviewed the officers who manage the affairs of waqf property, which then required the next study to expand the scope of respondents by interviewing parties who specialise in fundraising. Thus, the findings and the best waqf fundraising methods can be further diversified.

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