

# Stakeholders' Involvement in Organisational Governance Structure of State Islamic Religious Council

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## Abstract

The State Islamic Religious Council (SIRC) is to advise the Sultan on all questions concerning Islam in the state. In this study, we raise three research questions – how are the works' of (SIRC) organised? who are the people that become board member of SIRC? and does the organisational governance structure follow the best practices? Hence, the objective of this study is to examine the involvement of stakeholders in preserving their interest in SIRC. By examining the Federal Constitution of Malaysia, selected state law and selected web of SIRC, the results of this study are: first, the constitution provides the separation of power for each layer of government in relation to revenues; second, the hierarchy within SIRC has identified each job, its function and where it reports to within SIRC; and third; the sample of SIRC has adopted differently the organisational structure.

*Keywords:* Organisational Structure; Public Entity Governance; Baitulmal Fund; SIRC,

## 1.0 INTRODUCTION

We open our discussion by looking at the definition of two main keywords - organisational structure and public entity governance. Organizational structure is defined as allocation of roles and responsibilities and hierarchy inside the organization (Mintzberg, 2003) & (Crossan, Fry, & Killing, 2004). Public entity governance is a system, by which organizations are directed and controlled (International Public Sector Study, 2001). It refers to regulations and guidelines defining rights and responsibilities of key stakeholders: government, directors, regulators, auditors, and communities. We put it simply that organizational structure is about how the work is organized inside the organization and public entity governance is about regulations for management to follow to ensure preserving stakeholder interest. Therefore, governance ensures that everyone in an organization meets reasonable and open decision-making procedures, and that all stakeholders' interests are considered.

The State Islamic Religious Council (SIRC) as an organization is authorized to create a Baitulmal Fund (Ismail, 2021). Baitulmal Fund is an account that consolidate the funds from different revenue sources and charges on this fund are utilised for different purposes. Therefore, the State requires SIRC to act in the public interest, to maintain justice, to promote Islam, and to redistribute wealth.

The extent to which the state should rule SIRC's affairs depends on the needs of the people. Sometimes larger government involvement may be needed and sometimes only a few (Ferguson, 2019) & (Arora & Chong, 2018). The State controls over an SIRC is not necessary, but it is responsible for providing social security (if it is necessary) to ensure that the basic needs of the population are met.

How does the state-people relation be established in fulfilling the roles? The state has the administrative tools – such as an improvement in the law and revenue administrations and also law enforcement. The people want a greater involvement in public entity organisation, at least for some reasons that they can fulfil their tasks as a good manner citizen. Therefore, in order to empower the relation, government need to improve governance.

The study tries to identify who are the people that become board member of SIRC that whom they represent. How do the works is organized in this organization? The objective is to answer the involvement of stakeholders in preserving their interest as they are very much linked to the SIRC. The involvement is important in the context that the view of stakeholders is crucial in looking at the effectiveness of the organizational structure.

The discussion of this study will be divided into four sections. Section two will discuss on the constitutional rules that administer the Baitulmal Fund. Section three will highlight the organisational governance structure. The aim is to identify the presence of hierarchical structure - any work, its role and where within SIRC it reports. Section four presents the conclusions.

## **2.0 SIRC – ADMINISTRATOR OF BAITULMAL FUND**

There are three layers of government, namely federal, state, and local government that are practiced in Malaysia. The constitution provides the separation of power for each layer. The state shall have the power of administering the religion of Islam, the creation and authority of the Shariah courts, and the establishments and functions of the SIRC and the establishment of the Baitulmal Fund, as set out in the Administration of the religion of Islam Enactment. In this section, we will only highlight the last two.

Functions – the principal purpose of the setting up of the SIRC is to advise the Sultan on all questions concerning Islam in the State. After the enactment has gone through several amendments, the State is given the power to administer the List II of the Federal Constitution. In addition, Part VI of the Enactment of 2003 states that the State via SIRC needs to establish the account known as Baitulmal Fund that comprise of zakat, fitrah, Baitulmal or other Islamic Religious Revenues (henceforth Baitulmal Fund). The intervention tools of Islamic Religious Revenues are aimed to empower the Muslims. The empowerment can be achieved thorough the following functions: First, the economic and social development of the Muslim community in the state consistent with Shariah principles should be promoted, stimulated, encouraged and undertaken. Second, to carry out economic activities, especially the production, manufacture, assembly, processes, packaging, grading and marketing of products, by commercial and industrial enterprises.

Third, to encourage the exercise of some economic and social activity, including financial assistance by loan or otherwise with other organisations or individuals. Fourth, to perform all other functions, in conjunction with other bodies or any other individual, including, as managing agent or otherwise on behalf of the State Government, the department or authorities of the Federal Government or any State government. Fifth, to invest in any investments approved under the Act

1949 of the Trustee [Act 208] and disposing the investment under the circumstances as may be determined by SIRC. Sixth, to establish some scheme to provide higher education loans from Baitulmal to Muslims. Seventh, Islamic schools and Islamic education and research institutes must be established and maintained. Eighth, the home for orphans to be set up, maintained and managed.

In an effort to perform such function, SIRC has been given a power to establish corporation and companies. For example, in Selangor, the Council establish several agencies such as Lembaga Zakat Selangor, Perbadanan Wakaf Selangor, Kolej Universiti Islam Antarabangsa Selangor, Baktisuci Holdings, Yayasan Islam Darul Ehsan and Teras.

Baitulmal Fund – is a term used in many countries with the political systems from the Westminster system to describe the government key budget, which is known as the "consolidate fund" or "consolidated revenue fund" (both the Federal Consolidated Fund and the State Consolidated Fund).

**Table 1:** List of Revenues under Fiscal Federalism

List of Revenues in Consolidated Fund* and Baitulmal Fund					
Federal Consolidated Fund		State Consolidated Fund		Baitulmal Fund	
Revenue Account		Revenue Account		Fitrah	
	Tax Revenue		Tax Revenue	Zakat	
	Non-Tax Revenue		Non - Tax Revenue		Income
	Non-Revenue Receipts		Non-Revenue Receipts		Business
	Revenue from Federal Territories				Property
Loan Account					Savings
	Loans				Shares
	External Assistant				Agriculture
Trust Account					Gold/Silver
	Government Trust Fund			Baitulmal	Faraid
	Public Trust Fund				Will
	Deposits				Hibah
					Property Surrendered
					Halal Certificate
					Fines and Penalty
					Other Revenues
					Interest
					Fidyah
				Waqf	Waqf Share
					Rental
					Other Revenues

\* Consolidated Fund as defined in Part VII Financial Provisions, Federal Constitution, Laws of Malaysia.

The Federal Consolidated Fund was constituted under Article 97(1) of the Federal Constitution of Malaysia. The Federal Consolidated Fund is so named as it consolidates a number of existing accounts, detailed in Table 1, and facilitates proper parliamentary oversight of the spending of the executive. It is defined as a Fund to which any source of public income will flow and from which every service will be provided. The federal government receives all revenues from direct taxation and indirect taxes (consolidated revenue account), the funds it borrows and collections from government loans (consolidated loan accounts), the development trust fund (consolidated trust account).

All Budget spending from this fund is included in Table 2, with the exception of extraordinary items met by the Public Account or Contingency Fund. Most importantly, without the consent of Parliament, no money can be revoked from this fund.

According to Article 97(2) of the Federal Constitution of Malaysia, the State consolidated fund was created. The State income registry does not compete with the Federal government's own income list. The costs on the Fund, however, are same.

Baitulmal Fund, that is inherited from the State of Johor, is created under the fiscal federalism system. All revenues received by SIRC whether of zakat, fitrah, waqf, Baitulmal or other similar Islamic Religious Revenues, as presented in Table 2, are entered into Baitulmal. Any expenditure, as reported in Table 2, which are to be met from the Baitulmal must be guided by Al-Quran and Al Hadith. In the case of the Federal Consolidated Fund and the State Consolidated Fund, the law mentions clearly in the articles of Federal Constitution. Hence, Baitulmal Fund is an account that consolidate the funds from different sources and charges on this fund are utilised for different purposes.

**Table 2:** List of Expenditures under Fiscal Federalism

List of Expenditures in Consolidated Fund* and Baitulmal Fund					
Federal Consolidated Fund		State Consolidated Fund		Baitulmal Fund**	
Operating Expenditure		Operating Expenditure			
	Emolument		Emolument	Zakat	Fakir
	Supplies and Services		Supplies and Services		Miskin
	Assets		Assets		Amil
	Grants and Fixed Charges		Grants and Fixed Charges		Muallaf
	Other Expenditure		Other Expenditure		Riqab
Development Expenditure		Development Expenditure			Gharimin
					Fisabilillah
					Ibnu Sabil
				Baitulmal	Emolument
					Development Expenditure
					Supplies and Services
					Maintenance and Repair
					Professional Service
					Contributions, Grants and Fixed Payments
					Other expenses
				Waqf	Maintenance and Repair
					Professional Services and Honorarium
					Contributions, Grants and Fixed Payments
					Other expenses

\* Expenditure charged on Federal Consolidated Fund, Part VII Financial Provisions, Federal Constitution, Laws of Malaysia.

\*\* We use the Selangor State Religious Council as our reference

The Comptroller (who is both auditor general and head of the national audit office), it manages both the Federal Consolidated Fund and the state consolidated Fund, and the Baitulmal Fund. The auditors shall also cover the authorization of each payment issued from the treasury by the Bank for the purpose of ensuring that the request complies with the sums and uses approved

in the statutes of the Parliament or State Assembly. Only one of the main accountants (from each fund) specified by statute can be given payments by the Consolidated Fund.

### 3.0 A REVIEW ON ORGANISATIONAL STRUCTURE AND GOVERNANCE

The question that is normally asked in relation to an organizational structure of a SIRC is: What does it take for organization to be successful in managing Baitulmal Fund? This question has multiple responses. Some argue that it has an effective mission; others claim that it offers a service that is good for customers. In the end, the organisational structure of an organisation contributes to performance.

Looking at the provisions in the Enactment of selected sample that comprises the state of Johor, Kedah, Penang, Selangor and Federal Territories, each job, its function, and where it reports within SIRC shall be defined by the SIRC hierarchy. There is how SIRC operates to execute its goals. In this section, by referring to this sample, we will discuss the important subjects – the board and organisational structure.

#### 3.1 The Board

SIRC member’s (henceforth the board) main purpose is to ensure SIRC’s prosperity by collectively directing SIRC's affairs, while meeting the appropriate interests of its stakeholders. The discussion in this section will cover on what would be the indicators of good practice, as presented in Table 3, that can help the Council reflect on how they can fulfil those tasks.

**Table 3:** SIRC Member\*

	Chairman	Deputy Chairman	Ex-officio Members	Other Members
Elected by	Sultan	Sultan	-	Sultan
Qualification	-	-	i. State Secretary; ii. State Legal Adviser; iii. State Financial Officer iv. Mufti v. Chief of State Police	At least five of whom – learned in Hukum Syarak
Tenure	3 Years	3 Years	-	3 Years
Religion	Islam	Islam	If the current holder of (i), (ii), (iii) and (v) is not Muslim, the next in seniority from the same Department to be a member in place of that person.	-
Termination	Yes	Yes	Yes	Yes
Revocation	Yes	-	-	-

\* Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003

**Board Composition** – The Board has been around for a long time. Overtime, when the changes was made on the enactment, the membership of the Board also changes. As the current enactment, as presented in Table 3, the Board consists of: (i) a Chairman, (ii) a Deputy Chairman, (iii) ex-

officio; and (iv) other members. The Chairman, Deputy Chairman and other members are appointed by His Royal Highness the Sultan.

**Table 4:** Board Composition of SIRC

	Johor	Kedah	Selangor	Penang	Federal Territories
Chairman	EXCO in Charge of Islamic Affair	Yes	Yes	Yes	Yes
Deputy Chairman	Director of Islamic Religious Department/CEO	Yes	Yes	Yes	Yes
Ex-officio					
	State Legal Adviser	State Secretary	State Secretary	State Secretary	Chief Secretary
	State Financial Officer	State Legal Adviser	State Legal Adviser	State Legal Adviser	Attorney General
	Mufti	State Financial Officer	State Financial Officer	State Financial Officer	Commissioner of the City of Kuala Lumpur
	Deputy Mufti	Mufti	Mufti	Mufti	Mufti
	Chief Qadhi	Chief Sharie Judges	Chief Police Officer	Chief Police Officer	Inspector-General of Police
	Chief Assistant Director of Religious Education	Secretary			
Other members		Yes, but the number is not stated	Not more than eight other members, at least five of whom shall be persons who are learned in Hukum Syarak.	Not more than eight other members, at least five of whom shall be persons who are learned in Hukum Syarak.	Fifteen other members, at least five of whom shall be persons learned in Islamic studies.
Secretary	CEO			CEO	
Women	20 member – 2 are women	14 members – none is women		15 Member – 2 are women	22 member: 2 are women

The information about the members' backgrounds and qualifications are normally provided in the annual report. We expect the results are vary among the states. However, the information is not reported. It should be reported in the annual report. Because of people, scholars, regulators, and other people interested in issues of the board composition have been a controversial subject - as well as in boardrooms.

On the other hand, many organizations are pressured to examine the structure of their boards by continuous policy reforms, by input from the citizens and allies, and by organizational paradigm challenges. The membership of the Board is highly significant – one of the most important components of the administration of an organisation. This is a subject that academics, politicians, regulators, and standard-setting bodies have highlighted on the board agenda. The structure of the board consists of several sections. The Board's agenda will focus on skills and qualifications, freedom, diversity, tenure, and refreshment.

**Skills and qualifications** - The qualification of a member to serve on a board is crucial. For several years the rules of the Securities Commission (SC) mandate the disclosure in the form

of the five-year work history of biographical directorial material. The regulations also require companies to "discuss briefly the relevant expertise, credentials, characteristics or qualifications that lead to the decision that the employee should act as director. In general, this disclosure of "skills" comes in a brief paragraph or a sequence of bullet points accompanying the biographical details of each director and showing what the individual brings to the board, such as expertise in Islamic studies: international, management, entrepreneurial, business or financial skills or other kinds of experience. By looking at the website of selected SIRC, none of SIRC has disclosed the above information. Based on the list of ex-officio, they have skills in legal, administration, and knowledge in Islamic studies, but they do not have knowledge and experience in business and entrepreneurship, and also subject matters and policy on socio-economic. Despite this expanded disclosure, we may ask on how members of the board have been selected.

**Independence.** Independence is another key attribute of board composition. In the exercise of their supervisory duties, Boards are required to be involved and responsible trustees. It is essential that the SIRC should rely on its boards' independent judgement. Independence encourages Members, without conflict of interest or unnecessary interference from interested parties, to be impartial and to determine the success of the Council. The Corporate Governance Blueprint 2011 published by Security Commission suggests companies to have a one third of independent directors.

The data presented in Table 4 shows that the Chairman, Deputy Chairman and Ex-officio represents the government. The other members, which comprise more than half, are choose by SIRC. It shows some degree of independent.

The Blueprint also suggest that the Board must undertake an assessment annually on the independence of the Board member. The assessment should be based on a set of criteria established by the Board. Because the independence criteria evolve overtime as additional requirements. Hence, a new set of criteria need to be introduced. Subsequently in the proxy process of the Council and the annual report, the Board shall disclose that such an evaluation was performed.

Another factor is that the Board members' independence may be challenged by citizens when past decisions have gone awry. One challenge has been independence without industry experience. An independent board lacking industry experience may not have the ability to effectively question and challenge management.

Another issue is that, while a participant may satisfy the individuality needs of the SC, he or she may not be autonomous in thinking and acting - i.e. unable to criticise management, asking challenging questions (due to different grade levels) and receiving adequate responses - attributes that are difficult to measure. The role of a member that involves independent directors with proper experience in the field, willingness to ask difficult questions, and challenge management continues to be emphasised by citizens.

**Tenure and refreshment.** In the listed firms, investors are pushing companies gradually to renew their boards, that is, to add new members of the board. Many companies and boards of directors have been addressing this subject for a very long time and its effect on the overall structure and discretion of the Board. Research done by Stanford Graduate School of Business finds out that board tenure for the Government Corporations in the United States on average stood at seven years (Larcker, & Tayan, 2011).

The ex-officio may hold his or her position for more than 7 years. For example, the States which implement a close service, the tenure may last for more than seven years.

One option is to introduce compulsory retirement policies depending on age. The same study report that: (i) average mandatory retirement age is 72, (ii) directors tend to retire voluntarily, and (iii) only 2 percent of directors who step down are dismissed or not reelected. In other words, if the director's retirement age limits keep rising, the young board members could not be slotted in.

A second option is to introduce term limits. Bank Negara Malaysia has recently revised the Shariah governance framework with a requirement that a nine-year cap for a single Islamic financial institution would be imposed on all the Shariah Committee.

Enhanced board evaluation processes – it is proposed in particular that this mechanism (in particular individual member assessments) provides a beneficial third method for approaching Board tenure and refreshment. Evaluations by the Board provide a means of measuring the board's efficacy. The nomination and remuneration committee should monitor the Board and management assessment and do a self-evaluation with each of the committees. In addition, an evaluation of each member (for example a 360-degree evaluation) is important determinant for board tenure.

Over time, improved education and orientation programs will lead to a sense that membership in boards is not expected to be a life-time position, and that potentially rigorous self-evaluations of members will also make them more respectful and allow members to know that it is time to go.

The moral suasion can be extended to board refreshment, in the absence of such or any other development. If every member serving more than nine years has a policy, the independence is compromised.

Alternative approaches may be developed by the SIRC. Some SIRCs will pledge to maintain average membership at a defined level and ensure that efficient members of the committee are able to stay on the board as long as the average membership by appointing new directors remains appropriate. In other situations, SIRC can offer that it meets the state government for a long-tenured; that kind of member commitment will assure the director that the board of directors is responsive, articulate, and capable to provide value – and SIRC stakeholders.

**Diversity** - The subject of diversity is the "Newest" important consideration in the assessment of board composition, unlike the requirements mentioned above. "Diversity" can be described in a number of ways, similar to skills and qualifications. Diversity of thought (example beyond the Shafie School) and action, as well as gender, race, and generational diversity, as discussed above.

The Boards of Directors will be greatly supported by legislation that requires boards to have defined minimum numbers of women in many countries, including Norway, France, Spain and Sweden. Currently, the number, as presented in Table 4, is quite small.

Traditionally, many companies have tried to choose current or former CEOs. According to the Board Governance Handbook (Leblanc, 2020), this tradition continues, reporting the first three points on the wish list for new directors: A lower percentage of CEOs are women, minorities and young generations, because they are not part of the traditional Board candidate population.



The Board will support the identification of talents and skills that link with developments that shape industry, such as technology, globalisation, asnaf needs, business strategy and fiscal policy.

### **3.2 Organisational Structure**

There are many types of organizational structures – a traditional functional structure, divisional structure, matrix structure and flatarchy structure (Crossan, Fry, & Killing, 2004). Each organizational structure comes with different advantages and disadvantages and may only work for organizations in certain situations or at certain points in their life cycles. But, one thing to note, the poor organizational design and structure lead to inconsistency in the tasks: confusion in roles, lack of functional teamwork, inability to exchange ideas and inefficient decision-making add needless difficulty, tension and confrontation to managers (*Management Principles*, 2012).

The functional structure is based on the division of an organisation into smaller units with particular responsibilities or roles. For example, SIRC of Selangor and the Federal Territories adopts this structure as seen in Figure 1 and Figure 2, respectively. SIRC may have a development and investment working group, Baitulmal, development of human resources, finances, administration, and Information Technology.

Each department has a director or manager who answers a hierarchical manager who can supervise several departments. One example is a managing officer who oversees the marketing department and answers a vice president responsible for marketing, finance, and IT.

A benefit of this structure are the combined skills and functions that allow workers to concentrate their collective energy on performing their departmental duties.

The lack of interdepartmental coordination is one of the challenges of this arrangement and the main problems and debates take place at the management level of each department. For example, one project department can have different requirements or specifics for its particular job which may lead to problems along the way.

In addition, with groups paired by job function, there is the possibility employees can develop “tunnel vision” — seeing the company solely through the lens of the employee’s job function.

SIRC may also follow other structures as each SIRC is different and there is no ideal organisational structure, but SIRC is ideally suited to one form of organisational structure.

Figure 1: Organization Chart of Selangor Islamic Religious Council

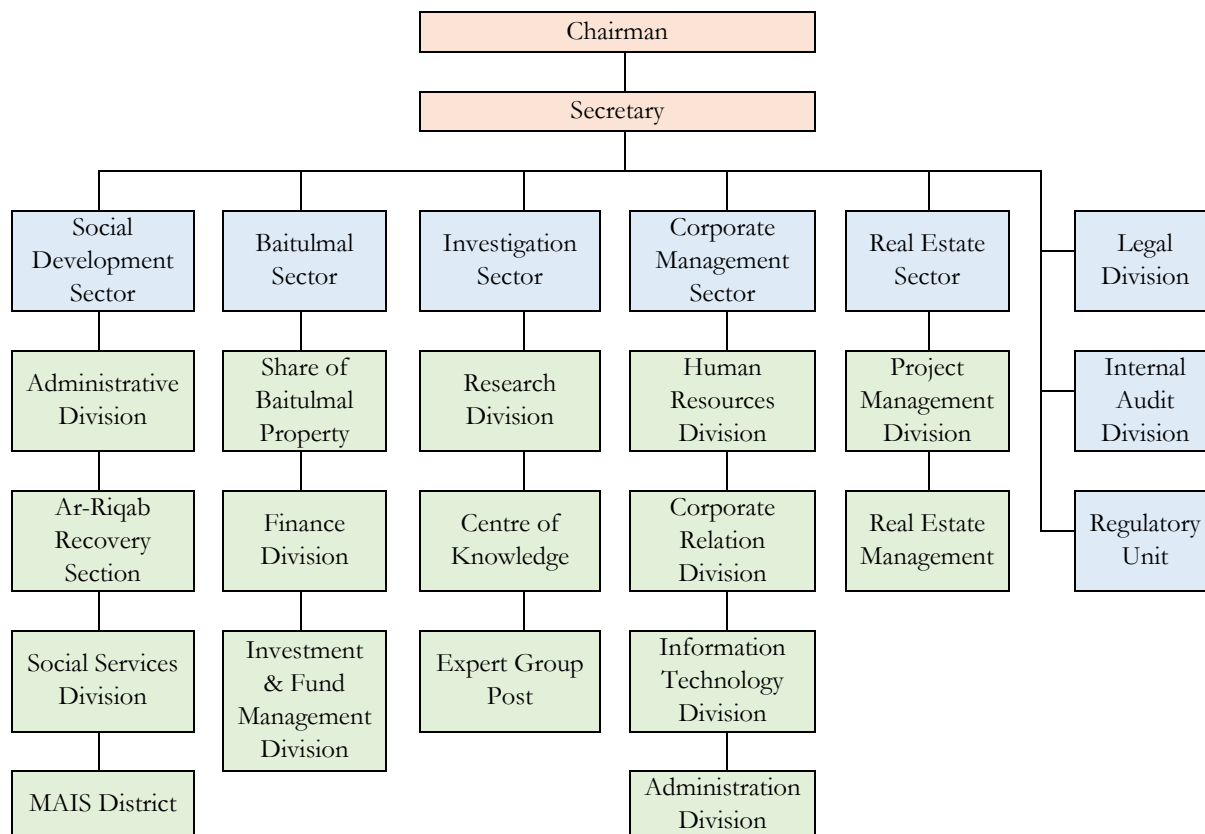
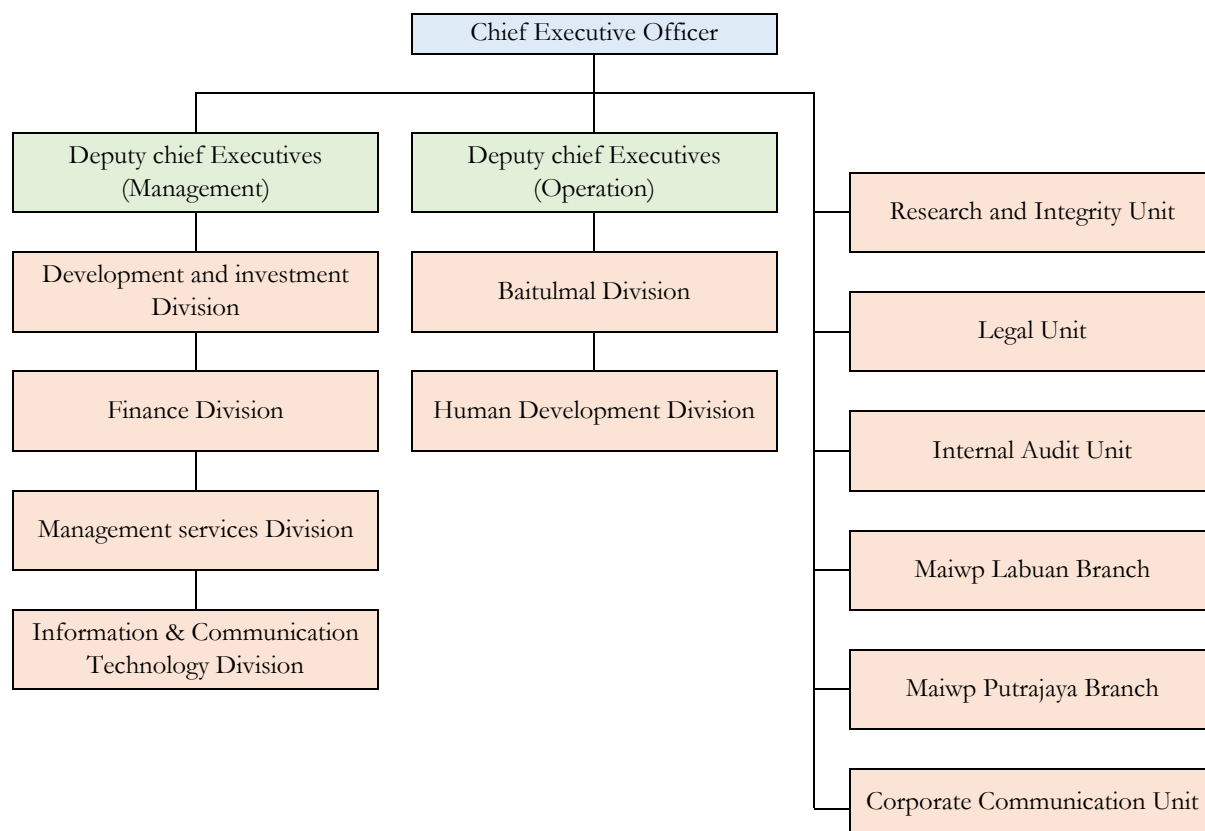


Figure 2: Organization Chart of Federal Territories Islamic Religious Council



### 3.3 Governance

Governance is a term commonly used to refer to how public institutions and private companies conduct their affairs and manage resources. It covers the process of decision-making as well as the processes by which decisions are implemented.

The best practices of governance incorporate many different aspects of board work. The board is responsible for setting up the governance framework as guided by the governing law (Row two, Table 5). The framework covers the overall governance and strategic direction of the Council. It means that the Board’s role is delivering accountable organizational performance in an organizational relationship. This includes compliance in all reporting on organization’s activities such as shariah compliant, monitoring and supervising, and transparency and accountability.

The good practice in good governance focuses on transparency and responsibility. Information disclosures and transparent processes of decision-making enable residents and other stakeholders to examine decisions and keep the Council to account. Transparency and accountability are a fundamental component of corporate ethics and consider it as a key principle of good governance best practise. Currently, as shown in Row three Table 5, the decision-making process is finally approved by the Ruler. The account should be audited by the Auditor General (Row 4, Table 5) and become a gazette document to be scrutinized by the citizens.

**Table 5:** Some Examples of Best Practice of Governance

	Federal Consolidated Fund	State Consolidated Fund	Local Council Fund	Islamic Religious Fund
Governing Law	Federal Constitution	State Constitution	Local Government Act	State Religious Administration Enactment
Estimate of Expenditure	Presented in Parliament	Presented in State Legislative Assembly	Presented in Special Meeting	Presented to Ruler
Audited Account	Auditor General	Auditor General	Auditor General	Auditor General

The focus of transparency should also look at the following areas: First, beneficiaries – the basic needs - food, housing or shelter, education, health and clothing or textile sectors - have an extraordinary potential to contribute to economic and social development, especially in the context of good policies and governance structures. The lives of communities should be transformed for good. In order to achieve the maximum potential contribution of these sectors to sustained economic and social development, cooperation between the government, the company and community is needed.

Second, revenue and expenditure transparency. Calls for SIRC to disclose the zakat, zakat or other Islamic religious revenues they contribute to SIRC began in the mid to late 1990s. The disclosure is also required for expenses from Baitulmal Fund. The aim is to allow citizens to hold SIRC to account for the money or in kind being paid to them or utilize from them.

In some cases, huge amounts of money or in kind were contributed by citizens in Islamic religious revenues but the host state remained impoverished - and those living in the state saw few, if any, tangible benefits. By disclosing Islamic religious revenues receipts, it empowers citizens of resource-rich states to ask difficult questions of their SIRCs as to where the money has gone, what it has been spent on and who has benefited. This helps to crack down on SIRC mismanagement

and corruption and provides a useful catalyst for citizens to understand how the sectors who provide basic needs can genuinely help social and economic development in their state.

In executing the governance framework, the board faces the dilemma between compliance and performance. The board normally tries to move the organization forward, and makes plans for its future. For this reason, the framework mandates that the board monitors performance, and develops strategies to improve performance. However, at the same time, the board must look at: Is management following the board's plans for the organization? Are activities that carry risk with them being carefully managed? The board must therefore appoint the CEO and approve the other top managers - this involves both performance and risks.

The properties and activities of the company are essential to conform with Sharia law and domestic policy, but also to be subjected to unnecessary risk by adequate risk control in order to manage efficiency. The concentration on the success and enforcement areas of both boards and their members which cause opposing stresses. These responsibilities must be balanced by the Board and the risk level must be identified, assessed, and managed accurately and attentively

## 4.0 CONCLUSION

The objective of this study is to examine the involvement of stakeholders in preserving their interest in SIRC. By examining the Federal Constitution of Malaysia, selected state law and selected web of SIRC, the results of this study are: first, the constitution provides the separation of power for each layer of government in relation to revenues; second, each job, its function and where it reports in SIRC has been defined by the SIRC Hierarchy; and third; the sample of SIRC has adopted differently the organisational structure. The future research should be looking at very stringent disclosure requirements and the best practice of public entity governance.

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