

EXPLORING THE ISSUES OF ABANDONED HOUSING PROJECTS IN MALAYSIA: INVESTIGATING ISLAMIC URBAN DEVELOPMENT PLANNING AND CONSTRUCTION LEGAL PRINCIPLES

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ABSTRACT

The principles of Islamic urban development planning and construction legal principles, deeply rooted in the al-Quran and al-Sunnah of the Prophet Muhammad (PBUH), hold immense potential. They emphasise the responsibility of doing good, ensuring public welfare and sustainable development, and preventing evil. Despite the persistent issue of abandoned housing projects in Malaysia, Islamic urban development planning and construction legal principles offer a beacon of hope. However, the current legislation governing the housing industry in Malaysia has fallen short of protecting buyers' rights and interests against abandoned housing projects, highlighting the urgent need for alternative solutions. This paper aims to demonstrate how the principles of Islamic urban development planning and construction can effectively deal with and meaningfully mitigate the negative consequences of such projects. By doing so, they safeguard the rights and interests of buyers involved in housing development. The urgency of the issue is clear, and immediate action is needed. The research methodology employed in this paper is purely based on Islamic legal doctrinal methodology. The findings indicate that Islamic urban development planning and construction legal principles can indeed protect the rights of the public, including buyers, against occurrences of abandoned housing projects and their negative consequences. With its fresh perspectives and potential solutions, this paper represents a significant and impactful contribution to legal literature. It can provide valuable insights and perspectives for policymakers in dealing with the issue of abandoned housing projects in Malaysia.

Keywords: *Islamic Urban Development Planning and Construction Legal Principles, Abandoned Housing Projects, Issues.*

INTRODUCTION

Humans were sent to earth to act as the vicegerents of Allah SWT. Their purpose on earth is to serve Allah, fully submit to Him, and follow His commands. They are duty-bound to develop and flourish on earth in accordance with Allah's wishes and commands. By following Allah's command, they will be rewarded and will enter paradise in the Hereafter.

This fact is supported by several verses of the Quran, namely:

- 1) Behold thy Lord said to the angels: "I will create a vicegerent on earth." They said, "Wilt thou place therein one who will make mischief therein and shed blood? Whilst we do celebrate Thy praises and glorify Thy holy (name)?" He said: "I know what ye know not." (al-Quran verse 30, Sūra 2: Baqara, or the Heifer)(Abdullah Yusof Ali, n.d.)
- 2) It is He who hath made you (His) agents inheritors of the earth: He hath raised you in ranks some above others: that he may try you in the gifts He hath given you: for thy Lord is quick in punishment: yet He is indeed Oft-Forgiving Most Merciful. (al-Quran verse 165, Sūra 6: An'ām, or Cattle (Abdullah Yusof Ali, n.d.).
- 3) I have only created Jinns and men, that They may serve Me. (al-Quran verse 56 Sūra 51: Zāriyāt, or the Winds that Scatter (Abdullah Yusof Ali, n.d.).
- 4) God hath promised to Believers, Men and women, Gardens Under which rivers flow, to dwell therein, And beautiful mansions In Gardens of everlasting bliss. But the greatest bliss Is the Good Pleasure of God: That is the supreme felicity. (al-Quran verse 72 Sūra 9: Tauba (Repentance) or Barāat (Immunity)(Abdullah Yusof Ali, n.d.).

Abandoned Housing Projects in Malaysia

Abandoned housing projects have been occurring in Malaysia since the 1970s after the government opened up the private sector to collaborate with the government in providing housing for the people. Initially, this responsibility was solely the government's. However, due to a lack of funds experienced by the government and an upsurge in housing demand, the government had to involve the private sector. This was also the policy in Singapore. Following the enactment of Singapore's Housing Developers Act to regulate the housing industry, which was initiated by the private sector, a similar act known in Peninsular Malaysia as the Housing Developers (Control and Licensing) Act 1966 (Act 118) was passed by the Malaysian Parliament to address the same need. Despite the enforcement of this governing law, a new issue emerged – abandoned housing projects. This problem continues to persist today without a successful and meaningful resolution. The losses, suffering, and grievances of the affected buyers are not being addressed legally and fairly. Consequently, their problems stemming from abandoned housing projects are irreparable.

The problem of abandoned housing projects continues in the Malaysian housing industry due to a shortage of funds on the part of housing developers. The author identifies three main reasons for housing abandonment in Malaysia. Firstly, there is no mandatory requirement for housing developers to follow the "build-then-sell" construction model. Additionally, there is no requirement for housing developers to have housing development insurance before commencing construction. Lastly, there are no specific statutory and legal provisions governing the rehabilitation of abandoned housing projects. As a result, millions of homebuyers have become victims of abandoned housing projects, with no legal protection or remedy to safeguard their rights and interests, leading to irreparable losses, sufferings and grievances (N. H. Dahlan et al., 2011; N. H. M. Dahlan, 2007, 2011; N. H. M. Dahlan & Aljunid, 2011).

OBJECTIVES

This writing aims to highlight Islamic perspectives on urban development planning and construction regarding abandoned housing projects. It will also elaborate on policies and ideas for resolving the issues surrounding abandoned housing projects. This discussion will identify

specific ideas and show how Islamic urban development planning and construction law can offer policies and ideas to address these problems.

RESEARCH METHODOLOGY

The paper's methodology involves a doctrinal analysis of Islamic urban development planning and construction law. The sources for this analysis are the al-Quran, al-Sunnah, Ijma', Qiyas, and rulings issued by various Islamic jurisprudence schools. By utilising these sources, the paper aims to provide knowledge and understanding of Islamic urban development planning and construction law and its legal policies. The focus is on how Islamic urban development planning and construction law addresses issues related to abandoned housing projects to ensure justice and fairness for society and stakeholders. Information on abandoned housing projects is collected from primary and secondary sources such as statistics, official reports, case law, journal articles, and other literature sources. It is argued that utilising multiple data sources and analyses improves the validity and reliability of the research (Silverman, 2005, 2017; Yaqin, 2007; Yin, 1994, 2014).

ISLAMIC VIEW ON DEVELOPMENT PLANNING AND BUILDING PRACTICES

Planning is also a part of Islamic teachings. While there is no direct mention in the al-Quran and al-Sunnah of land development planning, this principle is implicitly present in both sources. The purpose of land development planning, like other good deeds in Islam, is to perform ibadah (worshipping God) in a broader sense and to serve the *maqasid al-syariah* – the objectives of shariah (the five interests: religion, self, wealth, intellectual or mental strength, and progeny or human dignity/lineage) for the benefit of the public. Allah says in the al-Quran:

واعبدوا الله ولا تشركوا به شيئاً وبالوالدين احساناً وبذي القربى واليتيمى والمساكين والجار الجنب والصاحب الجنب وابن السبيل وما ملكت ايمانكم ان الله لا يحب من كان مختالاً فخوراً.

“Serve God and join not any partners with Him: and do good to parents kinsfolk orphans those in need neighbours who are near neighbours who are strangers the companion by your side the wayfarer (ye meet) and what your right hands possess: for God loveth not the arrogant the vainglorious”
(Quran verse 36 Sūra 4: Nisāa, or The Women (Abdullah Yusof Ali, n.d.).

Good planning is a means to achieve an objective and should never be the objective itself. The rules and practices of planning should be designed to assist individuals in fulfilling their noble mission in this life (Omer, 2005). While being a means (good planning), appropriate planning, including land use, housing, building, and general development, is essential for achieving the *maqasid al-shariah* (objectives of Islamic Law). Without it (good planning), the failure to achieve the underlying *maqasid al-shariah* objectives would result. Therefore, good planning becomes an obligatory duty for the Muslim public or government to provide.

It is important to note that modern experts still have an unclear and incomplete understanding of the principles for planning and related subjects like urban design and the built environment. This is partly because these principles need to adapt to changing needs and cover various aspects of human life such as socio-economic, transportation, land, environment, and planning. The development of these principles is also being influenced by the goals set out in the Sustainable Development Goals (SDGs) by the United Nations (2012-2024 United Nations

Human Settlements Programme, 2024; Sarkawi, 2006; *The Global Challenge for Government Transparency: The Sustainable Development Goals (SDG) 2030 Agenda*, 2024)

Ibnu Khaldun emphasised the importance of proper planning, especially when building a city. This is because a city encompasses dwellings, government and private agencies, business and administrative centres, and shelters. Therefore, planning is necessary to effectively address any harmful factors arising from human activities or natural forces in both the short and long term. Planning involves surveying and selecting the city site. Well-planned cities contribute to the establishment of sustainable civilisations (Khaldun, 1958). Additionally, there are numerous verses in the al-Quran that urge Muslims to engage in good planning to confront worldly challenges.

وقال بيني لا تدخلوا من باب واحد وادخلوا من ابواب متفرقة وما أغنى عنكم من الله من شيء ان الحكم الا الله عليه توكلت وعليه فليتوكل المتوكلون.

“Further, he said: “O my sons! enter not All by one gate: enter ye By different gates. Not that I can profit you aught Against God (with my advice): None can command except God: On Him do I put my trust: And let all that trust put their trust on Him.” (Quran verse 67 Sūra 12: Yūsuf, or Joseph)(Abdullah Yusof Ali, n.d.).

واعدوا لهم ما استطعتم من قوة ومن رباط الخيل ترهبون به عدو الله وعدوكم وءآخرون ومن دونهم لا تعلمونهم الله يعلمهم وما تنفقوا من شيء في سبيل الله يوف اليكم وأنتم لا تظلمون.

“Against them make ready Your strength to the utmost of your power, including Steeds of war, to strike terror Into (the hearts of) the enemies, of God and your enemies, And others besides, whom Ye may not know, but whom God doth know. Whatever Ye shall spend in the Cause of God, shall be repaid Unto you, and ye shall not Be treated unjustly.” (Quran verse 60, Sūra 8: Anfāl, or the Spoils of War)(Abdullah Yusof Ali, n.d.).

There are multiple instances in the life of the Prophet Muhammad (PBUH) that indirectly emphasised the importance of planning. In the early days of Hijrah in Madinah, planning was not accidental but a result of careful consideration and thought by the Prophet Muhammad (PBUH), endorsed through divine revelations. It was implemented to establish and nurture a coordinated and solidified Islamic society. Planning in Madinah also prioritised the security, safety, and well-being of the people, subtly fulfilling the requirements of the *maqasid al-shariah* (the Objectives of Islamic Law). The result of the Prophet's planning can be illustrated as follows:

- 1) When Prophet Muhammad (PBUH) arrived in Madinah (Yathrib), the first thing he did was establish a central mosque. It served as a place for worship, community gatherings, education, welfare, medical care, and administration for the entire city of Madinah. The strategic location of the mosque symbolised its future role as the central point of the city-state of Madinah. The mosque was simple, made of mud bricks with palm trunk columns and a roof of palm leaves and mud. There were no decorations. The construction included a stone foundation and adobe walls. On the *qiblah* side, there were three porticoes, each with six pillars. At the rear, there was a shelter for the homeless *Muhajirin*. The mosque was about 1.75 meters high. This description is based on the work of numerous scholars (Omer, 2005)

- 2) To build the mosque, Prophet Muhammad (PBUH) ordered the site to be cleared of pagan graves and scattered date palm trees. The graves were dug up, and the trees were cut down. Some of the cut trees were used to build the mosque (Omer, 2005).
- 3) The Prophet (PBUH) emphasised the importance of keeping the mosque in Madinah clean, as cleanliness is part of faith. There was a habit among the people of Madinah to spit and leave phlegm in the mosque without cleaning it up or covering it. The Prophet (PBUH) disapproved of this habit, but he knew that addressing it required patience, wisdom, and gentle guidance. He advised those who did this to scrape off the phlegm and then sprinkle the area with saffron or any other pleasant and fragrant substance. On a few occasions, he even did this himself to show the importance of maintaining cleanliness in the mosque (Omer, 2005).
- 4) The Prophet (PBUH) also encouraged the establishment of other mosques in different parts and suburbs of Madinah to intensify and enhance the people's spiritual transformation and development (Omer, 2005).
- 5) The Prophet's (PBUH) house was located next to the mosque, symbolising his accessibility to the people of Madinah for social services and support. This arrangement aimed to promote unity and prevent conflicts among the diverse inhabitants of Madinah, including the original residents (*Aus* and *Khazraj*), the *Ansar* (helpers), and the *Muhajirin* (immigrants) from Mecca seeking refuge and protection in Madinah (Omer, 2005).
- 6) In Medina, Prophet Muhammad (PBUH) planned for housing accommodations to be built around the mosque, regardless of their simple form, for the people. A house is a necessity for mankind as it provides a place to rest, relax, and enjoy legitimate worldly delights. It also offers privacy, protection, and security. In Islam, the house is considered a place for nurturing faith (*iman*), good behaviour and ethics (*amal solih* and *adab*), as well as learning and education. For instance, when the companion Khalid ibn al-Walid complained to the Prophet (PBUH) about his small house not being able to accommodate his family, the Prophet (PBUH) advised him to build more rooms on the roof and seek abundance from God. Thus, the Prophet (PBUH) himself played a role in designating and marking out many dwellings to ease the lives of the believers in following the commands of Allah on earth (Omer, 2005).
- 7) To foster unity and to eliminate any subversive elements that could harm the newly established Islamic community, the Prophet (PBUH) also destroyed the mosque built by the hypocrites in *Quba*, known as the 'Mosque of Mischief'. Although these hypocrites pretended to promote Islam, they intended to cause harm to the developing Muslim society. In this regard, Allah commented on this in the al-Quran:

“And there are those who put up a mosque by way of mischief and infidelity— To disunite the believers— and in preparation for one who warred against God and His Apostle aforetime. They will indeed swear that their intention is nothing but good, but God doth declare That they

are certainly liars. Never stand thou forth therein. There is a mosque whose foundation was laid from the first day on piety; it is more worthy of thy standing forth (for prayer) therein. In it are men who love to be purified, and God loveth those who make themselves pure. Which, then, is best? —he that layeth his foundation On piety to God and His good pleasure?—or he that layeth his foundation on an undermined sand-cliff Ready to crumble to pieces? And it doth crumble to pieces with him, into the fire of hell. And God guideth not people that do wrong.” (al-Quran, verses 107-109, Sūra 9: Tauba (Repentance) or Barāat (Immunity)(Abdullah Yusof Ali, n.d.).

- 8) To protect the economic interests of the newly established Muslim community in Madinah and to counter unfair business practices and the Jewish monopoly, the Prophet (PBUH) chose a new location for a market near the mosque. The market was around 500 meters long and over 100 meters wide. Additionally, Muslim traders were not required to pay any taxes for doing business there (Omer, 2005).

Development planning was similarly practised during the rightly guided caliphs, the Abbasiyah Empire, and other Islamic empires. Islam permits the borrowing of foreign knowledge and expertise to carry out planning and development for the sake of *maqasid al-syariah* (the objectives of Islamic Law). This is in accordance with a Hadith of the Prophet Muhammad (PBUH), narrated from Abu Hurairah, which says: “The word of wisdom is the lost property of the believer. Wherever he finds it, he is most worthy of it.” (Sunan al-Tirmidhī 2687, Grade: Hasan (fair) according to Al-Suyuti)(Elias, n.d.).

Foreign experts, including craftsmen, engineers, architects, planners, and builders from Constantinople of the Roman Empire, the previous Persian empire, and the collapsed empire of India, were involved in the establishment of various Muslim cities such as Baghdad, Cairo, Damascus, Istanbul, and cities in the Moghul empire. These experts, although non-believers, were invited and hired based on Islamic guidelines approved by the Muslim governments. For example, in the Moghul Islamic empire, Maharaja Awrangzib (d. 1707) instructed a committee to provide a book of reference containing Islamic law, such as *al-Fatawa al-Alamkiriyyah* for the school of Hanafī, for use throughout his empire in India. Similarly, in the Ottoman Empire (Turkey), there was a standardised law known as *Majallah al-Ahkām al-'Adliyyah* (Mejelle), serving as the common civil law code for use in its territory in 1876 (Mahmassani, S., Ziadeh, 1987).

The knowledge and expertise were crucial for the development and success of the Islamic empires. However, their application was subject to the rules of al-Quran and al-Sunnah. Generally, pre-Islamic practices were allowed to be adopted but with modifications based on the guidance of the al-Quran and al-Sunnah of the Prophet (PBUH). For instance, ancient tax (zakat) systems, inheritance rules, dowry rights, the principle of *eddah*, fasting practices, pre-Islamic customary laws of barter and exchange of agricultural products, various contract practices (such as *Mudharabah*, *Musharakah*, *Ijarah*, *Salam*, *Musaaqah* and *Muzara'ah*), customary penal laws, and marriage practices were all scrutinised and Islamised by the arrival of Islam. As a result, some practices were prohibited, while others were allowed with modifications (Bakar, 1997; Wael, 2005).

The policy mentioned above was also reflected in the planning and construction of various important structures, such as the Great Mosque in Damascus, the Great Mosque of

San'a in Yemen, Masjidil al-Aqsa in Jerusalem, Masjid al-Nabawi in Madinah, and Masjidil-Haram in Mecca, as well as hospitals, roads, and other physical developments (Omer, 2005).

During the rule of Caliph al-Walid b. Abd al-Malik, who was one of the Umayyad caliphs, brought in craftsmen from Constantinople and Persia, utilising their technologies and expertise. He himself visited the project sites regularly to conduct inspections and ensure that the work was carried out smoothly and met high-quality standards. He also made sure that the constructions adhered to Islamic teachings (Omer, 2005).

According to Islamic views, only approved planning and building expertise and works were allowed. This is because mankind's purpose is to serve and worship Allah. Mankind is the chosen vicegerent of Allah on earth, responsible for managing and administering it in accordance with Allah's laws. The policy of borrowing others' knowledge, even from non-believers, as long as it can achieve the commandments of Allah, is implicitly established in the teachings of the al-Quran and the Hadith of the Prophet (PBUH).

ياايها الذين امنوا اطيعوا الله واطيعوا الرسول واولى الامر منكم فان تنازعتم فى شىء فردوه الى الله والرسول ان كنتم تؤمنون بالله واليوم الآخر ذلك خير واحسن تاءويلا.

"O ye who believe! obey God and obey the Apostle and those charged with authority among you. If ye differ in anything among yourselves, refer it to God and His Apostle if ye do believe in God and the Last Day: that is best and most suitable for final determination" (al-Quran verse 59, Sūra 4: Nisāa, or The Women)(Abdullah Yusof Ali, n.d.)

خذ العفو واعمر بالمعروف واعرض عن الجاهلين

Hold to forgiveness; command what is right; but turn away from the ignorant." (al-Quran verse 199, Sūra 7: A'rāf, or The Heights)(Abdullah Yusof Ali, n.d.).

A Hadith relates to the story of Muadh bin Jabal, who was sent to Yemen by the Prophet (PBUH) to govern and teach Islam to the people there.

The Prophet (PBUH) asked him, "How would you judge when the occasion of deciding a case arises?" Muadh replied, "I shall judge in accordance with the al-Quran." The Prophet (PBUH) then asked, "What will you do if you do not find guidance in the al-Quran?" Muadh replied, "I will act in accordance with the Sunnah of the Prophet of Allah." The Prophet (PBUH) further asked, "What will you do if you do not find guidance in the Sunnah of the Prophet and in the al-Quran?" Muadh replied, "I shall do my best to form an opinion and spare no pains." The Prophet was pleased and gave thanks to Allah that Muadh had expressed a view which was pleasing to him.(Shams al-din Abi Abdullah Muhammad bin Abi Bakar, 1977).

The companions practised the above Muadh bin Jabal hadith. The sources of Islamic law during the formative years of Islamic law, i.e., during the first and second centuries after the birth of Islam, were the al-Quran, the Al-Sunnah of the Prophet (PBUH), the Sunnah (the practices and sayings) of the famous companions and the rightly guided caliphs. The latter were the opinions and practices of famous companions and the rightly guided caliphs on certain

matters that the formers had not addressed. Finally, if even the famous companions and the rightly guided caliphs had no policy or opinion regarding any new matter, then the latter jurists would rely on their opinions and the unanimous/consensus decisions over that new matter (Wael, 2005).

An example of the teachings of Islam regarding planning and development is the avoidance of major vices. Even though development is encouraged by Islam, its implementation must observe the duty to avoid major vices such as overspending, mismanagement and distortion (Omer, 2005). For example, on one occasion during the caliphate of Uthman bin al-Affan, a prominent companion of the Prophet (PBUH), Abu al-Darda', visited Syria, then a splendid, urbanised region overflowing with pleasures and amenities of life. Abu al-Darda' cautioned the inhabitants of Syria lest they should end up regarding their worldly enterprises as an objective rather than a means for achieving a far nobler and more dignified mission. Any development and planning must ensure nothing goes wasted, leading to unwarranted unhealthy rivalry, mutual envy, disrespect towards each other, societal chaos, civil uproar, and haughtiness. The acts of the previous people, such as 'Add and Thamud, whose building and planning technologies were advanced, unparalleled to others, for the purpose of showing off and leading to unhealthy consequences, not for the sake of doing good and the pleasure of Allah, resulted in such people being subject to punishment and elimination (Omer, 2004, 2005).

The principles and policies of development planning and its implementation must be based on the principles of *maqasid al-shariah*, and for the benefit of the Muslim public (public interest) - *maslahah al-ammah*. According to Muhammad Abd al-Jawwad, *maslahah al-ammah* or public interest must comply with the following conditions (Al-Jawwad, 1971):

- 1) The suggested public interest (*maslahah*) should not contradict the objectives of Islamic law (*maqasid al-shariah*) and should align with the teachings of the al-Quran, al-Sunnah, and analogy (al-Qiyas).
- 2) The implementation of the suggested public interest should be reasonable and practical.
- 3) The application of the suggested public interest should alleviate any existing hardship.
- 4) The proposed public interest should be for the general welfare of the public, not for a specific individual or group.
- 5) The public interest should not undermine a more important public interest or its equivalent.

The following suggestions, which aim to prevent housing project abandonment, are proposed since they are in line with Islamic urban development planning and construction law and serve the public interest.

- 1) Amendment to section 136(1)(c) of the National Land Code 2020 ('NLC') with the effect that no sub-division shall be approved...unless the following conditions are satisfied that any necessary approval of planning authority, appropriate authority and technical agency has been obtained.
- 2) Amendment to section 79(2)(h) of the NLC: The State Authority shall determine the following matters at the time it approves the alienation of land...to any person or body...any necessary approval of the planning authority, appropriate authority, and technical agency.

- 3) Amendment to section 120(2) of the NLC that the conditions and restrictions in interest to be imposed...shall be determined by the State Authority subject to any necessary approval of the planning authority, appropriate authority, and the technical agency at the time the land is approved for alienation.
- 4) Amendment to the first proviso of section 124(1) of the NLC that states, 'Provided that the State Authority shall not entertain any such application unless any necessary approval of planning authority, appropriate authority and technical agency have been obtained and it is satisfied...'.
- 5) Section 108 of the NLC appears to undermine the planning authority's powers and functions; thus, it needs to be repealed.
- 6) The definition of the 'technical agency' shall also be provided under section 5 of the NLC. It is suggested that the following definition be adopted:

addition to section 5 of the NLC

"Technical agency" means any relevant authority other than appropriate authority which shall be consulted for necessary views, insofar as the State Authority deems expedient, for the purpose of approval of any application by the State Authority.

- 7) It has also been suggested that the definition of 'State Authority' as defined in the NLC be reviewed and replaced by 'State Land Authority'. This 'State Land Authority' must also consist of mostly professionals from the appropriate authorities and technical agencies (such as the Department of Town and Country Planning (Plan Malaysia – 'JPBD'), Department of Environment ('JAS'), Ministry of Housing and Local Government ('KPKT'), Department of Minerals and Geoscience ('JMGS'), etc). It has been suggested that the composition of this authority should consist of the following persons (Kader, 2001):
 - 1) The Menteri Besar, representing the Rulers in Council;
 - 2) The State Executive Councillor who heads the Housing and Local Government portfolio;
 - 3) The State Director of Town and Country Planning – Plan Malaysia (JPBD);
 - 4) The State Director of Lands and Mines;
 - 5) The State Secretary; and,
 - 6) The State Treasurer.
- 8) In addition to the above list, it is proposed that there should be additional parties from the appropriate authorities and technical agencies, such as KPKT, JAS, and JMGS or others, insofar as they are necessary, to be added to the list number '7' to the above list --'other relevant appropriate authorities and technical agencies if necessary'. This is to ensure that the decision made by the State Land Authority is made by professionals and to avoid any decisions made due to political self-interest. Thus, in considering the decision to alienate, subdivide, amalgamate, or vary the land uses insofar as housing development projects are concerned, the State Land Authority should be made subject to the approvals and views of these additional authorities as well.
- 9) Likewise, the delegation of power by the State Land Authority to the respective Menteri Besar and Chief Minister in each state in Malaysia should be revoked and

revised to prevent potential abuse of power. For instance, in Selangor, pursuant to section 8 of the Delegation of Powers Act, 1956 (Act 358) (Revised 1988) vide SI. U 17/1984 over the power to approve dealings on land (section 120 of the NLC), the power to approve variation of express conditions (section 124(5) of the NLC), the power to approve amalgamation of land (section 147 of the NLC) and the power to consider and approve the application for variations of conditions, restrictions in interest and categories of land (section 124 of the NLC) should be repealed and replaced except with the concurrence of those persons as listed under section 12(1) of the NLC pursuant to section 13 of the NLC. This proposal is to avoid any decision over the above matter solely being decided by one individual politician or may be influenced by political considerations but instead made by professionals on meritorious grounds.

- 10) Regarding the land digital data, pursuant to section 5D and the Sixteenth Schedule-Electronic Land Administration System of the NLC, it is opined that the said data would be ineffective. This is so unless all the relevant, appropriate authorities, technical agencies and planning authorities have conducted a comprehensive and updated study of the affected land being subject to the land database in question insofar as the problems in abandoned housing projects are concerned. In other words, the relevant agencies and authorities must provide big data and data analytics into the Electronic Land Administration System to ensure the success of the system. Nonetheless, there is no duty to provide big data and data analytics for each district in Malaysia, and there is no statutory obligation on part of the technical agencies. In addition, to be effective, it is opined that the above problems regarding sub-division, alienation, and land use control should also be addressed.
- 11) For the above purpose, a new supplemental mandatory provision needs to be inserted into section 22(2) (Treatment of Applications) of the Town and Country Planning Act 1976 (Act 172) ('TCPA'). The supplemental provision should also state the obligation and mandatory adherence to the development plans. Thus, the proposed provision should read:

Addition to Section 22(2) of the TCPA

'In dealing with an application for planning permission, the local planning authority shall take into consideration...-

(bc) the necessary views of the technical agencies (emphasis added).

- 12) The word 'technical agency' should also be interpreted and inserted into section 2 of the TCPA as follows

Addition to section 2 of the TCPA

'Technical agency' means any relevant authority which shall be consulted for necessary views, insofar as the local planning authority deems necessary, for the purpose of issuing any planning permission by the local planning authority''.

- 13) The planning permission and all the conditions stipulated should be made certain and not be subject to variation from the date of the issuance, during construction,

development, and rehabilitation of the project until the date of the application for Certificate of Fitness for Occupation ('CF')/Certificate of Completion and Compliance ('CCC') by the qualified persons/Principal Submitting Person ('PSP'). This is to avoid any possible problems for the developer, as evident in many cases, which had led to housing abandonment, unless the planning authority and the technical agencies agree to bear all the ensuing costs as a consequence of any change or variation made by the developers. Therefore, a new provision should be inserted into section 22 of the TCPA to the effect of the following:

Addition to Section 22(7) of the TCPA

'The conditions for the planning permission so granted shall be irrevocable and shall not be subject to any variation unless the local planning authority or the technical agencies, as the case may be, shall bear all the costs and expenses to be incurred by any applicant consequent to the carrying out of the required variations except as otherwise provided in this Act'

- 14) Similar should be the case for the conditions of the approved building plan and other plans. To effect this suggestion, a new supplemental provision should be inserted into section 70 of the Street, Drainage and Building Act 1974 (Act 133) ('SDBA'), viz clause 18A, which reads:

Addition to section 70 of the SDBA i.e., section 70(18A)

'The plans so approved and the conditions so imposed by the local authority or the technical agencies shall be irrevocable and final for the purpose of issuance of the certificate of completion and compliance, pursuant to this Act or any By-laws made thereunder and if later in the event, there is any variation in the plans or conditions for the purpose of the issuance of the said certificate, required by the local authority or the technical agencies, as the case may be, the local authority or the technical agencies concerned shall make good any losses incurred as the result of such required variation'

- 15) Finally, regarding human resources, inefficient administration, and logistics problems, the state and federal governments should provide adequate priority, administrative revamps, infrastructure and logistics, training, and monetary provisions to ensure the efficiency of the local authority and technical agency machinery.

CONCLUSION

The principles of Islamic urban development planning and construction provide guidance for mankind in planning land development. These principles are rooted in the al-Quran and al-Sunnah of the Prophet Muhammad (PBUH). Their purpose is to ensure that mankind can plan land development towards prosperity in their worldly affairs and to facilitate them in carrying out the commands of Allah on earth. These principles can also serve as the basis for formulating principles and policies in land use planning in housing development and protect the public against any potential housing abandonment and its negative consequences.

CONFLICTS OF INTEREST

The manuscript has not been published elsewhere and is not being considered by other journals.

The author has approved the review, agreed with its submission, and declared no conflict of interest regarding the manuscript.

REFERENCES

- 2012-2024 United Nations Human Settlements Programme. (2024). <https://unhabitat.org/programme/sustainable-development-goals-cities>.
<https://unhabitat.org/programme/sustainable-development-goals-cities>
- Abdullah Yusof Ali. (n.d.). *THE HOLY QUR'AN Translation by A. Yusuf Ali*. It's MyDeen! Retrieved May 1, 2024, from <https://quranyusufali.com/5/>
- Al-Jawwad, M. 'Abd. (1971). *Milkiyyah al-Aradi Fi al-Islam, Tahdid al-Milkiyyah Wa al-Ta'min*. al-Taba'ah al-'Alamiyyah.
- Bakar, M. D. (1997). Usul al-Fiqh Sebagai Kaedah Penyelidikan Dalam Pengajian Syariah. In Mahmood Zuhdi Hj. Ab. Majid (Ed.), *Dinamisme Pengajian Syariah*. Berita Publishing Sdn. Bhd.
- Dahlan, N. H. M. (2007). Definition Of "abandoned Housing Project": A Legal Analysis. *The Malayan Law Journal Articles*, 5(Act 118), 27. https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23_T21629712053&format=GNBFULL&startDocNo=0&resultsUrlKey=0_T21629712056&backKey=20_T21629712057&csi=262347&docNo=7&scrollToPosition=965
- Dahlan, N. H. M. (2011). Rehabilitation of abandoned housing projects: A comparative analysis between the law and practice in Peninsular Malaysia and the Republic of Singapore. *Commonwealth Law Bulletin*, 37(1), 145–173. <https://doi.org/10.1080/03050718.2011.548143>
- Dahlan, N. H. M., & Aljunid, S. Z. S. A. K. (2011). Shariah and legal issues in house buying in Malaysia: The legality of Bay' Bithaman-al-Ajil ('BBA') with special reference to abandoned housing projects. *Pertanika Journal of Social Science and Humanities*, 19(2), 349–361.
- Dahlan, N. H., Zubaidah, S., Abdul, S., & Aljunid, K. (2011). *Shariah and Legal Issues in House Buying in Malaysia : The Legality of Bay ' Bithaman-Al-Ajil (' BBA ') with Special Reference to Abandoned Housing Projects*. 19(2), 349–361.
- Elias, A. A. (n.d.). *Daily Hadith Online The Teachings of Prophet Muhammad* . Retrieved July 12, 2024, from <https://www.abuaminaelias.com/dailyhadithonline/2012/04/01/wisdom-lost-property-believer/>
- Kader, S. Z. S. A. (2001). *Legal Control of Commercial Land Development in Kuala Lumpur and Petaling Jaya (Unpublished SJD dissertation)*. Bond University, Australia.
- Khaldun, I. (1958). *The Muqaddimah - An Introduction to History* (F. Rosenthal (ed.)). Routledge & Kegan Paul.
- Mahmassani, S., Ziadeh, F. J. (1987). *Falsafat Al-Tashri fi Al-Islam (The philosophy of Jurisprudence in Islam)*. Penerbitan Hizbi.
- Omer, S. (2004). *Studies in the Islamic Built Environment*. IIUM Research Centre.
- Omer, S. (2005). *Issues in the History and Character of the Islamic Built Environment*. IIUM Research Centre.
- Sarkawi, S. M. N. & A. A. (2006). International Conference on Maqasid al-Syariah and Its Realization in Contemporary Societies. *International Conference on Maqasid Al-Syariah and Its Realization in Contemporary Societies*, 441-444.
- Shams al-din Abi Abdullah Muhammad bin Abi Bakar, I. Q. al-J. (1977). *i'lam al-Muwaqqi'in 'an Rab al-'alamin* (M. M. al-D. 'Abd Al-Hamid (ed.)). Dar al-Fikr.

- Silverman, D. (2005). *Doing Qualitative Research, A Practical Handbook* (Second Edi). Sage Publications.
- Silverman, D. (2017). *Doing Qualitative Research* (Fourth Edi). SAGE Publications Ltd.
- The Global Challenge for Government Transparency: The Sustainable Development Goals (SDG) 2030 Agenda.* (2024). https://worldtop20.org/global-movement/?gad_source=1&gclid=EAIaIQobChMIi9Cg1qrihgMV-qRmA0ywAP5EAAYASAAEgL5GfD_BwE
- Wael, H. (2005). *The Origins and Evolution of Islamic Law*. Cambridge University Press.
- Yaqin, A. (2007). *Legal Research and Writing*. Malayan Law Journal Sdn Bhd.
- Yin, R. K. (1994). *Case Study Research, Design and Methods* (second). Sage Publication London.
- Yin, R. K. (2014). *Case Study Research: Design and Methods* (Fifth Edit). Sage Publication Ltd.