

A MODEL OF ISLAMIC PUBLIC FINANCE IN MALAYSIA'S CONSTITUTION

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Abstract

This study asks five questions. How does the Constitution define the framework for its governance and the principles under which it must operate? How do the provisions lay out the core public finance matters? How are Islamic religious defined? How could we interpret the provisions in the Constitution? How do Islamic religious revenues affect socioeconomic development? Based on the analysis of these questions, and the Federal Constitution of Malaysia, this study will try to explain the choice of alternative sets of legal-institutional-constitutional rules that constrain the choices and activities of economic and political agents (government). In particular, this study will prove that the Constitution results from both conventional and Islamic scholars' preferences. The constitutional rules lead to the introduction of Islamic religious revenues as the sources of government revenues. Furthermore, in Malaysia, constitutional economics also provides another view that treats Islamic religious revenues as socioeconomic development tools.

Keywords: *Fiscal Policy; Economic Development; Islamic Religious Revenues; Multilevel Governance; Federalism*

1. Introduction

The government, as clearly mentioned by many studies (among others are Brennan and Buchanan (1980)¹, Voigt (1997)² and Voigt (2011)³), has never operated at a single level. Many countries, both today and historically, have had several layers of subnational government. Countries usually have a level of government beneath the State and one or more above. The number of government levels for most people living today is three, of which 1-national State and one or two at a larger regional or local scale. In providing public goods and services (hereafter public goods), the government depends on revenue sources. Typically, the sources are clearly stated in the Constitution. It comes mainly from taxes and non-taxes.

In Malaysia, there are three layers of government, namely federal, state, and local governments. The Constitution provides the framework within which revenue systems operate. The Constitution also determines the extent of a nation's revenue-raising authority, what type of revenues, and how they are collected and distributed. There are three categories of revenues: tax revenue, non-tax revenue, and non-revenue receipts.

¹ G. Brennan and J. Buchanan, *The Power to Tax* (Cambridge: Cambridge University, 1980).

² S. Voigt, "Positive Constitutional Economics: A Survey," *Public Choice* 90 (1997): 11–53.

³ S. Voigt, "Positive Constitutional Economics II - a Survey of Recent Developments," *Public Choice* 146 (2011): 205–56.

A scheme for distributing revenues between the federal and the states are laid down in the Constitution. The proceeds of all the entertainment duty, licenses, rents, treasure trove, and Islamic religious revenue⁴ The StateState is fully retained by the concerned states themselves, while revenues axes in the federal list may be allowed.

The above discussion shows the following findings. The relevance of the following subject matters, which are derived from Buchanan (1990)⁵, and subsequently by Voigt (1997, 2017)⁶: first, constitutional rules and the procedures that lead to the establishment of the Constitution; second, constitutional rules as the result of preferences and restrictions, constitutional rules channeling constitutional change (see an example of Bangladesh⁷), and third, the economic effects of constitutional rules; in establishing the theory of constitutional economics.

The research on the above subject has expanded in many areas such as public choice in selecting the constitutional rules⁸, scholars' views (such as classical and Keynesian) embedded in constitutional rules⁹, institutional analysis, that is, based on the level of government¹⁰.

Therefore, in this study, we will try to explain the choice of alternative sets of legal-institutional-constitutional rules that constrain the choices and activities of economic and political agents (government). In particular, the Constitution is the result of the preferences of both conventional and Islamic scholars. The constitutional rules lead to the introduction of Islamic religious revenues as the sources of government revenues. Furthermore, in Malaysia, constitutional economics also provides another view that treats Islamic religious revenues as socioeconomic development tools.

The discussion will be organized into several sections. Section 2 will highlight several related discourses to constitutional economics. Section 3 will discuss the Islamic religious

⁴ A.G. Ismail, M.H. Zaenal, and M.H.M. Shafiai, "Philanthropy in Islam: A Promise to Welfare Economics System," in *IRTI Working Papers WP-1435-03*, 2013, <http://www.irti.org/English/Research/Documents/326.pdf>.

⁵ J. Buchanan, "The Domain of Constitutional Economics," *Constitutional Political Economy* 1, no. 1 (1990): 1–18.

⁶ Voigt, "Positive Constitutional Economics: A Survey."

⁷ M.A. Islam, M. Ebrahim, and Z. Yasin, "The Thirteenth Amendment To The Constitution Of Bangladesh (1996): A Critical Assessment," *Asian Journal of Social Sciences and Humanities* 8, no. 2 (2019): 45–55.

⁸ J. Buchanan and G. Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: University of Michigan Press, 1962); Brennan and Buchanan, *The Power to Tax*; D. Mueller, *Public Choice II* (Cambridge: Cambridge University Press, 1989).

⁹ W. Burnham, "The Constitution - Capitalism and the Need for Rationalized Regulation," in *How Capitalistic Is the Constitution?*, ed. R. Goldwin and W. Schambra (Washington DC: American Enterprise Institute, 1982), 75–105; R. McKenzie, "Introduction," in *Constitutional Economics - Containing the Economic Powers of Government*, R.B. McKen (Lexington: Lexington Books, 1984).

¹⁰ J. Buchanan, *Constitutional Economics. Entry in The New Palgrave, Vol. 1: 588-595* (London/Basingstoke: Macmillan, 1987); Buchanan, "The Domain of Constitutional Economics"; V.J. Vanberg, "Market and State: The Perspective of Constitutional Political Economy," *Journal of Institutional Economics* 1, no. 1 (2005): 23–49.

revenues as part of the financial provisions in Malaysia's Constitution. As discussed in Section 3, we will prove that there are two contrasting views in interpreting the provisions in the Constitution. The interpretation of constitutional provisions may have an implicit economic logic. Hence, it will be explained in Section 4. The efficiency of government revenue depends on the heterogeneous preferences of individuals. The heterogeneous might be due to socio and economic background. Therefore, the effect of Islamic religious revenues on socioeconomic development will be examined in Section 5. Section 6 presents the conclusions.

2. Discussion

2.1. Constitutional Economics Discourse

This section will highlight several related discourses to constitutional economics – who first introduce the subject of constitutional economics, the different schools of thought, and branches of constitutional economics.

Many authors agree that both Buchanan and Tullock (1962)¹¹ are the first authors who visualize constitutional economics as a discipline in economics. Later, their view is known as public choice school. The school offers three elements: constitutional political economy, an analysis of different voting-rights regimes, and an understanding of human and property rights (as a result of government failure *and* market failure).

Then, Mueller (1989)¹² extent further that the process of (political and market) decision (or public choice) may lead to specific constitutional rules. However, Brennan and Buchanan (1980)¹³ argue that early public choice-models put too much emphasis on the median-voter determining politicians' actions. Thus, those models would be almost entirely determined by the demand side, leading to kind neglect of the supply side. They argue that politicians' discretionary powers would not be adequately restricted by the median voter (i.e., on the process level) but on the level of constitutional rules.

Later, scholars such as McKenzie (1984)¹⁴ and Aras and Öztürk (2011)¹⁵ say that scholars' views also propose constitutional rules. They said that constitutional rules entertain the fiscal, monetary, and regulatory powers of the government. These powers will put the constraints on

¹¹ Buchanan and Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy*.

¹² Mueller, *Public Choice II*.

¹³ Brennan and Buchanan, *The Power to Tax*.

¹⁴ McKenzie, "Introduction."

¹⁵ O.N. Aras and M. Öztürk, "Constitutional Economics, Fiscal Policy Rules, and The Case of Turkey," *International Journal Of Social Sciences And Humanity Studies* 3, no. 2 (2011): 399–410.

government activities. It shows that Keynesian views are embedded in the constitutional rules. It seems evident for an economist to analyze the relationship between the constitutional rule-system and economic growth rate. It also shows that the Founding Fathers, as noted in McGuire and Ohsfeldt (1989)¹⁶, were not motivated by some conception of the common good but only by their own economic interests (i.e., follow a particular school of economic thoughts). In Germany's case, as reported in Streit (1992)¹⁷, her economic Constitution is primarily based upon the Freiburg School of Law and Economics reflections. Both examples suggest that the classical political economy is used as a foundation for the constitutional rule system.

Other scholars such as Buchanan (1987)¹⁸ and Vanberg (2005)¹⁹ explicitly use an institutional analysis, that is, based on the level of government. For example, in the United States of America²⁰, the whole concept of constitutionalism was developed in the wake of the movement towards an independent nation and creating a federal state. It shows that the branches of constitutional economics are not only limited to the subject of public choice, the economics of property rights, law and economics, and the political economy of regulation but also cover the new institutional economics and the new economic history.

Well designed institutions, as argued in Elster (1995)²¹, Person and Tabellini (2004)²², and Akee, Jorgensen, and Sunde (2012)²³ can have a relationship with economic performance. The relationship can be explained in four different ways. *First*, social rights - can be obtained by the exercise of political rights. The impact of social rights on economic security seems to be more straightforward. If the Constitution contains provisions about the right to work, the minimum wage, job security, unemployment benefits, and the right to free health care and education provisions, it can affect a nation's economy.

Second, economic rights – there are several ways that economic rights can be exercised, such as the freedom of contract, the waqf of land, the freedom of ownership. *Third*, rights and

¹⁶ R. McGuire and R. Ohsfeldt, "Self-Interest, Agency Theory, and Political Voting Behavior: The Ratification of the United States Constitution," *American Economic Review* 79, no. 1 (1989): 219–34.

¹⁷ M. Streit, "The Freiburg School of Law and Economics," *Journal of Institutional and Theoretical Economics* 148 (1992): 675–704.

¹⁸ Buchanan, *Constitutional Economics. Entry in The New Palgrave, Vol. 1: 588-595.*

¹⁹ Vanberg, "Market and State: The Perspective of Constitutional Political Economy."

²⁰ F. Hayek, *The Constitution of Liberty* (Chicago: Chicago University Press, 1960).

²¹ J. Elster, "The Impact of Constitutions on Economic Performance," in *Proceeding of the World Bank Annual Conference on Development Economics* (New York: World Bank, 1995).

²² T. Person and G. Tabellini, "Constitutions and Economic Policy," *Journal of Economic Perspectives* 18, no. 1 (2004): 75–98.

²³ R. Akee, M. Jorgensen, and U. Sunde, "Constitutions and Economic Development: Evidence from the American Indian Nations," *IZA Discussion Paper No. 6754 July 2012*, 2012.

efficiency - the impact of civil and political rights on economic efficiency raise an issue on democracy and constitutional commitment. Policymakers may want to pledge themselves to a specific course of action for several reasons. Therefore, they seldom deviate from that course of action without considerable political cost.

Fourth, government structure and efficiency. Many economists such as Martinez-Vazquez and McNab (2001)²⁴ and Jin and Zou (2002)²⁵, and Ismail, Hamzah, and Ritonga (2004)²⁶ have suggested the effectiveness of the government's role in public service provision and created a presumption in favor of reducing the size of the public sector by giving more power to sub-national governments. Hence, fiscal decentralization is seen as a mechanism to control the growth of the public sector. Both also argue that the increased interest in fiscal decentralization appears to be fueled by their belief that fiscal decentralization is a useful tool to produce efficient governance, macroeconomic stability, and adequate economic growth. The rush to decentralize can also be seen as a reaction to many centralized economies' failure in developing and transition countries. Here, decentralization is seen as a way to break the central government's grip on the economy by shifting fiscal authority to sub-national governments.

The above discussion recognizes a simple fact pointing directly toward an 'economic' theory of constitutions. It becomes the starting point of constitutional economics. It shows that constitutional economics tries to explain the selection of constitutional rules limiting economic and political agencies' choices and activities.

2.2. Islamic Religious Revenues as Provided in Constitution

The Constitution of a nation contains three main parts: a bill of rights, a set of provisions regulating the machinery of government, and a set of procedures for amending the Constitution itself. The set of constitutional rights can be classified in many ways. The most useful typology is a tripartite division of rights into civil and political, social, and economical.

In the social category, the rights are intermediate between the right to the pursuit of happiness and the right to happiness itself, namely rights that ensure the provision of goods that promote happiness. These include the right to work and job security, the right to a fair or adequate income, the right to unemployment and pension benefits, and the right to education and

²⁴ J. Martinez-Vazquez and R.M. McNab, "Fiscal Decentralization and Economic Growth," 2001.

²⁵ J. Jin and H.F. Zou, "How Does Fiscal Decentralization Affect Aggregate, National, and Subnational Government Size?," *Journal of Urban Economics* 52 (2002): 270–93.

²⁶ A.G. Ismail, M.Z. Hamzah, and J.T. Ritonga, "Fiscal Decentralization and Economic Growth: Evidence from Selected Muslim Countries," *Jurnal Ekonomi Pembangunan* 9, no. 2 (2004): 109–16.

health care. In the economic category are provisions that guarantee freedom of property, exchange, and contract.

The rights in Malaysia are partly provided in the financial provisions, as mentioned in Part VII of the Constitution of Malaysia. It covers the articles 96 to 112. However, as shown in Table 1, this section will only highlight the articles 96 to 99 and 108.

Table 1.
Financial Matters in the Constitution

Provision	Matter About	Description
Article 96	Tax	Imposed by the Federal Government
Article 97	(a) Federal Consolidated Fund (b) State Consolidated Fund (c) Islamic Religious Fund	Revenues and money received such income tax, stamp duty, export duty. Revenues and money received, such as land tax, revenues from water, and other mineral resources. Zakat, Fitrah, Bait-ul-Mal, or similar Islamic religious revenue
Article 98	Charges on Federal Consolidated Fund (Expenses)	<ul style="list-style-type: none">• Pension, compensation, and gratuity• Debt charges (e.g., interest, sinking fund charges, the repayment or amortization of debt, and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt• sums of money required to satisfy any judgment, decision, or award against the Federation
Article 99	Statements of estimated receipts and expenditures	Budget to be presented at the House of Representatives
Article 108	Establishment of National Finance Council (NFC)	Duty of NFC: <ul style="list-style-type: none">• grants to the States;• annual loan requirements of the Federation and the States• making of loans to any of the States;• making of development plans

The Constitution provides the framework within which revenue systems operate. The Constitution determines the extent of a nation's revenue-raising authority, what type of revenues, and how they are collected.

As shown in Table 1, federal Constitution- Fiscal matters are discussed under Article numbers 97-112 of the Constitution. In general, the federal government has been given power on the following aspects. *First*, budget planning for a fiscal year, as mentioned in Article 99. The budget shows its revenues (row 3, Table1), and how they will be generated and used over the fiscal period. The revenue would come in the form of taxes, levies, fees, and other charges. In Malaysia, as shown in row 5, Table 1, the revenues also include Zakat, Fitrah, Baitulmal, and other Islamic revenues. The states use these revenues as critical instruments for promoting their socioeconomic objectives.

Second, budget formulating – the appropriations, revenue, or public debt shall originate in the Parliament. The form, content, and manner of preparation of the budget are also described in the Constitution. In Malaysia, as provided by article 99 (shown in row 7, Table 1), the estimated amount of revenues and expenditure needs to be tabled at Parliament before the commencement of that fiscal year.

Third, restrictions on budgeting (Article 102) - the elected government has the exclusive right to propose a budget. However, Parliament can only reduce or reallocate appropriations in the proposed budget.

Fourth, accounting and auditing (Articles 106 and 107) – the federal budget shall be recorded, classified, and summarized, in a significant manner and terms of money, transactions, and events which are, in part at least of a financial character and interpreting the results thereof. The primary function is to measure and communicate financial data as it gives meaning to economic reports by explaining the results of transactions in terms of current financial positions.

While auditing is the examination of information by the auditor general office to establish its reliability. The reporting of the results of this examination will increase the usefulness of the information to the user. Therefore, the auditor general office has the power, authority, and duty to examine, audit, and settle all accounts and expenditures of the state government's funds and properties. Towards that end, it has the exclusive authority to define the scope, techniques, and methods of its auditing and examination procedures. It also may prevent and disallow irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

Other State Revenue-Raising Authority – The ability of government (at state or local level, hereafter we will refer it as state government) to raise taxes (such as land tax) and other revenues (such as revenues from natural resources) is affected by their status as either "home rule

Or "Dillion's rule" government. In states that allow home rule, the state government is granted constitutional and statutory powers to provide services to their residents, raise taxes and other revenues to fund them, and issue debt for various public purposes, subject only to specific prohibitions.²⁷ In states where Dillon's rule is in effect, local government is granted authority to operate through statute, and no authority is granted through the state constitution.

As shown in Table 2, countries such as Malaysia have granted home rule to their state governments. However, home rule is a matter of degree. The state government is granted home rule authority; the extent of their powers varies widely. The states may also distinguish between the powers granted to city and county governments, with some providing greater authority to states than cities. Local laws give the responsibilities of certain local government officials.

Like the federal government, the state government has been given the power to set up the consolidated Fund. For example, as reported in Table 2, item 37 (in Johor), item 29 (in Sabah), item 29(1) (in Sarawak), and item 85 (in Selangor) show that the consolidated Fund comprises revenues and sums of money raised or received and spent by the StateState.

The state constitution also recognizes the existence of the Islamic Religious Fund. In Johor (Item 38(3)), and Selangor (Item 86(2)), zakat, fitrah, Baitulmal, or similar Islamic religious revenues are the items discussed in the provisions as Islamic Religious Fund. This provision is then further refined in the respective law. For example, in Malaysia (as reported in Table 3), State Islamic Religious Council Enactment is given the power to manage the Islamic Religious Fund. This Enactment clarifies that the results and money of these revenues are known as the Islamic Religious Fund. The provision also explains that income generated from it are part of the Fund.

By looking at several samples, such as the State of Johor, Sabah, Sarawak, and Selangor (Table 3), we observe the following findings. First, the Enactment generally agrees that the Baitulmal Fund (in Sabah, it is only known as Fund) and how they manage property belongs to State Religious Council. Second, this Fund's estimated revenue and expenditure need to be presented to Sultan or King before the year's commencement. Third, the type of revenue is only limited to zakat, fitrah, waqf, and khairat collection plus property belongs to the State Religious Council. However, in the case of the Federal Territory, Baitulmal Fund omits zakat and fitrah. Fourth, the collection is generally aimed to collect money or other contributions for any

²⁷ Abdul Ghafar Ismail, *Money, Islamic Banking, and Real Economy*, 2nd ed. (Singapore: Cengage Learning Asia Pte. Ltd., 2018).

charitable purpose to support and promote the religion of Islam or for the benefit of Muslims following shariah law. Fifth, the Enactment does not define what Islamic religious revenues are?

In summary, the constitutional provisions have clearly defined the *framework* for its governance and the principles under which it must operate. The provisions lay out the core public finance matters. They cover both revenues or expenditure sides (or fiscal instruments) allocated across different government tiers. From the legal side, public finance (or fiscal) matters concern the division of public sector functions and finances among different government tiers.

Table 2.
State Law and Government Revenues

States	Sources	Section	Provision
Johor	Law of the State of Johore 1895	Finance	37(1) - Items shall be charged on the Consolidated Fund 38(1) – Estimated receipts and expenditure for that year 38(3) – Estimated receipts do not include Zakat, Fitrah, and Baitulmal or similar Islamic religious revenues
Sabah	Constitution of the State of Sabah 1964	Part III - Financial Provisions	Item 29 - Consolidated Fund comprises revenues and sums of money raised or received and spent by the StateState Item 30 - estimated receipts and expenditure shall be laid before the commencement of that year for that year and be presented at the Legislative Assembly
Sarawak	Constitution of the State of Sarawak 1941	Part III – Financial Provisions	Item 29(1) - Consolidated Fund comprises revenues and sums of money raised or received and spent by the StateState Item 30(1) - estimated receipts and expenditure of the StateState shall be laid before the commencement of that year and be presented at the Dewan Undangan Negeri
Selangor	Constitution of the State of Selangor 1959	Chapter 6 - Finance	Item 85 - Consolidated Fund comprises revenues and sums of money raised or received and spent by the StateState Item 86(1) - estimated receipts and expenditure of the StateState shall be laid before the commencement of that year and be presented at the Legislative Assembly. Item 86(2) – estimated receipts and expenditure does not include zakat, fitrah, Baitulmal, or similar Muslim revenue.

Table 3.
Enactment of the Administration of the Religion of Islam in Malaysia

States	Sources	Section	Provision
Johor	Enactment No. 16 Of 2003: Administration Of The Religion Of Islam (State Of Johor) Enactment 2003	PART VI - Baitulmal and Financial Procedure of the Majlis	Section 81 - Establishment of Baitulmal Section 82 - Estimates of income and expenditure to be submitted to the Ruler-in-Council, not later than the 31 st day of October in each year
Sabah	Enactment No. 5 Of 2004: Majlis Ugama Islam Negeri Sabah Enactment 2004	PART III –Financial Procedure of the Majlis	Section 45 - Establishment of the Fund Section 46 - Estimates of income and expenditure should be delivered to the Majlis not less than one month before the commencement of each financial year
Sarawak	Chapter 41: Majlis Islam Sarawak Ordinance 2001	PART V - Establishment of Lembaga Baitulmal Dan Wakaf, Baitulmal, Wakaf and Nazr	Section 43 - Establishment of Lembaga Baitulmal dan Wakaf Section 71 - Estimates of income and expenditure shall be prepared and submitted to the Minister not later than the 31st day of October in each year
Selangor	Enactment A25: Administration Of The Religion Of Islam (State Of Selangor) (Amendment) Enactment 2011	PART VI: Baitulmal and Financial Procedure of the Majlis	Section 81 - Establishment of Baitulmal Section 82 - Estimates of income and expenditure shall be prepared and submitted to His Royal Highness the Sultan, not later than the 30th day of November in each year.

Sources: Jabatan Kehakiman Syariah Malaysia, E-Syariah Official Portal

2.3. An Economic Interpretation of Constitutional Rules

As discussed in Section 3, it shows two contrasting views in interpreting the provisions in the Constitution. The interpretation of constitutional provisions may have an implicit economic logic. One view argues that public goods and services (hereafter public goods) are provided via government revenues and borrowing. Another view argues that public goods are provided via

Islamic religious revenues. The former and latter are related to Keynesian and Abu Ubaid views, respectively. It also shows that the conventional view and Islamic economic view are embedded in the Constitution. How Islamic is the Constitution? More importantly, it seems to make sense to analyze the choice of rules from an economic perspective that is rules come from economists or ulama.

The Keynesian view represents a new way of looking at spending, output, and inflation. In his seminal book, *The General Theory of Employment, Interest, and Money* and other works, Keynes (1936)²⁸ argues that during recessions, structural rigidities and specific characteristics of market economies would exacerbate economic weakness and cause aggregate demand to plunge further. Suppose the government cut welfare spending and raised taxes to balance the national books. Keynes said this would not encourage people to spend their money, thereby leaving the economy unstimulated and unable to recover and return to a prosperous state. Instead, he proposed that the government spend more money, which would increase consumer demand in the economy. In turn, it leads to an increase in overall economic activity, the natural result of which would be recovery and a reduction in unemployment.

The multiplier effect is one of the chief components of Keynesian countercyclical fiscal policy.²⁹³⁰ According to Keynes's fiscal stimulus theory, an injection of government spending eventually leads to added business activity and even more spending. This theory proposes that spending boosts aggregate output and generates more income. If workers are willing to spend their extra income, the resulting growth in the gross domestic product (GDP) could be even more significant than the initial stimulus amount. In this way, one ringgit spent in fiscal stimulus eventually creates more than one ringgit in growth. It appears to be a coup for government economists, who could justify politically popular spending projects on a national scale.

However, government spending is also catalyzed by higher borrowing that may lead to a higher interest rate. Increasing interest rates, however, does not always lead directly to economic improvement. However, Keynesian economists always believe that lower interest rates as a solution to economic woes, but they generally try to avoid the zero-bound problem. As interest rates approach zero, stimulating the economy by lowering interest rates becomes less useful because it reduces the incentive to invest rather than simply hold money in cash or close

²⁸ J.M. Keynes, *The General Theory of Employment, Interest, and Money* (London: Macmillan, 1936).

²⁹ Jin and Zou, "How Does Fiscal Decentralization Affect Aggregate, National, and Subnational Government Size?"

³⁰ Martinez-Vazquez and McNab, "Fiscal Decentralization and Economic Growth."

substitutes like short term Treasuries. Interest rate manipulation may no longer be enough to generate new economic activity if it cannot spur investment, and the attempt at generating economic recovery may stall completely. It is famously known as a liquidity trap.

On the other hand, Abu Ubayd (1986)³¹ argues that government spending via Islamic religious revenues (without borrowing) may lead to balance and just growth. Therefore, balance and just growth tend to make a simplifying distinction between "distortionary" taxes that impact on investment decisions and Islamic religious revenues that have little impact on investment. While financing expenditure (via borrowing) carries costs to economic growth, some government expenditure types are beneficial to economic performance. Some government expenditure is a prerequisite for a functioning market economy, such as a legal system to protect private property rights. Beyond this foundational level, expenditure initiatives may lift long-run growth rates by increasing investment in physical capital, knowledge, human capital, research, and development or public infrastructure. For example, government investment in human capital (via *fi sabilillah*) could boost long-run economic growth if investment stimulates technological progress or if businesses' productivity is boosted from others' investment or innovation (such as knowledge spillovers). The tax may also discourage work and investment in human capital, but they appear to have a relatively minor impact on the long-run determinants of growth, such as investment, education, or technical progress.

The above view leads us to get the answer on the following issues: (i) which one is more efficient – Keynes or Abu Ubayd; (ii) government structure and efficiency – revenues at federal or StateState levels.

In the context of efficiency, it may lead us to ask if it is efficient, hence the impact of government revenues would positively impact socioeconomic development. Here, the efficiency is generally referred to as the idea that a policy should be allocated to the government to produce the policy at the lowest cost and encompasses all individuals experiencing positive or negative effects of that policy. In zakat, by limiting the cost of allocating the zakat to not more than 12.5% of the total revenues, it may lead to lower cost, and hence, technically, it is more efficient.

The answer to the second issue - we should make a call on the inter-jurisdictional efficiency because of the creation of government structure that leads to the power given in collecting different types of revenues. The concern is on the cost of coordinating policymaking among governments. These costs can be reduced by limiting the number of government levels,

³¹ Abu Ubayd Al-Qasim, *Al-Amwal* (Beirut: Dar al-Kutub al-Ilmiah, 1986).

and therefore the number of governments that negotiate with each other, or by limiting the overlap between the functions carried out by individual jurisdictions. A reform that increases inter-jurisdictional efficiency may decrease technical or allocative efficiency.

From the economic interpretation, the theory of public goods provisions only concerns about different levels of government. The provision shows lawmakers' preferences in shaping the provision in the Constitution, i.e., a mix of Keynesian and Abu Ubaid Views.

2.4. What would be the Impact on Socioeconomic Development

As discussed in section 4, the efficiency of government revenue depends on the heterogeneous preferences of individuals. The heterogeneous might be due to socio and economic background, which means that individuals may require different needs to overcome their social and economic needs.

Generally, individuals need improvement in three areas. First, at a basic level, individuals need an improvement in the conditions and quality of life. Higher levels of wealth, technological advancement, and public policies permit individuals to live better, consume more, feed themselves better, and get sick less frequently. This idea of social development is inextricably linked to human society's economic and material advances.

Second, individuals also look at the distribution of the wealth that they generate. Here, the economic dimension still constitutes a decisive factor in determining social development. For example, the inter-generational transfer via inheritance (or *faraidh*)³² occupies in the distributive sphere.

Third, a less normative or economic perspective on social development identifies the latter with the processes of social differentiation and social complexity associated with the capitalist and industrial transformations that gave rise to the modern world. However, Islam has proven that its economic institution has proven its ability to create a balance and just growth. Because, in Islam, social development means investing in people who know the Creator.

Individuals also economically want to transform themselves from individuals who have minimal resources and choices to those with much bigger resources and choices. It is mentioned in Chapter Ali Imran verse 14, Allah said that *The love of desires, of women and sons and hoarded treasures of gold and silver and well-bred horses and cattle and tith, is made to seem*

³² A.G. Ismail, B.T. Possumah, and M.N.A. Abdul Kadir, "Inter-Generational Transfer under Islamic Perspective," *Humanomics* 30, no. 2 (2014): 95–121.

fair to men; this is the provision of the life of this world, and Allah is He with Whom is the right goal (of life).

Currently, there is a growing need for material, water, and energy because of both population growth and increased demand by infrastructure, industry, and consumers in our economy. According to Marc de Wit et al. (2018)³³, circular economy activities have the potential to address a significant share of this need – dampening or possibly, reversing the rise in resource use and, in turn, reducing resource depletion, climate change, and the pollution of natural resources.

Therefore, a circular economy is introduced. Products are designed for durability, reuse, and recyclability, and materials for new products come from old products. As much as possible, everything is reused, remanufactured, recycled back into raw material, or used as a source of energy. Consequently, this would lead to the emergence of more sustainable production and consumption patterns, and could thus provide opportunities for Malaysia to achieve economic growth and inclusive and sustainable economic development in line with the maqasid shariah. Hence, the circular economy that links up the Creator, planet, and people should become the socioeconomic development agenda.

How far the above agenda be translated into the provision under the state constitution. The Enactment of the Islamic Religious Council in Malaysia makes a provision that gives a government the right to collect the religious funds and distribute them to the dedicated purposes. In particular, as stipulated in the Enactment, state government must propagate Muslims' economic and social development. For example, Section 7 of Enactment No. 16 of 2003 Administration of the Religion of Islam (State of Johor). The Islamic Religious Council must promote, stimulate, facilitate and undertake the economic and social development (hereafter economic development) of the Muslim community in the State consistent with Shariah Law (and hence the maqasid shariah).

As mentioned in several sections, as sections 4, 5, and 7 of this Enactment, as presented in Table 3, it shows that socioeconomic development (column 3) is directed towards partially achieving the maqasid shariah (column 4).

³³ Marc de Wit et al., "Circularity Gap Report," *Circle Economy*, 2018.

Table 4.
Enactment of Administration of the Religion of Islam in Johor

Section	Matters	Socioeconomic Activities	Impact on Maqasid Shariah
Section 4	Establishment of Majlis	Giving advise His Majesty in matters relating to the Religion of Islam	Having transparent governance in preserving deen
Section 5	Legal Identity and Functions	Corporate body Power to act as executor of a will or as an administrator of a deceased person's estate or as trustee of any trust.	May sue and be sued – preserving deen. Economic agent in preserving wealth
Section 7	To promote, stimulate, facilitate and undertake Socioeconomic development	The establishment of commercial and industrial enterprises to carry on all activities The establishment or expansion of other bodies or persons to carry on all activities Partnership with the departments or authorities of the Federal or State Government To invest in any authorized investment. To establish any scheme for granting loans (from Baitulmal) to Muslim individuals for educational purposes. To establish and maintain Islamic schools and training and learning institutions. To establish, maintain and manage welfare home for orphans and muallaf	Preserving wealth Preserving wealth Preserving aqal by helping those who want to acquire knowledge Preserving deen and aqal via literacy and human capital Preserving deen and lineage
Section 81	Establishment of Baitulmal	To manage the Baitulmal Fund (limited to zakat, fitrah, waqf, nazr, and charitable trust)	Preserving deen and wealth

Source: Enactment No. 16 of 2003 Administration of the Religion of Islam (State Of Johor)

The Enactment has identified the types of religious revenues and what would be the impact on socioeconomic development and, in particular, the maqasid shariah. It shows that the Enactment also looks at the impact on preserving the deen, wealth, lineage, and aqal.

3. Conclusions

In this study, we try to explain the choice of alternative sets of legal-institutional-constitutional rules that constrain the choices and activities of economic and political agents (government). Based on the analysis of the previous studies and provisions in the Constitution. We find that, first, articular, the Constitution is the result of both conventional and Islamic scholars' preferences. Furthermore, in Malaysia, constitutional economics also provides another view that treats Islamic religious revenues as the tools for socioeconomic development. This study finds that first, the above discussion recognizes a simple fact pint directly toward an 'economic' theory of constitutions. It becomes the starting point of constitutional economics. The theory tries to explain the selection of constitutional rules limiting the choices and activities of economic and political agencies. Second, constitutional rules lead to the introduction of Islamic religious revenues as government revenues sources and their role in public finance matters. Third, from the legal side, public finance (or fiscal) matters concern the division of public sector functions and finances among different government tiers. Fourth, from the economic interpretation, its concern about the theory of public goods provisions by different government levels. The provision shows lawmakers' preferences in shaping the provision in the Constitution, i.e., a mix of Keynesian and Abu Ubayd Views. Fifth, the Constitution identifies the types of religious revenues and what would be the impact on socioeconomic development and, in particular, the maqasid shariah. The findings would lead to the utilization of Islamic religious revenues to support the Islamic economic system.

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