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## Analysing the need to regulate non-profit foundations under the trustees(incorporation) act 1952: Towards transparency and good governance (Article)

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### Abstract

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The establishment of any non-profit organisations in Malaysia under the Trustees(Incorporation) Act 1952 empowers the Legal Affairs Division at the Prime Minister's Department to issue a licence to enable a charitable trust fund to be created as a foundation. The foundation is authorized to collect funds from the public and obtain tax exemption from the Inland Revenue Board. The main problem is the Legal Affairs Division is not given the full authority to act as the main regulator in order to ensure that all activities and funds collected and donated are used solely for charitable purposes. What more in the modern advancement of digital technology, the lack in the method of monitoring should not be an issue. Through doctrinal and legal study and content analysis, this paper analyses the important provisions under the Trustees(Incorporation) Act 1952, by highlighting the present practices involving the establishment of a foundation under this Act and the need for further improvement in order to enhance the integrity and public confidence in donating for charitable purposes. There is also a need to explore and analyse to what extent the State Islamic Religious Authority have a role in regulating waqf foundations in Malaysia. Simultaneously, some comparative analysis on the practices of regulating charitable organizations in England and Wales are highlighted. This article is aimed to highlight the importance of having a single regulator in Malaysia, in form of a commission, in order to regulate all matters relating charity in Malaysia. © 2020, Universiti Malaysia Sarawak. All rights reserved.

### SciVal Topic Prominence ⓘ

Topic: Philanthropy | Corporate Social Responsibility | Company Size

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'Foundation' commonly refers to a body established by an initial endowment, which may or may not be dedicated, and acquires legal personality on incorporation, although the charitable purpose to which it is addressed will remain as stated by the founder. (O Halloran, 2011, p.28) It can be divided into a few types but the most common ones are an endowed foundation and a community foundation. Endowed foundation is usually established by a single individual or a family. It receives more than two thirds of its support from its founder and traditionally, it is established by a successful business. Normally the allocation of financial assistance by way of a grant will be awarded to projects within its designated area. Among the famous and well known international foundations are the Ford Foundation, Rockefeller Foundation and the Bill & Melinda Gates Foundation. These types of endowed foundations can either be a private foundation or a public charitable foundation.

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