

**SYARIAH APPROACH MANAGEMENT MODEL OF THE
COMMISSION TAKEN FROM THE PUBLIC DONATION BY
NON-GOVERNMENTAL ORGANIZATIONS (NGOs)**

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UNIVERSITI SAINS ISLAM MALAYSIA

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COMMISSION TAKEN FROM THE PUBLIC DONATION BY NON-
GOVERNMENTAL ORGANIZATIONS (NGOs)**

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Thesis submitted in partial fulfillment for the degree of
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UNIVERSITI SAINS ISLAM MALAYSIA

March 2021

AUTHOR DECLARATION

I hereby declare that the work in this thesis is my own except for quotations and summaries which have been duly acknowledged.

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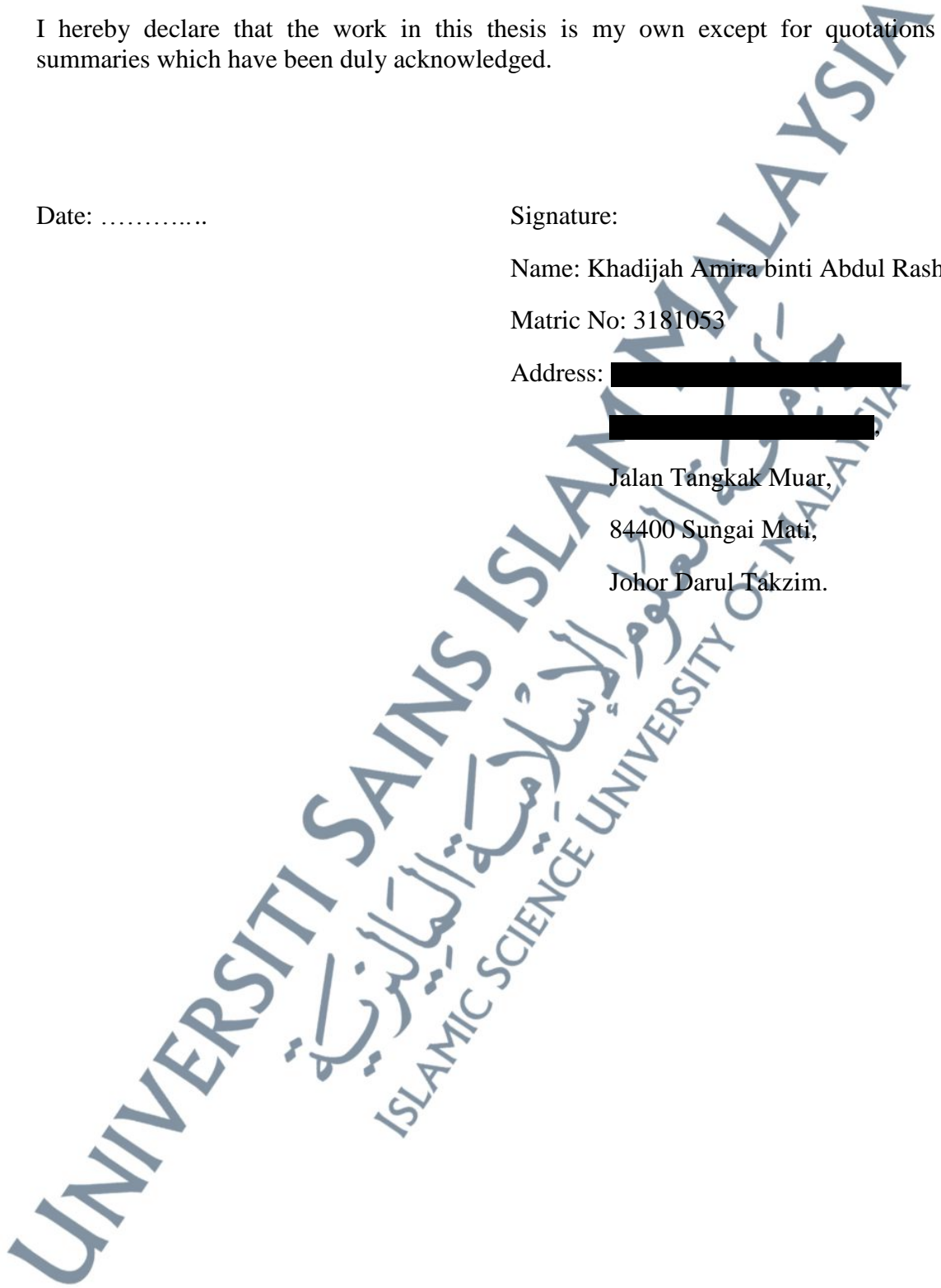
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ABSTRAK

Di Malaysia, dana awam kebiasaannya digerakkan oleh pertubuhan badan bukan kerajaan (NGO). Namun, terdapat pelbagai isu akauntabiliti dan integriti yang membelenggu pengurusan dana tersebut. Ini disebabkan oleh ketiadaan garis panduan yang jelas berkaitan kadar komisen yang sepatutnya diambil daripada kutipan dana oleh badan-badan NGO. Tujuan kajian ini adalah untuk mengkaji aspek pengurusan dana awam oleh badan-badan NGO di Malaysia, menganalisis undang-undang sedia ada berkaitan tadbir urus dana awam, menganalisis jenis-jenis akad kontrak yang digunapakai dan faktor-faktor yang mempengaruhi penetapan komisen hasil kutipan dana awam. Seterusnya, membangunkan sebuah model pengurusan berpendekatan syariah terhadap komisen hasil kutipan dana. Metodologi kajian ini berbentuk kualitatif melalui pendekatan analisis dokumen dan temubual separa berstruktur dengan melibatkan enam NGO terpilih di Malaysia yang terlibat secara aktif dalam aktiviti kutipan dana orang ramai. Hasil kajian mendapati bahawa terdapat lapan aspek pengurusan dana awam yang dikendalikan oleh NGO. Dari sudut perundangan, hanya NGO yang berdaftar di bawah Akta Syarikat 2016 sahaja yang dibenarkan untuk menggunakan dana awam, dengan merujuk Garis Panduan bagi Kelulusan Ketua Pengarah Hasil Dalam Negeri di bawah Subseksyen 44(6) Akta Cukai Pendapatan 1967. Garis panduan tersebut memperuntukkan sekurang-kurangnya 50% daripada dana awam yang diperolehi mestilah dibelanjakan bagi mencapai objektif pertubuhan. Bagi NGO yang berdaftar di bawah seksyen 6 Akta Pertubuhan 1966 pula, mereka tidak diberi sebarang garis panduan berkaitan pengambilan komisen. Selain itu, terdapat tiga jenis akad kontrak Islam yang diaplikasikan oleh NGO iaitu *ijarah*, *ji'alah* dan *wakalah*. Pengambilan komisen dipengaruhi oleh empat faktor seperti; i) upah amil, ii) rujukan undang-undang syariah, iii) panduan daripada mufiti, institusi zakat dan NGO-NGO lain serta iv) kos projek dan pengurusan. Pengkaji juga meletakkan tujuh elemen penting kepada NGO untuk memastikan pengurusan komisen dana awam adalah selari dengan pendekatan syariah. Impak kajian ini dapat dilihat dari aspek sosial dengan memberikan penyelesaian kepada kadar komisen yang boleh diambil daripada kutipan dana awam oleh badan-badan NGO di Malaysia. Dalam aspek ekonomi, kajian ini membantu mengukuhkan keutuhan pengurusan dana awam oleh badan-badan NGO berteraskan prinsip akauntabiliti dan integriti. Hal ini secara tidak langsung menyokong pelaksanaan Rancangan Pencegahan Rasuah Nasional (NACP) (2019-2023) di mana negara menggalakkan ketelusan, akauntabiliti dan budaya integriti dalam kalangan rakyat Malaysia di samping dapat merealisasikan hasrat Wawasan Kemakmuran Bersama (WKB) iaitu menyediakan taraf hidup yang wajar kepada semua rakyat Malaysia pada tahun 2030.

Kata kunci: *pengurusan pendekatan syariah, komisen, kutipan dana, badan bukan kerajaan (NGO), akauntabiliti dan integriti.*

ABSTRACT

In Malaysia, public donation is usually implemented by non-governmental organizations (NGOs). However, there are various issues of accountability and integrity involved in the donation management. This is due to the absence of clear guideline regarding to the commission taken from public donation by the NGOs. The purpose of this research is to study the management aspects of donation fund by NGOs in Malaysia, analyzes the existing law relating to the donation management, analyze types of contracts used and the factors affecting the determination of commission rate. Thus, develop a syariah approach management model of commission taken from the public donation. The methodology used is qualitative method in form of documents analysis and semi-structured interview by involving six selected NGOs in Malaysia who are actively involved in the fundraising activities. The findings show that there are eight management aspects of donation fund applied by the NGO. From a legal perspective, NGOs that registered under Companies Act 2016 only are allowed to spend the donation collection, by referring to the Guideline for Approval of Director General of Inland Revenue under Subsection 44(6) of the Income Tax Act 1967. The guideline stated that at least 50% from the donation received must be spent to achieve the objective of the organization. Meanwhile, the NGOs registered under section 6 of Societies Act 1966 stated that they are not provided with any guideline relating to the commission rate. Besides, there are three types of Islamic contract applied by the NGO which are *ijarah*, *ji'alah* and *wakalah*. The commission taken is affected by four factors like; i) wage of *amil*, ii) referring to the syariah law, iii) guideline from *mufti*, *zakah* institution and other NGOs and iv) project and management cost. The researcher also suggests seven important elements to the NGO to ensure that it is according to the syariah approach. The impact of this study can be seen from the social aspect by providing solution to the commission rate taken from the donation fund made by the NGOs in Malaysia. In economic aspect, this study helps to strengthen the management of public donation based on the accountability and integrity principles. Indirectly, it supports the implementation of National Anti-Corruption Plan (NACP) (2019-2023) where it promotes transparency, accountability and integrity culture in every Malaysians other than realizing the aim of Shared Prosperity Vision which is providing a decent standard of living for all Malaysians by 2030.

Keywords: *syariah approach management, commission, donation fund, non-governmental organizations (NGOs), accountability and integrity.*

الملخص

في ماليزيا، عادة ما تكون الأموال العامة مدفوعة من قبل المنظمات غير الحكومية (NGO). ومع ذلك، هناك العديد من قضايا المساءلة والنزاهة التي تتخبط في إدارة أموال الصندوق. ويرجع ذلك إلى عدم وجود مبادئ توجيهية واضحة فيما يتعلق بمعدلات العمولات التي ينبغي أن تؤخذ من جمع الأموال من جانب المنظمات غير الحكومية. تهدف هذه الدراسة إلى مراجعة دور المنظمات غير الحكومية في ماليزيا في الإدارة المنهجية لأرصدة التمويل، وكذلك تحليل القوانين القائمة المتعلقة بإدارة التمويل. وبالإضافة إلى ذلك، تهدف إلى تحليل أنواع العقود المستخدمة والعوامل التي تؤثر على إعداد عمولات جمع التبرعات. وعلاوة على ذلك، تهدف إلى وضع نموذج للشرعية ونهج منهجي في لجان جمع الإيرادات من أجل استخدام المنظمات غير الحكومية في ماليزيا. وتستخدم هذه الدراسة المنهج النوعي من خلال تحليل الوثائق والمقابلات شبه المنظمة التي تشارك فيها ست منظمات غير حكومية مختارة. وتوصلت النتائج إلى أن المنظمات غير الحكومية لعبت ثمانية أدوار في ضمان أن تكون إدارة الأموال في حالة منهجية. من وجهة نظر قانونية، يُسمح للمنظمات غير الحكومية المسجلة بموجب قانون الشركات لعام 2016 باستخدام الأموال العامة، مع الإشارة إلى المبادئ التوجيهية لاعتماد المدير العام للإيرادات الداخلية بموجب القسم الفرعي 44 (6) من قانون ضريبة الدخل لعام 1967. تنص المبادئ التوجيهية على جواز أخذ ما لا يقل عن 50٪ من الأموال العامة التي يتم جمعها لتحقيق أهداف المنظمة. بالنسبة للمنظمات غير الحكومية المسجلة بموجب المادة 6 من قانون الجمعيات لعام 1966، لا يتم إعطاؤها أي إرشادات تتعلق بأخذ اللجان. كما طبقت المنظمات غير الحكومية ثلاثة عقود إسلامية هي: "إجارة" و "جعالة" و "وكالة". وتتأثر عملية العمولة بأربعة عوامل مثل: (أ) الأجور العامة، (ب) ومراجع الشريعة، (ج) والتوجيه من المفتين ومؤسسات الزكاة وغيرها من المنظمات غير الحكومية، و (د) حساب المشاريع والإدارة. كما اقترح الباحثة سبعة عناصر رئيسية للمنظمات غير الحكومية لضمان إدارة اللجان طبقاً للشريعة الإسلامية. وتؤثر هذه الدراسة اجتماعياً من خلال توفير حلول لمعدلات العمولات التي يمكن أن تُخرج من جمع التبرعات من قبل المنظمات غير الحكومية في ماليزيا. وفي الجانب الاقتصادي، تساعد هذه الدراسة على تعزيز نزاهة إدارة الأموال العامة من جانب المنظمات غير الحكومية استناداً إلى مبادئ المساءلة والنزاهة. وهذا يدعم بشكل غير مباشر تنفيذ الخطة الوطنية لمكافحة الفساد (2019-2023) التي تعزز فيها البلاد الشفافية والمساءلة وثقافة النزاهة بين الماليزيين وكذلك لتحقيق تطلعات رؤية الرخاء المشترك (WKB) التي توفر مستوى معيشة معقول لجميع الماليزيين في عام 2030م.

الكلمات المفتاحية: إدارة الشريعة، اللجان، جمع التبرعات، المنظمات غير الحكومية، المساءلة والنزاهة.

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TABLE OF CONTENTS

CONTENT	PAGE
AUTHOR DECLARATION	ii
ACKNOWLEDGEMENTS	iii
ABSTRAK	iv
ABSTRACT	v
الملخص	vi
TABLE OF CONTENTS	viii
LIST OF TABLES	xi
LIST OF FIGURES	xii
LIST OF STATUTES	xiii
LIST OF APPENDICES	xiv
LIST OF TRANSLITERATION	xv
LIST OF ABBREVIATION	xvii
CHAPTER 1: INTRODUCTION	
1.1 Introduction	1
1.2 Problem Statement	3
1.3 Research Questions	5
1.4 Research Objectives	6
1.5 Significant of the Research	6
1.6 Scope and Limitation of the Research	7
1.7 Definition of Terms	7
1.8 Conclusion	9
CHAPTER 2: LITERATURE REVIEWS	
2.1 Introduction	10
2.2 Past Research Findings	10
2.2.1 Concept of Syariah	11
2.2.1.1 Syariah Contract	11
2.2.1.2 Syariah Compliant Securities	12
2.2.1.3 Syariah Compliant <i>Takaful</i>	14
2.2.1.4 Syariah Compliant Hotel	15
2.2.2 Meaning of Commission	16

2.2.2.1 Wage as a Commission	17
2.2.2.2 Concept of <i>Ijarah</i> , <i>Ji'alah</i> and <i>Wakalah</i>	18
2.2.3 Non-Governmental Organizations (NGOs)	21
2.2.3.1 Roles of NGOs in Malaysia	23
2.3 Conceptual Framework	28
2.4 Conclusion	30

CHAPTER 3: METHODOLOGY

3.1 Introduction	31
3.2 Research Design	31
3.3 Location and Subjects of the Study	32
3.4 Population and Sampling Procedures	33
3.5 Pre-Testing	33
3.6 Data Collection Method	34
3.6.1 Document Analysis	34
3.6.2 Interview	35
3.7 List of Informants	36
3.8 Data Analysis	39
3.9 Conclusion	40

CHAPTER 4: FINDINGS AND DISCUSSION

4.1 Introduction	42
4.2 Management of the Donation Fund by NGOs in Malaysia	43
4.2.1 Target Group and the Percentage of Distribution Provided by NGOs in Malaysia and Abroad	44
4.2.2 Main Source of the Operation	51
4.2.3 Method of Donation Collection	54
4.2.4 Option to Channel the Donation	61
4.2.5 Transparency of Contribution	68
4.2.6 Collaboration with Other NGOs	74
4.2.7 Strategic Partner of NGOs	77
4.2.7.1 Influencer of NGOs	78
4.2.7.2 Volunteer of NGOs	82
4.2.8 Annual Collection of Donation	89
4.3 The Law and Regulation Relating to the Donation Management	91
4.4 Types of Contract Used and the Factors Affecting the Determination of Commission Rate of Public Donation	95
4.4.1 Types of Contract	95
4.4.2 The Factors Affecting the Determination of Commission Rate	101
4.4.2.1 Wage of <i>Amil</i>	102
4.4.2.2 Referring to the Syariah Law	103
4.4.2.3 Guideline from <i>Mufti</i> , <i>Zakah</i> Institution and Other NGOs	104
4.4.2.4 Project and Management Cost	106

4.5 Syariah Approach Management Model of the Commission Taken from the Public Donation by NGOs	107
4.5.1 Element of Syariah Approach Management Model of Commission Rate	113
4.6 Conclusion	117
CHAPTER 5: CONCLUSION AND RECOMMENDATION	
5.1 Introduction	118
5.2 Conclusion of the Research	119
5.3 Contribution of the Research	122
5.3.1 Registrar of Societies (ROS)	122
5.3.2 Non Governmental Organizations (NGOs)	123
5.3.3 Public	123
5.4 Recommendation of the Research	124
5.5 Conclusion	125
REFERENCES	127
APPENDIX 1	137
APPENDIX 2	138
APPENDIX 3	150

LIST OF TABLES

Tables		Page
Table 4.1:	Target Group and the Percentage of Distribution Provided by NGOs	44
Table 4.2:	Main Source of the Operation	51
Table 4.3:	Method of Donation Collection	54
Table 4.4:	Option to Channel the Donation	61
Table 4.5:	Transparency of Contribution	68
Table 4.6:	Collaboration with Other NGOs	74
Table 4.7:	Influencer of NGOs	78
Table 4.8:	Volunteer of NGOs	82
Table 4.9:	Annual Collection of Donation	89
Table 4.10:	Types of Contract	95
Table 4.11:	Factors Affecting the Determination of Commission Rate	110

LIST OF FIGURES

Figures	Page
Figure 2.1: Conceptual Framework of Syariah Approach Management Model	28
Figure 4.1: Management of the Donation Fund by NGOs	43
Figure 4.2: The Factors Affecting the Determination of Commission Rate	101
Figure 4.3: Commission Taking of the NGOs	108
Figure 4.4: Commission Rate Taken from Public Donation	109
Figure 4.5: Similarity of the Commission Rate among NGOs	109
Figure 4.6: Similarity of the Factor Affecting the Commission Rate by NGOs	111
Figure 4.7: Elements of Syariah Approach Management Model of Commission Rate	113

LIST OF STATUTES

Statutes	Page
Business Act 1965	21
Companies Act 1965	21
Companies Act 2016	91, 92
Employment Act 1955 (Act 265)	16
Parliamentary Act	21
Payment of Wages Act 1936	17
Societies Act 1966	21, 93
Trustees Incorporation Ordinance 1952	21

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جامعة العلوم الإسلامية
ISLAMIC SCIENCE UNIVERSITY OF MALAYSIA

LIST OF APPENDICES

Appendices	Page
Appendix 1: Questionnaires	137
Appendix 2: Official Letter of Application to Conduct Interviews with NGOs	138
Appendix 3: Pictures with the NGOs	150

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LIST OF TRANSLITERATIONS

‘	ع
b	ب
t	ت
th	ث
j	ج
h	ح
kh	خ
d	د
dh	ذ
r	ر
z	ز
s	س
sh	ش
s	ص
d	ض
t	ط
z	ظ
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LIST OF ABBREVIATIONS

ABIM	Angkatan Belia Islam Malaysia
ACA	The Awareness and Consolation Association
ACT	Aksi Cepat Tanggap
AKPK	Agensi Kaunseling dan Pengurusan Kredit
ATM	Automated Teller Machine
CCTV	Closed-Circuit Television
CEO	Chief Executive Officer
CGM	Cinta Gaza Malaysia
COO	Chief Operation Officer
CSM	Cinta Syria Malaysia
CSR	Corporate Social Responsibility
DWAS	Dana Wakaf Air Somalia
GPM	Global Peace Mission Malaysia
HRDC	Human Relief Development Center
ID	Identity Document
IKIM	Institut Kefahaman Islam Malaysia
IKRAM	Pertubuhan IKRAM Malaysia
IRM	Islamic Relief Malaysia
IRW	Islamic Relief Worldwide
JAKIM	Jabatan Kemajuan Islam Malaysia
JIM	Jamaah Islam Malaysia
JPPM	Jabatan Pendaftaran Pertubuhan Malaysia
KLN	Kementerian Luar Negeri
KSSB	Kempen Seorang Sekampit Beras
LHDN	Lembaga Hasil Dalam Negeri

MAIM	Majlis Amal Islami Malaysia
MAPIM	Majlis Perundingan Pertubuhan Islam Malaysia
MLLFS	Malaysia Life Line for Syria
MOA	Memorandum of Association
MOF	Ministry of Finance
MPWIM	Majlis Perunding Wanita Islam Malaysia
MVM	Muslim Volunteer Malaysia
NGOs	Non-Governmental Organizations
NUIM	Nadwah Ulama dan Ilmuan Malaysia
PICOM	Palestinian Cultural Organization Malaysia
PPIM	Persatuan Pengguna Islam Malaysia
PPR	Program Perumahan Rakyat
PSK	Welfare Voluntary Organizations
ROC	Registrar of Companies
ROS	Registrar of Societies Malaysia
SAC	Syariah Advisory Council
SC	Securities Commission Malaysia
SOP	Standard Operation Procedure
SSM	Suruhanjaya Syarikat Malaysia
TDV	Türkiye Diyanet Vakfi
UK	United Kingdom
UN	United Nations
URDA	Union of Relief and Development Associations
USA	United States of America
USD	United States Dollar
USIA	United Sabah Islam Association
USIM	Universiti Sains Islam Malaysia

YADIM

Yayasan Dakwah Islam Malaysia

YWCA

Young Women's Christian Association

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