

**THE PERFORMANCE OF THE STATE ISLAMIC
RELIGIOUS COUNCILS (SIRCS) IN MALAYSIA:
WAQF EFFICIENCY AND DETERMINANTS**

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RELIGIOUS COUNCILS (SIRC_s) IN MALAYSIA:
WAQF EFFICIENCY AND DETERMINANTS**

by

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LIST OF ABBREVIATIONS

AE	Allocative Efficiency
BCC	Banker, Cooper and Charnes
CCR	Charnes, Cooper and Rhodes
CRS	Data Envelopment Analysis
DEA	Decision Making Unit
DMU	Efficient Production Function
DRS	Decreasing Return to Scale
EPF	Efficient Production Function
IRS	Increasing Return to Scale
JAWHAR	Jabatan Wakaf, Zakat dan Haji
MFI	Microfinance Institution
NPO	Nonprofit Organization
OLS	Ordinary Least Square
PTE	Pure Technical Efficiency
PFT	Performance Frontier Theory
PTIE	Pure Technical Inefficiency
RBV	Resource Based View
RTS	Return to Scale
SE	Scale Efficiency
SFA	Stochastic Frontier Analysis
SIE	Scale Inefficiency
SIRC	State Islamic Religious Council
TE	Technical Efficiency
TIE	Technical Inefficiency

VRS	Variable Return to Scale
YWM	Yayasan Waqaf Malaysia

**PRESTASI MAJLIS AGAMA ISLAM NEGERI (MAIN) DI MALAYSIA :
KECEKAPAN WAKAF DAN PENENTU-PENENTUNYA**

ABSTRAK

Tesis ini melihat kepada kecekapan tiga belas Majlis Agama Islam Negeri (MAIN) dalam menguruskan wakaf di Malaysia bagi tempoh 2007 hingga 2013. Dua peringkat analisis dijalankan untuk mengkaji kecekapan MAIN. Di peringkat pertama, pengukuran kecekapan teknikal MAIN menggunakan dua model asas Analisis Penyimpulan Data (APD); model Charnes, Cooper dan Rhodes (CCR) dan model Banker, Charnes dan Cooper (BCC). Bagi tujuan mengukur kecekapan, kajian ini menggunakan tiga input dan dua output dipilih berdasarkan pendekatan pengantaraan. Setelah memperoleh skor kecekapan, siasatan lanjut dibuat ke dalam faktor-faktor yang berpengaruh terhadap tahap kecekapan MAIN. Oleh itu, peringkat kedua melihat kepada hubungan antara kecekapan MAIN dan faktor-faktor seperti lokasi, saiz organisasi, saiz lembaga, lembaga bebas dan mesyuarat lembaga dengan menggunakan analisis data panel. Kajian ini mendapati bahawa hanya satu MAIN cekat sepenuhnya dan dua belas MAIN tidak cekat apabila analisis dilakukan ke atas sampel penuh tiga belas MAIN. Analisis lanjut mengenai komponen kecekapan teknikal juga mendedahkan bahawa ketidakcekapan MAIN kebanyakannya disebabkan oleh ketidakcekapan pengurusan, bukan skala ketidakcekapan. Akhir sekali, dapatan analisis peringkat kedua mendedahkan bahawa terdapat hubungan antara kecekapan MAIN dengan lokasi, saiz organisasi, saiz lembaga, lembaga bebas dan mesyuarat lembaga.

**THE PERFORMANCE OF THE STATE ISLAMIC RELIGIOUS COUNCILS
(SIRCS) IN MALAYSIA: WAQF EFFICIENCY AND DETERMINANTS**

ABSTRACT

This thesis looks at the efficiency of thirteen State Islamic Religious Councils (SIRCS) in managing waqf in Malaysia for the period 2007 to 2013. Two stages of analysis are pertinent to the efficiency study of the SIRCS. In the first stage, the measurement of the technical efficiency of the SIRCS uses two basic models of Data Envelopment Analysis (DEA); the Charnes, Cooper and Rhodes (CCR) model and Banker, Charnes and Cooper (BCC) model. For the purpose of measuring the efficiency, this study uses three inputs and two outputs selected based on the intermediation approach. Having obtained the efficiency scores, further investigation is made into the factors that are influential to the efficiency level of the SIRCS. Thus, the second stage looks into the relationship between the efficiency of the SIRCS and location, size of organization, board size, board independence and board meeting using the panel data analysis. This study finds that only one SIRCS is fully efficient and the other twelve SIRCS are inefficient when analysis is done on a full sample of the thirteen SIRCS. Further analysis on the technical efficiency components also reveals that the SIRCS inefficiency mostly caused by managerial inefficiency, not scale inefficiency. Finally, the findings of the second stage analysis uncover that there is a relationship between the efficiency of the SIRCS to location, size of organization, board size, board independence and board meeting.

CHAPTER 1

INTRODUCTION

1.0 Introduction

Giving away one's belonging to another, or simply charity, is not new to many people especially the Muslims. The Quran mentions the need to do charity as a mechanism to share among those unfortunate societies. The core aim at doing charity is to seek Allah's blessing as the investment in the hereafter. Many instruments are available in encouraging the Muslims to make philanthropic deeds such as zakat, hibah and sadaqah. However, the one recently gaining popularity among practitioners, Fiqh scholars and academicians is the waqf.

The waqf plays a major role in improving the socioeconomic welfare of the society. The waqf provides for services such as religious, poverty eradication, education, health and many more. In the western world, the word waqf (taken from the Arabic language) is synonymous with the term "endowment". As such, its concept is not considered new, it exists many years back. This is evidenced by the existence of many olden universities in the western countries which were founded under the "endowment" concept. Examples of famously known universities under the endowment program are Harvard, Cambridge and Oxford in the United States of America and the United Kingdom respectively. Meanwhile, in Egypt, University Al-Azhar operates under the waqf concept (Osman, 2014). While these universities under the concept of endowment or waqf instituted centuries ago, Malaysia only established its first waqf university, Al-Bukhary International University (AIU) in

2010, founded by Tan Sri Syed Mokhtar Al-Bukhary. The core existence of AIU is to help those eligible unprivileged students from Malaysia and other countries in getting a free quality education (Ahmad & Hassan, 2015).

Unlike the concept of endowment, the waqf concept has stronger ties to the shariah principle. It is popularly found in the Islamic literature in referring to a charitable or philanthropic act. Most of the time, the object of waqf donation is property such as land and buildings dedicated to the welfare of the beneficiaries, either it be Muslims or Non-Muslims. As such, the object of waqf is standardly referred to as waqf property. It merely means donated property in most of the waqf literature. In today's practice of waqf, the waqf does not only involve immovable property such as land and buildings, but also movable property such as cash, shares and other tangible items. The permissibility of the movable property is continuously debated by many Muslim countries, but it is considered one way to revamp the waqf system (Cizakca, 2000). To comprehend the waqf concept, the researcher will use the term 'waqf' in reference to the waqf assets. In addition, the term "waqf institution" is used in reference to the organization that is responsible in managing the waqf since most literatures referred the waqf managing institution as the waqf institution. Some of the studies using the term "waqf institution" include Alhabshi (1991), Kafh (2007), Cajee (2007), Hasim (2007) and Alias (2011, 2012).

Before getting deeper into the issues related to the waqf, this chapter starts with a brief introduction of waqf in the first section, followed by details on the background and motivation of the study in the second section. The third section discusses the research problem while the fourth and fifth sections will highlight the main issues of the study by deliberating its' objectives. The sixth section will explain the empirical

and practical contribution of this study to the literature. In section seven, the key terms and definition used in this study are included. Finally, the chapter ends with the organization of this thesis.

1.1 Background of the Study

At the global front, the performance measurement has become an important agenda in many not-for-profit organization or public sectors regardless of field and size (Macpherson, 2001). Some of the performance studies of these sectors include Carter (1988), Athanassopoulos and Shale (1997), Modell (2001) and Ho, Dey and Hiqson (2006). These studies mostly dwell on the performance measures as part of the management control. One of the performance measures is the assessment of organization's efficiency. Witte and Geys (2011) stipulated that efficiency is widely applied in measuring performance of various sectors.

Efficiency refers to the measurement and comparison of the ratio of the input and output combination. It indicates how well the combination of the input and output (as resources) transformed into products through a production process. In economic sense, efficiency looks at the relationship between the inputs and outputs in a production process and measures their performance against the production frontier (Coelli, Rao, Donnell & Battese, 2005). As such, it is essential to look into the performance of an institution through the evaluation of its efficiency to unveil its degree of performance. By doing so, the management can make improvement to the production process. In discussion of efficiency, most studies are done on the profit and nonprofit organizations.

However, there are very limited efficiency studies of the religious charitable nonprofit organizations. Although they are not involved in the mass production of physical products, the institutions still need to utilize their resources consisted of inputs and outputs in order to sustain their operation and existence (Speckbacher, 2003). In view of this, the waqf institutions are still subjected to the economic theory since there are existence of inputs and outputs in their operation. As of recent, the issues related to the waqf institutions has gained attention of many researchers. Ariff (1991), Hoexter (1998) and Bremer (2004) indicated that some of the issues include mismanagement, misuse and neglect of the waqf institutions.

At present, these issues are still encountered by many waqf institutions in the Muslim countries worldwide. In practice, the management of waqf is not an easy task to carry out. Its management subjects to corruption and embezzlement by whoever entrusted to manage them. Many Muslim countries encounter mismanagement of the waqf (Ihsan & Hameed, 2011). Similarly, Malaysia is no exception to this scenario. Waqf issues in Malaysia started when the former Prime Minister of Malaysia, Abdullah Badawi found that waqf in Malaysia is underdeveloped and not properly managed which prompted him to establish the Department of Wakaf, Zakat and Haj (Jabatan Wakaf, Zakat dan Haji-JAWHAR) in 2004 (Mohd Salleh and Muhammad, 2008).

Ismail, Salim and Ahmad Hanafiah (2015) emphasized that the enormity of waqf land in Malaysia can yield billions of income to the Muslim if these lands are managed and developed efficiently. Unfortunately, the enormous amount of the waqf does not help in generating income for these institutions because most of the waqf were not fully managed and developed by the SIRC's. On this matter, Alhabshi (1991) indicated that only 10 percent of the waqf are developed while the rest are not

productive. Although the issue of the unproductive waqf was mentioned more than two decades ago, JAWHAR's officer¹ mentioned that a lot of existing waqf under the SIRC's are still unproductive and not fully developed. As of 2011, the estimated total of the waqf land in Malaysia is at 11,094 hectares (Jabatan Wakaf, Zakat dan Haji).

Owing to the above reason, the utmost priority is that the waqf institutions, as a part of the public sector, be managed efficiently. Specifically, these institutions receive donation from the public and there are accountable to the stakeholders and the Muslim society as a whole (Hasan & Ahmad, 2014). Hence, there is the need to assess their performance. In so far, there exists quite a number of studies looking into the waqf institutions' management including their performance, administration and legal aspects.

Sulaiman, Adnan and Megat Mohd Nor (2009) found that it is important to look at the efficiency ratio to evaluate the performance of the waqf institutions by assessing the relationship between the inputs and outputs of the institutions. In a like manner, Hasim (2007) suggested that the waqf institutions apply an innovative step in encouraging an efficient collection of the waqf fund through insurance companies. Another study by Chowdhury, Chowdhury, Muhammad and Yaso (2012) delved into the problems of waqf administration which include the lack of proficient staff, delay in the management process and lack of revenues to cover for its operation. They found that these problems expose waqf institutions to corruption and mismanagement that lead to delay in distributing the benefits of the waqf to the beneficiaries. Later, Hassan and Ismail (2014) studied the relative efficiency of the

¹ An interview conducted with Hj Zainal bin Haji Mohd Yusoh A.M.N of the JAWHAR on 13th April 2013.

waqf institutions in collecting and distributing waqf to the beneficiaries. On the legal aspect, Mahamood (2006) wrote about the different enactments as applied by the waqf institutions in Malaysia, specifically the State Islamic Religious Council.

As of present, the issues concerning the waqf have become a popular topic among many scholars. Many studies look into the struggle to improve the waqf institutions. However, most of the studies are conceptual in nature. As far as the researcher's concern, the empirical study of the waqf institutions' performance is highly limited. For this reason, this study will look at the waqf institutions' performance as an addition to the waqf literature. In specific, this study will look at how efficient the waqf institutions utilize their resources in generating an optimum output of their operation as to sustain their existence. In laymen term, the performance of the waqf institutions can be assessed through their efficiency. In another words, this study attempts to find out whether the inefficiency of the waqf institutions is due to managerial inefficiency or other factors. Equally important, it is also essential to identify what factors determine the efficiency of the waqf institutions.

1.2 Problem Statement

The stakeholders and Muslim society are interested in the performance of the waqf institutions. They want to know whether their good intentions are fully carried out to benefit the society. Thus, numerous parties have done some assessments of the waqf institutions. Some studies found that there are some profound issues in relation to the waqf institutions that are impediment to their performance improvement (Alhabshi, 1991; Mannan, 1999; Siti Rokyah, 2005; Mohammad Salleh &

Mohammad, 2008; Chowdury, Chowdury, Muhammad & Yasoa (2012); Johari & Mohammad (2013).

Alhabshi (1991) emphasized that the shortage of labor as one of the problems in managing the waqf. Even Johari and Mohamad (2013) indicated that the shortage of labor which stem from insufficient fund to hire more staff to administer the waqf efficiently. Most of the SIRC's do not have qualified and competent personnels to manage the waqf pertaining to proper recordkeeping and accuracy of information. Studies by Siti Rokyah (2005), Abd Wahab and Abdul Rahman (2011), and Chowdhury, Chowdhury, Muhammad and Yasoa (2012) also identified shortage of labor as the biggest issue in managing the waqf efficiently. In spite of the enormous waqf assets in Malaysia, most SIRC's standardly have about 5 employees to manage them which restricted their capacities in managing the waqf efficiently (Mohd Salleh and Muhammad, 2008). Although this issue is highlighted prior to 2013, the SIRC's in Johor, Malacca, Selangor, Negeri Sembilan and Terengganu, supported the aforesaid issues based on the interview sessions² with these SIRC's conducted in 2013 and 2014.

Apart from the labor shortage, the SIRC's also have insufficient revenues to cover for their operational expenses as most of the waqf are unproductive and have no self-generating income. Alhabshi (1991) revealed that the lack of income to provide for the expenses such as maintenance cost of the waqf have hindered the progression in improving its performance. Likewise, Mannan (1999) stated that one problem

² Interview with Ustaz Mustafa Haiyuddin bin Omar (SIRC Johor), Ustaz Mohd Khabir bin Abdul Karim (SIRC Malacca), Encik Ali Mazri Maudin (SIRC Negeri Sembilan), Ustaz Abu Bakar bin Yang (SIRC Selangor), and Ustaz Mohd Ridzuan bin Mohamed (SIRC Terengganu).

connected to the waqf management is the insufficient revenues to cover for the maintenance of the waqf. In short, the lack of income generation causes the difficulties encountered by the SIRC. The majority of the SIRC have difficulties to cover for their operational expenses which include their capacities to pay for more personnel to handle many aspects of the waqf administration and other maintenance expenses. Hence, the SIRC have problem to manage waqf efficiently.

At the present time, efficiency is used to measure the performance of the not-for-profit organizations or public sectors. Some studies focusing on efficiency of the not-for-profit organization or public sector are Niskanen (1975), Balaguer-Coll, Prior and Tortosa-Ausina (2007), Kalb (2010) and Dash, Vaishnavi and Muraleedharan (2010). Researchers such as Maamor and Ismail (2010), Abd Wahab and Abdul Rahman (2011; 2012; 2013) and Hasan and Ahmad (2014) had utilized the data envelopment analysis (DEA) developed by Charnes, Cooper and Rhodes (1978) and Banker, Charnes and Cooper (1984) to denote how an institution manage the resources in the production process. Through the DEA method, an institution will be able to detect whether inefficiency of institution is due to managerial or scale aspects of the production function.

On the subject of efficiency, the SIRC in Penang, Selangor and Johor are deemed to be more efficient in their management of the waqf. Dissapointingly, the progress of the other SIRC is slow in coming. With this in mind, it is essential to address why there exist disparity of efficiency between the 13 SIRC in Malaysia. Thus, it is crucial to deliberate on the relationship between location, size of organization, board size, board independence and board meeting to the efficiency of the SIRC. There are a few studies of efficiency that investigate into this relationship such as studies done

by Miller and Noulas (1996), Felton and Watson (2002), Aronoff and Ward (2002), Luo (2003), Klein, Shapiro and Young (2004), Johnes and Yu (2008), Hsu and Petchsakulwong (2010), Nanke-Bruce (2011), Gulati (2011), Paradi, Rouatt and Zhu (2011) and Said (2012) and Rezaee and Karimdad (2015).

There are many studies of the waqf for the past decade to find the best mechanism to improve the performance of the waqf. Nevertheless, most of the studies of the waqf as mentioned earlier do not support their findings with statistical and empirical evidence of the performance of the waqf institutions, except for the study done by Hasan and Ahmad (2014). The absence of this has prompted the researcher to look into the efficiency of the waqf institutions in measuring their performance. For this purpose, this study will look into how the SIRC's manage their expenses (labor and other operating expenses) and fixed assets in generating higher income through rental and investment of their waqf in sustaining their operations. In addition, the study will look into factors such as location, size of organization, board size, board independence and board meeting as the determinants to the efficiency of the SIRC's.

1.3 Research Objectives

Generally, the main objective of this study is to quantify the efficiency of the State Islamic Religious Councils (SIRC's) in Malaysia for the year 2007-2013 through the following research objectives:

1. To determine whether managerial or scale size contributes to the efficiency of the SIRC's through the decomposition of the technical efficiency into the pure

technical efficiency and scale efficiency scores of the SIRC's in managing waqf in Malaysia using data envelopment analysis (DEA).

2. To examine the relationship between location and efficiency of the SIRC's in managing the waqf in Malaysia.
3. To investigate the relationship between size of organization and efficiency of the SIRC's in managing the waqf in Malaysia.
4. To examine the relationship between board size and the efficiency of the SIRC's in managing the waqf in Malaysia.
5. To examine the relationship between board independence and the efficiency of the SIRC's in managing the waqf in Malaysia.
6. To examine the relationship between board meetings and the efficiency of the SIRC's in managing the waqf in Malaysia.

1.4 Research Questions

Based on the objectives set forth above, the study will answer a few questions pertaining to the efficiency assessment of the SIRC's in Malaysia. The research questions are:

1. Is pure technical efficiency (managerial aspect) or scale efficiency (scale size aspect) contributes to the inefficiency of the SIRC's in managing waqf in Malaysia using the data envelopment analysis (DEA)?

2. Is there any relationship between location and efficiency of the SIRC's in managing waqf in Malaysia?
3. Is there any relationship between size of organization and efficiency of the SIRC's in managing waqf in Malaysia?
4. Is there any relationship between board size and efficiency of the SIRC's in managing waqf in Malaysia?
5. Is there any relationship between board independence and efficiency of the SIRC's in managing waqf in Malaysia?
6. Is there any relationship between board meeting and efficiency of the SIRC's in managing waqf in Malaysia?

1.5 Significance of the Study

1.5.1 Theoretical Contribution

The researcher looks at the Cobb Douglas Production concept as the foundation in discussing the economic theory on production performance. From there, the Farrell's efficient production concept and the performance frontier theory are included to further explain the relationship between efficiency and production performance. As far as the researcher's knowledge, there are not many discussion of these theories in the study of the waqf performance. Specifically, this study included rental income and investment income as the outputs in measuring the efficiency of waqf where

these outputs are least utilized by any of the previous efficiency studies. Hence, these outputs can be considered as a major contribution to the study of waqf efficiency. In addition, this study can be a reference for future researchers who have little reference to the appropriate quantitative methodology and theory used in studying the efficiency of Islamic charitable organization such as the waqf institutions.

1.5.2 Empirical Contribution

Most studies of the waqf are conceptual with very few of them are empirical studies. Thus, this study is intended to add to the literature of the waqf performance by focusing on the efficiency measurement of the waqf insitutions. With this intention, the result of this study is expected to contribute to empirical aspects for future research in the not-for-profit organization specifically for institutions such as the waqf institutions.

Empirically, there is a highly limited extensive publication of the application of the Data Envelopment Analysis (DEA) of the waqf institutions. Many studies using DEA include those of the public universities, municipal councils and hospitals. There are some DEA studies of the Islamic charitable not-for-profit organizations such as zakat and Ar-Rahnu. In so far, there is one study which utilized DEA in measuring the efficiency of the waqf institutions (SIRCs) in Malaysia concentrating into the distribution and collection of the waqf. Differently, this present study will be investigating into the resource utilization of the waqf institutions in measuring their efficiency. Therefore, this study will add to the body of knowledge in the area of waqf institutions' efficiency using DEA with a different angle than the previous study.

1.5.3 Practical Contribution

The result of this study can be beneficial in improving the waqf institutions. The researcher believes that efficiency measurement of the waqf institutions is one way to improve the poor performance of some of the institutions in recovering the public confidence in them. One or more waqf institutions will be used as a benchmark to improve the efficiency level of the inefficient waqf institutions.

For this reason, the result of the study can be used as a reference to interested parties such as the government. Not only the SIRC's will benefit from this study but the federal government institutions such as JAWHAR and YWM. The JAWHAR and YWM are institutions which deal with the monitoring as well as providing funds to the SIRC's. There are to assist the SIRC's in implementing and managing the waqf properties. As such, the JAWHAR and YWM can utilize the result of this study to investigate into how efficient and effective their assistance to the SIRC's in Malaysia.

In the same manner, other parties such as the stakeholders comprising of the board of directors and employees of the waqf institutions and even the public can use this study as their reference. The stakeholders and employees of the waqf institutions will be inclined to improve the efficiency of the waqf institutions by making necessary adjustment to their normal practice of operation. Additionally, the study will reflect to the public that there are measures taken to improve the performance of the waqf institutions. Respectively, this will boost the public confidence in partaking into the waqf donation.

In all, this study will be one of the few studies to examine efficiency of the waqf institutions. It serves as an initiation for future studies of the waqf. As such, this study is expected to be the platform to encourage more empirical studies of the waqf as part of the effort to reform the waqf system in Malaysia.

1.6 The Definition of the Key Terms

Convexity- The word comes from convex which means curving in or out of a line of connecting points (Perloff, 2011).

Efficiency - An analysis of inputs versus output where the input-output conversion ratio can be measured and compared as to come up with an efficiency measurement (Udbye, 2011).

Isoquant- A curve that shows the efficient combination of labor and capital in producing a single level of output (Perloff, 2011)

Mutawalli- The person entrusted to manage the waqf property in meeting the intended purpose of the waqif (Osman, 2012).

Relative Efficiency- The ‘units invariance’ of the absolute efficiency which resulted from the excess amount of input or a deficiency in the output where the comparison of two or more absolute efficiency scores are needed to measure its distance from the frontier (Cooper, Seiford and Tone, 2000).

Technical Efficiency- The measurement of a firm's productivity through the production of maximum outputs from a given set of inputs (Farrell, 1957).

Pure Technical Efficiency- The measurement of the efficiency through the estimation of the efficient frontier with the exclusion of the scale size of operation (Kumar and Gulati, 2008).

Scale Efficiency- The ratio of technical efficiency to pure technical efficiency in identifying the effect of scale size of production in the efficiency measurement of an organization (Kumar and Gulati, 2008).

Waqf – The need to hold and prevent proclaimed waqf properties in meeting the objective of the donor (Kahf, 1998)

Waqif- A person declares his property as waqf (Osman, 2012).

1.7 The Organization of the Thesis

There are six chapters in total. Chapter one is discussed in this chapter. The next chapter will cover in-depth review of the waqf which includes its definition, concept, characteristics and purpose. In the same chapter, some inclusion of its history along with the Malaysian scenario in the waqf management will also be visited.

Chapter three will discuss efficiency's meaning and its approaches along with theories and models as applied by other previous researchers. Then, inclusion of past studies of efficiency is presented. Most of the review will go into the past efficiency

studies of the financial sectors, public sectors and not-for-profit organization with a few studies of Islamic charitable not-for-profit organization.

Chapter four will touch on the sample and population size used. The method of data envelopment analysis and panel data analysis will be detailed in this chapter.

Next, chapter 5 is merely to analyze the objectives of the study. It will present the empirical data collected from the SIRC's. Based on the research framework presented, the waqf performance as measured by the efficiency is examined as to find the best practice waqf institutions. In addition, the relationship between factors such as location, size, board size, board independence and board meeting as determinants of the SIRC's efficiency will also be discussed in this chapter.

Finally, the last chapter will summarize all the findings of the study. The conclusion and explanation will be used to address the objectives of the study. There will be some insights into its relevance and benefits to future studies.

CHAPTER 2

WAQF AND ITS MANAGEMENT

2.0 Introduction

Public awareness of the waqf is still in the minimal stage even to Muslims alike. As such, this chapter is intended to give some comprehension of the waqf. Many people, especially those Muslims who constantly donate to the path of ALLAH SWT, are familiar with the term of waqf but fail to understand the definition and meaning of waqf along with its procedures, legality and implementation. Most understand the waqf as charity instruments where its benefits are to improve the intended beneficiaries' wellbeing, after which, the comprehension of waqf ends.

Similar to sadaqah, waqf is not a compulsory practice of the Muslims. It is a voluntary act by those who have the capacity to improve the well-being of the society. It is an act of retaining something for the benefit of others. Any use of the waqf for unspecified purposes is strictly not allowed. It is the manager's (known as mutawalli) responsibility to make sure that the purposes as specified in the waqf deed are carried out and safeguarded from abuse by others. This condition is in tandem with Kahf (1998) definition of the waqf where he specifies the need to hold and preserve a proclaimed waqf asset solely to meet philanthropic objective. According to Fiqh scholars, waqf is to improve the welfare of the society with the prohibition of its benefit being passed on to those not indicated in the waqf deed (Zahrah, 2007). Not many people are knowledgeable of the waqf concept. Even some of the Muslims are not even aware of the waqf. The majority of the time, people tends to

equal the concept of waqf to sadaqah or even zakat. Briefly, like waqf, sadaqah is also not a compulsory act. However, it does not carry the same characteristics of waqf; perpetuity and alienability. This marks the difference between sadaqah and waqf. On the other hand, zakat is a compulsory act where all Muslims must perform zakat as to meet one of the five pillars of Islam (Muhammad, 1980).

Historically, the concept of waqf emerged since before Islam although it was not identified as waqf by then. The utilization of the concept was apparent by the building of mosques and religious houses where the fund for the maintenance cost are taken from the society's donation. It was known during the time, all these mosques and religious houses were to benefit many people. The most misconception among the society is that waqf is solely to accommodate religious matters. Many do not realize that waqf includes other things such as sadaqah and the beneficiaries can range from the poor and needy individuals including the Muslims or the non-Muslims, as long as there is no violation of the shariah principles.

As mentioned, waqf is one of the ways to achieve equality in the society. Since most people are not clear of how this objective can materialize through the waqf, the insights of waqf should be looked upon. This chapter is divided into five main sections starting with the introduction. Next section will go into the philosophy of waqf such as its meaning and concepts, history, characteristic and principles. The third section will go into Malaysia's scenario in managing its waqf. The focus will be on the problems and responsibility of the waqf institutions in administering waqf. The fourth section will cover some other organizations involved in managing the waqf in Malaysia. Finally, this chapter is summarized in section five.

2.1 Philosophy of Waqf

Specifically, this section introduces the waqf and its concept. This section is further divided into five subsections. The first subsection will look into the meaning of waqf. The next subsection will peek into the origin of waqf where the mentioning of it in the Quran and hadith is disclosed and how it relates to the Islamic beliefs. The history of waqf is also included in this subsection. Next, the details of the waqf characteristic are mentioned in subsection three followed by a brief discussion of its classification. The last subsection will give some comprehension into the parties involved in the waqf system.

2.1.1 Definition and Concept of Waqf

Hadi (2009) explained that waqf means to retain or preserve. It comes from the Arabic word 'waqafa'. In a simple meaning, waqf means to stop, halt or freeze where the creation of waqf take away the control of the original owner of his/her property (Ansari, 2013). As such, a physical object proclaimed as waqf is retained or preserved where only the benefit from it can be used to help the needy. In general, waqf can be understood as retaining or preserving the physical object, either it is permanent or temporary, to benefit directly or indirectly those in need using only the profits gained from it. In true meaning, waqf can be seen as giving away of a person's belonging to help the needy but unlike sadaqah, a physical object proclaimed as waqf can only be used for the intended purpose as specified in the waqf deed. The definition above is supported by few Islamic scholars who defined waqf differently but all are in agreement that waqf is a concept prescribed by Allah

SWT. Table 2.1 summarizes the different way waqf is defined by the main Islamic scholars belonging to the Sunnis school.

Table 2.1: Fiqh Scholar's Definition of Waqf

Fiqh Scholar	Waqf Definition
Hanafi	The retention of original status of the rightful owner of the waqf where the needy can share the benefits.
Al-Maliki	The benefits in whatever forms from the waqf benefits the needy as long as there is specific instruction from the owner
Al-Shafie	The retention and preservation of the waqf with the benefits to help the needy and the original owner no longer has the right to his belonging proclaimed as waqf.
Hanbali	The retention of the original object of waqf to its original form whereby only the benefits from it can be used for helping the needy. The original owner is also prevented from taking benefits from his own belonging proclaimed as waqf.

Source: Al-Hadi (2009)

Hanafi mentioned that waqf is to retain the original status of a physical object to the rightful owner while only the benefits can be used to help the needy. Al-Maliki stated that benefit from waqf in whatever forms can be used to help others in need as long as it is specified by the original owner. On the same ground, Al-Syafie defined waqf as retaining and preserving the original object of the waqf where the intended beneficiaries use the benefits and the original owner bequeath his ownership to it. Lastly, Hanbali believed waqf is preventing the original owner from using the benefits from his belonging proclaimed as waqf where the original object of the waqf should always be retained in the original form and only the benefits can be used for charitable purposes. Supportively, even Ja'fari from the Shi'a school stated that waqf is a contract where the object of the created waqf is retained and only the benefit is

dispersed to the beneficiary (Ansari, 2013). All five scholars, regardless of the school of thought, have different ways in stating the meaning of waqf but all of them are in accordance to the preservation, upkeep of the original object of waqf and its benefits to the society.

In all, the most important purpose of waqf is to improve the well-being of the ummah by giving assistance to the public sector through the coverage of the public services and expenses. Its perpetuity concept prevented the object of waqf to fall into the hands of the unauthorized persons. Generally, the income from waqf is used to maintain the object of waqf and the excess from its income goes to the rightful beneficiaries as stipulated in the waqf deed (Senkaya, 2012).

2.1.2 History of Waqf

Prior to Islam, the term waqf was popularly known as endowment in the conventional system. The concept of endowment before Islam is highly similar to that of the waqf. It involves the process of endowing certain properties where the benefits of the endowment are collected and distributed to the beneficiary. Commonly, the administration and implementation of the endowment is assigned to the high positioned individuals in the religious institutions such as the bishops.

During this time, the object of endowment is strictly restricted to the urban properties as not to jeopardize the continuation of their purpose. Evidently, the concept indicated that there exists a separation of the endowed property (corpus) and the benefits (usufruct) from it (Gaudiosi, 1988). Ansari (2013) pointed out that the pre-Islamic endowment is considered as limited and less far-fetched in their contribution

and capacity in comparison to more comprehensive waqf. The waqf had assisted the government during crisis without interruption in its function to serve the society. In fact, in the early introduction of Islam, most of the religious school and other institutions operated using the income from the waqf.

2.1.2 (a) Waqf in Islam

The origin of waqf was controversially discussed among the oriental scholars. Some of them asserted that waqf is not revealed in the Quran (Ansari, 2013). Nevertheless, despite its not being mentioned clearly in the holy Quran, Zahrah (2007) wrote in his book “Wakaf: Menurut agama dan Undang-undang” that the existence of waqf in Islam is based on three foundations:

First: A hadith by Muslim, Tarmidhi, Abu Dawud, Nasa’I and Ibn Majah from Abu Hurairah reported that The Prophet SAW mentioned when a Muslim man dies, he will only bring with him three things; his sadaqah, shared knowledge and pious children who constantly pray for him. Sadaqah as mentioned by The Prophet SAW literally can be referred as waqf although there is no clear indication of it.

Second: Ibn Umar reported a conversation between Umar bin Al-Khattab and the Prophet SAW where Umar bin Al-Khattab sought the prophet’s opinion about what he shall do with a land he acquired in Khaibar. The Prophet advised him to put it up as sadaqah and once it is donated the land shall not be traded, purchased, given away or inherited.

Third: Thabit Bin Anas Jabir Bin Abdullah and Ibn Hazm narrated and reported that all the Prophet SAW's companions proclaimed their land as waqf.

Hadi (2009) corresponded that these three foundations of the importance of charities further strengthened by a few more verses of the Holy Quran. He wrote that the principle of waqf is even supported by verses from the Al-Quran such as “By no means shall you attain Al Birr (piety, righteousness-here it means Allah's reward, i.e. paradise), unless you spend (in Allah's cause) of that which you love; and whatever of good you spend, Allah knows it well.” Another verse encourages the act of helping each other in faith and goodness that encourages the human kind to have high morality, honesty and devotion (Sura: Al-Imran, Verse: 92). This simply means that one shall only achieve perfection in life when they share their wealth to benefit others.

The first waqf established during the Prophet SAW era is the Quba mosque near Medina followed by the second waqf, the Prophet's Mosque, Dar Al-Hijra, in Madina. The Prophet SAW was also responsible in making the first charitable waqf when he endowed the garden of a deceased Jew named Mukhairaiq who fought for Islam in the Uhud war. After a while, the Prophet SAW's companions such as Abu Bakar, Osman and Ali started to endow their properties in seeking Allah's blessing (Mannan, 1999).

According to Ansari (2013), some Muslims from the Kufan scholar such as Abu Hanifa and Shurayh al-Qadi were against the concept of waqf based on their perception of a prophetic hadith that mentioned “There is no confinement from Godly obligations”. Nonetheless, all other scholars agreed that the hadith purportedly

explained that waqf should not withhold the waqif (the donor) from performing his other religious obligation such as paying zakat and debts, among others. Hence, waqf is permissible to be practiced within the Islamic law as supported by the verses in the Quran and the sunnah of the Prophet SAW.

Further, Senkaya (2012) stated that waqf is an institution with the installation of Islamic values. It can deal with the diminishing poverty and the imbalance distribution of income among the society. He even quoted a prophetic hadith “One who sleeps while his/her neighbor is hungry is not one of us”. In another words, the waqf system encourages the wealthy people to share their richness with those poor society. As such, rich people who neglect the need of the poor will not get any blessing from Allah.

2.1.2 (b) History of Waqf in the Middle East

Similar to Ansari (2013), Cizakca (2000) agreed that the waqf system is very relevant to the modern Muslim society where it can contribute to the reduction of the government’s spending and narrowed budget deficit. Indirectly, it can boost the government’s investment growth. The waqf system can fulfill this role through the voluntary act of donation from wealthy individuals. The voluntary donation is endowed to serve the society where there is better distribution of income in the society. He further indicated that all over the Islamic world, the waqf system has financed and maintained many important developments and services to the society. However, there were several issues during the Ottoman Empire which led to the near destruction of the waqf system in the Islamic world.