

INVESTIGATING WAQF PROPERTY RESOURCES OF INSTITUTIONAL *MUTAWALLI* IN MALAYSIA

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ABSTRACT

The purpose of this study is to investigate the *waqf* property resources of institutional *mutawalli* in Malaysia. This study employs qualitative method by investigating four selected institutional *mutawalli* in Malaysia in terms of their property resources. The institutional *mutawalli* were selected by using purposive sampling method. Formal and semi-structured interviews were carried out with the *waqf* manager, deputy CEO, *waqf* coordinator and manager of *waqf* development unit as representatives of the institutional *mutawalli*. In this study, *waqf* property resources of the institutional *mutawalli* are categorized into three elements which are i) the type and number of physical *waqf* property, ii) the total value of *waqf* property including cash *waqf*, and iii) the categories of *waqf* property. These elements provide some general insights into the *waqf* property resources of each institutional *mutawalli*. Thus, from the information, each institutional *mutawalli* can take proactive action to ensure that all *waqf* properties in their institution are well managed, as well as being administered and developed accordingly as it can contribute to the socio-economic advancement of the Ummah.

Keywords: *Waqf* property, institutional *mutawalli*, qualitative method, semi-structured interview, socio-economic

BACKGROUND OF THE STUDY

Transparent and orderly *waqf* management by any trustee or administrator, whether the State Islamic Religious Council (SIRC) or other *waqf* institutions, plays an important role in upholding a *waqf* institution. SIRC can be regarded as a key player for the management and development of *waqf* properties in various aspects. With the diversity of *waqf* institutions, all *waqf* resources must be effectively administered and managed. Systematic management of *waqf* property resources can benefit the community and help improve the socio-economic development of the surrounding areas.

The purpose of the appointment of the SIRC as the sole trustee of *waqf* properties is to ensure that the *waqf* properties are well and efficiently managed so that they can generate substantial income. Furthermore, it is hoped that the *waqf* properties are utilised by the community for benevolent purposes, either in accordance with the wishes of the *waqif* or not (Mahamood, 2006). The appointment of the SIRC is also intended towards avoiding various problems associated with the appointment of private trustees made by the previous *waqif*. Hence, it is clear that the changes to *waqf* institutions made by the *waqf* administrators originate from the issue of *waqf* property management. Although the law has stated that the SIRC is the sole trustee of all *waqf* properties in Malaysia, currently there are other institutions appointed to manage *waqf* properties.

Research on *waqf* property issues are becoming increasingly popular in line with the development of *waqf* properties themselves. To date, various studies have been conducted by various parties to study issues related to *waqf* property management. Previous studies have been seen as successful in assisting the authorities in improving the management efficiency and enhancing the *waqf* property development activities. Indirectly, these research have helped the country in identifying problems and solutions in *waqf* property development. However, there are also problems related to the partially utilised *waqf* properties even though the number of *waqf* property resources have risen (Mutalib & Maamor, 2016). Currently, Malaysia is one of the countries that have their own special *waqf* property resources management based on the different types of

institutional *mutawalli*.

Therefore, the purpose of this study is to investigate the *waqf* property resources of institutional *mutawalli* in Malaysia and to help the institutional *mutawalli* to ensure that the the *waqf* properties are fully utilised. This study is very important and the information could be used by the public especially those who are looking for *waqf* properties in the locality for economic activities. It is also important for the policy makers to have plans on how to utilise the *waqf* properties. This study employs qualitative methods by investigating four selected institutional *mutawalli* in Malaysia relating to their *waqf* property resources.

LITERATURE REVIEW

The meaning of *waqf* is for charitable purposes which gives it life-long assets and it uses last forever (A. G. Ismail & Che Arshad, 2009; Mohd Noor, Md Yusof, & Yaakob, 2007). Originally, the term *waqf* is from an Arabic word *waqafa* which means to hold, confine and stop (Ab Rahman, 2009). In addition, there is another meaning of *waqf* depending on the needs and uses of the language itself. According to *Kamus Dewan* (2007), *waqf* is something that is donated for communal use or for usage related to religious matters. Meanwhile, from the perspective of the Malay culture, *waqf* is a small hut used for the purpose of resting the body after farming (Othman, 2013). Selangor *Waqf* Enactment (1999) defines *waqf* as to transfer any kind of property and its benefit in any form to the society or for the purpose of charity, either through a specific *waqf* or a general *waqf* as long as it is *Shariah* compliant.

Waqf property is a source of wealth and prosperity for an institution. *Waqf* property has several characteristics such as irrevocable, perpetual and non-transferable properties (Othman, 2013; Sadeq, 2014). The practices of *waqf* have four main pillars which are i) *waqif* the *waqf* donor, ii) *mauquf* the subject or the property donated, iii) *mauquf alaihi* the recipient, and iv) *sighah* the declaration (*Manual pengurusan tanah wakaf*, 2006).

Basically, *waqf* can be divided into two general categories which are general *waqf* and specific *waqf*. General *waqf* means *waqf* that is

sustainable with respect to the capital and profits from the property for religious or charitable purposes recognized by the Islamic law and properties that are given in *waqf* in such manner. General *waqf* is a *waqf* intended the benefit of the public. In this case, the *waqif* does not limit the benefits nor the usage of the *waqf* property and thus the property can be used for welfare purposes, such as land for building orphanages, hospitals and others (Mat Rani, Baharuddin, Abd Latiff, Ishak, & Othman, 2014).

Specific *waqf* relates to sustainable *waqf* or for a specified period on capital assets for religious or charitable purposes recognized by the Islamic law and properties that are given in *waqf* in such manner, the profits of which are given to persons or bodies or purposes as specified in the *waqf* instrument (Mohamad, Kader, & Ali, 2012). Meanwhile, Ismail, Muda, & Hanafiah, 2014 explained that specific *waqf* is when the benefits and purposes are for special uses such as for the *waqif*'s family members or certain purposes such as granting the land for the construction of mosques, *surau*, and orphanage hostels.

Waqf property can also be divided into two categories which are immovable *waqf* property and movable *waqf* property (Mutalib & Maamor, 2016; Othman, 2013). Immovable *waqf* property or also known as a fixed asset is a permanent, absolute and durable property. Examples include buildings, lands, shop lots and houses. A study by Mohamad et al., (2012) mentioned that most immovable *waqf* properties involve lands and buildings. This is in line with Manat (2007) who stated that land is a traditional and most often practiced method by *waqif* to do charity. In contrast, movable *waqf* property or non-permanent assets are temporary and non-durable. Examples are lamps, mats, cash, securities, and home appliances (Ahmad & Muhamed, 2011). Other examples include the *waqf* of books, computers, and vehicles for mosque and community use.

There is a substantial number of research related to the categories of *waqf* property in Malaysia. Most of the research focused on *waqf* property development in Malaysia (Ab Rahman, 2009; Omar & Ab Rahman, 2015). However, issues related to *waqf* property resources of the institutional mutawalli are rarely studied. The issues of the *waqf* property will indicate how all the institutional mutawalli manage,

administer as well as utilise the *waqf* properties under their administration. Thus, it is important to study the *waqf* property resources as previous studies have only focused on *waqf* property development while the issue of *waqf* property utilisation have been neglected. Utilisation means the exhaustive use of a *waqf* property so that it can generate more income to enable the *waqf* property to be self-sustainable as long as the utilisation does not conflict with *Shariah* compliant obligation.

From the definition as stated above, utilisation means to fully use a *waqf* property. Thus, utilisation implies of all resources without any wastage. It must be emphasized that the function of a *waqf* property is not only for the benefit, but it also can generate income to the institution. The reason why a *waqf* property needs to generate income is it must be self-sustainable (Chowdhury, Chowdhury, Muhammad, & Rusdan Yaso, 2012; Osman, 2010). Meanwhile, the main purpose of a *waqf* institution is to make social profit (Hassan & Shahid, 2010). Social profit means the cost efficient way to use any available resources so that the social objective as defined by the *waqif* is achieved.

Waqf Property of Institutional *Mutawalli* in Malaysia

In the Malaysian scenario, *waqf* properties are managed under the SIRC as the sole trustee at the state level. This means each state has a sole and absolute power to determine how *waqf* properties are to be developed and managed. This power has been entrusted through the *waqf* enactment act which provides that every SIRC should manage, administer and develop *waqf* properties which are registered under the respective SIRC (Hussin, Abdul Rashid, & Yaakub, 2016). This situation clearly indicates that the SIRC also acts as an institutional *mutawalli* for the management of *waqf* property (Abdullah, 2010). However, SIRC also have the authority to appoint another institution as a *mutawalli* or nazir in managing the *waqf* properties, collecting cash *waqf*, or other related sources such as *waqf* share (Abd Mutalib, Abdul Rashid, Harun, & Sudin, 2015).

Presently, there are several types of institutional *mutawalli* which are responsible for the management, administration, and development of *waqf* properties. These types of institutional *mutawalli* basically

perform the same roles and responsibilities as specified in the instrument of *waqf*. However, these institutional *mutawalli* differ in several aspects such as the organizational structure (Abd. Wahab & Abdul Rahman, 2011; Abu Bakar, Md Hussain, & Hamed, 2017), legislative framework (Abdul Razak, Che Embi, Che Mohd Salleh, & Fakhrunnas, 2016; Hussin et al., 2016; Mohamad et al., 2012), institution registration (Ab Rahman, 2009; Ismail & Che Arshad, 2009), and reporting and decision making hierarchy (Abd. Wahab & Abdul Rahman, 2011).

The institutions also differ according to types of institutions such as state government (Osman, 2012; Wan Yon, Abdul Latif, & Bahrom, 2008), corporate state government, educational *waqf* institutions (Azha, Baharuddin, Salahuddin, Afandi, & Hamid., 2013; Majuni, Mohd Taib, & Rifin, 2016; Sadeq, 2014), corporate institution (Md Saad, Mhd Sarif, Osman, Hamid, & Saleem, 2017; Shakor, 2011; Thaker & Thaker, 2015), and trustee board (Abd Mutalib & Maamor, 2016; Abdullah, 2010; Ibrahim & Ahmad, 2008; Mohamad et al., 2012).

METHODOLOGY

Data Collection Tool

This study employs qualitative exploratory research methodology and as such implies the use of qualitative data collection techniques (Yin, 2014). Formal and in-depth semi-structured interviews with document reviews are the most appropriate choice of technique for data collection. This method allows the researcher to administer similar questions to all the interviewees and additional questions could be asked whenever needed. This technique facilitates the gathering of rich data and is most useful for exploratory studies. This research focused on four types of institutional *mutawalli* and the data collection was done through in-depth interviews, which is a common benchmark for exploratory studies (Chua, 2012).

Sample Size

This qualitative exploratory study used purposive sampling on four institutional *mutawalli* with different types of organisational

registrations and structures. The four types of institutional *mutawalli* are state government, private, corporate and educational institutional *mutawalli* (Haron, Husin, Rosli, & Kamaruzaman, 2015). In this study, the participants from each institutional *mutawalli* were the *waqf* manager, deputy CEO, *waqf* unit coordinator and manager of *waqf* development unit. Therefore, the researcher needs to select related institutions because they can understand the phenomenon well (Creswell, 2013). Hence, the sample type for this study is homogeneous and criterion sample such as *waqf* institution. A homogeneous sample represents a more focused group, simplified, reduced and facilitates group interviews (Creswell, 2013; Hesse-Biber & Leavy, 2011).

The criteria for selecting the sample participants were experience, involvement in the institution, influence, and position related to *waqf* property management. The participants were acknowledged in their respective institution as experts in the management of *waqf* property and were able to spare their time to share their experience and transmit their tacit knowledge and experience freely and accurately.

Participant's Profile

Each participant was chosen based on their position in the institution. The participants held high positions in the institutions such as *waqf* manager, deputy CEO, *waqf* unit coordinator and manager of *waqf* development unit. Each participant has an extensive experience in the area of *waqf* property. A majority of them have served between eight to fifteen years. As for the educational background, all the participants have a bachelor's degree in Islamic studies and two of the participants have a master's degree. In addition, all the participants were directly involved as one of the decision-makers in the institutional *mutawalli*.

Interview Setting

The interview was a semi-structured and recorded interview. All participants were provided with the same set of instructions and were asked the same questions. The data were collected using open-ended questions. The conversation during the interview was conducted in the *Malay* language. The participants were highly

educated and held high positions and to collect in-depth data and to gain a broader perspective from the participants to match the breadth of the issue, comfortable setting was provided to the participants. Each interview which took about 60-90 minutes, was conducted at the participants' premises or the natural setting of the participants. However, the identity of the participants and their respective institutional *mutawalli* are not disclosed to ensure confidentiality and anonymity of the parties concerned.

Data Analysis

In terms of data analysis technique, the data were analysed using the Atlas.ti software to develop and group the categories and themes that emerged from the interviews. In order to ensure that the information from the interviews had been accurately captured, the participants were given the option to perform a review of the transcribed dialogues of their interviews.

FINDINGS AND DISCUSSION

In this section, the background of the institutional *mutawalli* is presented followed by a discussion on the results of the analysis of the *waqf* property information gathered from the four institutional *mutawalli* in Malaysia. Table 1 shows the summary of institutional *mutawalli* information.

Table 1: Summary of Institutional Mutawalli information

| Institutional <i>Mutawalli</i> (IM) <i>Waqf</i> Property Information | IM 1 | IM 2 | IM 3 | IM 4 |
|--|--|---|---------------|----------------|
| Year of establishment | • 1959 after taking over from the previous | • Operate under new institution on 30 Oct 2009 after taking | • 25 Oct 2000 | • 22 July 2013 |

| | | | | |
|--|--|--|---|---|
| | manage ment in 1905 | over from the state governme nt. | | |
| Type of institutional <i>mutawalli</i> | <ul style="list-style-type: none"> • State Islamic Religious Councils | <ul style="list-style-type: none"> • Incorporated institution focusing specifically on <i>waqf</i> matters. | <ul style="list-style-type: none"> • Corporation | <ul style="list-style-type: none"> • Educational institution |

Based on the interviews and analysis, the researcher divided the *waqf* property information into three categories which are i) type and number of physical *waqf* properties, ii) total value of *waqf* properties including cash, and iii) categories of *waqf* properties which are general and other categories. Table 2 shows the summary of analysis of institutional *mutawalli waqf* property information.

Table 2: *Waqf Property Information of Institutional Mutawalli*

| Institutional <i>Mutawalli</i> <i>Waqf</i> Property Information | IM 1 | IM 2 | IM 3 | IM 4 |
|---|--|--|---|--|
| Type and number of physical <i>waqf</i> property | <ul style="list-style-type: none"> • 1210 lots of landed property | <ul style="list-style-type: none"> • 773 lots of landed property | <ul style="list-style-type: none"> • 41 lots of landed property • 6 <i>waqf</i> mosques | <ul style="list-style-type: none"> • 1 specialist clinic • 1 haemodialysis clinic • 1 mobile clinic |
| Total value of <i>waqf</i> property | <ul style="list-style-type: none"> • Not specified | <ul style="list-style-type: none"> • Approximately RM260 million from | <ul style="list-style-type: none"> • Approximately RM454 million | <ul style="list-style-type: none"> • RM4.15 million of physical |

| | | | | |
|----------------------------------|--|--|--|--|
| including cash <i>waqf</i> | | the total value of 3 out of 9 districts | market value of <i>waqf</i> share | properties |
| | | | • RM85.5 million of physical property | • RM515,907 of cash <i>waqf</i> collection |
| Category of <i>waqf</i> property | • General <i>waqf</i> more dominant compared to specific <i>waqf</i> | • General <i>waqf</i> more dominant compared to specific <i>waqf</i> | • General <i>waqf</i> more dominant compared to specific <i>waqf</i> | • Not specified |

Type and number of physical *waqf* property

The first category refers to the total number of physical *waqf* property in the institutional *mutawalli*. All institutional *mutawalli* had identified their total number of physical *waqf* property.

IM1 it has 1210 lots of physical *waqf* property from all 5 districts in the particular state. Meanwhile, IM2 has 773 lots of physical property from 3 districts out of a total of 9 districts. As for IM3, it has 41 lots of landed property with an additional 6 *waqf* mosques. IM4 has 1 specialist clinic, 1 hemodialysis clinic, and 1 mobile clinic. All the landed properties include shop lots, houses, and lands. These findings show that each *mutawalli* institution has different types of *waqf* properties of different sizes. Therefore, every institution has landed property comprising lands, buildings, shop houses and houses (Mat Rani et al., 2014; Omar & Ab Rahman, 2015).

Furthermore, even though IM1 has the greatest number of physical *waqf* property, the information is based on 5 districts compared to IM2 which only covers 3 districts from a total of 9 districts. In other words, if IM2 provides information on all 9 districts, there is a possibility that

the total number of physical *waqf* property will increase. When the total number of physical *waqf* property in a particular state increases, the beneficiaries can enjoy and benefit from the *waqf* properties. As mentioned by Manat (2007), physical *waqf* property is more dominant as it is the traditional and most often practiced method by *waqif* to donate their property for charity purposes.

Total value of *waqf* properties including cash *waqf*

All institutional *mutawalli* have revealed the total value of their *waqf* properties including cash except for IM1. Interestingly, IM3 has approximately RM454 million market value of *waqf* share with an addition of RM85.5 million of physical properties. This is followed by IM2 with approximately RM260 million from 3 districts out of 9 districts. However, IM4 only has RM4.15 million of physical properties and RM515,907 of cash *waqf*.

The second analysis, involving the valuation amount of *waqf* property in each institution, as shown in Table 1, reveals that the year of establishment explains the total quantity of *waqf* property in each institution, but it does not reflect the valuation amount of every *waqf* property as shown in Table 2. For example, although IM1 was established longer than the others, the institution did not provide the specific value of all *waqf* properties under its management. This is because when a property was assigned by a *waqif*, it will be valued at the nominal value of RM1.00 compared to the current market value of the *waqf* property (Informant 1). The reason is when a property is being pledged as *waqf*, it automatically belongs to Allah SWT and no longer belongs to the *waqif*.

However, when there are more professionals being exposed to the *waqf* scenario, a proper accounting system was introduced to simplify *waqf* recording and accounting system (Masruki & Shafii, 2013). As for IM2, IM3, and IM4, the *waqf* property value is stated clearly. Although IM3 is newly established, the *waqf* property value is the highest compared to IM2 and IM4. The value of *waqf* property is collected from the *waqf* stock from several subsidiaries in addition to the physical *waqf* property value. This is followed by IM2 which also has a high *waqf* property worth based on current market valuation. Most of its *waqf* properties are in prime areas or located in towns

(Informant 2). However, IM4 has a low *waqf* property value as the institution is still new and needs additional cash *waqf* as to add to its existing *waqf* property.

Categories of *waqf* property

The next discussion is on the types of *waqf* property whether general or specific *waqf* property held by the institutions. The findings from IM1, IM2, and IM3 show that general *waqf* property is more dominant compared to specific *waqf* property. The reason is that most of the *waqif* have stated their wishes in general *waqf* rather than specific *waqf*. When there are more general *waqf* property, it will facilitate *waqf* property implementation by the institution (Mohamad et al., 2012). When the *waqif* state their wishes in general *waqf*, the institutions has the flexibility in distributing and channeling the benefits from the *waqf* property without any restriction. Moreover, the benefits could be channeled to many parties. The property could also be used for various purposes and uses.

Meanwhile, for IM3, the institution has specified to whom the benefit of *waqf* share will be channeled. However, IM4 has not clearly stated its type of *waqf*. However, the institution had explained and stated clearly the function and purpose of every *waqf*. This means the *waqif* understands clearly when pledging the *waqf* (Informant 4) (Johari et al., 2015). Besides that, with the implementation of clinic *waqf*, it will produce future Islamic medicine experts who could provide their medical expertise (Sulaiman & Abdul Manaf, 2009).

CONCLUSION

As mentioned earlier, the aim of this study is to investigate the *waqf* property resources of institutional *mutawalli* in Malaysia. The objectives have been achieved through interviews conducted on four different categories of *mutawalli* institutions. The findings show that in terms of the types of *waqf* properties, each *mutawalli* institution has different types of *waqf* properties of different sizes as well as the number of physical properties. IM4 has the most types of *waqf* properties where it has a specialist clinic, hemodialysis clinic and mobile clinic and. Thus, it is totally different than the other IMs.

IM1 has the highest number of physical *waqf* property with 1210 lots. In term of the total value of *waqf* properties including cash, IM3 has the highest with RM454 million of *waqf* share at market value and RM85.5 million of physical property. These findings are for the categories of *waqf* property resources that most of the IMs stated general *waqf* is more dominant compared to specific *waqf*.

Based on the preliminary findings about *waqf* properties specifically on the types, number of physical property, value, as well as the dominant category in each *mutawalli* institution, the results show that there are different types of *waqf* properties which imply that the management as well as the utilization of those *waqf* properties will also differ. Institutional *mutawalli* have their own management process and implementation in utilizing their *waqf* properties to ensure that the objectives of the establishment of the *waqf* institutions can be achieved and the benefits are disseminated among the Ummah.

Based on the findings, the information gathered can be used by the institutional *mutawalli* on how to best utilise their *waqf* properties based on the experience of other IMs. The community should also be aware that *waqf* properties can be utilized for economics activities which is another way of utilising *f* these properties. Meanwhile, the policy makers should plan and produce a standard procedure as a strategy for the IMs in utilizing the *waqf* properties. There should be different procedures and strategies for different types of IMs based on the findings due to the different types of management but always on one mission which is to utilize the *waqf* properties.

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