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Role of the *Waqf* Division, Kedah State Islamic Religious Council in the Implementation Land *Waqf* Scheme: A Review

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Abstract: *Waqf* properties developed based on land *waqf* scheme has functioned as a branch of generating socio-economic development of Muslims in the Kedah state. However, at times, its existence remains unnoticed by some Muslims. Recognizing this, the Kedah State Islamic Religious Council (MAIK) took the initiative and innovative measures to strengthen these institutions by introducing the land *waqf* scheme. *Waqf* properties developed over the years help improve the state of Muslims compared to other races in the state. This article will discuss the general concept of *Waqf* and implementation of the land *waqf* scheme by MAIK. The data were obtained from the literature review, documentation, interviews with stakeholders, observations and a review of site as sources in the qualitatively conducted analysis. The study found that the land *waqf* scheme has been successfully implemented and has vastly contributed to the development of mosques and educational institutions in Kedah.

Keywords: Land *waqf* scheme, Kedah State Islamic Religious Council, *wakalah*, Mosque Committee.

1. Introduction

Waqf is derived from the Arabic word *waqf*, i.e. the *waqf* (masdar) of the verb *waqafa* and has various meanings according to the purpose and use of the noun itself. In terms of language, *waqf* means to stop, prevent or withhold (Ibn Manzur: 1990). The Fuqaha (al-Nawawi: t. t, Abd. Greetings: 1994, Ibn ' Abidin: 1994 and Al-Sarakhsi: t.t.) defines *waqf* in terms of language as *al-Habs* (withhold) as the meaning is closer to syara'.

Waqf is a form of property surrender whether in clear words (sorih) or vague (kinayah), in which the property concerned will be withheld and the benefits will be used for worthy purposes either general or specific reasons.

Literally, *waqf* means detention, to hold something to be used by others. The *waqf* property should be in good condition, permanent and with the purpose of being closer to God Almighty and benevolent to others. Also, the *waqif* (the individual doing the *waqf*) no longer has the right to the *Waqf* property (al-Syarbini: 1997). Muhammad ' al-Dusuqi Arfah (1980) explains that the benefits from the *Waqf* are entrusted to the right person within a specific period of time, in accordance with the will of the *waqif*. According to Ibn Qudaamah (1972) of the Hanbali Sect, *Waqf* means withholding the original and giving the benefits.

Management of *Waqf* land is placed under the states' welfare as outlined in the Federal Constitution in the Ninth Schedule First List and Second List. The second act is the National Land Code (NLC) 1965 (Act 56) under section 4 recognizes the existence of the *waqf* land. For each state, *waqf* management is provisioned under the state's laws on Islamic religious affairs governed by the State Islamic Council (MAIN).

There is a diversity of *Waqf* law in Malaysia caused by fractional power given under the Federal Constitution from the perpetuation of power left and valued since before independence. The Federal government did not have any legislative power on the welfare of *Waqf* and zakat. However, it is the concern of the federal government to improve the overall administration and management for improving the quality of services provided by all organizations.

2. Literature Review

Land *Waqf*

Land *waqfis* widely practised nowadays in Malaysia, especially in Kedah, as it is an effort to increase and to develop the number of *waqf* property. Given the increasing land prices which can be as high as RM100.00 per square feet, it is impossible for most individuals to purchase land for *waqf* purposes. Thus, the land *waqf* scheme

is one alternative to provide opportunities for more Muslims to join *waqf*. Simultaneously, helping the country develop the economy.

According to Zulkifli Mohamad Al Bakri (2012), land *waqf* is the act of donating property for charity purposes. The *waqf* management (authorities that manage the *waqf*) will buy the whole property before a person who intends to do a *waqf* (the *Waqif*) will buy it by fraction according to his or her preference for an agreeable price.

Land *Waqf* or *waqf petak* is also known as *waqf lantai*. The nazir or trustee for the *waqf* will buy the whole property. After which, the waqif will buy the land in small sizes (square feet) before donating it back as *waqf* (Mohd Shah bin Abu Bakar Firafizal, 2005). The land *waqf* scheme is usually offered by educational institutions or certain agencies to fund their development activities. If the development projects have been completed, then the land *waqf* will be stopped. It will be divided into small lots and sold to people at a certain price. The purchased lands are required to be given back as *waqf* to the institutions or bodies concerned (Baharuddin Sayin, et al 2006).

The trustee or nazir will buy the whole property and waqif will pay the price according to the size of the square feet of his or her preference or which has been agreed upon. Land *waqf* enables the land to be bought by square feet, making it a joint ownership and that all of the landowners have agreed to give it back as *waqf* (Zaharuddin Abdul Rahman 2014). Land *waqf* also refers to purchase of land property according to size or square feet, which will then be given as *waqf* to the *waqf* trustee or nazir.

3. History of Land *Waqf* Implementation in Kedah

Detailed information on the initial implementation of land *waqf* in Kedah is hardly available because it was never documented, and no detailed study has ever been done before. However, through an interview with Zakat Official, Tuan Sheikh Ahmad Zaki bin Ghazali (2019) and Former Head of Kedah Islamic religious affairs Council Dato ' Paduka Sheikh Abdul Majid bin Mohd Nor (2019), it was discovered that implementation of the land *waqf* was introduced in the 1960s by the *Qadhi* of Kedah, which at the time, was Dato ' Sheikh Abdul Aziz bin Awang Besar. No precise date was recorded and researchers acknowledged it because Dato' Sheikh Abdul Aziz died in an aeroplane crash in Bangkok in 1970 while still serving as *Grand Qadhi*. Dato ' Sheikh Abdul Aziz came from Village of Jerai Mukim, Kupang, Kedah, and served Sheikh Muhammad Ali bin Hussin bin Ibrahim bin Hussin Al Maliki for seven years. During his years of service in the 1960s, he has been trying to urge people at that time to *waqf* coconuts from their coconut trees. He is also famous with the title *Sheikh Botol* when he introduced a system of donation (*waqf*) via collection and selling of glass bottles (*waqf*).

The land *waqf* was also one of his brilliant ideas. This has become a tradition and is practised by Muslims in Kedah as a religious act until now. Before this, it was impossible for Muslims without land ownership to do *waqf*, but if the land is divided to smaller lots and are affordable for the masses, as well as meeting the terms for *waqf*, then this approach has certainly opened up opportunities for more people to give *waqf* and thus, help improve the state's economy.

Up until now, land *waqf* is still being implemented and have managed to develop dozens of lands all over the state, be it general *waqf* or special *waqfas* more less-capable *waqifs* would be able to donate *waqf*.

4. Kedah State Islamic Religious Council (MAIK)

Waqf properties are governed by State Islamic Religious Council (MAIN). Each state has different administrative and managerial procedures on *waqf*. *Waqf* management is very dependent on the organisational procedures and the policies of the state.

A precursor to MAIK was first established in 1948 as the Kedah State Islamic Religious Council and Malay Customs. The council was originally comprised of ten members. Council members were made up of five Muslim scholars and five experts of Malay Customs from the Kedah State. All of them were appointed by His Majesty, the Sultan of Kedah (KDYMM) and served under his rule for a period of three years in a term.

The Kedah State Islamic Religious Council (MAIK) was established officially on 1st August in 1964, replacing the Kedah State Islamic Religious Council and Malay Customs to overcome inefficient management due to shortage of staff as well as the lack of an appointed Secretary in managing and organizing meetings. Thus,

the state officials have taken the initiative to improve its management and administration by appointing a permanent Secretary.

MAIK was established according to the provisions under 33B in the Constitution of the state No. 32/ 1959 and in accordance with the provisions of Islamic Administrative Law (No.9/ 1962). MAIK's foundation is based on the provisions of the Kedah State Enactment of Islamic Religious Administrative No. 9 in 1962 up until today.

The main function of MAIK is to assist the KDYMM Sultan and advises KDYMM Sultan in matters which are relevant to the Islamic religion in Kedah and is the policymaker in Islamic religious affairs of the state. Meanwhile, the Kedah State Islamic Department (JAIK) is the agency implementing the policies and manages all administrative affairs, as well as responsible for developing programmes, schemes or projects solicited by the Council. In addition, JAIK is also responsible for all Muslims in the state as well as to plan, manage and execute all policies and information related to Islam.

Since the establishment of MAIK was based upon Kedah State Enactment of Islamic Religious Administrative, the establishment of the *Waqf* Division is also in accordance with the same provisions meant to safeguard and reserve all *Waqf* properties in Kedah. However, the exact date of the *Waqf* Division's establishment is uncertain because according to Sheikh Ahmad Zaki bin Ghazali, Head of *Waqf* Division (2019), its establishment is around the same time as the establishment of MAIK. MAIK's main sources of financial support are from the *Baitulmal*, the *Waqf* Division as well as budget allocation from the Kedah state.

5. Research Methodology

The research conducted utilises two main approaches which are qualitative research method and field study. This method aims at obtaining high-quality information by using a small sample (Azizah Hamzah, 2010).

The study also utilises content analysis. The researchers will analyse the related documents to study the content and meaning (Nazarite, 1985; Ratna, 2004; and Muhadjir, 2003). Among the documents that can be used as research data include the website of the respondent party, pictures, graphs, reports, textbooks, letters, *waqf* forms, and magazines with related issues.

Interviewing is one of the methods of field study in the form of social inquiry (Anwarul Yaqin, 2007), which is a social interaction aimed at gathering information for the purpose of the study. Intellectual sessions such as open dialogues are conducted with respondents or the authorities on the study.

Those respondents interviewed are Dato' Paduka Sheikh Abdul Majid bin Mohd Nor (The Former Dipertua MAIK), Dato' Wan Muhammad bin Dato' Sheikh Abdul Aziz (former Director-General of JAKIM), officers of the *Waqf* Division MAIK Sheikh Ahmad Zaki bin Ghazali (Head of *Waqf* Division) and Pn. Norhairani Binti Saad (Assistant Religious Affairs Officer) and Dato' Hj. Noh bin Hj Dahaya (Secretary of MAIK), Haji Zakaria bin Md Zain (Treasurer, Masjid al-Badr Committee), En. Hussain bin Jusoh (Chairman of Darul Quran), Haji Bukhari bin Abdullah (Secretary, Masjid Aman Committee). Also interviewed was En. Ibnu bin Hubain (Marketing Officer) and En. Azman bin Hasan.

6. Discussion

As the organisation responsible for managing matters relating to the *waqf* property in Kedah, MAIK performs its duties in accordance with provision 52 of the Kedah Islamic Law Administrative Enactment (2008) which states that "notwithstanding any provision any instrument or declaration establishing, controlling, or affecting the matter, the Council shall be the sole trustee of all *waqfs* whether general *waqf* or special *waqf*....".

Based on the enactment above, it is clear that MAIK is the sole trustee in safeguarding *waqf* property in Kedah and it is a huge responsibility for MAIK to be entrusted with *waqf* in Kedah. Hence, MAIK has the right to develop the *waqf* properties in the state. Based on the provisions, MAIK is also the administrator or trustee of *waqf* where the *waqifs* can give their property to MAIK.

Therefore, based on the above explanation, it is clear to us that *waqf* property including the execution of land *waqf* in Kedah are being administered and regulated by MAIK under the management of the *Waqf* Division. As the sole trustee of a *waqf* property, MAIK reserves the right to undertake any development activities on the property and also collect any proceeds from it.

In the land *waqf* scheme, MAIK is the responsible trustee because the land that has been identified will be pre-informed to MAIK. MAIK will also regulate the *waqf* collection via a committee from the organisations as well as representatives appointed from the public based on the size / square foot.

The Land *waqf* scheme is done when an interested party has no land and has identified a piece of land to be developed in the form of *waqf* for the development of religious schools, national schools, mosques and cemeteries. This said party intends to buy the land from the owner but has inadequate funds. To solve this problem, the parties intend to sell the land (per square feet) by means of land *waqf* to the public. According to the procedure, the parties would first need to apply with MAIK. Permission will only be issued by the *Yang DiPertua* MAIK (the head of the Council) to sell this land. A committee will be appointed with the responsibility to ensure that the development project is progressing smoothly.

The proposed land shall be granted to MAIK with the title or grant of the land registered under its name. Agreement for ownership transfer between the owner and MAIK will be made. Subsequently the proposed land will be broken into smaller lots of one square foot each. The sales value per square feet is dependent on the committee and is usually able to cover land prices, development and management expenses. MAIK only allows the sale of this land *waqf* in Kedah only. The authority to sell these lots is only given to certain individuals who have received *wakalah* in the form of *Wakalah* certificates from the MAIK Secretary. This *Wakalah* Certificate should be displayed during the sale and acceptance of this *waqf*.

The committee is also responsible for preparing the land *waqf* certificate according to the format provided by MAIK and the sale receipt shall have a MAIK seal. Sales that were made must be recorded from time to time and MAIK is responsible for regulating the proceeds of the fund to ensure that there is no laundering and that it runs smoothly according to law. *Wakalah* beneficiaries are entitled to receive rewards not more than 10% of the sales as determined by MAIK.

Sales proceeds usually take quite a while depending on the committee's efforts and when all square foot lots have been sold the land's ownership will be transferred to MAIK.

The Kedah State Islamic Council as the principal trustee in managing the *waqf* property has carried out its obligations by introducing several innovative, creative and proactive mechanisms to provide Muslims with various opportunities to engage in welfare according to their capacity such as general *waqf*, special *waqf*, *waqf musytarak*, land *waqf* and shares *waqf*. These new mechanisms are in accordance and coincide with the purpose of *waqf* which is for the betterment of Islam and Muslims.

7. Conclusion

Waqf property is highly potential, valuable and could even be further developed if and only if, the property is managed appropriately. Even though the original intention of a *waqif* is simply to give *waqf* for religious fulfilment (for himself and Muslims in general), it is best if *waqf* property is developed at an optimum level in line with Islamic values so that principle and concept of *waqf* could be fully applied.

Implementation of land *waqf* scheme in Kedah has started to show its success, especially in highly commercialized areas. It is hoped that the current system will be able to solve a few problems, specifically *waqf* property with small scale development. Procedures and requirements set by MAIK for land *waqf* are made to ensure no deviation and misuse of power in sales and collection of *waqf* proceeds. MAIK will have to ensure that the implementation is monitored closely so that the purpose of this *waqf* is achieved.

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