WAKAF
PENDIDIKAN TINGGI
PROSPEK & CABARAN

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WAKAF PENDIDIKAN TINGGI:
PROSPEK & CABARAN

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INSTILLING ISLAMIC SPIRITUALITY IN MANAGEMENT OF WAQF FOR HIGHER EDUCATION

Siti Fatahiyah Mahamood & Siti Mashitoh Mahamood

Introduction

Waqf or Islamic endowment is a voluntary giving. According to Kahf (1998), *waqf* implies a sacrifice of a present consumption opportunity for the benevolent purpose for providing income and services for the following generations. Prophet Muhammad PBUH said in one riwayah Muslim which means: “When the son of Adam dies, his deeds come to an end, except *sadaqah jariyah* (charity with enduring benefits), his knowledge which benefits others and his virtuous son who pray for him (bless him)”. According to the interpretation of the jurists, a charitable *waqf* falls into the category of enduring charity. Now we can see the positive expanding development of *waqf* for higher education. Many products of *waqf* have been produced innovatively as part of assistance to our students especially in this crucial era of unstable economic situation. As mentioned by Siti Mashitoh Mahamood and Asmak Ab Rahman (2015), the meaning of *waqf*, i.e. “the tying up of the substance of a *mawquf* and the devoting of its usufruct according to the purposes set up by the *waqif* founder, in such a manner that the ownership of it belongs to Allah”. The substance of the *mawquf* should be kept intact as it belongs to Allah. Thus, it is very crucial for us to ensure that the *waqf* is being properly implementated and well managed.

Analysis on the Challenges of Managing *Waqf* For Higher Education

Normally, *waqf* for higher education is meant for students, though other beneficiaries such as the staff and the institution itself may enjoy the benefits of the property. In the context of students as the beneficiaries, it is very important for the Muslim to be aware that the purpose of implementation *waqf* in higher education is not only to assist the needy students, but the main purpose is to help them to gain sufficient knowledge and be excellent in academic performance as well as becoming top leaders who are highly righteousness and ethical personality internally.
and externally.

On the other hand, a study had been made by Siti Mashitoh Mahamood and Asmak Ab Rahman (2015), which reflects on the \textit{waqf} funds of a \textit{waqf} university that can be generated either for general or specific purposes or even in a combined type of creation where part of it is general and the rest is specific. The former is called \textit{waqf} \textquoteleft am, while the second is \textit{waqf khas} and the latter is known as \textit{waqf musyitarak}. \textit{Waqf} \textquoteleft am refers to any form of \textit{waqf} dedication aimed at general welfare or \textit{khairat} without specifying any particular beneficiaries (individuals or organisations/institutions) or specific purposes. This category of \textit{waqf} is applicable to things or objectives directed towards general social welfare and charitable purposes. In contrast to the above, \textit{waqf khas} is a type of \textit{waqf} with specified beneficiaries or purposes. Under this form of \textit{waqf}, the person dedicating the \textit{waqf} will identify beforehand the persons who will be benefiting from the \textit{waqf} and the purpose for which the \textit{waqf} must be applied. As for \textit{waqf al-musyitarak}, it is a combination of \textit{waqf} \textquoteleft am and \textit{waqf khas}. For example, if one were to say “I dedicate 50% of my shares in these mutual funds to my children and the rest are for the poor generally”, then this constitutes a \textit{waqf} of \textit{al-musyitarak} as the beneficiaries are two different classes of people – one is specific while the other is general in nature. From this example we can see that the donor, or properly called the \textit{waqf}, does not stipulate any specific criteria for the poor, such as their location or other specific attributes that may be construed to be specific.

Therefore in their result of this magnificent study, they found that it is important for a \textit{waqf} university to have its own regulations or rules to govern the overall system of the institution. As the concept of \textit{waqf} bears some unique characteristics and, to a certain extent, a number of strict \textit{syariah} legal principles, there should be some guiding and binding authoritative instructions for the university to follow. The provision of a supervisory board of trustees should be made in the regulations as the university will run its business using a collection of \textit{waqf} funds received from \textit{waqf} donors or \textit{waqifs} which need continuous supervision to prevent any misuse on the part of the personnel of the university who manage the funds. The \textit{waqifs} might impose specific conditions for their \textit{waqf} which demand careful control from the trustees as long as the funds exist. Nothing can be changed except in certain situations that call for modification, such as when the purpose set up by the founder can no longer be realized. However, a proper assessment should first be carried out before any change is considered.
out to measure the situation whereby reference to the relevant authority should be made beforehand for its approval. This carries the concept of istibdal under the law of waqf. The significant principle underlying this strict application is actually based on the maxim “syart al-waqif’ka al-nass al-syari’”, which means, “any condition imposed by a waqif or a waqf donor is regarded as a text from the Syariah”, and it has to be followed with proper action. (Siti Mashitoh, 2015).

Whereas according to Hailani (1998), Waqf in the education sector needs professional management to ensure the survival of followers’ education. A good management will improve the effectiveness of the properties donated. In this matter, the waqif has the power to determine the person responsible as the waqf’s property administrator. The common practice is that he appoints himself or other people like the judge (Qadi) who has been officially appointed as the government representative. The administrator is a compulsory to manage the waqf property properly by complying the terms and Islamic requirement. It is the property of ummah, hence it needs to be administered with greatest responsibility and trust. The administrator must be willing to act fair, wise, and honest and incorporate honesty and trust in its management.

A study was done to find out the main factor of the weakness in waqf educational property management in Malaysia. Five tests of hypotheses proposed as independent variable in the management which are finance, information, specialists, administration and marketing; while moderator variable is waqf development constraint (enactment, bureaucracy and static mind) and the dependent variable is waqf educational property development (Ahmad Zaki, 2006). This field quantitative research shows that only three main factors are strongly influenced the management of waqf educational. They are specialists, administration and marketing. At the same time, another constraints such as enactment, bureaucracy and static mind have relations with waqf property development and become the main factors that influence the waqf educational property management in Malaysia.

With the enactment of Waqf Acts/regulations in the mid of the nineteen century, many countries have been administering the waqf assets by appointing Waqf Administrators or Waqf Commissioner (Ahmad and Khan, 1998). A waqf administrator plays the role of line manager of the Waqf Managers (Mutawallis). A few studies point out that the eclipse of the waqf has left a vacuum in the arena of public services, which has not been filled in. The imam of the Mosques, students of Islamic studies,
health patients, homeless, travelers, poor are only among the category of vulnerable people who have lost cover of the waqf, because of the lack of funds and lack of proper management of the waqf assets. (Sait and Lim, 2005; Cizacka, 2000; Mahmood, 1998).

On the contrary, according to Dr Abul Hassan dan Mohammad Abdus Shahid (2010), the social responsibility is also a core responsibility of the non-profit sector like waqf. But all the non-profits do not follow same level of social responsibilities. Some of causes are:

(i) Poor Ethical structure Institutions that build in institutional elements of ethical care such as codes of ethics, social-ethical training is based on stakeholder theory. Evidence says that the formal Islamic ethical structure in the waqf institutions is poorly developed.

(ii) Ethical Climate The more the organization has a regulatory climate; the weaker is the social responsibility of the organization. This is also a true fact in the case of most of the waqf.

(iii) Organizational structure An institution of waqf consists of a highly structured hierarchy – a bureaucracy – is unfavorable for social responsibility. The professional organisation with Seventh International Conference – The Tawhidi Epistemology: Zakat and Waqf Economy, Bangi 2010 320 characteristics such as a high degree of specialisation, little centralisation, small status differences, personal contact and high commitment is the most favorable for a policy of social responsibility. In addition to organizational.

According to the researches conducted previously, issues on mismanagement of waqf, limited number of staff, lack of professional and technical expertise in developing waqf assets and others form part of constraints that have disturbed the efficacy in managing the waqf.

In addition, even for secondment cases within the organization managing waqf itself, without any immediate replacement of the position, it may greatly impact in terms of the Waqf timeliness process especially when the person who being secondment holding an important role in decision making process. This could burden the acting staff who may take an extra workload and responsibility to oversee the entire Waqf Unit besides his or her current task. There are even cases where the family members had misused the waqf properties for personal interest due to lack of awareness. Waqf properties may have been neglected as not much attention is paid for it (Noor Aimi et al., 2014).
Proposed Actions of Instilling Islamic Spirituality In Managing Waqf

Looking at those problems and challenges occur in the management of waqf, it's time for us to do the housekeeping with 360⁰ to eliminate those constraints. By rephrasing on meaning and purpose of giving this waqf consist of “the ownership of it belongs to Allah” and “the substance of the mawquf should be kept intact as it belongs to Allah”, therefore spiritual elements have to be instilled in the management of waqf for higher education.

According to the Islamic law of waqf, it is incumbent on the waqf administrator or manager of waqf, or properly known as the mutawalli, to observe as much as possible all the stipulations and the conditions laid down by the waqif in the waqf deed. The mutawalli should always be cautious in administering and supervising the mawqif as he deals with the public interest. The foremost duties of the mutawalli consist of preserving and keeping the mawqif intact, gaining profits from the mawqif and collecting and distributing the revenues among the beneficiaries. He should also carefully protect the substance of the mawqif from any loss or damage. (Siti Mashitoh, 2014).

In the context of higher education, the above mentioned managerial responsibility shall be carried out by the university after getting the approval from the sole legal trustee, i.e. the Islamic Religious Council of a State as prescribed by the existing laws. Without the approval, the execution of such task is deemed as contradicting to the laws. For example Section 4(1), Wakaf (State of Selangor) Enactment 2015 (Enactment 15) provides that:

"The Majlis shall be the sole trustee for all wakaf situated in the State of Selangor..."

Section 45 of the same enactment provides:

"Any person who administers or manages wakaf am or wakaf khas without the written permission of Majlis or Corporation commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both."
“Corporation” above refers to the Selangor Waqf Corporation which has been assigned to manage waqf properties in the State of Selangor.

Internal Self-Purification

In order to manage the waqf, we could not deny that humans have certain features as the following: (i) A soul that is pure at birth and has the potential for good or evil. (ii) A natural disposition to believe in Allah and to worship Him alone. (iii) The ability to think and comprehend using mind which is gifted by Allh SWT. (iv) Free will to choose between the right path or the wrong one. (v) Responsibilities for their choices. Being aware the purpose of our creation is to worship Him (Quran 51:56), purification of the heart and soul are very important.

Thus, there are four main forces working on the heart and soul: (i) Inspiration and guidance that Allah SWT puts into the hearts of the believers. (ii) Assistance from the angels to support individual in staying patiently on the right path. (iii) Misguidance from devil that leads to disobedience. (iv) The whims and desires of the soul itself. Allah SWT said (Quran 9:103) which means: “Take, [O, Muhammad], from their wealth a charity by which you purify them and cause them increase, and invoke [Allah ‘s blessings] upon them. Indeed, your invocations are reassurance for them. And Allah is the Best Hearing and Knowing.”

Adherence To The Islamic Management Principles

As Muslims managers, we should realigned our actions based on the Islamic management principles which consists of: (i) al-‘Ubudiyyah (Submission), (ii) al-Syura (Meeting), (iii) al-Adalah (Justice), (iv) al-Musawah (Equality), (v) al-Masuliyyah (Responsibility) and (vi) al-Huriyyah (Freedom) (Siti Fatahiyah and Rukiah, 2010). As Allah SWT said (Quran 28:77) which means: “And seek by means of that treasure which Allah has bestowed to you, the home of the Hereafter, and forgetnot your share in the world and do good as Allah has done good to you and seek not mischief in the land. Undoubtedly Allah loves not the mischief-makers.”
Potraying Good Ethics And Morality Without Taking Any Advantage

Allah knows the secrets of our hearts. In managing the *waqf*, we have to ensure that we run our responsibilities according to the syariah law without taking advantage of our own. Allah SWT said in (Quran 3:29) which means: Say, “Whether you conceal what is in your hearts or reveal it, Allah knows it. And He knows that which is in the heavens and that which is on the earth. And Allah is over all things competent.” If we want to revive the greatness of the past, we must be educated, motivated and take all the responsibilities with full of integrity and accountability by following the route shown by our prophets in instilling the islamic spirituality as the whole in our life.

Educate The Key Persons Involving In Managing *Waqf*

As *waqf* plays an important role to eradicate poverty and enhance the socioeconomics, the persons who involve in managing the *waqf* should be well educated with knowledge on how to manage the *waqf* in order to expand the benefit to the ummah while securing the substance of the mawquf. As Allah SWT said (Quran 16:90) which means: “Indeed, Allah orders justice and good conduct and giving to relatives and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded.”

Conclusion and Future Research

Hopefully with an effective management of *Waqf* in higher education with the elements of Islamic spirituality can be implemented in 360° in order to enhance the development of education system and the development of economy in Malaysia. Future research is hoped to produce a spiritual model to empower the implementation of *waqf* with its integrated total quality management system.

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