

WAQF MANAGEMENT IN MALAYSIAN UNIVERSITIES UNDER THE CONCEPT OF NAZIR, MUTAWALLI AND QAYYIM

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ABSTRACT

Purpose - This paper aims to discuss the scope of powers exercised by the State Islamic Religious Council (SIRC) when appointing universities to manage their waqf funds. This study also examines the concepts of Nazir, Mutawalli and Qayyim under the Shariah and Malaysian laws for the management of waqf in the universities. Additionally, several universities are selected in this study to show the varied powers entrusted by the SIRC to the universities in managing their waqf funds.

Problem Statement - Legitimately, universities in Malaysia need to get approval from the SIRC before implementing waqf in their institutions due to the sole trustee power exercised by the SIRC. Practically, in granting the permission for a university to establish a waqf fund, SIRC provide procedures for universities to follow. From the study conducted, the procedures to be complied with are not spelt out yet in the enactments relating to waqf of the states. Therefore, the procedures to be followed may be changed depending on the circumstances and matters involved. The implementation of waqf in the universities without the approval of SIRC is considered as opposing Malaysian laws. Once the approval is granted, the management of waqf by universities depend on the mode of appointment entrusted to them. Any of the three concepts of waqf management under the Shariah namely Nazir or Nazir Khas, Mutawalli and Qayyim may be granted by the SIRC to a university, depending on their circumstances. The nature of authorization given to the university depends on the state where the university is located. University Technology Malaysia (UTM) in Johore, for example, is appointed as 'Nazir Khas' to collect waqf funds for the university. University Science Islam Malaysia (USIM) on the other hand, has been appointed as Mutawalli for

the collection and management of its waqf fund. Different terms acquired by universities indicate the various levels of authority entrusted as well as the check and balance practice to be adopted. The study notes that the appointment is officially granted once a Memorandum of Understanding (MOU) is signed by both parties involved, namely, the SIRC and the administrator of waqf in the university. Any dispute arising should be settled before the official signing takes place. The signing of MOU may be delayed if any term and condition is not agreed to by any of the parties. As a result, waqf funds cannot be collected and received until these matters are settled. Mutual understanding is required from both parties towards the betterment of waqf management in a university. It is believed that to achieve this, comprehensive rules and regulations covering the scope of powers of the SIRC as well as a clear concept concerning mode of appointment should be clearly spelt out for the betterment of waqf management in the university.

Methodology - In achieving the aims of the study, a qualitative approach is incorporated. Data collection involves two methods. The first method is applied to obtain data from primary and secondary sources. The references include statutes, articles from published journals, conference papers, books and websites. As regard to the second method, interviews are conducted involving expert interviews. All the interviews are recorded and transcribed. Finally, all the data will be analyzed using the content analysis method.

Findings - Findings of this study reveal several implications. First and foremost, the scope of power of SIRC in appointing a university is not clearly spelt out in the waqf enactment of the states. The role of SIRC as a regulator of waqf should be made clear so that the appointment of a university as the entrusted authority to manage waqf assets becomes unquestionable. Therefore, it requires certain amendments to be made in the waqf enactments to be inline with the progress of waqf implementation in the universities. Secondly, the readiness of SIRC to collaborate with the administrator of a university is imperative. Furthermore, mutual understanding between the parties would lead to the approval being granted smoothly. Autonomous powers should be given to the universities to manage their waqf funds without disregarding the regulatory power exercised by SIRC. Thirdly, comprehensive rules and regulations are direly needed as a reference for the stakeholders involved.

Keywords: Management, mutawalli, nazir, university, waqf.

CONCLUSIONS

It is irrefutable that the SIRC is the sole trustee of waqf in the respective states in Malaysia, however, universities should be allowed to manage their waqf assets in a clear manner as entrusted by the SIRC. Different terms granted to the universities especially universities in the same state should be justifiable to avoid issues in future. Rules and regulations made should not benefit one party only nonetheless, consensus of opinions from stakeholders involved should be considered.

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