

Whereas transfers, commendations and transactions made between people could break down, it was considered that land commended to the deities could not be returned. In actual fact, however, there were not a few cases where what was owned by the deities was converted to the ownership of persons other than the donor, like Buddhist priests. From the end of the 13th century, the resolution of conflicts concerning ownership came under the auspices of the organs of government with the result that ideas about ownership by the deities weakened and the social efficacy of land commendation declined.

### Waqf and Social Patronage among Tamil Muslim Diaspora in the Straits Settlement of Penang

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During the period of East India Company administration of Penang (1786–1857), the British initially appointed a Kapitan to administer justice among his community according to the laws of their own nation. South Indian Muslims known as ‘Chulia’ were the principal diaspora community on the settlement. The East India Company identified itself as a patron of its Muslim subjects by granting an 18 acre site for the ‘Mohameddan Church’ in 1801, for the purpose of mosque and burial ground. This encouraged wealthy Muslims to endow religious and social amenities for the diaspora population. Over time, a variety of Muslim



Figure The Kapitan Kling Mosque, a Waqf Endowment in The George Town World Heritage Site

endowments accumulated in the town, reflecting the diversity of the cultural groups organised along the lines of kinship, occupation or patron saints. Although English law was introduced in 1808, the government initially took little notice of the incompatibility of family endowments with the English rule against perpetuity, that is, until legal cases pertaining to waqf started to clog up the courts. Endowments could be a means to accommodate traditions of celebrating feast days of Sufi saints, or providing for female descendants. The rulings of the powerful British judiciary, influenced by the English law of charities, often undermined such cultural-religious practices.

In the second period, Crown Colony status was granted in 1867 and the Municipal Ordinance was introduced in 1887, while reforms within British parliament, furthering the Benthamite utilitarian philosophy, gave more powers to the executive. As the urban slums around the Kapitan Kling Mosque and other Penang waqf still posed a supreme challenge, the local administration with its legal advisors took matters in hand to break through the ‘Gordian knot’ of legal disputes involving waqf properties in the town center. An act was passed to create the Mohammedan and Hindu Endowments Board, enabling the Municipal Commission to implement the urban reforms demanded by the sanitary revolution. Waqf property management was modernised. Thus the munificence of the testator, instead of supporting the leadership role of the testator’s family, was transferred to the colonial government, which began to demonstrate philanthropy towards the local community through projects and programmes financed by the waqf coffers. Concerned about Muslim sympathies towards the besieged Ottoman Caliphate, the colonial government focused on the expansion and enhancement of the Kapitan Kling Mosque as a means of reaffirming imperial patronage over its Muslim subjects.