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PROBLEMS OF WAQF ADMINISTRATION AND PROPOSALS FOR IMPROVEMENT: A STUDY IN MALAYSIA

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Abstract

The main purpose of this paper is to assess the performance of the existing Waqf administration in Malaysia. This paper first describes the problems of Waqf administration in Malaysia and then suggests proposals for improvement. Waqf administration requires new innovative avenues. It also needs to develop a hybrid viable model for generating more benefits for all involving parties of the society with sustainability characteristics. It is recognized that there is no ample study in the area of Waqf. Further, literature is very scanty relating to the Waqf administration. The exiting studies identify various facets of the Waqf and its administration issue to explore different aspects of theoretical dimensions and practices.

Keywords: Waqf; Administration; Problems; Improvement; Malaysia.

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INTRODUCTION

The word Waqf is derived from the Arabic root verb waqafa, which means 'causing a thing to stop and standstill'. It also takes the meanings of 'detention', 'holding' or keeping. Waqf (pl.Awaqaf) is called Boniyad in Iran and Habs (pl.Ahbs) in North and West Africa. So, broadly, Waqf means holding and preservation of a certain philanthropy or sadaqah (charity) with the intention of prohibiting any use or disposition of the property outside the specific purposes to which the property is dedicated in such a way that it cannot be sold.

However, by taking its different meanings into consideration Waqf can be applied to non-perishable property whose benefit is extracted without consuming the property itself. The notable examples of Waqf include land, buildings, books, cattle, cash money and so on. Once land was important for Waqf due to productivity but now Cash Waqf is more important because it's more productive compared to land as it is testified by the existing research studies and found profitable in the practices of modern Islamic financial system.

Although Waqf is not specifically mentioned in the Holy Quran, the concept of wealth distribution is strongly emphasized therein [1]. Distribution of wealth is a key issue in the modern economy to make it more dynamic, prejudice free and entrepreneurial. However, a hadith narrated by Abu Huraira [May Allah be pleased with him (R)] is considered as the origin of this institution in the world of Islam:

“Abu Huraira (R) reported Prophet Mohammad [Peace be upon him (pbuh)] as saying: when a man dies, all his acts come to an end, but three; recurring charity (sadaqa jariya) [2] or knowledge (by which people benefit), or a pious offspring, who prays for him” [3]. It is also evidenced in the Sunnah (practices of Khairul Karun [4]) that many great personalities of Islam had Waqf their properties in different form.

There are mainly two types of Waqf, namely (a) Waqf lil awlad (Waqf for family) and (b) Waqf lillah (Waqf for Allah). In addition to previous two types of Waqf some authors also identified another Waqf system which is named as ‘Waqf for Philanthropy’ [5]. Sometimes, this philanthropic Waqf is categorized under the Waqf lillah. The amount or value of the Waqf is not an important issue rather it is worthy to involve whole ummah in the process of Waqf so that everyone irrespective of financial condition could be involved by contributing as little as a cent within the prescribed systems of institutionalizing the concepts under government and private initiatives and guidelines provided by Islamic doctrines. Hence, it is not the preserve of the wealthy. That is anyone, subject to certain Sharia conditions, can be a waqifa (donator). A Waqf may be made during one’s lifetime or up to one-third of one’s distributable estate through Mutawalli [6] (Waqf manager) or one’s willpower in the time of death.

OBJECTIVES OF THE STUDY

The main objective is to assess the performance of the existing Waqf Administration in Malaysia. More specific objectives of the study are furnished below:

1. To study the features of existing Waqf administration in the light of Malaysian context.
2. To analyze the problems and prospect of Waqf systems in Malaysia.
3. To provide proposals for further improvement of the overall performance.

PROBLEMS OF WAQF ADMINISTRATION IN MALAYSIA

The Waqf is not only the spiritual and religious aspect but also an important issue which has influences on the economic, political, community, educational and social development. As Waqf institution covers a wide range of issues from economic to the social aspect of the human development, it can be attributed as one of the prime tools to uplift the pride, dignity and supremacy of Islam. Therefore, such an important issue cannot be free to run itself on the whims without following any predetermined policies, rules and scientific management systems within the purview of the overall guidance of the Islamic tenets. So, application of the professional management concepts and principles along with contemporary best practices and through the appropriate [7] and time based Waqf systems provide the basis for excellence of operations to achieve the overall efficiency and effectiveness.

But the appropriateness in management systems of Waqf with its real Islamic standard was handicapped due to some historical reasons which are majorly attributed to the history of western colonialism in the Muslim World. Malaysia is not an exception to other countries of the Muslim world in the same context. Present paper is an attempt to analyze the performance and practices of Waqf systems in Malaysia including important influencing factors and provide proposals for further improvement of the overall performance.

According to the opinions of Waqf practitioners and researchers in the field, Waqf administration in Malaysia is facing multitude of accumulated problems. The problem starts with the State Islamic Religious Council (MAIN) [8] which is the sole trustee of all Waqf. As MAIN inherits Waqf property, it should be managed with qualified, knowledgeable and professional managers who are well acquainted with Islamic as well as country laws to make right symbiosis for attaining the performance goals in the Waqf systems.

Another issue is that the peoples involved in managing the Waqf assets - Mutawalli or Waqf manger - are found to be as unqualified in some cases. Even in some incidents the Waqf lands are managed by non-Muslims who are not really competent to run that venture in head as well as heard and beliefs. So, how can authority trust them without their fundamental beliefs and ideologies? That means Waqf assets should be granted to the right Mutawalli (Waqf manager) by considering their sound footings in ability, willingness and beliefs as well to utilize the asset with trust and reliance.

Another problem related with the management of Waqf asset is that these properties left idle due to some procrastination in the management process. The notable factors that lead to the procrastination consist of properties given out orally without any registration and documentation, and accounting practices are not in compliance with the Islamic accounting norms. In addition, complexity in the possession [9] of land property makes sale and purchase restricted in the formal market, while in leasing and rental markets these are often rented below the market price (Jasni, 2006) and so on. There is instance where the land is leased to a man for RM 250 who afterwards rented it to another person for over RM 2500. Such a difference between the leased value and market value of the properties may open the doors of numerous menaces including corruption.

Hence, it is the constraining factor in the way of spontaneous development process. In some cases Waqf properties are beyond the control of MAIN that gives rise to subsequent problems such as defaulting land tax and other kinds of tax related to Waqf land properties. Thus, Waqf land is seized by land office and Waqf premises are being sealed by local authorities.

Other notable problems in the systems are: Waqf revenues are insufficient to bear the operational cost, Waqf properties has no self-generating income and unproductive, delay in the earning of the compensation in the acquisition of Waqf properties, procrastination in the istibadal [10] and irregularity in receiving the benefit of the Waqf properties by the maukufalaih (beneficiaries) (Abdullah, 2010).

Therefore, there is a huge gap between the expectation and existence of presence of all the factors that make the Waqf systems effective. Due to above mentioned diverse problems Waqf management systems are facing various challenges to make it dynamic, transparent, productive and innovative in the utilization of the Waqf properties that deserve attention to reorient the total systems. Present paper endeavored to minimize the gap and explore the solution to bring efficiency in the existing system and make it more effective.

PROPOSAL FOR IMPROVEMENT

It is recognized that there is no ample study in the area of Waqf. Again literature is very scanty relating to the Waqf management. The exiting studies identify various facets of the Waqf and its management issue to explore different aspects of theoretical dimensions and practices in different countries.

Karim (2010) did research on Waqf in Bangladesh to explore its problems and prospect by focusing the legal perspective. He identifies important problems in the way of efficient management of Waqf assets in Bangladesh and suggested for changing the administration and management of awqaf in order to make it suitable to the contemporary needs. He found that huge amount of national Waqf assets are being underutilized, the innovative avenues of which can be developed by framing and adopting some diversified measures. The mentionable recommendations are ensuring participation of the poor class to share the Waqf assets in productive projects, empowering the poor through Waqf based on the practices of various Islamic finances and establishing the productive entrepreneurial ventures by creative distribution of the Waqf assets to the poor class individually or collectively instead of traditional donation granting for unproductive purposes. Although he suggested the measures for the improvement of the Waqf administration of Bangladesh these can also be applied to in the context of Malaysia for the improvement of Waqf management scenario.

In another study, Ahmed (2007) explains the social role of Islamic micro finance and identifies the potentials for Waqf-based micro finance philosophy and practices. To explore the unlimited benefits of the Islamic micro finance based on the Waqf assets it is recognized that Islamic micro finance can take care of those who cannot be taken care of by the market, who cannot play with economic forces or do not have access to economic means to enable them for exploiting the economic opportunities around them. Islamic financial systems emphasized on *adl* (social justice) and *ihsan* (benevolence) rather than the normal practices of isolated commercial financing practices. To integrate social development objectives, address the poverty issue and to increase the income and wealth of the poor class micro finance can play an immense role by applying the concept of group based social collateral philosophy. This practice may also facilitate the reduction of credit risk and high recovery of loaned money by involving the borrowers with productive micro enterprise development and providing them the techno economic advisory services for continuation and sustenance of the enterprises (Khan, 1997 and Siddiqi, 2004).

Other studies also points out that Islamic ideology included various institutions and structures among them such as *zakah*, *Waqf* and *qardhasan* that helps to redistribute income and wealth for the fulfillment of the basic needs for all in the society and ensures

features of justice, equity, and social peace in that society. And these features are the indicator of a vibrant society (Zarqa, 1988 and Elgari, 2004). Therefore, it is evident that the awqaf assets can be used to finance productive microenterprises.

Present paper suggest proper management systems of the Waqf assets can provide a viable model for survival through providing micro finance for enterprise development by involving the marginal and poor sections of the society.

In addition, Ashraf (2008) presented a paper on "The Collection of Waqf through Insurance Companies: A Critical Analysis of the Malaysian Experience" where he endeavored to explore the performance of Insurance sector as a model for convincing young and middle class to contribute to Waqf. It has been found in the study that through proper management of the Waqf assets the studied insurance company ensured mutual benefits for all related parties by combining several Islamic principles into the practices as a profit making institution. The scheme in his study complements the conventional method of collecting Waqf with new practices of involving diversified groups through innovative plan. It was found in the study that in Malaysia, an insurance company by introducing "Takaful Waqf Plan" becomes successful in achieving developmental goals and overcoming the problems related to the operations of Waqf collection and management by ensuring the participation of all walks of life regardless of their age and economic background rather than wealthy and older people of the society.

Therefore, the present paper has looked at the conventional way of collecting Waqf in Malaysian normally through the Waqf Unit or Department under the Council of Islamic Affairs can be changed through applying the innovative plan of insurance companies.

Thus, the motivation of the paper was to identify the problems and explore the innovative avenues for Waqf administration and to develop a better Waqf management for generating more benefits for all involving parties of the society with sustainability characteristics.

CONCLUSION

From the discussions above it is clear that through innovative Waqf administration various parties of a society can reap the benefits including poorest of the poor section that are not generally reachable by government or other agencies. These practices help in the fulfillment of religious requirement through performing various activities and mobilizing resources from rich to poor, creating employment opportunity to develop socio-economic conditions of the poor and whole society as ultimate results. Thus, present paper contributed amply in this direction. It also will help to reform the present institutional setup and their networking relationship throughout the country with a view to increasing their performance in the direction of the efficient and need based dynamic management of the Waqf affairs and systems. As a consequence total policy dimensions at micro and macro perspective can also be framed to meet the diversified objectives of innovations and development in the Waqf administration complying with the Shariah guidelines.

NOTES

1. The Qur'an (2:215, 264,270,280); (3:7); (58: 12, 13).
2. Here by Islamic scholars Waqf is also termed " Sadaqah Jariyah" or recurring charity.
3. The Sahih Muslim.
4. The khairul karun is described as the golden age for developing the Islamic tenets and providing dependable explanation of various basic principles and practices of Islam which is relevant to the lives of ummah and its different phases irrespective of age, variations in identity and geographical locations.
5. Monzer Khaf states in "Waqf: A Quick Overview" that Philanthropic Waqf began by the Prophet Muhammad (pbuh) too. A Jewish man called Mukhairi made his will that his seven orchards in Madinah be given after his death to Prophet Muhammad (pbuh). In the year four of the Hijrah calendar, he died and Prophet Muhammad (pbuh) took hold of the orchards and made them a charitable Waqf and the practice was followed by the companion of the Prophet Muhammad (pbuh).
6. Mutawalli / Nazir or sometimes Wasy (Waqf manager) preserve the property to maximize its revenue or benefits of the beneficiaries.
7. The appropriateness of the systems must be promulgated and evaluated through guidance of the Shariah or Islamic principles.
8. Majlis Agama Islam Negeri.
9. Mohammad TahirSabitHazi Mohammad," Sustaining the means of sustainability: The need for accepting Waqaf (Waqf) assets in Malaysian property market".
10. The process of exchanging one piece of land for another.

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