

# A STUDY ON THE WILLINGNESS OF STATE ISLAMIC RELIGIOUS COUNCILS TO SUPPORT WAQF DEVELOPMENT IN HIGHER EDUCATION

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## ABSTRACT

In Malaysia, *waqf* is regulated and managed by the State Islamic Religious Council (SIRC) in each of the states. This requirement is also applied to the higher education institutions. However, not all the SIRCs are willing to grant the *mutawalli* status to the higher education institutions due to certain reasons. This paper investigates the willingness of selected SIRCs in granting the *mutawalli* status to the higher education institutions. In this study, respondents from six SIRCs which have involvement with higher education institutions were interviewed. The six SIRCs are from the states of Johor, Negeri Sembilan, Selangor, Perak, Penang and the Federal Territories of Kuala Lumpur. The findings were analysed using the interpretative analysis. It was found that one SIRC is not willing to grant the *mutawalli* status viz. Federal Territories of Kuala Lumpur Islamic Religious Council. In the states in which *waqf* is not enacted, it is suggested that the SIRCs could consider putting a provision to grant the *mutawalli* status to those who are competent.

**Keywords:** *Waqf*, higher education, State Islamic Religious Council, *mutawalli*.

## INTRODUCTION

*Waqf* in education has been implemented since the Prophet Muhammad (PBUH) time. When the Prophet Muhammad (PBUH) arrived in Medina, he built a mosque known as the Quba' Mosque (Ahmad Shaifful Anuar, 2015). The mosque not only became a place to perform prayers but also as a second education institution after the Al Arqam bin Abi Al Arqam house (Ishak, 1995). After that, *waqf* for education was developed in various countries by the establishment of schools and universities.

In Malaysia, *waqf* in educational institutions began with the establishment of *pondok*<sup>4</sup> institution. In 2000, some of the *pondok* institutions were replaced

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<sup>4</sup> Pondok is a traditional Islamic religious school teaching Islamic studies and Quranic studies.

with Arabic schools to standardize the curriculum according to the teaching in the Middle East (Ahmad Shaiffull Anuar, 2015). After that, *waqf* in education received attention from the public. People started to participate in *waqf* for higher education by dedicating their lands as *awqaf* for the establishment of Higher Education Institutions (HEIs). For example, *Kolej Islam Malaya* (KIM)<sup>5</sup> was established in 1955 and its first campus was a palace in Klang dedicated by His Royal Highness Sultan of Selangor (Abd Manaf, 2015). Besides land, there are other types of *waqf* in education including student hostels, scholarship, financial aid, buildings, stationeries, and also learning tools (Ahmad Zaki et al., 2008).

The challenge of higher education financing has been discussed earlier (Wan Kamal Mujani, 2014). Investment in education is imperative to ensure future sustainable growth. Moreover education is recognised as a fundamental human right. But the provision of higher education is facing rising costs and this is global in nature.

There are few HEIs in Malaysia which had established *waqf* funds including *Universiti Sains Islam Malaysia* (USIM), *Universiti Putra Malaysia* (UPM), *Universiti Kebangsaan Malaysia* (UKM), *Universiti Sains Malaysia* (USM), and *Kolej Islam Antarabangsa Selangor* (KUIS). The establishments of *waqf* funds are the result of a reduction in government allocation for higher education. The government has reduced allocation for higher education by RM2.4 billion in 2016 from RM15.78 billion in 2015 to RM13.37 billion for the year 2016. Due to that, some HEIs had made the initiative to seek financing in order to support the operational costs and at the same time help the students in need. This situation resulted in the establishment of *waqf* funds which are seen as one of the solutions to generate income for HEIs.

Before collecting *waqf*, HEIs need to get permission from the State Islamic Religious Council (SIRC). HEIs need to acquire the status as *mutawalli*, *nazir* or *qayyim* to enable them to collect *waqf* in their respective state. However, different SIRCs might have different opinions on granting the status. Some SIRCs are very lenient and supportive while others are very cautious in granting the *mutawalli* status. For that reason, this study attempts to seek information on the SIRCs' support for *waqf* development in HEIs. The following section provides a brief background of the *waqf* funds in HEIs. This is followed by a review of the literature from previous studies. We then give a discussion on the research method. After that, some findings were revealed and the last section concludes the study.

## Background

In Malaysia, *awqaf* matters are under the purview of the State Islamic Religious Council (SIRC) of each state. Under the Ninth Schedule List II of the Federal Constitution, each SIRC is given the power to make laws on *waqf* and its

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<sup>5</sup> KIM later renamed as Kolej Islam Kelang (KIK)

administration. Therefore, several steps were taken by the state authorities in improving the *waqf* law by introducing a few provisions in the administration of the Islamic law and specific *waqf* enactments. There are four states which have *waqf* enactments including Selangor, Malacca, Negeri Sembilan and Perak (refer **Table 1** below).

**Table 1:**

### States with Waqf Enactment

No	State	Statute
1	Selangor	Selangor Wakaf Enactment 2015
2	Malacca	Malacca Wakaf Enactment 2005
3	Negeri Sembilan	Negeri Sembilan Wakaf Enactment 2005
4	Perak	Perak Wakaf Enactment 2015

Source: (Siti Asishah et al., 2016)

The SIRC is appointed as the sole trustee or *mutawalli* of the *waqf* property. Section 32 of the Malacca *Waqf* Enactment 2005 mentions that:

“Notwithstanding any provision to the contrary contained in any instruments or declaration creating, governing or affecting any *waqf*, the Council shall be the sole trustee of all *waqf*, whether general *waqf* or specific *waqf*, situated in and outside the State of Malacca”.

Section 5 of the Negeri Sembilan *Waqf* Enactment 2005 provides that:

“Notwithstanding any provision to the contrary contained in any instruments or declaration creating, governing or affecting any *waqf*, the Council shall be the sole trustee of all *waqf*, whether general *waqf* or specific *waqf*, situated in the State of Negeri Sembilan”.

Furthermore, Section 4 of the Selangor *Waqf* Enactment 2015 mentions that SIRC is the sole trustee of all *waqf* situated in Selangor and has the right to establish a corporation, give permission to any person to manage *waqf* on behalf of the Selangor Islamic Religious Council, and recognize any administrator or manager elected by *waqif* based on terms and conditions set by the SIRC.

The main role of the SIRC is to give advice and assistance on Islam and Malay Customs matter including *waqf* to the ruler (Siti Mashitoh, 2006). In fact, there are other responsibilities of the SIRC as follows:

1. Ensure that all *awqaf* properties vested in them are being administered and applied in accordance with the terms and conditions set out by the *waqif* (Siti Mashitoh, 2006). All important documents related to *waqf* must be kept by

the SIRC. The SIRC needs to register the *awqaf* properties and take necessary steps to investigate regularly on the well-being of the assets (Siti Alawiyah, 2012).

2. Safeguard the *awqaf* properties. The SIRC may develop and apply specific laws, rules, and procedures to govern *waqf* management including the administrative and financial aspects (Siti Mashitoh, 2006).
3. Develop the *awqaf* properties. This is to ensure that the *awqaf* properties can give maximum benefits to others (Siti Asishah et al., 2016).
4. Provide a report of the performance of the *waqf* management. It is stated in each state enactment that the requirement of producing relevant financial statements and accounts is mainly for the purpose of auditing and reporting (Siti Alawiyah, 2012).
5. Maintain the *awqaf* properties in good condition including repair and maintenance (Saleem, 2013).

Since *waqf* matters are under the purview of SIRC, any bodies or institutions including higher education institutions which intend to collect *waqf* must get permission from the SIRC. Some of the public and private HEIs have made an initiative to establish *waqf* funds as shown in **Table 2**.

**Table 2:**

### Higher Education Institutions Having Waqf Fund

No	University Name	Waqf Fund Name	Year Established
<b>Public University</b>			
1	Universiti Sains Islam Malaysia (USIM)	USIM Al Abrar <i>Waqf</i> Fund	2013
2	Universiti Sains Malaysia (USM)	<i>Waqf</i> ISDEV	2015
3	Universiti Putra Malaysia (UPM)	<i>Waqf</i> Ilmu Fund	2010
4	Universiti Kebangsaan Malaysia (UKM)	UKM <i>Waqf</i> Fund	2010
<b>Private University</b>			
1	Kolej Universiti Islam Antarabangsa Selangor (KUIS)	<i>Waqf</i> Ilmi Scheme	2015
2	Universiti Islam Malaysia (UIM)	<i>Waqf</i> University Concept	2014
3	Bestari University College (UCB)	Based on cash <i>waqf</i> for a specific project	1998
4	Kolej Islam Darul Ulum (KIDU)	Based on sell and <i>waqf</i> concept	1984
5	Kolej Universiti Islam Sultan Azlan Shah (USAS)	Built on <i>waqf</i> land	1999

Source: Mohd Ali & Hasan (2016)

Generally, HEIs established *waqf* fund to raise fund and distribute the benefits to the university community. These HEIs had gone through a process of granting permission from SIRC. However, different SIRCs may have different terms and conditions which need to be fulfilled before granting the permission in collecting *waqf* since the SIRCs' management is not uniformed (Mohd Jelani, 1998).

## LITERATURE REVIEW

The term "*waqf*" (noun) is derived from the Arabic language "*waqafa*" (verb) where the root meaning is to prevent or to restrain or to abstain (Ahmed & Khan, 1997; Ibrahim et al., 2013). According to Imam Abu Hanifa, *waqf* is devoting the profits or usufruct of specific thing for charity purposes where the ownership of such thing is on the *waqif* (appropriator) (Ibrahim et al., 2013). Generally, *waqf* is a continuous charity where the rewards continue after the donor's death (Hassan & Shahid, 2010). There is a hadith mentioning on the continuous reward, the Prophet Muhammad (PBUH) said "When a man dies, his work for God comes to an end except for three things; a lasting charity, knowledge that benefits others, and a good child who calls on God for His favour" (Muslim).

*Waqf* has benefited many people covering various aspects including funding the construction of mosques, graveyards, hospitals, schools, orphanages, warehouses, bakeries, mills and other charitable, educational or religious foundations. Historically, *waqf* has benefited various educational institutions where many mosques were built using the *waqf* spirit such as the Mosque of Mansur in Baghdad, Umayyad Mosque of Damascus, and Prophet's Mosque in Medina (Ahmed, 1989). The mosques not only act as a place for prayers but also contribute to the study of the Islamic arts and sciences, including grammar, lexicography, poetry, history and genealogy (Ahmed, 1989). *Waqf* in education has spread over the world. In Jerusalem, in the 5<sup>th</sup> and 12<sup>th</sup> centuries, about 70 *waqf* schools were built to give free education to students. In the Island of Sicily about 300 elementary schools were built with *waqf*. In the major Islamic cities including Al-Quds, Damascus, Baghdad, Cairo and Nisapur approximately 100 high schools and universities have been built based on *waqf*. Examples of these are the University of Al-Qurawiyyin in Fez, Al Azhar University in Cairo, the Nizamiya *Madrasah* and Shrine College of Abu Hanifah in Baghdad (Zayd, 1992).

The Al Azhar University is the most popular example of a *waqf* educational institution which has existed since the Mamluk Sultanate time (1249–1260 Common Era) and continues to function until now. Free education has been offered to all students either local or international students including the provision

for accommodation, allowances, stipends and salaries to all staffs. Malaysian students pursuing their studies in the Al Azhar University have been given free flight tickets to return to Malaysia upon completion of their studies (Siti Mashitoh, 2006). The success of Al Azhar University in providing free education to their students had triggered other Western universities to follow the examples. Famous universities such as Oxford and Cambridge in the UK and Harvard and Yale in the US were established under the concept of endowment (Siti Mashitoh & Asmak, 2014). The UK Government has been convinced that endowment is the future funding for sustainable higher education which makes them less dependent on the government.

Colleges in Oxford and Cambridge have been practicing the concept of the endowment-based university. The colleges have been sustained from charitable giving. The responsible parties for the pious work are the heads of the colleges and their fellow members who make an effort to achieve the charitable objectives. They play a role as the trustees but at the same time are the beneficiaries of the foundation (Siti Mashitoh & Asmak, 2014). At the Oxford University, a lot of endowment funds on trust are provided for professorial chairs, lecturing posts, scholarship schemes, student bursaries, and academic prizes. These funds have arisen mostly from the university benefactors and have accumulated over many years. The donors give commitments either by lump sum or instalment payments over a period of time. There are also donors who make initial contributions and then add to it periodically over time. Interestingly, the university's alumni give full support to the establishment and topping up of endowment funds. The OU Endowment Management (OUem) has been appointed by the university to provide the investment management services for the benefits of the university, colleges and charitable trusts associated with the university (Siti Mashitoh & Asmak, 2014).

In the case of Cambridge University, many endowments have been created which have benefited the University and its colleges. Among the significant contributors is The Bill and Melinda Gates Foundation which had contributed \$210 million. This was announced as the single biggest international educational scholarship programme established in the UK in 2000. The large amount was given as the Gates Scholarship Programme which enabled more than 200 outstanding graduate students outside the UK to study in Cambridge. The scholarships have been distributed to 265 students where 220 are at the PhD level. The Cambridge University has established its unit trust scheme known as the Cambridge University Endowment Fund (CUEF) which is managed by the Investment Office in the university with guidance and assistance from the Investment Board. The

management aims to maximize the return on the university's investments with an acceptable risk exposure (Siti Mashitoh & Asmak, 2014).

Despite the well-known endowment concept in the Oxford and Cambridge colleges, Professor Murat Cizacka, a Turkish Islamic Finance scholar believed that the idea was adopted from Islamic *waqf* (Cizacka, 2000; Siti Mashitoh & Asmak, 2013). The fact is derived from a story; the founder of the Merton College, Oxford was Walter de Merton who was a thirteenth-century English clergyman and government servant holding the powerful position as the Chancellor of England for three times. He was said to have had contact with the Middle East during the Crusades. In 1262, de Merton obtained a license to vest certain properties for the support of university students. Two years later, the final form of 1264 Statutes of Merton was registered. In the beginning sentence of the statutes, de Merton clearly stated the charitable purposes of his trust and properties. This procedure is a *condition sine qua non*<sup>6</sup> for any classical Islamic *waqf*. Many other aspects of the Merton College are said to have similarities with the Islamic *waqf*. This act then was followed by the Peter House College in Cambridge imitating Oxford which had previously imitated the Islamic *waqf* (Cizacka, 2000).

## METHODOLOGY

This study is a qualitative research where data were collected using in-depth interviews with six personnels from the relevant SIRC. There were three questions asked adapted from Siti Asishah et al. (2016). The questions were asked on the willingness of the SIRC to grant *mutawalli* status, current commitments to HEIs and their future commitments to HEIs.

All SIRC were identified as the potential interviewees. However, there are few SIRC which have involvement with HEIs either through the establishment of subsidiary or collaboration. The interviewees were the Chief Executive Officer, Director, Head of *Waqf* Department, and Manager of the *awqaf* projects from the SIRC which have involvement with HEIs. The interviews were held in the office of the respondents from January to April 2016.

### Interviewee

There were six SIRC involved in this study which viz. MAIJ, MAINS, MAIS, MAIWP, MAIPK, and MAINPP.

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<sup>6</sup> A legal term which means a causal connection exists between a particular act and an injury when the injury would not have arisen but for the act.

Based on **Table 3**, the Johor Islamic Religious Council (*Majlis Agama Islam Johor* (MAIJ)) established a subsidiary in 1997 known as MARSAH. MARSAH was known as *Markaz al-Dirasat al-Islamiah wa al-Arabiah bi Wilayati Johor* and later changed its name to Johor Islamic Education College. MARSAH was built on a piece of *waqf* land by MAIJ and until now MAIJ has continued giving funds to MARSAH from *zakah* and *waqf* sources. Meanwhile, the Negeri Sembilan Islamic Religious Council (*Majlis Agama Islam Negeri Sembilan* - MAINS) has established a subsidiary known as Negeri Sembilan *Waqf* Corporation to manage *waqf* professionally and efficiently. In relation to the higher education, MAINS has collaboration with Universiti Sains Islam Malaysia (USIM). The collaboration was formalised in 2014 with the signing of MOU between USIM and MAINS. USIM established the *Waqf* Development Financing Centre/*Pusat Pembangunan Pembiayaan Wakaf* (PPPW) in March 2013 (endorsed by USIM's Board of Directors in May 2013). The USIM Al Abrar *Waqf* Fund was established and registered with MAINS. The first project managed by PPPW was the establishment of the USIM Medical Specialist Clinic (began operations in April 2015). The second project is the proposed USIM-MAINS Haemodialysis Center (in progress). These two projects are collaborations between MAINS and USIM. MAINS had allocated RM2 million for the Medical Specialist Clinic (RM1.0 million as *waqf* and RM1.0 million as *qard Hassan*) and RM1.5 million for the Hemodialysis Center (Mohammad et al., 2014).

**Table 3:**

### Involvement of SIRC's with Higher Education Institutions

No	State	Subsidiary	Collaboration
1	Johor Islamic Religious Council/ <i>Majlis Agama Islam Johor</i> (MAIJ)	MARSAH	-
2	Negeri Sembilan Islamic Religious Council/ <i>Majlis Agama Islam Negeri Sembilan</i> (MAINS)	-	USIM
3	Selangor Islamic Religious Council/ <i>Majlis Agama Islam Selangor</i> (MAIS)	KUIS	UIM, UKM, UPM
4	Federal Territories Islamic Religious Council/ <i>Majlis Agama Islam Kuala Lumpur</i> (MAIWP)	IKB, IPB	-
5	Perak Islamic Religious Council/ <i>Majlis Agama Islam Perak</i> (MAIPk)	USAS	-
6	Pulau Pinang Islamic Religious Council/ <i>Majlis Agama Islam Pulau Pinang</i> (MAINPP)	-	USM

Source: Interviews conducted by researchers

Note: MARSAH = Markaz al-Dirasat al-Islamiahwa al-Arabiah bi Wilayati Johor or Johor Islamic Education College, USIM = Universiti Sains Islam Malaysia, KUIS = Kolej Universiti Islam Antarabangsa Selangor, UKM = Universiti Kebangsaan Malaysia, UPM = Universiti Putra Malaysia, IKB = Institut Kemahiran Baitulmal, IPB = Institut Professional Baitulmal, USAS = Universiti Sultan Azlan Shah, USM = Universiti Sains Malaysia.

While for the Selangor Islamic Religious Council (*Majlis Agama Islam Selangor* - MAIS), the Council established a subsidiary known as the Selangor *Waqf* Corporation (*Perbadanan Wakaf Selangor* - PWS) in 2011 which is responsible to manage the *awqaf* properties. In relation to HEI, MAIS also had a subsidiary of HEI known as the Selangor International Islamic University College (*Kolej Universiti Islam Antarabangsa Selangor* - KUIS). KUIS received financing grant from the Selangor State Government to cover the operation costs. MAIS also has collaboration with Universiti Islam Malaysia (UIM) to collect *waqf*. In addition, KUIS, UPM, and UKM have collaboration with PWS in collecting *waqf*. UPM established the *Waqf Ilmu* in 2011 while UKM established the UKM *Waqf* Endowment Fund in 2010. KUIS just began their *waqf* collection in 2015. In the beginning, UPM, and UKM received permission from MAIS to collect *waqf* for a certain period which ended in 2015 and 2012 respectively. Since the establishment of PWS in 2011, all HEIs in Selangor have to ask for permission to collect *waqf* from PWS. At the moment, KUIS, UPM and UKM are in the middle of concluding an agreement with PWS to get the permission.

As for the Federal Territories of Kuala Lumpur Islamic Religious Council (*Majlis Agama Islam Wilayah Persekutuan Kuala Lumpur* - MAIWP), the council has a subsidiary known as the *Institut Kemahiran Baitulmal* (IKB) and *Institut Profesional Baitulmal* (IPB). IKB and IPB have the same objective which is to help the poor and needy to improve their lifestyle through education. IKB offers electrical engineering, food serving, fashion design, art and architecture, and building development technology courses while IPB offers professional courses. Meanwhile, the Perak Islamic Religious Council (*Majlis Agama Islam Perak* - MAIPk) has established a subsidiary known as Universiti Sultan Azlan Shah (USAS<sup>7</sup>). USAS was developed on a *waqf* land received from His Royal Highness Raja Nazrin Shah. Recently, MAIPk launched a new *waqf* project in April 2016 to develop a new hostel in USAS amounting to RM15 million.

Finally, the Pulau Pinang Islamic Religious Council (*Majlis Agama Islam Pulau Pinang* - MAINPP), has collaboration with Universiti Sains Malaysia (USM) in collecting *waqf*. USM established a *waqf* fund in 2015 under The Centre for Islamic Development Management Studies (ISDEV). ISDEV is a Research Excellence Centre in USM which offers courses for postgraduate studies including Master (by research or mixed mode) and Ph.D. (by research). ISDEV has launched two *waqf* projects which are the cash *waqf* and ISDEV *Waqf* Complex. Cash *waqf* is collected to finance the socio-academic activities in ISDEV. While for the ISDEV *Waqf* Complex project, the funding required is estimated around RM 80 million.

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<sup>7</sup> USAS was known as Kolej Universiti Sultan Azlan Shah (KUISAS). Recently, in June 2016 USAS was upgraded to a university.

ISDEV *Waqf* Complex will have eight levels consisting of Small Office Home Office (SOHO), banquet hall, conference hall, hotel, shop, and restaurant.

## RESULTS

This section discusses the findings from the interview session on the willingness of SIRC's to give the *mutawalli* status to HEIs. The interviews were conducted in the office of the interviewees and tape recorded. Later, the interviews were transcribed and analysed using interpretative analysis. The findings and discussions from the interviews are discussed in the next section.

### *Mutawalli* Status

A question was asked on the willingness of each of the SIRC's on granting the *mutawalli* status to the Higher Education Institution (HEI) and their practice as shown in **Table 4**.

**Table 4:**

### *Mutawalli* Status

No	State	Willingness to grant <i>mutawalli</i> status	Practice on granting <i>mutawalli</i> status
1	Johor State Islamic Religious Council/ <i>Majlis Agama Islam Johor</i> (MAIJ)	Yes	No application
2	Negeri Sembilan Islamic Religious Council/ <i>Majlis Agama Islam Negeri Sembilan</i> (MAINS)	Yes	USIM
3	Selangor Islamic Religious Council/ <i>Majlis Agama Islam Selangor</i> (MAIS)	Yes	UIM
4	Federal Territories State Islamic Religious Council/ <i>Majlis Agama Islam Kuala Lumpur</i> (MAIWP)	No	-
5	Perak State Islamic Religious Council/ <i>Majlis Agama Islam Perak</i> (MAIPk)	Yes	No application
6	Penang State Islamic Religious Council/ <i>Majlis Agama Islam Pulau Pinang</i> (MAINPP)	Yes	USM

Source: Interviews conducted by researchers

Currently, MAIJ is willing to give the *mutawalli* status to any institutions interested in managing *waqf*. The interviewee mentioned that MAIJ wanted to spread *waqf* so that more people can get its benefits. However, no application was received from any HEI in Johor to get the *mutawalli* status. At the moment, the HEIs in Johor

are organizing a series of discussions with MAIJ to get more information on *waqf*. It shows that they have an interest in *waqf* but are not ready to manage it. A study by Ismail et al. (2014) showed that Universiti Teknologi Malaysia (UTM) in Johor has endowment fund using the *waqf* spirit. The authors had suggested some potential future *waqf* sources in UTM such as student hostels, university houses rented to the staff and university infrastructure. This study is seen as an eye opener to UTM in establishing the *waqf* fund. Having the same situation like MAIJ, MAIPk is also willing to grant the *mutawalli* status to the interested HEIs but no application has been received yet.

Perak endorsed a new statute governing *waqf* which is the Perak *Waqf* Enactment 2015 in April 2016. In the enactment, there is a clause allowing MAIPk to appoint any trusted person or institution to be the *mutawalli* on behalf of the Council. Since this study was carried out in September, six months after the new enactment was endorsed, it was a very short time for any HEI to apply and receive the *mutawalli* status. It is believed that in future, many HEIs in Perak will apply and obtain the *mutawalli* status if they are interested to establish the *waqf* fund in their institution. In 2013, His Royal Highness Raja Dr. Nazrin Shah, the King of Perak in his speech during the Convocation Ceremony of the Sultan Azlan Shah Islamic College (*Kolej Islam Sultan Azlan Shah* – KUISAS), which has since been renamed as Universiti Sultan Azlan Shah), stated that the act of *waqf* in higher education had started long ago since his late great-grandparent's time. His Royal Highness' great-grandparent had dedicated a piece of land as a *waqf* to build a religious school. The act of His Royal Highness' great-grandparent was then followed by His Royal Highness Raja Dr. Nazrin Shah when he dedicated a piece of land for KUISAS (Mokhtar et al., 2015). With the support from His Royal Highness, the future of *waqf* in Perak is seen brighter. As one of the influential persons in Perak, His Royal Highness might influence other people to participate in *waqf*. This situation gives multiplier effects which might attract others to contribute *waqf*.

In a contrasting situation, MAIWP had received applications from HEIs in the Federal Territories of Kuala Lumpur to seek for permission to collect *waqf*. However, MAIWP is very cautious in granting the permission. According to the interviewee, MAIWP is bound by the Administrative Law of Islam of the Federal Territories of Kuala Lumpur which stated that MAIWP is the only sole trustee for *waqf*. Considering that *waqf* is an *amanah*<sup>8</sup> liable on the Council, MAIWP decided not to give the responsibility to other bodies or institutions. The interviewee added that regardless of having a lack of staff, they could not delegate their responsibility to other parties. However, a research by Syed Khalid (1995) revealed that the SIRC has a lack of staff in managing *waqf* which is not possible for it to pay exclusive attention to *waqf*. Therefore, the author suggested that the SIRC should be excused from managing *waqf* and delegates the *waqf* management

<sup>7</sup> Amanah is an Arabic word which means trust or responsible on something

to the experts. While for MAINPP, the council has granted the *mutawalli* status to USM. The *mutawalli* status was given to The Centre for Islamic Development Management Studies (ISDEV) in USM. ISDEV has launched a *waqf* fund which aims to finance activities in ISDEV including research, students' activities and teaching tools. Another *waqf* project planned by ISDEV is to build an eight-storey *waqf* complex. At the moment, MAINPP plays a role as the regulator where the Council needs to ensure that *waqf* is managed properly according to its principles. Thus, ISDEV needs to report their *waqf* performance to MAINPP.

As for MAIS, the Council has received many applications from HEIs situated in Selangor to collect *waqf*. At the moment, the *nazir's* representative (*mutawalli* in the case of USIM; special *nazir* in the case of Wancorp, a company under Johor Corp) status has been given to Universiti Islam Malaysia (UIM) because of their unique condition. UIM was built based on *waqf* from individuals and corporate bodies including His Royal Highness Sultan of Selangor, philanthropists from the Middle East, Singapore, Brunei and Malaysia, Permodalan Nasional Berhad (PNB), Shahpadu Corp Sdn Bhd and the public (Sinar Harian, 2012). Now, UIM is financed based on *waqf* revenue received.

In addition, there are three HEIs in Selangor interested in collecting *waqf* viz. KUIS, UPM, and UKM. Before this, UPM and UKM received the permission to collect cash *waqf* from MAIS for a certain period. After that, UPM and UKM need to renew their status to continue collecting *waqf*. Since PWS was established, all *waqf* matters are now handled by PWS. Recently, MAIS has introduced a new position called *waqf's* collector or agent to those interested in *waqf* collection. At the moment, KUIS, UPM, and UKM are in the middle of concluding the Memorandum of Agreement with PWS to become as *waqf* collector agent.

It can be seen that five out of six SIRC's support the HEIs to collect *waqf*. Only MAIWP could not grant the *mutawalli* status due to being bound by the legislation which prevents them to do so. Apart from that, MAIWP is very cautious in granting the *mutawalli* status since it is their responsibility to safeguard the *awqaf* properties.

## CONCLUSION

This paper examined the willingness of selected SIRC's to grant the *mutawalli* status. One SIRC that is not willing to give *mutawalli* status to HEIs is MAIWP. The council is restrained under the current law which restricts it from granting the *mutawalli* status to anyone else. The other five SIRC's viz. MAIJ, MAINS, MAIS, MAIPk, and MAINPP are willing to grant *mutawalli* title to any capable parties in order to widen the participation of society in the *waqf* development and hence would enhance the benefits to more beneficiaries. Meanwhile, for the Selangor state, since PWS was established, only *waqf* collecting agent title was given to

higher education institutions and only UIM received the *mutawalli* title because of its unique condition.

It is suggested that the laws governing *waqf* be refined by having leniency to grant the *mutawalli* status to other trusted parties. SIRC should support the effort of the HEIs to collect *waqf* fund so that *waqf* can be developed. It is hoped that this finding provides some insights in giving the *mutawalli* status which might be beneficial to other SIRC and HEIs. For future research, it is suggested to widen the number of respondents covering all SIRC in Malaysia as their opinions are very crucial to the future of *waqf* in education.

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