Chapter 23

Islamic Good Governance for Waqf Institutions: A Proposed Framework

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ABSTRACT

This chapter discusses the concept of good governance in the context of Waqf institutions as a part of their process of revitalization. The study is qualitative and exploratory in nature, whereby a library research method was used by accumulating, identifying, and reviewing existing literature. Based on this information, further analysis was performed for the purpose of conceptualizing the Islamic Good Governance Framework for Waqf Institutions. However, the discussion is limited to the conceptual discussion of good governance in the context of Waqf institutions. This chapter proposes that the framework of Islamic good governance for Waqf institutions should be based on the principles of Tawhid (oneness of Allah), ‘Adalah (justice), Mas’udiyah (accountability), Amanah (trust), Shura (mutual consultation), Taqwa (Allah-consciousness), Hisbah (enjoining virtue and avoiding evil), and Maqasid Shari’ah (objectives of Shari’ah).

INTRODUCTION

Waqf refers “to making of ownership and donating the usufruct of that property to beneficiaries.” (AAO-IFI, 2015). There are various types of Waqf in Islam; charitable Waqf, the family Waqf, the joint Waqf, and self-dedicated Waqf. For charitable Waqf, the income is channeled to charitable purpose. Through the family Waqf, the income or usufruct will be channeled to specific members of the donors. However, if no family members exist, that income will be dedicated to charity. Meanwhile, joint Waqf refers to the case whereby the donor donates the property to their family, and the income or usufruct is then shared

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accordingly. Lastly, for the self-dedicated Waqf, the donor holds the income from the donated property for himself as long as he is alive. Nevertheless, when the donor dies, the income will be dedicated to a charitable purpose (AAOIFI, 2015). It is based upon the hadith in which, the Messenger (May peace be upon him) of Allah (Subhanahu wa Taala) said: “When a man dies, his deeds come to an end except for three things: Sadaqah Jariyah (ceaseless charity); a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased).” (Hadith narrated by Muslim, Book 13, Hadith 1383). Based on this hadith Islamic jurists have characterized the nature of Waqf as follows: Irrevocable, which refers to the lack of power for the Waqif to cancel his donation once the declaration had been undertaken by him; Perpetual, which has three different meanings; first, after the donor makes a declaration, a legally binding Waqf is automatically affected. Second, the Waqf cannot be limited to time, and lastly, the subject matters of Waqf remain eternal; Inalienable means that the donated property cannot be sold, given as a gift or inherited by family members (Iman & Mohammad, 2014).

In Islamic history, the Waqf institution has proven to be a major role for the socio-economic development of the Muslim Ummah in various fields such as education, health, social activities, and various others (Kahf, 2003). However, research to date on the governance of Waqf highlights the issue of poor governance of Waqf institutions in various aspects such as mismanagement of Waqf property, lack of regulations, accountability issues of the Mutawalli, and many others (Yaacob, Petra, Sumardi, & Nahar, 2015; Ihsan, 2014; Ihsan, Eliyana, & Septriani, 2016; Awalludin, Nahar, Yaacob, & Bakar, 2018). In this regard, improving the accountability of the Waqf institution has become the most focused subject in most literature as part of finding the best remedies to the issue of poor Waqf governance. It is important to note that accountability has become the most crucial issue that is hampering the Waqf institutions. Many Waqf trustees fail to demonstrate their accountability as Waqf trustees and they have always been perceived negatively and are associated with dishonesty, corruption, and mismanagement. In addition, there is also a lack of evidence regarding how accountability has been operating in Waqf institutions (Ihsan et al., 2016). Some studies also indicate that there is no clear guideline as to how accountability in Waqf should be discharged (Ihsan et al., 2016).

Abdul Latif, Nik Din, and Mustapha (2018), indicate that inefficient management is among the impeding factors in the governance of Waqf which could weaken the sustainability and development Waqf. As a result of poor management of the Waqf institutions, the vulnerable segment of Muslim society has lost the benefits of Waqf although it has great potential in socio-economic development (Md Saad, Kassim, & Hamid, 2013). In addition to that, in some countries, the management of Waqf properties is not being given serious attention, with a vast amount of Waqf properties being ill-managed and still lying dormant. Even though some of those Waqf properties have a high commercial value, they are not being maintained regularly (Md Saad et al., 2013).

Meanwhile, Ihsan (2014) argues that Islamic orientation is the best method to solve the issues of the Mutawalli’s accountability as suggested by Rashid (2008). However, he further disputes Rashid’s notion by questioning whether this method has been empirically examined or not. In line with this argument, a few studies have been done by introducing a new perspective on the governance of Waqf, whereby the underlying principles are based on Islamic principles and values. Notably, the future of Waqf development and sustainability largely depends on the Mutawalli, who is the trustee of the Waqf institution. Thus, it is imperative for Mutawalli to understand his role, in ensuring the objective of Waqf is delivered, working effectively in mutual consultation, practicing control over the Waqf properties, and in maintaining high integrity and accountability (Ihsan et al., 2016).
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