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Effects of Change of *Mazhab* (School Of Thought) on Waqf in Malaysia and Other Muslim Countries

Nizaita Omar¹, Zulkifly Muda²

¹*Faculty of General Studies and Advanced Education (FUPL), Universiti Sultan Zainal, Abidin (UniSZA), Gong Badak Campus, 21300 Kuala Nerus, Kuala Terengganu, Terengganu, Malaysia

²Fatwa Department of Terengganu, Centre of Islamic Affair, Kuala Terengganu, Malaysia

Abstract

Islam, being the religion of Allah and the way which covers all aspects of human life, is able to interact and provides best solutions for all human issues, whether it involves Muslim community or otherwise. *Ijtihad* (personal reasoning) which is done in order to permit or prohibits the new discovery is based on the exact authorities derived from Islamic legal sources. Islamic scholars made *ijtihad* for the sake of public interest. It need to be noted here that the practice of considering the views of all scholars in any issues is allowed in Islam due to the reason that such distinguish views normally stress on matters regarding *furu'* (branches). The issue of *waqf* as well as other issues regarding *fiqh*, is exposed to differences of opinions among scholars from different schools of thought (*mazhab*). This article comes to discuss change of *mazhab* (school of thought), its effect on *waqf*. The specific study will be focused to the practiced law and some relevant cases in *waqf* in Malaysia. In order for this topic to be more understood, some comparison between the Malaysia Law and other muslims countries in *waqf* will be held. This research will manifest the meticulous side of Islam in the matter of property management, and prosperity of *ummah* (community) in general. To put it briefly, Islam perceives assets or properties as not only meant for personal needs but for social responsibility as well.

Keywords: *Ijtihad* (Personal Reasoning), *Mazhab* (School of Thought), *Waqf*, Public Interest, *furu'* (Branches)

Introduction

Waqf is a noble deed that purposes to educate society of social responsibility. Through *waqf*, Muslims are taught to not be greedy and possessive of their property, and always care for the welfare of their fellow Muslims or men in general by contributing part of their means.

Literally, the word *waqf* means *al-habs* (al-Manzur, n.d.) or to prevent (al-Marbawi, n.d.), to make a person avoiding from something or to imprison a person. This meaning is clear from a phrase

“I give this house as *waqf* to be used for the path of Allah” which means “I prevent this house from being used other than for the path of Allah” (Anis, 1972). The word *waqf* also connotes the meaning of to stand (Fuad, 1959). Then the word is used for anything that can be benefited (al-Sharbini, 1958).

Technically, the word *waqf* means to restrain a property from its owner (after the property has been benefited) and the property is transferred to other person (as determined by the benefactor) for them to obtain benefit from that property. This definition is given by Shafi’ie and Hambali (al-Qudamah, 1983; al-Sharbiniy, 1958; Badran, 1982). On the other hand, Hanafi defines it as restraining a property according to the benefactor’s will as a charity for the time being and the future (Humam, n.d.). Maliki defines it as restraining a property from being controlled by its true owner (after being benefited) to be taken its benefit by the beneficiaries, but at the same time the ownership of the property is still in the hand of the true owner (al-Dusuqi, n.d.; al-Qarafi, n.d.).

Some recent Muslim scholars define *waqf* as to restrain an immovable property, which can be benefited for charitable purposes, and to give it to a person or organization prescribed by sharak and the use is subject to conditions prescribed, or restraining over a property, which may be used for permissible (*mubah*) without reducing the property in concern (Ridzuan, 1994).

Literature Reviews

There are textual authorities which encourage *infaq* or to spend property in the path of Allah. The generality of the authorities shows the establishment of *waqf* in Islam (al-Arabi, n.d.). Among others:

1. The saying of Allah to the effect in Surah A Imran verse 92, translated as “*By no means shall you attain al-Birr (piety, righteousness, or paradise) unless you spend (in Allah’s Cause) of that which you love...*”
2. He also says to the effect in Surah Al Baqarah verse 267, translated as “*...spend of the good things which you have legally earned and of that we have produced from earth for you...*”
3. Also the verse to the effect in Surah Al Baqarah verse 215, translated as “*...and whatever you do of good deeds, truly Allah knows it well.*”

According to al-‘Arabi, the word *infaq* (to spend property) and *Al Khayr* (good deeds) in those verses means optional almsgiving in order to seek blessings of Allah. This includes *waqf*.

4. The saying of the Prophet to the effect:
“Umar ibn al-Khattab has obtained a land of Khaybar. He went to the Prophet (pbuh) and asked, “I have obtained a land of Kahybar which is better than mine before. What is your suggestion on that?” Then the Prophet (pbuh) suggested to him, “Give it as your benefaction and give its products as charity.” Then ‘Umar gave the land’s products as charity and he promised that he will not sell it to anybody or to be given to other person.” Authentic hadith narrated by Bukhari, Muslim, Abu Dawud an al-Tirmidhi. (Al Zaila’i, n.d.).
5. the saying of the Prophet to the effect:

“When a son of Adam passed away, all of his deeds will be burst except three: his almsgiving, his knowledge that can be benefited by others and his obedient child who always pray for him.” Hadith narrated by Muslim (al-Khin et al., 1977)

Some scholars interpret almsgiving as mentioned in the hadith as *infaq*, which was done while he is alive and can always be benefited by other after his death. This includes *waqf* (al-Sharbini, 1958; al-San’ani, 1960).

Based on the above authorities, majority of Muslim scholars rule that *waqf* is permissible (al-Dusuqi, n.d.; al-Bahuti, 1983). However, Hanafi viewed that the ruling is different based on the difference in intention and object. If a person giving something as benefaction with the intention to seek Allah’s blessings then he will be rewarded by Allah. If the *waqf* is not for this purpose, then it becomes permissible. The rule may change to obligatory if a person makes a *nazar* or sacred promise to do that.

Objectives

1. Identify the differences of opinions among scholars from different schools of thought (*mazhab*) underlying *waqf* in Islam.
2. Review the effects of change of *mazhab* on *waqf* in Malaysia and other Muslim countries

Research Methodology

This research used qualitative method (philosophical approach) to research. The author has conducted a research to study any form of ancient writing and now that relate to the study either directly or indirectly. Information obtained from books, journals, state enactments, law documents, magazines, papers, printed media, electronic media, and internets.

Research-based study in the form library, then the writing will go through referring to verses al Quran and some hadith that have related to this topic, and then examine the interpretation of Islamic scholar on it. The author also has conducted this research to study and disclose the views from current Islamic scholar in this matter.

Finding and Research Discussion

Effects of Change of *Mazhab* on *Waqf* in Malaysia

Since there is no written law on *waqf* in Malaysia (Abdullah, 2000). The *Qadhi* (*shariah* judge) must refer to the original sources of Islamic law, al-Quran and al-Sunnah. They also need to refer to opinions given by Muslim jurists on that matter. They have to use the absolute opinion of *mazhab* Shafi’e. If there is contradiction between the opinion and public interest, other opinion from other schools might be consulted (Federal territories Enactment s.39 (1); Selangor Enactment 1952 s.42(1); Pahang Enactment s.39(1); Terengganu Enactment 1986 s.26(1); Perak Enactment s.42; Melaka Enactment s.37; Kedah Enactment s.38).

In *Majlis Agama Islam Pulau Pinang v. Isa bin Abdul Rahman* ([1992] 2 MLJ 244), the case involved a *waqf* land which a mosque has been built on that land. The Religious Authority planned to extend the mosque and to make premises to be rented for business. However, some of the benefactor’s descendants opposed the plan and obtained injunction from the civil court to

restrain the Religious Authority to demolish the mosque. The Religious Authority applied for the injunction to be nullified because the matter is within the Shariah Court jurisdiction. However, the High Court, followed by the Supreme Court have rejected the application made by the Religious Authority for a reason that the Shariah Court has no jurisdiction to grant injunction applied for and therefore, the case is within the jurisdiction of the civil court.

The issue in this case is the renovation of mosque on the *waqf* land, whether it was permitted by *shara'* or not? Renovation here means to collapse the old mosque, and to build a new mosque together with business premises to be rented. Muslim scholars have discussed on the issue of permissibility of demolishing and selling a mosque if circumstances render to it. Hanafi stated that replacement (including renovation) of *waqf* property such as mosque has three situations (al-Abidin, n.d.):

First: If the benefactor who benefited his property has allow replacement of his property with other property, such replacement is permissible. Similarly if he allows the selling of the property, the price must be used to buy other *waqf* property. This is based on the conditions stated in the '*aqd waqf* by the benefactor are valid and must be done unless if it is contrary to sharak.

Second: If the benefactor does not stated any condition while giving his property to be used as *waqf*, or he put a condition to disallow selling the property or replace it with other property, such condition must be implemented. If the property cannot be used anymore, such replacement or selling is permissible to be done according to the preferred view in this mazhab (al-Abidin, n.d.).

Third: If the benefactor does not stated any replacement or selling can be made, and the *waqf* can be benefited generally, but there is other thing which gives more benefit from the *waqf* property, the preferred view is that it is not permissible to sell it.

If the property in form of '*aqr* but not mosque, the absolute view is that it is permissible for Islamic authority to replace it if it is tantamount to it although there is no certain condition made by the benefactor on such matter. The permissibility shall be based on certain conditions, i.e.:

1. The *waqf* in being cannot be benefited anymore.
2. if it is sold, the price must be in accordance with the property in question (al-Abidin, n.d.).
3. the one who replace it must be a good person (al-Zuhaili, 1989).
4. replacement must be with '*aqr* also, not else (al-Zuhaili, 1989).
5. it shall not be sold to an unjust persons (al-Zuhaili, 1989).

Hambali viewed that it is not permitted to replace mosque or to sell it and to build business premises unless by a valid reason. It is also not permissible to plant a tree to get benefit from its fruit within mosque's area because a mosque is not built for such purpose but for remembrance of Allah. Mosque can be sold if it cannot give benefit anymore. If it is sold, the price is used to buy other property that can be benefited by others. If it cannot be benefited, the selling is prohibited (al-Qudamah, 1983).

Maliki (al-Dusuqi, n.d.) viewed that it is not permissible to sell *waqf* property in form of '*aqr* although it has collapsed, and also not permissible to replace it although in the same form. It is also not permissible to sell its parts such as its bricks, woods etc. According to Shafi'ie (al-Shirazi,

n.d.; al-Sharbini, 1958), if a mosque is collapsed and cannot be used anymore, it becomes no one's property. It cannot be sold or replaced because it is the sole belonging of Allah. If it is afraid that a mosque may collapse, it is permissible to demolish it and to replace it with the new one. If the authority thinks otherwise, it shall be managed in a good manner and cannot replace it with other form such as well etc.

Based on the opinion of the four schools of thought, the demolition and replacement of that mosque cannot be done unless it is necessary to do so. However, there is a view that mosque can be sold or demolished in order to replace it with a better one although the old mosque can still be used. There are authorities suggesting this matter (Sabiq, 1983):

1. Caliph 'Umar al-Khattab has transferred a mosque in Kufah to other place which is better. The basement of that mosque is used to build a market.
2. Caliph 'Umar, followed by Caliph 'Uthman has rebuild Masjid Nabawiy in Medina and extended it with new building.

Abu Thawr, Abu 'Ubayd and other scholars viewed that it is permissible to replace *waqf* (other than mosque) to other form such as house, shops, etc which can give more benefit. They said that the basement of Kufah mosque has been turned to a market after transfer of that mosque. *Waqf* other than mosque is proper to be transferred to anything that can give more benefits to the people (Sabiq, 1983).

Based on the last opinion, the writer viewed that it is permissible to demolish and to replace the mosque (as in the case above) if it is for a better benefits in the eyes of the Religious Authority. It is also permissible to rent the premises so long as it does not disturb the mosque as place of worship (Penang's Fatwa, 1989).

The author found that authorities in Muslim countries have practiced this opinion such as Egypt (Egyptian Law of Waqf 1946 (No.48), s.14), Sudan (Sudan Law 1991 (No: 43), s. 334) and Syria (Law No. 104, 1960 and No:163 of 1958).

In ***Tengku Abdul Kadir bin Tengku Chik v. Majlis Agama Islam Kelantan*** ([1994] JH 165), the High Court has ordered – after obtaining consent of descendants who have right over the property of Tengku Chik bin Raja Muda Penambang – that 2 from 9 acres of land benefited by Tengku Chik as waqf khas to be transferred as waqf 'am which everlasting and the management was given to Majlis Agama Islam Kelantan in October 1956. However in 1987, one of the descendants has applied for a claim against Majlis Agama Islam Kelantan before the office of Chief Kadi of Kelantan. The application made is for the court to nullify waqf 'am made on 2 from 9 acres of land made in 1956. The Syariah Court held that it has no jurisdiction to interfere with the decision made by the civil court. When this case was brought before the Syariah Appeal Court, the same decision was upheld.

Suppose the parties in question i.e. Tengku Chik's descendants and the *Majlis Agama* (Islamic Department) should settle this matter outside court. The Mufti may become mediator because he has the authority in deciding matters involving Muslims. To settle this issue, the court shall

not base its decision to mazhab Shafi'e only without looking the opinions of other schools. According to the writer, *waqf* shall not be seen to be everlasting. It may become temporary if it is intended by the benefactor. This is the view of Maliki (al-Dusuqi, n.d.), moreover if it involves *waqf ahliyy (zurriy)*. To prevent dispute between the descendants, the *waqf* cannot be regarded as permanent. If necessary, such *waqf* shall not be allowed at all, as happened in Muslim countries such as Egypt, Syria, Lebanon etc (Ridzuan, 1994). If it is allowed, the period must be specified. Prohibition of *waqf zurriy* is based on two reasons: first, there are scholars who did not permit such *waqf* to be made. Among them are Sheikh Muhammad Jawwad, al-Sabiq, Zuhdi Yakan etc. (Baharudin, 1996), and secondly, if such *waqf* is regarded valid (according to *jumhur* including Shafi'ie) (Al Ramli, n.d.; Al Bahuti, 1983), the authority may use the principle of *taqyid al-mubah* (to prevent permissible act to protect public interest), such as to prevent fishermen from using tow net because such use may cause other fishermen not to get fish.

To settle this issue, the writer suggests that *Majlis Agama* to return the two acres land categorized as *waqf 'am* based on the decision of civil court in 1956. This is because the *waqf* was not come from Tengku Chik, but was made by his descendants. This is because:

1. It was done after the death of Tengku Chik.
2. Such *waqf* is different from *waqf* made by Tengku Chik, because the *waqf* made by Tengku Chik was *waqf khas*, but this *waqf* is *'am*.

According to Imam Abu Hanifah (al-Abidin, n.d.), offer and acceptance of *waqf* is not *lazim* (binding). It means that a person who beneficiates his property can obtain back his right over such property. According to *jumhur* including Abu Yusuf and Muhammad bin Hasan (both from Hanafi), such offer and acceptance is *lazim* (al-Shirazi, n.d; al Bahuti, 1983). It means that it cannot return to his owner to change the form of *waqf*. This is because *waqf* is transfer of ownership from its owner to the public (Allah's property). To settle this issue, the opinion of Abu Hanifah must be referred. If this opinion is used, the land can be obtained back and the *Majlis Agama* shall agree to such right.

In ***Sahul Hamid v. Majlis Agama Islam Negeri Sembilan*** ([1996] 10 (2) JH 186), the Shariah High Court held that a mosque built by an Indian Muslim in 1928 at Kuala Pilah is a *waqf* property and the management was given to *Majlis Agama*. The issue is there is no proof that the Indian Muslim has beneficiated the mosque. However, the court regarded it as *waqf* property because it shows his tacit approval that he intended to beneficiate that mosque. This case shows the flexibility of the court to receive other schools opinions if it involves public interest. Shafi'ie stipulated that the benefactor must say his intention to beneficiate certain property. If he did not do that, such *waqf* is void. As regards to this matter, Imam al-Shirazi (n.d.) said: "...a *waqf* is not valid unless it is pronounced by the benefactor...". However, according to Malikiy and Hambali, such *waqf* is valid if the benefactor shows the signs that he intended to beneficiate his property although without saying his intention (al-Sawi, n.d.). For example, if a person builds a mosque, and allows people to pray inside his mosque, the mosque is regarded as *waqf* property. The court in this case has followed Maliki and Hambali's view.

Waqf Practice in Egypt and Sudan

In Egypt, there is a change of practice of law of *waqf* in 1946 by virtue of Law of *Waqf* 1946 (No: 48 of 1946). Among others, the law is contrary to mazhab Hanafi which has been the basis of law in that country. The Law of *Waqf* 1946 has shown the flexibility of the Egyptian Authority in creating a law which was derived from opinions of scholars from various schools.

Sudan has also come out with *waqf* la under its Qanun al-Ahwal al-Shakhsiyyah li al-Muslimin (No: 43 of 1991). This law also did not bind itself with certain *mazhab* and has similarities with Egyptian law as mentioned above. Examples of both laws as follows:

Permanent Form of *Waqf*

S.5 of Egyptian Law of *Waqf* provides

“*Waqf* of mosque must be permanent. *Waqf* made other than mosque may be permanent or temporary. If the benefactor does not specify the *waqf* made, whether temporary or not, such *waqf* is regarded permanent. *Waqf* not based on charity (such as for descendants) is regarded temporary.

This section is supported by s.16 which provides “A temporary *waqf* is expired with the expiration of period specified...”

These sections follow Maliki view which permits a person to create *waqf* for certain period of time (al-Dusuqi, n.d.). Majority jurists including Hanafi viewed that *waqf* must be permanent and everlasting and if the benefactor specifies the period, such *waqf* is not valid (al-Ramli, n.d.; al-Bahuti, 1983; al-Abidin, n.d.).

The author viewed that Maliki opinion is preferable due to lack of authority which provides *waqf* must be permanent and also due to a reason that good deed can be specified its amount and form. The similar goes to *waqf*.

This is strengthened by Egyptian policy to reduce *waqf* properties which are so many in that country particularly land for agricultural purposes. This policy suits public interest, because such land can be developed for other purposes. Its status as *waqf* land may disturb the process.

The similar was provided under Qanun al-Ahwal al-Shakhsiyyah li al-Muslimin of Sudan (No: 43 of 1991). S.336 provides “It is stipulated for a valid *waqf* that the *waqf* property must be specified its time.”

Waqf together with Invalid Condition

S.6 of the Egyptian Law of *Waqf* provides “If there is invalid condition, the *waqf* made is valid and the condition is void.”

This section applies the view of Zahiri where according to them, any invalid condition stipulated by the benefactor which is contrary to Islam, such condition is unacceptable but the *waqf* made is valid (Hazm, n.d.). This is contrary to majority opinion including Hanafi (al-Abidin, n.d.; al-

Sharbini, 1958; al-Qudamah, 1983). The argument is that conditions contrary to Islam have also contrary to the waqf itself, therefore the waqf shall be regarded invalid (al-Qudamah, 1983).

Qanun al-Ahwal al-Shakhsiyyah li al-Muslimin of Sudan also provides the same. S.331(2) provides "When the waqf is inserted with invalid condition, the waqf is still valid, but the condition is void.

Waqf 'Aqr (immovable) and Manqul (movable)

S.8 of the Egyptian Law of *Waqf* provides "It is permissible to create *waqf* from immovable or movable property". This section follows the opinion of *jumhur* which permits *waqf* from 'aqr and *manqul* (Zaydan, 1991), whereas Hanafi school did not allow *waqf manqul* unless it has relation to *waqf 'aqr* (al-Kasani, 1986).

The author prefers opinion of *jumhur* since the concept of waqf stressed on giving benefits to the beneficiaries. The question of 'aqr and *manqul* must be seen relatively.

Qanun al-Ahwal al-Shakhsiyyah li al-Muslimin of Sudan provides the similar provision, i.e. s.325 (1) which provides "It is permissible to create waqf from 'aqr and manqul or anything suitable to be benefited according to custom."

Acceptance in 'Aqd Waqf

S.9 of the Egyptian Law of *Waqf* provides "Acceptance in 'aqd *waqf* is not required. It is also not required for the beneficiaries..."

This section provides that no acceptance is required while making 'aqd *waqf*. As regards to this matter, the scholars have discussed it thoroughly. They divided *waqf* into two categories:

First: *Waqf 'am* such as mosque etc. No acceptance is required (al-Bahuti, 1983; al-Sharbini, 1958).

Secondly: *Waqf khas* such as *waqf made* to private parties. In this kind of waqf, the scholars have different views whether acceptance is required or not. Most of the jurists viewed that this is not a condition of valid *waqf*, but it is a condition when the receiver wants to obtain benefit of that *waqf*. It means that this section is general (al-Bahuti, 1983; al-Sharbini, 1958; al-Abidin, n.d.). However, this can be settled by proper registration. For example, *waqf* made by a person to poor people at Cairo for example, registration which includes names and tribes may ease the authority to contact them for benefit of such *waqf*.

Sudan Law does not give any provision on this matter.

Withdrawal in Waqf

S.11 of the Egyptian Law provides "A benefactor may withdraw his *waqf* property or may change it terms and conditions..." This section applies the opinion of Abu Hanifah (al-Abidin, n.d.) who said that 'aqd *waqf* is not binding. It means that the benefactor can withdraw his property from being the object of *waqf*.

According to *jumhur* including Abu Yusuf and Muhammad bin Hasan (both from Hanafi), it is binding (Hummam, n.d.; al-Shirazi, n.d.; al-Bahuti, 1983). He cannot withdraw his property because he is no longer the owner of the property since the property is regarded as public property.

The author viewed that to apply opinion of Abu Hanifah in this matter is not suitable. This is because it will create chaos within the society. A person who benefited his land for poor people whom cultivating it and wanted to get back his land, this act may cause disturbance to the life of those poor people. If majority opinion is implemented, it is more proper.

Sudan Law differentiates between *waqf khairiy* and *waqf ahliy* or *zurriy*. S.339 provides *waqf kahiriy* shall not be obtained back by his owner. S.340 provides *waqf zurriy* can be obtained back by its owner by the order from court.

There are some amendments on the Law of *Waqf* 1946 i.e. by virtue of Qanun No: 108 of 1952. Among other the law has abrogated *waqf zurriy*. However *waqf khairiy* is still can be made. Section 1 of this new law provides: No *waqf* is valid unless for charity purposes (*waqf kahiriy*). This is the policy of the government to abrogate permanent *waqf* (except mosque). Before this, *waqf zurriy* is lasting only for 60 years and it cannot exceed 1/3 of the benefactor's property. This policy is in line with opinion given by Sheikh Muhammad Jawwad, al-Sabiq, Zuhdi Yakan, etc (Baharudin, 1996). This policy is also followed by countries like Syria, Pakistan, Lebanon, etc (Ridzuan, 1994).

Waqf Practice in India

Indian Government has introduced Muslim *Waqf* Act 1913 (Act No.6 of 1913) which commenced on 7th of March 1913, but has no retrospective effect. After that the second Act was introduced i.e. Muslim *Waqf* Act 1930 (Act No. 302 of 1930) which gives opportunity to 1913 Act to have retrospective effect. Generally, the law is based on Hanafiy school.

This can be seen in the case *Khajeh Solehman v. Salimullah Bahadur* [1922] 49 I.A. 153. The weird thing is that Indian authority has introduced 1930 Act to give retrospective effect on 1913 Act, but in the case of *Abdul Fatta v. Rusomoy* [1894] 22 I.A. 76; ILR 22 Cal. 619 which became precedent and other cases including cases from our country, whereas there shall no authority to be cited because 1913 Act has superseded it. In Malaysia, the precedent is based on the case of *Pesuruhjaya Hal Ehwal Agama Islam Terengganu v. Tengku Mariam* [1969] 1 MLJ 110.

Waqf Practice in Indonesia

The Law No. 28 of 1977 has been introduced by Indonesian government on the law of *waqf*. It was followed by The Rule No.6 of 1977. Before the existence of the Law No. 28 of 1977, Indonesian relied upon land law No.5 of 1960. In this law, the provision on *waqf* has been touched generally in s.49 (3). The emergence of 1977 Law is regarded as subsidiary of that provision (Suparman, 1994). Such provision has protected the religious right which deals with land matters (Adijani, 1989).

In this 1977 Law, the *waqf* accepted is *waqf 'am* or *waqf kahiriy* only and it is only provided for land. It has been stated under S.1 of this Law "The object of *waqf 'am* must be land only, and *waqf zurriy* is not meant by this provision."

This provision seems to consider public interest, i.e. to avoid dispute among people (H Suparman, 1994). This provision has similar effect as to the provision in Egypt and Sudan. It is in line with opinion of scholars such as Sheikh Muhammad Jawwad, al-Sabiq, Zuhdi Yakan etc (Baharudin, 1996).

Conclusion

According to historical facts, the practice of *waqf* has existed at the time of Prophet Ibrahim. He has created *waqf* of Masjid al-Haram and its area to his descendants. *Waqf* concept is not so clear at that time until after the era of the Prophet (pbuh). He has benefited a land left by Mukhairiq to him in the 3rd year of hijrah. This has been followed by his companions (Baharudin, 1996).

To sum, the principles and concepts of *waqf* in Islam are asserted clearly in the two main Islamic sources which are al-Quran and al-Sunnah. In fact, Prophet Muhammad himself has explained in details the status of *waqf* both in verbal (*qauli*) and practical (*fi'li*) manners. However, as time goes by, various issues on this topic start to rise. *Ulama'* (Islamic scholars) have been employing all their knowledge to come up with *ijtihad* (independent reasonings) in order to give answers and solutions to these issues. Consequently, different reasonings and opinions emerged as these *ulama'* have their own analysis and interpretations either on Quranic verses and hadiths or the situations and conditions that these issues deal with.

Differences of opinions among these *ulama'* on the issues of *waqf* can be seen in the outcomes above. These differences and disputes, nonetheless, should not be seen as something disadvantageous instead as a blessing that offers goodness and prosperity as they do not lead to any feud or hostility at all. Plus, these differences involve only matters of *furu'* (secondary) and not the fundamental ones. They also prove that Islam highly encourages its people to utilize their minds that Allah has given and think maximally on something within Islamic boundaries (means without lust involvement).

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Corresponding Author

Nizaita Omar, Faculty of General Studies and Advanced Education (FUPL), Universiti Sultan Zainal Abidin (UniSZA), Gong Badak Campus, 21300 Kuala Nerus, Kuala Terengganu, Terengganu, Malaysia. E-mail: nizaitaomar@unisza.edu.my

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