

# DEVELOPMENT OF WAQF ANAK CUCU LAND IN LIMBONG KAPAL, ALOR STAR: A STUDY CASE

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**Abstract**

*Waqf anak cucu is a transactional asset that is unique in Islam. It is not only view as a form of devotion to Allah but also a social responsibility to the community. Waqf anak cucu has a high socio economy value to develop the community. This paperwork will discuss on the development of waqf anak cucu in Kedah. This paperwork will also include inquiry about the development of waqf anak cucu and its potential development as well as the benefits. This research uses qualitative method, which are informational research to collect data on waqf and field work that involve interviews with important key people to get the actual and primary information from those who are directly involve with the development of waqf anak cucu. Waqf anak cucu is vital to providing a wider perspective of the process and characteristics of family waqf. This will help the public to better comprehend the family waqf in order to properly practice it. It can be inferred from concise review of related studies that the development and sustainability of family waqf depends on all its aspects and*

characteristics. The inclination of waqif to contribute (generosity) must be maintained; individuals serving the role of mutawalli should improve their management skills, insights of Islamic scholars must be taken into consideration, while the responsibility of Islamic leaders to provide full support must be maintained so that family waqf will constantly be able to significantly empower the Ummah. Research shows that waqf anak cucu has its specialty to ensure continuous benefits to the family. A good development of waqf anak cucu is crucial to make sure that the assets are developed and the benefits from it can continue to grow for the benefit of the community.

## **INTRODUCTION**

Waqf *anak cucu* can be interpreted with various terminological concept, such as *waqf a'la aulad*, *waqf keluarga*, *waqf zhurri*, *waqf individu*, *waqf anak cucu* and *waqf ahli*. In Kedah, the definition of *waqf* to family is well-known as *waqf anak cucu*. It is a form of waqf determine for the benefits of family and its offspring as the beneficiaries [1]. This type of waqf starts with the benefit of the waqf founder and pass on to the family members. Besides, *waqf anak cucu* will also benefit the next of kin aims to protect the welfare and strengthen the kinship ties [2].

This practice of waqf *anak cucu* depends on the oath of *waqf* whether it includes the family members or more than the offspring themselves. With its special oaths, the property of waqf will change its ownership of the person stated in the oath [3]. In this context, the property, or assets of waqf *anak cucu* and all of its benefit from the property cannot be used for other purposes as stated by the person who take the oath. For Imamiyah belief, waqf *anak cucu* is said to be a part of special waqf category. This is due to the usual waqf being given to the closest family member such as the third generation or next of kin stated by the person who took the oath with the aim to preserve the harmony and welfare of their family [4].

Waqf *anak cucu* is considered as transaction medium or benefits given by the person who take the oath to the next owner of waqf. Benefit of waqf *anak cucu* is given whether in the form of land, house, yields, and many other forms that are permanent, given by a person or more than one from the ancestors of person who take the oath [5]. This practice of waqf *anak cucu* is done to preserve the family and ancestors from any hardships or poverty as well as the welfare of the family members [2]. It has been a practice since the time of Prophet Muhammad, the *sahabah* and during the reign of Islam. Part of waqf *anak cucu* that still exists and remain its benefit to the family members includes *waqf Saidina Umar* in Khaibar for his ancestors, as well as *waqf Saidina Uthman* [6] ([7]).

The same goes to other *sahabah r.a* including Saidina Abu Bakar, Saad Bin Abi Waqas, Imam As-Shafie and others who also practice waqf for their property such as house and land to the family members or their offspring. Prophet Muhammad S.A.W also advice to prioritize *sadaqah* to their family members or next of kin that are in need. Abu Huraira reported the Prophet Muhammad S.A.W saying: "Of the dinar you spend as a contribution in Allah's path, or to set free a slave, or as a *sadaqah* given to a needy, or to support your family, the one yielding the greatest reward is that which you spend on your family". Based on this it shows that we are urged strongly to endow our assets in the service of mankind and offspring.

## **TAKRIF WAQF AHLI**

Waqf Ahli comes from two combined words of waqf and ahli. In the *Book of Fiqh*, waqf is derivative word from the *qalam* of *waqafa*, *yaqifu*, *waqfan*, or *al-waqf* which bring the meaning of 'stand' or 'stop' [8]. Another word that brings the similar meaning with waqf is the *qalam* of *al-habs* which means 'to stop' and *al-man'u* that

means 'to forbid' ([9]. This is also supported by Imam Nawawi who believes that the word of *al-waqf*, *al-tahbis* and *al-tasbil* bring the same meaning altogether [10].

Meanwhile according to the [11], the word *waqf* brings the meaning of something that is given for the benefit of mankind or for the necessary essential with the Islamic way [11]. Thus, the word *waqf* is often linked to assets or property such as land, animals and agriculture that give the meaning of permanent ownership for a specific purpose or benefits [12].

*Waqf Ahli* is the *waqf* that the benefit is given to the family members or offspring of the founder such as the grandchildren[13]. It is known as a type of *waqf* that is used for the importance and social security especially from the offspring line or family members. It is allowed by the Islamic perspective. *Waqf Ahli* is a *waqf* that brings positive impact especially to the founder (*wakif*).

According to [14], *waqf ahli* refers to the endowment of asset and outcome of the asset by the founder that will be used to benefit the family members or offspring only. The founder of *waqf* not only managed to retain the asset for his own benefit but will also receive much goodness out of that; the goodness of its *waqf* charity and further strengthen the family ties with the offspring.

### **OBJECTIVES OF STUDY**

The objectives of this study are:

1. To study the development of *waqf anak cucu* in Limbong Kapal, Alor Star.
2. To identify the potential development of *waqf anak cucu*.
3. To identify the development benefits of *waqf anak cucu*.

### **IMPORTANCE OF THE STUDY**

This study is important to further explain the development of *waqf anak cucu* in Limbong Kapal, Alor Star. Through this study, the potential of *waqf anak cucu* will be identify to encourage Muslim in the practice of *waqf*. This study will also give ideas on the development of *waqf anak cucu* in Kedah. Therefore, it will help simplify this to the founder of *waqf* and Majlis Agama Islam Negeri Kedah (MAIK) to plan strategically and realistically, according to the current needs and situation. All the data received from this study will not be used for the development purpose of *waqf anak cucu* only, but also can assist in the development of human capital that will be the activator of the *waqf* institution. That being said, this study is hoped to assist the founder of *waqf* and MAIK to increase the development capacity of *waqf anak cucu* that is more comprehensive.

The development of *waqf anak cucu* becomes much more important to preserve the asset of *waqf* in Malaysia. The success of *waqf anak cucu* management may generate high income to the beneficiaries of the offspring [15]. The allocation amount of *waqf* is very high in certain places especially in the states that applies the practice of *waqf zuriat*. Potential of *waqf anak cucu* if being developed can bring multiple benefits to the management of *waqf* and adjusted with needs and interest of family members. According to [16] the development of *waqf anak cucu* needs to be holistic that is supposed to develop the economic part of the family and society, as well as solving poverty issue. That means, an effective development of *waqf anak cucu* is usually implemented for the mutual benefit of Muslim community [17].

*Waqf anak cucu* is one of the *waqf* components that is crucial to drive the growth of *waqf* land development in Kedah. One of the main roles of *waqf* sector is act as a medium to ensure the preservation of ownership property and asset distribution can be reserve especially to the Muslim community.

The institutions of *waqf anak cucu* especially in Kedah plays a role in producing a huge benefit especially to the family members so that there will be no fighting or

sales of land in the future. Therefore, this study is even more important to ensure the development of waqf *anak cucu* in Malaysia will be done holistically [18].

Thus, this study on the development of waqf *anak cucu* has identified certain fields that can be involved by other researchers. The development aspect of waqf *anak cucu* must be built with honesty and competency, with efforts to fully develop it so that the property of waqf can be further progress and generated from time to time. The development of waqf *anak cucu* must also be intact and maximize as possible so that it can be a crucial contributor to the socio economy of society especially to the Muslims[18].

The result of this study will give awareness, total or quantity of waqf land especially for waqf *anak cucu* so it will not become lesser parallel to the government intention to make asset of waqf as centre line for the economic development of Muslim in Malaysia.

According to [15], the problem on the development of waqf *anak cucu* issue that happens in another country to the extent that waqf *anak cucu* has to be abolished. Among the countries that abolished waqf *zuriat* include India, Bangladesh, Mesir, Kenya and Pakistan. The abolishment of waqf *anak cucu* has made the Muslim community to face many problems in the development of waqf assets. This situation has caused the Muslims to be one step behind and no longer progressive in the economic aspect. Certain mechanism must be put into attention to resolve this complex situation as guidance in managing, planning and developing the property of asset to be more effective.

The outcome from this study will also directly assist the waqf management from *Majlis Agama Islam Negeri (MAIN)*, other researchers, students and public to understand the development of waqf *anak cucu* implemented by *MAIN*. Therefore, a collective effort to develop the potential of waqf property either through idea, energy or others must be gathered to ensure the development of waqf *zuriat* can be achieved and implemented efficiently.

### **METHOD OF THE STUDY**

This qualitative study is focusing on the data collection process that is in the form of case facts, as a group of information that will be analysed to achieve the title of the discussion paper. [19] stated that qualitative study is used to reach a better understanding level of informants and increase the quality of outcome. This research data are collected through the method of interviews, documentation and observation. Data being studied includes the data on management aspect, such as management procedure, development, and administration of benefits in the waqf *anak cucu* in Limbong Kapal, Alor Star.

This study is using interview method to get data. This interview method was conducted in a semi-structure manner that are a combination of pre-planned interview and additional interview with respondents. Informants for this study are focused on the administration division and development of waqf land including land of waqf *anak cucu* from *Majlis Agama Islam Kedah (MAIK)*. Some of the informants involved are:

Table 1

List of Informants, 2020

NO.	INFORMANT	DESIGNATION
1.	Syeikh Fakhrrrazi Bin Yub, Bck.	Head of Waqf Division (Kini)
2.	Syeikh Ahmad Zaki Bin Haji Ghazali	Baitul Mal (Kini)
3.	Ustazah Nor Hairani Binti Saad	Assistant Officer of Idlamic Affairs (Waqf)
4.	Muhammad Fairus Bin Abd Rahim	Head of Real Estate Development Division

Besides that, the information of waqf in *Majlis Agama Negeri Kedah (MAIK)*, books, journal article and conference paper that is closely related to the waqf *anak cucu* are used for further reference to get additional information in regards with waqf *anak cucu*. Data analysis method that is used is content analysis. Researchers will analyse the information textually and identify the contents systematically according to certain themes.

### **DEVELOPMENT OF WAQF IN MALAYSIA**

The bringing of Islam to *Tanah Melayu* has given an impact to the evolution of waqf. The practice of waqf in the early stages involved in the form of private practice. According to [20], this is due to no specific law or regulations to control that. The private practice of waqf in general are focused on the welfare of the mass public including *musolla* and mosque, graveyard, orphanages, and religious institutions such as *madrasah* and *pondok*. In the early stage, the administration of waqf is given to the head of community such as *imam*, respectful religious teachers, or well-known figure to manage the waqf.

According to [21], after the era of 1950, when the states in *Tanah Melayu* has the Islamic Religious Affairs Administration Enactment, there were some waqf allocation from there. In the year of 1980, some conditions of the allocation came from the regulations. Thus, the administration of Islamic waqf were put under the jurisdiction of the States instead of the Federal government. Selangor was among the first states to pass the Enactment of Waqf No.7 in the year of 1999, followed by Melaka and Negeri Sembilan.

In this context, the development of waqf in Kedah was administered under the *Majlis Agama Islam Kedah (MAIK)* according to the enactment under the Islamic Administration and Law (No 9) in 1962. The law was crafted that all waqf property in Kedah will be owned and the rightful ownership of *Majlis Agama Islam Kedah (MAIK)* as the sole Trustee regardless of any type of waqf property.

Then, in the year of 2008, the government of Kedah passed the Enactment of Islamic Administration Law [22] to replace the Islamic Administration and Law (No 9) 1962 for betterment and uniformity purpose with other states in Malaysia.

*Section 52. The Council becomes the sole trustee of waqf, nazr and trust*

*Regardless of any allocation that is opposite from the actual discipline to introduce, control and touch on the issue, and thus the Council has to be the sole trustee:*

- (a) *All waqf, either general or specific;*
- (b) *All general waqf; and*
- (c) *All forms of trust such as khairat to support and advance Islam as a religion or brings benefit to the Muslim according to the Syarak*

*Section 53. The resignation of waqf property, nazr and trust to the Council*

*All property under the Section 52 shall be non-transferable or non-assigned of rights, and in the matter of that, upon registration under the written law that is related to land, will depend on the rights of Council, for the meaning of waqf, general nazr or trust related to that.*

### **THE DEVELOPMENT OF SPECIAL WAQF ANAK CUCU**

The development of waqf *anak cucu* land in Kedah is under the responsibility of *Majlis Agama Islam Kedah (MAIK)* as the sole Trustee of waqf. *Majlis Agama Islam Kedah (MAIK)* is given the responsibility to manage the waqf *anak cucu* land for waqf founder who intend his waqf for the specific purpose of *anak cucu*. Therefore, *MAIK* is also entrusted to administer and manage all type of special waqf including *anak cucu* aiming to take care the welfare of the offspring and benefit to the society in

general. The same goes to as *MAIK* is fully responsible to the distribution that should be given especially to the family members to gain benefit together.

The waqf land of *anak cucu* in Limbong Kapal, Alor Star Kedah started from a waqf founder namely Che Mohammad Ariffin Bin Mohd Arshad. He has given his land (Lot 319) for waqf *Anak cucu* on March 1918 M (20 *Jamadi* Awal 1336 H). This land has been registered under the name of *Majlis Agama Islam Kedah (MAIK)* and Grant 34898 *Mukim Kota Star*. The whole area of the land is about 1.4307 hectare with village condition. According to Tuan Syeikh Fakhurrrazi Bin Yub, Head of Waqf Division in *MAIK*, the geography of waqf *anak cucu* land in Limbong Kapal has so much potential on the development using the waqf instrument (Interview with Tuan Syeikh Fakhurrrazi Bin Yub on 7 Feb 2020, at 10.00 a.m).

Among the development suggestions is construction project planning of office shop lots (Lot 319) Limbong Kapal. *MAIK* has received funding allocation from The Ninth Malaysia Plan (RMK-9) through Department of Waqf, Zakat & Haji (JAWHAR), Prime Minister's Office. Estimated funding allocation for the three-storey of office shop lots is RM10 million. Following to that funding given, *MAIK* has taken immediate action by appointing Jelapang Bayu Enterprise as a consultant to deliver the planning request to the local council (*PBT*).

Not just that, the development of special waqf *anak cucu* has to be expanded even more. One of the ideas is the suggestion to develop the waqf land in Kedah under the allocation of 10<sup>th</sup> Malaysia Plan (RMK-10) through JAWHAR. In this matter, additional allocation for waqf development project in Limbong Kapal is granted with a total of RM 25 million.

The contractor suggested to build one unit of 10-storey hotel site and 23 units of office shop lots at Lot 319 Section 31, Bandar Alor Star, Kedah. A Proposed Development Report (LCP) was handed under the Section 21A (1), Town and Country Planning Act (Amended) 1995 (Act A933). This application for planning permissions fit the criteria by *Majlis Bandaraya Alor Star (MBAS)*, Kedah as the local council for the purpose of giving permission for development planning.

The application of request for development plan involves the Lot 319, Section 32, Bandar Alor Star, Daerah Kota Star, Kedah. For the proposed business development implementation project and business for the hotel site will involve an area of 3.56 acres. This proposed business development project is very important for rapid economic growth in Alor Star city. Furthermore, with the growing population density, it will open the door to other sectors such as business, travel services and homestay. With that, the proposed business development project offers 23 units of office shop lots.

Thus, the idea of a hotel site is a long-term development plan that is good to have in order to increase level of travel services and hospitality in the city. The proposed business development planning and hotelier can increase more growth for development and give positive impact to the economic aspect. In this case, the development proposal on the special waqf land of *anak cucu* belongs to *Tetuan MAIK* is viewed as a good thing especially to fulfil the need of rapid development in the particular area.

This development plan that will be implemented in Limbong Kapal is in line with the goal of "*Draf Rancangan Tempatan Alor Star*" to increase the economic status of the population and to secure easement through the development of infrastructure, housing, business, industrial, education and many more.

### **POTENTIAL DEVELOPMENT OF WAQF ANAK CUCU**

The development concept of waqf *anak cucu* is to introduce a development proposal of business project that is effective and comprehensive while taking into consideration the state government policy, standards, and needs of development in the planning and designing process. Therefore, development of waqf *anak cucu* has

to be realistic to ensure town planning is done systematically and executed strategically to increase the current quality of life and stimulate the economy [23].

The development of waqf *anak cucu*, Limbong Kapal has a huge potential if it is done holistically. In this case, from the observation of essential documents, waqf file and interviews in this study, it is proven that the location of Limbong Kapal can connect to nearby commercial area and main town. The location site is strategic that is at the centre of the main town, and is consider as an important asset to be developed as a commercial area to give a good return of investment, especially to the offspring of the waqf founder, family members, *MAIK* and Muslim community as a whole.

This strategic location can also give commercial development that is secure to the residents and nearby community as it has effective accessibility (Interview with Tuan Syeikh Fakhurrazi bin Yub on 7<sup>th</sup> of Feb 2020, at 10.00 a.m.).

Other than that, the development of waqf *anak cucu* can also support the economic progress in the tourism sector in Kedah. This is because, the proposed development of hotel site can give travel hospitality service that is ideal and economic to the tourists. This proposed hotel site in Limbong Kapal area is inline with the policy of "*Rancangan Struktur Negeri Kedah 2000-2020*" that is to make sure the appropriate business and services conforming with the rules with hierarchy and function of placement centre to encourage economic growth and increase tourism services in the district (Interview with Tuan Syeikh Fakhurrazi Bin Yub on 7<sup>th</sup> of Feb 2020, at 10.00 a.m.).

In this context, the proposed development component for the waqf *anak cucu* in Limbong Kapal, Alor Star, Kedah is one unit site of 10-storey hotel and 23 units of office shop lots. The details are as follow:

Table 2

**Proposed Division of Land Component**

Num.	Land Component	Num. of Unit	Land Area (Acre)	% Acre
1.	Business			
2.	Hotel site	1	0.44	12.36
3.	Office shops	23	0.96	26.97
4.	Total Business	24	1.40	39.33
5.	Infrastructure & Utilities			
6.	Trench saving "Simpanan Parit 5 Kaki"	(1)	0.07	1.97
7.	Road Saving "Simpanan Jalan & Lorong"	-	2.09	58.71
8.	Total Business	-	2.16	60.67
	Grand Total	24	3.56	100.00

Land component of hotel site is a construction of 10-storey hotel building. This hotel offers hospitality service for 80 bedrooms and fully equip with elevators for hotel staffs and residents or visitors. The proposed land area for the hotel is 0.44 acre which is 12.36% from the whole development area. However, as an authority, *MAIK* has to get an approval to change the conditions of the land from agricultural conditions to hotel business prior to that. This approval is crucial because the hotel site is put under the zone as commercial area.

That being said, the proposed land component for business for this development project of waqf *anak cucu* is 23 units of office shop lots involving a land area of 0.96% acre which is 26.97% from the whole development area. Meanwhile the development project of office shop lots in the first development phase and can become a catalyst to the development progress of 10-storey hotel for phase two. So,

it is important to make this development project, as a pilot, a successful one as it depends on one another to thrive.

Besides, this commercial development project can also provide trench saving (*simpanan parit*) for about 5 feet along the North border at the development area to upgrade the existing concrete drain at the area, just next to the hotel area. With this existing reserve of trench savings, it gives certainty that this commercial development area is fully equipped with drainage system and ease of flow for more systematic purpose. Meanwhile a perfect accessibility system is one of the conveniences that should be given attention in any development project, especially when it involves commercial sector area. The perfect access of road as an in and out access road is important in any development planning. This can ensure road network system that is easy and secure for the usage of any users in new development area.

Therefore, the idea is to provide 50 feet linked road with the existing junction just beside the area. Not to mention, the curb for 50 feet also must be provided, together with side aisle and back aisle of 30 feet that is around 2.09 acre, equals to 58.71% from the whole commercial development area. A good road network and systematic is needed for mobility and customer safety.

### **BENEFIT OF WAQF ANAK CUCU DEVELOPMENT**

All in all, the development of waqf *anak cucu* under the Ninth Malaysia Plan (RMK-9) gives many benefits not only to the Waqif and his or her descendants, but to the relevant local council such as *Majlis Bandaraya Alor Star*, *Majlis Agama Islam Kedah*, nearby residents and the community. We can conclude that the benefits of implementing Waqf Anak Cucu are as follows;

#### **A. Wakif and Maukuf (endowed property):**

1. To be the seed of good deeds that is always fertile and ever-lasting as stated in most of the words of Allah SWT and the hadith of the Prophet SAW such as al-Baqarah, verse 261, Sahih Mulim, hadith no. 3084 and so on.
2. Fulfilling responsibilities towards family by not leaving them in poverty and begging as stated in Sahih Bukhari, hadith no. 2591.
3. The status of *Maukuf* will forever belong to Muslims because its ownership rights are not transferable.
4. Reduce the number of uncultivated lands because the land will be developed by the State Islamic Religious Council.

#### **B. Maukuf 'Alaih (Descendants of Waqif)**

1. Reduce confusion that arises due to lack of information related to where exactly inheritance property should be referred to, either in High Court, Shariah Court, Pejabat Pusaka Kecil or Amanah Raya Berhad [6]. Avoid quarrels among family members due to dissatisfaction related to the division of inheritance property. Many cases have occurred in this country such as deliberately delaying the prosecution process (Wan Noraini et al., 2015), break ups ([8]) and it is feared that some are willing to injure and commit crimes.
3. Generating a sustainable economy due to the profits earned will be benefited by the relatives and descendants of the *Waqif*.
4. Create a sense of responsibility, trust and awareness in the family of *Waqif* to take care of the waqf land because the property has been intended for the purpose of worship and *Taabbudiyah*.

**B. *Majlis Bandaraya Alor Star (MBAS) Kedah***

1. Increase the total income of *Majlis Bandaraya Alor Star (MBAS)*, Kedah through various processing payments and applications to plan with certain amount of fee.
2. Approve of the application process to plan gives an impact to the economic growth and GDP to the Kedah Government.
3. Increase the image of Kedah and District of Alor Setar as an interesting and developed city together, and achieved the Call to Action Plan "*Kedah Sejahtera*"

**C. *Majlis Agama Islam Kedah (MAIK)***

1. Gives return of profit to the *MAIK* in developing waqf anak cucu and waqf founder (*JAWHAR*) in long term on property sector and contribute to the development aspiration of Kedah.
2. Shows that *MAIK* is concerned in providing comfortable and secure business area in Alor Star District to be more developed.
3. Develop the waqf land through the allocation of Ninth Malaysia Plan (*RMK-9*) to use the waqf land that will be change from land ownership status of agriculture to the commercial use according to the proposed zone. This change of agricultural status to commercial is part of a more productive alternative to be worked on as a new business area.

**D. *Nearby Residents & Communities***

1. Get a new business area that is secure and well-planned with many facilities together with a complete infrastructure.
2. Existing facilities such as road and nearby infrastructure can be upgraded in line with the development of waqf *anak cucu* in Limbong Kapal, Alor Star, Kedah.

**CONCLUSION**

Waqf *anak cucu* is the waqf property by the waqf founder to the family members and their offspring for welfare purposes. Waqf institutions that was once well-known during the tenure of sahabah and following generations has received the strength and aspirations to develop the waqf institution today. In Malaysia, the idea of waqf development in Limbong Kapal is a significant alternative to develop again the waqf land through different medium. This study is important to analyses the current development of waqf *anak cucu*. This study is also important to note on its development potential of waqf *anak cucu* in Kedah. Through this study, it can give better comprehension to the family members and society on the development of waqf *anak cucu* that is holistic. Therefore, the development of waqf *anak cucu* and its approach must be done thoroughly especially in the development and execution aspect and thus create a good model of waqf *anak cucu*.

Waqf *anak cucu* will attract the interest of the corporate sector to donate their assets for the welfare of the next kin and bring benefits to the public. Moreover, assets of waqf *anak cucu* will be managed by the donors and IRS will remains as the sole trustee of the property. Also, will give awareness, total or quantity of waqf land especially for waqf *anak cucu* so it will not become lesser parallel to the government intention to make asset of waqf as center line for the economic development of Muslim in Malaysia.

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