

Regulation and Governance Matters in the Management of Social Death Fund under Malaysian Mosques

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Abstract

Purpose: To explore regulations and governance matters related to Malaysian mosques in managing the social death fund (*khairat*).

Design/methodology/approach: This study employed a qualitative research method. Data was collected via semi-structured interviews with respondents from selected State Islamic Religious Councils (SIRC) and State Mosque Management Departments (SMMD). Respondents were chosen based on a purposive sampling. The transcribed interviews were organized, coded, and analyzed by ATLAS.ti 23.

Findings: SIRC representatives stated the mosque committees were accountable to at least three parties: SIRC, SMMDs, and the audit unit. Under *the State Islamic Religion Administration Enactment*, the council is the sole trustee of all registered mosques and *musollas* (surau) in Malaysia. Depending on the state, examples of the relevant source of regulations are *the Mosque and Surau Regulations 2017, Section 104, Section 96, and Article 43 (1)*. However, these rules only pertain to the functions, rights, and responsibilities of the mosque committees, collection of general *khairat*, and management of the cemeteries. The mosque committees that manage the *khairat* are not subjected to any direct regulations by the Islamic authorities. Instead, the regulations and governance matters are being imposed indirectly via the enactment, rules, and policy issues for the mosques. The most important element in existing practice to govern the management of *khairat* is trust and obligation to serve the community for the sake of Allah. The officials from the SIRC prefer the social death fund (*khairat*) to be managed by the mosque committees rather than by separate entities.

Research limitations/implications: The source of regulations discussed in this paper only applies to the selected states only.

Practical implications: The research findings provide empirical evidence for the SIRC to craft new policies that cover social death fund (*khairat*) in the future.

Originality/value: The study findings were based on primary data from state Islamic authorities and the mosque committees entrusted to administer social death fund (*khairat*) in rural areas.

Keywords: accountability, governance, mosque committee, social death fund (*khairat*), regulation

Introduction

Since the establishment of the first Muslim association, *al-ikhwan al-masakin* in 1926, to specifically manage social death fund (*khairat*) for the Muslim community in Malay land, many Malaysian mosques in rural areas set up similar death funds (Ibrahim Rofaizal et al., 2017) for the nearby Muslim community to ensure fellow Muslim's funeral is done properly in accordance with the Islamic requirements. The organizing mosques are considered organic associations (Muhamat, 2014). These social death funds (*khairat*) are important as some Muslim members, particularly in rural areas are self-employed and not covered by any other death funds. Examples of other death funds are those provided by employers and other agencies such as the Employee Provident Fund (EPF), Social Security Organization (SOCSO), and Federal Land Development Authority (FELDA) (Mirza et al., 2022).

Although costs for a funeral can be deducted from the deceased estate (Ibrahim, 2008), the deceased is probably not leaving sufficient money. Some of the Muslim community are poor like the B40 group and the hardcore poor cannot afford the funeral costs. In Islam, Muslims have a communal obligation or *Fardh Kifayah* to manage a deceased Muslim funeral (Tarmizi, 2020). This requires Muslims to collectively cover the funeral costs, to bathe, pray for, and bury a deceased. Despite positive signs of economic growth post-COVID-19 pandemic, Malaysia is experiencing increased prices of goods and services (Malaysian Statistics Review, 2023), including the cost for funeral services. This escalates the importance of the social death fund (*khairat*) for the Muslim community, particularly in rural areas.

In the Malaysian constitution, Islamic affairs are under the state jurisdiction. However, the state enactments only prescribe rules pertaining to the *khairat* in general. *Khairat* is an Arabic word for charity and donation (Masrukhin et al., 2022). As specific regulations and guidance from the State Islamic Religious Councils (SIRCs) are not available, the mosque committees are not being observed and monitored by relevant authorities (Mirza et al., 2022). Without any monitoring mechanism, the public is not protected from any mismanagement or misuse of the collected funds. In addition, the mosque committees do not receive formal feedback and opinions from the authorities to improve and enhance the management of social death funds (*khairat*) to be more strategic and sustainable.

Moreover, many mosques are not equipped with the proper capabilities to strategically manage the death fund due to a lack of the necessary skills and experience in fund management. Since majority of the mosque committees are elected and act as the mosque committees on a voluntary basis, they usually cannot dedicate long hours to focus on the administration of the *khairat*. Nevertheless, the social death fund (*khairat*) managed by the mosque committees plays an important role in administering a funeral for Muslims (Masrukhin, 2017). This specific function must be enhanced and supported by proper regulations and governance.

This study seeks to explore regulations and governance matters for the Malaysian mosques in managing the social death fund (*khairat*). It aims to identify the rules and requirements prescribed by the relevant authorities that must be adhered to by the mosque committees in managing the social death fund (*khairat*). In addition, the study discusses the capacity of Malaysian mosque committees to manage social death fund (*khairat*) for the Muslim community.

The management of social death fund (*khairat*) by Malaysian mosques, particularly, in rural areas are commonly informal and less structured (Mirza et al., 2022), hence this study contributes some insights on the relevant prescribed rules and requirements for the mosque committees in managing the social death fund (*khairat*). This helps the State Islamic Religious Council assess the adequacy of such regulations and highlight important matters and issues for formulating new rules and policies relating to the management of the social death (*khairat*) funds.

Literature Review

Khairat Social Death Fund

Khairat social death fund is an example of a social funeral fund. A social funeral fund is basically financial assistance given to the family of the deceased to cover the expenses of funeral processes (Mirza et al., 2022). There are different names used by existing researchers such as mutual death benevolent fund (Syed Ibrahim et al., 2021), funeral social fund (Mirza et al., 2022), and *khairat* death fund (Masrukhin et al., 2022; Muhamat, 2014). Basically, it is a fund collected from individuals to help cover the cost of fellow Muslim funerals. The contribution amount is small and payable by month or year. Collectively the fund forms a bigger pool of financial resources and over time it can accumulate substantially. Such fund is commonly managed by organizations, associations, or societies. A specific amount is allocated for each death and any unused money is paid to the family members. Many Malaysian mosques commonly manage the fund for the nearby community where the mosque committees or specific committees are entrusted to handle the collection and utilization of the fund. This initiative has been practiced within the Muslim community since 1926 and has been followed by the Malay Muslim community for many years (Muhamat, 2014).

Accountability and Governance

Since the mosque committees are elected by the community and approved by the SIRC, accountability is an important element to enhance and strengthen the existence and reputation of the mosque committees. In general, accountability refers to a relationship between two parties in which one party (individual, group, company, government, organization, etc.) is directly or indirectly accountable to another party for something, whether it is an action, process, output, or outcome (Walker, 2002). Accountability has been used to describe the responsibility of those who manage or control resources for others (David & Michael, 1998). It is defined as “a relationship which involves the “giving and demanding of reasons for conduct” (Goddard, 2004), and “holding individuals and organizations responsible for performance measured as objectively as possible” (Keans, 1994).

In Islam, the concept of accountability can be derived from the Quran (Basri et al., 2016; Taufiq, 2015). Prior studies show that religion influences the accountability of individuals and associations (Basri et al., 2016; Mohd Zin et al., 2021; Radianto & Laturette, 2019). These studies suggest that the sustainable commitment to religiousness generates moral decisions in the workplace. Basri et al. (2016) highlight that in Islam, every Muslim is personally accountable for all his deeds and individuals who manage an organization or association must be accountable to the stakeholders. The contributors of funds are the main stakeholder for non-

profit organization, including religious and charitable associations. Radianto and Laturette (2019) argue that accountability is paramount in building trust with the churches' congregants.

In addition, individual commitment aspects to religiosity promotes active participation in religious activities (Mohd Zin et al., 2021). Transparency and accountability are the key requirements for good governance (Roslan et al., 2017). In the absence of regulation and required standards, a mosque in Indonesia demonstrates its accountability to the public via financial reports and disclosures (Devi et al., 2020). Nevertheless, Islamic Religious Councils are playing a crucial role in protecting the Muslim community and holding Islamic organizations accountable. A mosque in a particular state is under the jurisdiction of the SIRC (Siti Rokyah Md Zain, 2020). The general organizational structure of a mosque and how it is related to the SIRC are illustrated in Figure 1 below.

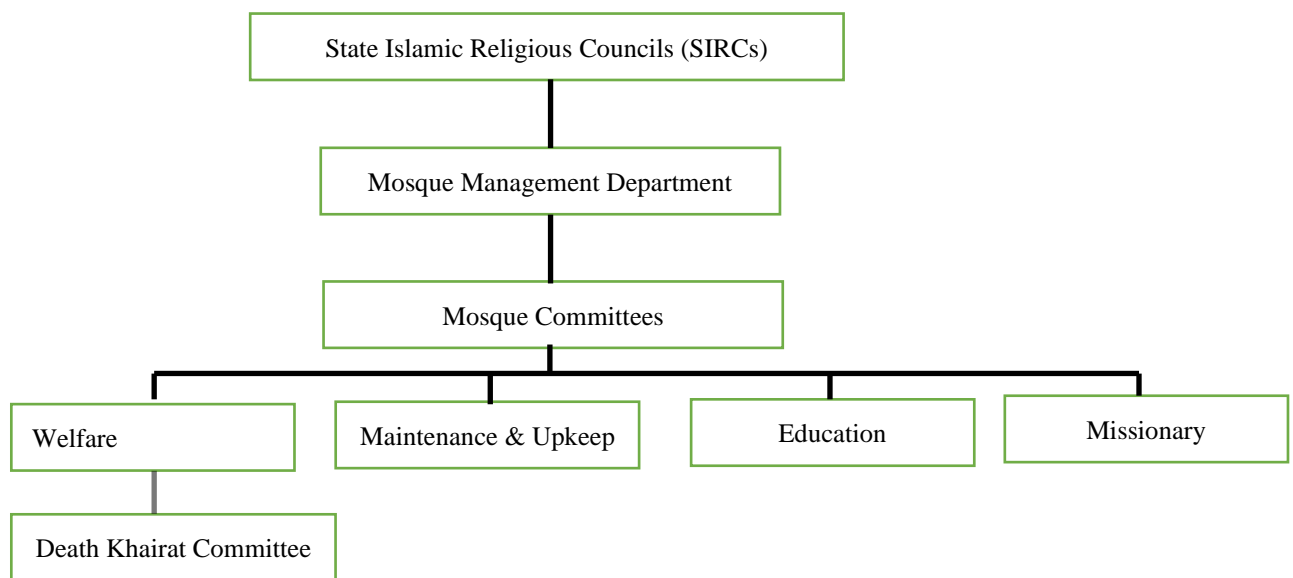


Figure 1: General Organizational Structure of Mosque in Malaysia

Figure 1 elucidates that the *khairat* death committees are sub-committees of the mosque welfare committees. Although the *khairat* social death fund is collected socially and voluntarily, existing studies argue that it needs specific regulations as it involves fees, compensation, rights of members, management, and appointment of committees (Masrukhin et al., 2022; Syed Ibrahim et al., 2021). Malaysian mosques are authorized to maintain charitable funds such as collections (*sadaqa*), endowments (*waqf*), cemeteries, and specific properties with the permission of the SIRC (Azam Mohamed Adil et al., 2013). However, embezzlement of funds from religious organizations is more common nowadays due to a lack of accountability (Sulaiman et al., 2008). Accountability is important in Islam and this concept is embedded in various aspects of Muslim life (Siti Rokyah Md Zain, 2020), including financial matters (Nurlaila et al., 2020). This is more crucial for the management of death funds by mosque committees as they are less structured and have no legal jurisdiction to guide them (Mirza et al., 2022).

Method

The objective of this study is to describe and interpret issues or phenomena systematically from the point of view of the individuals or population being studied and it utilized a qualitative research method. The qualitative method is used to answer questions about experience, expectations, perceptions, meaning and perspective, most often from the standpoint of the participants. These data are usually not amenable to counting or measuring. This study used common qualitative research techniques such as ‘interviews’, ‘contents analysis’ and ‘small-group discussions’ to investigate beliefs, attitudes, and concepts of normative behavior; ‘semi-structured interviews’, to seek views on a focused topic or, with key informants, for background information or an institutional perspective; ‘in-depth interviews’ to understand a condition, experience, or event from a personal perspective; and ‘analysis of texts and documents.’

This study is exploratory, and it used purposive sampling to collect a manageable amount of data (Ames et al., 2019). To draw a purposive sample, this study selected participants from the sampling frame because they have characteristics that the study desired. The mosques are selected from three regions of the Malaysia Peninsular; the East (Pahang), the West (Selangor) and the South (Malacca). In addition, as the Sultans for some states in Malaysia are conferred by the constitutions of the various states as well as the Eighth Schedule of the Federal Constitution discretionary powers in some fields, including as the head of the religion of Islam, this study included samples from both from states with and without a Sultan. Malacca represented states without the Sultan and Selangor and Pahang represented states with the Sultans. Subsequently, the Islamic authorities involved were the State Islamic Religion Councils for Pahang, Selangor, and Malacca.

To increase the reliability and to strengthen the quality of the data obtained throughout the entire study, this study employed the interview protocol framework developed by Castillo-Montoya, M. (2016). An interview protocol that consists of a set of rules, guidelines, and questions was prepared according to research objectives and designed before the actual interview session conducted (Castillo-Montoya, 2016). The interviews were conducted in Bahasa Melayu. Responses from the participants were analyzed using ATLAS.ti 23. Responses for each group of participants were analyzed using analytical techniques available in the software such as coding, smart codes, smart groups, and word crunchers to work with the textual and verbal data. It is very useful to help the researchers with the systematic collection, organization, description, and interpretation of textual, and verbal data that were gathered from the interviews and documents. Results were then translated into English.

Findings

Demographic

In this study, most social death funds (*khairat*) collected and managed by the Muslim community were entrusted to the mosque committees. Based on the survey, 82% of the social death funds were managed by the mosque committees and only 18% were managed by entities registered with the Registrar of Societies. The interviewees were from three states of Malaysia: Selangor, Pahang, and Melaka. They consisted of the chairmen, treasurers, and participants or members of the social death funds (*khairat*). One of the members was a female widow, contributing to the funds after her husband died. Four of these interviewees were also representees of the state Islamic authorities; the director of Baitul Mal and the officers from the Mosque Management Department.

Table 1: Demographic of Respondents

Criteria	Category	Number	Percentage
Location	Pahang	10	38%
	Selangor	12	46%
	Melaka	4	15%
Gender of interviewees	Male	25	96%
	Female	1	4%
Management of social death funds	Mosque committees	9	82%
	Societies (NGOs)	2	18%

Accountability of the Malaysian towards the State Islamic Religious Councils (SIRCs)

This study explored the Malaysian mosques accountability to the state Islamic religious councils. According to the data, depending on the state, the mosques had a maximum reporting obligation to at least three parties: the Baitulmal, the Mosque Management Division, and the audit unit. These three parties are responsible in monitoring and governing the Malaysian mosques.

Mosques in Selangor are accountable to the three parties. The first party is Baitulmal that provides the policies and mechanisms to address matters related to the collection of funds from the public, and the management of mosques including matters related to the management of the social death fund (*khairat*). The Mosque Management Division is the second party which is entrusted by the SIRC to govern and oversee all policies and other concerns pertaining to mosques. Third, the audit unit oversees carrying out the audit and identifying remedies for any problems based on the audit results. This relation is depicted in Figure 2 below.

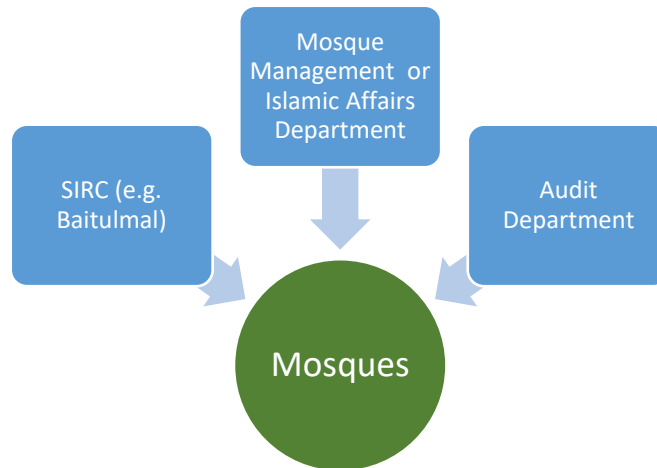


Figure 2: Accountability Relations with Regulators for Malaysian Mosques

Rules versus Enactment

An enactment is the source of law, so a particular enactment allows the rules to be created. Enactments and regulations are different. Enactments need to be debated and managed in State Legislative Affairs, but to create the rules, such process is not required. The rules relating to the mosques were only set by the SIRC. Then the rules were brought to a meeting of the legal committee and endorsed by the State Legal Adviser. Next, the rules would be gazetted. When a rule is gazetted, the rules cannot be ignored. The rules must be observed and complied by the mosques and musollas.

Jurisdiction for Malaysian Mosques

One example of the jurisdiction or authority of the SIRC that relates to the mosques is *Section 96 of the Islamic Religion Administration Enactment (Selangor) 2003 (revised in 2006)*. Under this section, the SIRC is the sole trustee of all mosques and musollas in Selangor, including in the existence of any contradicting provisions from any other authorities. Therefore, all policies, all matters of approval, prohibitions, closings, openings, dismissals, appointments, withdrawals, and matters pertaining to the mosques and musollas, are under the authority of the Council. It means that there is no other entity and even if the Islamic Religious Department implements or decides differently, the prevailing provision is the one issued by the SIRC.

Furthermore, *Section 104* states the mosque committees together with the mosque officers are responsible for the proper management and good condition of the mosque and all Muslim cemeteries near the mosques. When it relates to all Muslim cemeteries, it also indirectly touches on matters related to the social death fund (*khairat*). Hence, it is understood that the mosque committees are also responsible to all matters pertaining to the administration of Islamic cemeteries in the Muslim community. Another source of the regulation is *the Mosque and Surau Regulations 2017*. It is applicable to all mosques and musollas in the State of Selangor, and it is closely linked to *Section 104*. Under *Rule 18*, the mosque committees are required to assist the council in assisting and regulating all Muslim waqf lands and cemeteries in the mosque area and to always maintain the cleanliness of the waqf land and the cemetery. Then *Article 43 (1)* allows the mosque committee or musolla committee to establish a specific bureau to assist in the performance of its functions and responsibilities related to the social death fund (*khairat*) and the cemetery. It means that every mosque committee can set up a bureau

specifically responsible for managing the social death fund (*khairat*). Thus, the management of social death fund (*khairat*) is directly subjected to the rules of mosques and musollas.

With regards to the jurisdiction of the council over the collection of social death fund (*khairat*), the jurisdiction covers the *khairat* or benevolent fund. Indirectly, it can include the collection of the social death fund (*khairat*) as the money is meant to benefit Muslims. Under *Section 106 of the Islamic Religious Administration Enactment 2003*, in relation to the collection of benevolent funds, the party or individual can collect only when a letter of authorization is issued by the SIRC, allowing any person or group of persons, on such terms as the SIRC deems fit to collect money or other donations for any purpose of social benevolence to support and promote the religion of Islam or for the benefit of Muslims in accordance with Islamic Law. This means that the Council may allow any person to collect money or any donation for any purpose of social benevolence. This is not specific to the social death fund (*khairat*) only but also for any purpose of collection. For example, collection of waqf for the construction of mosque, collection for *mahaad tahfiz*, collection for the maintenance of orphanages, collection for donations (Palestinian, Syrian, and so on), or any collection for the purpose of social death fund (*khairat*). It means that any collection made by a Muslim or any Islamic group or Islamic institution, it must be first approved by the Council. This is exactly the jurisdiction of the Council over the collection of social death benevolent fund or *khairat* death fund.

To sum up, the mosque committees who manage the social death funds (*khairat*) are not subjected to any direct regulation by the Islamic authorities. The regulations and governance matters are being imposed indirectly via the enactment, rules, and policies issues for the mosques. The most important element in existing practice to govern the management of social death funds (*khairat*) is by trust and obligation to serve the community for the sake of Allah. This is an important concept of accountability in Islam (Basri et al., 2016).

Mosque capacity to set up the specific committee for the death khairat/fund

As discussed in previous paragraph, *Article 43(1) of the Mosque and Surau Regulations in the State of Selangor 2017* allows the mosque committees to set up specific bureau to handle and manage the mosque affairs, including to manage matters pertaining the social death fund (*khairat*). In terms of its justification, first, the mosque is a committee entrusted with administrating and managing burial sites. The provisions of the Enactment Act state that the mosque committee is responsible to manage the burial site. Therefore, it is practical for the mosque to set up a special committee to manage all matters relating to the funeral and burial site. Second, the mosque is legally allowed to establish a social death fund (*khairat*) bureau or committee. This is based on the rules of the mosque and surau, such as *the Mosque and Surau Regulations 2017* for the state of Selangor. Such regulation provides legal evidence and an indication related to the permissibility to the mosque to create a death social death (*khairat*) fund bureau.

Third, the mosque has good resources, including financial resources to manage the funeral for free for those who do not participate as members of the social death fund (*khairat*). It means that there is no reason why the person who has died within the community cannot be buried either by mosques or NGOs. The mosques usually have sufficient financial resources to cover the funeral costs. Apart from spending on mosque maintenance, lecture activities, programs, or aids to the poor in the community, particularly orphans, the mosque can also be responsible for managing the person who died for free as the mosque is considered to have good financial

resources. Forth, the death management process is carried out using the resources of the mosque either in terms of mortuary or burial bath which facilities can commonly be found at all mosques, the funeral vans, and the mosque is also allocated its own graveyard facilities. Fifth, the mosques are subject to financial regulations and guidelines set by the SIRC such as the rules set by Selangor SIRC through *the Mosque and Surau regulations 2017*, pre-set financial procedures. The mosques in Selangor are audited by the audit department in SIRC and they also have their own balance checkers and verifiers who are constantly audited by the Council. Therefore, the mosques are suitable to manage the social death fund (*khairat*) as they are under direct supervision and monitoring by the SIRC to ensure proper management of any funds collected by the mosque committees such as the social death fund (*khairat*).

Issues and challenges to regulate and govern social death fund under the mosque committees

To the SIRC, regulation of the management of the social death funds (*khairat*) by the mosques is challenging due to several reasons. First, the social death fund is rarely discussed among Muslims. Hence, it is a bit difficult for the Islamic authorities such as the SIRC to formulate better policies as the topic is seldom debated by the public and Islamic scholars. For example, there are no clear rules on the management of social death fund (*khairat*) collection in Selangor. Based on previous section, the social death fund (*khairat*) collection indirectly falls under the responsibility of the SIRC. The council is liable to process applications from any individual or party who intend to collect money from the public. If the application meets all the requirements, the council shall issue a letter to permit the applicant to carry out the collection. The requirements are related to the collection purposes to benefit the public such as the construction, upgrade, maintenance, and renovation of mosques or musolla and to aid deprived Muslims in other countries such the Palestine and Syrian people. The procedures involve studying the application submitted, checking its truthfulness and correctness, identifying whether the application is supported by the District Islamic Religious Administration Officer, and a clear site visit. If for example, the collection is intended to build a musolla, the state Islamic religious council personnels will visit the site, check the surau site to ensure its truthfulness and authenticity. Nevertheless, the letter of authorization prohibits the party from collecting money at public places such as in front of shops, banks, and restaurants.

Second, some social death funds (*khairat*) are managed by external entities such as those registered under Registrar of Societies (ROS). Thus, when such entity is closed, the SIRC is not eligible to claim the remaining accumulated funds. The accumulated funds can be quite huge. Based on several audit findings by the audit department under SIRC, there are also social death fund organizations that are closed due to insolvency and whose accumulated funds become an unclaimed money.

‘This issue also involves other Islamic charitable organizations, mosques and surau whose accounts are in the registrar of unclaimed money. This is a serious problem because the SIRC are not recognized as a responsible party to the funds. The SIRC is supposedly to represent Muslims, and hence, the body should be given the right to claim the funds so that they can distributed according to the contributor’s wishes. It is understood that there was RM77 millions of unclaimed money involving mosque and surau accounts in Selangor from the 70s until now.’

There are conflicting issue relating to the status of money contributed by the dead person into the social death funds managed by the entities other than the mosque committees. For example, a *fatwa* was gazetted in Selangor that the social death fund (*khairat*) is the estate money. The

rational for such *fatwa* might stem from the notion that since the money was individual contribution thus, it should be treated as saving. However, from an academic point of view, the social death fund (*khairat*) is not an estate. When a Muslim contributes to the social death fund, it becomes a donation to help the management of a fellow Muslim's funeral upon his or her demise. It is more of a help to provide for a proper funeral. As a donation, the accumulated money should not be part of an inheritance. This issue is a real challenge in managing the unclaimed monies when the entity that collects and manages the fund is closed. Other than the unclaimed funds issues, the SIRC's cannot control social death funds (*khairat*) collected by external entities such as those registered with the ROS. These entities collect funds without a permission letter from the SIRC's.

'The decree of His Royal Highness was directed to carry out the ban to any party carrying out this collection. Currently, the state Islamic religious councils are working with Islamic Religious Department enforcement agencies, as well as the police to eradicate those who carry out unauthorized collection.'

Another issue is related to different terms and conditions of the death fund such as rates, methods of payment and type of benefits to the deceased family. If the entities are not supervised and monitored, any fund mismanagement will not be detected and cannot be curbed to protect the public.

'Some entities do it on a coupon basis, some set a certain rate, and, they can easily get a tax exemption in the IRB to comply with Section 446 of the Income Tax Act 1997.'

Some entities and individuals would take advantage of the tax exemption to attract more people to join the death fund. Members from the public cannot compare the terms and conditions of the death fund as the operationalization of death fund differ between communities and areas.

Discussion and Conclusion

This study attempts to explore the regulations and governance matters relating to the social death funds (*khairat*) under the mosque committees. The mosque is legally allowed to set up a specific committee for the social death funds. The committees are accountable to a maximum of three parties: the 'Baitulmal', the Mosque Management Division and the audit department. The SIRC's are in favor of the social death funds (*khairat*) to be managed by the mosque committees instead of by external entities or entities registered with the ROS. The benefits include the ability for a registered mosque to establish committees legally, the SIRC's ability to oversee the collecting of cash, and the fact that mosques frequently have the necessary means for handling a death, such as funeral services, burial grounds, and funeral vehicles. It is also possible to avoid issues with accumulated funds that become unclaimed monies when the external organizations are closed.

The key issues and challenges related to the social death funds are lack of related policies, issues of social death funds (*khairat*) managed by external entities and nonstandard rates and methods of collection and distributions of the funds. Findings from this study highlight the lack of specific rules and regulations and written guidelines from the relevant authorities for social death fund (*khairat*) managed by the rural Muslim communities. However, these findings must be interpreted with caution because the enactments and rules discussed in the paper are only based on data from the selected states of Malaysia.

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