

WAQF FINANCING, INVESTMENT AND DEVELOPMENT
OF HIGHER EDUCATIONAL INSTITUTIONS: A STUDY
OF PAKISTAN AND MALAYSIA

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ACADEMY OF ISLAMIC STUDIES
UNIVERSITY OF MALAYA
KUALA LUMPUR

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DEVELOPMENT OF HIGHER EDUCATIONAL
INSTITUTIONS: A STUDY OF PAKISTAN AND
MALAYSIA**

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Waqf Financing, Investment and Development of Higher Educational Institutions: A Study of Pakistan and Malaysia

ABSTRACT

This research studies waqf financing, investment, and development of Higher Educational Institutions (HEIs) in Pakistan and Malaysia and compares them. The study also discusses issues and challenges in waqf development in both countries. In this context, the present qualitative study adopting a case method through interpretivism research paradigm and selected three case studies from each country. To look upon, the study conducted in-depth (open-ended) interviews with key personnel of higher educational waqf institutions including waqf mutawallis, administrators, directors, and managers. In addition, the legal and *shari'ah* experts' opinions are also incorporated in the study. To ensure the comprehensive results, the study converges data sources through triangulation. The findings of the study revealed that the waqf has a significant contribution to higher education institutions development in both countries. In Pakistan, both public and private *awqāf* are operational but the role of private *awqāf* is greater. In this scenario, Pakistan's waqf institutions are more developed and since have diversification in fundraising, fund-management, and fund utilisation. While in Malaysia the waqf institutions are centralized and controlled by the religious councils Majlis Agama Islam Negeri (MAIN) of each state. The study also finds that an efficient waqf institution not only has the ability to assist higher education, but it can also strengthen the economic growth of the country. While it has not been used in full potential so, there is an extra room to use it for higher education development. For these reasons, it is the responsibility of both governments to assist waqf through creating greater understanding and introducing legislation for a feasible environment for waqf practices in higher education development as a third sector. Further based on the findings the study suggested some policy implications that might

help policymakers, fundraisers, fund managers, legislators, and *mutawallis* of waqf institutions.

Keywords: waqf, waqf financing, waqf investment, waqf development, higher educational institution

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WAKF FINANCING, INVESTMENT AND DEVELOPMENT OF HIGHER EDUCATIONAL INSTITUTIONS: A STUDY OF PAKISTAN AND MALAYSIA

ABSTRAK

Kajian penyelidikan ini wakaf kewangan, pelaburan, dan pembangunan untuk Institusi Pendidikan Tinggi (IPT) di Pakistan dan di Malaysia dan juga perbandingan antara kedua-duanya. Kajian ini juga membincangkan pelbagai isu dan cabaran yang dihadapi di dalam pembangunan wakaf di kedua-dua negara tersebut. Dalam konteks ini, kajian kualitatif digunakan dengan mengambilkira kaedah kes melalui paradigma penyelidikan "interpretivism". Kajian ini juga memilih tiga kes kajian daripada setiap negara. Selain itu, kajian ini telah mengendalikan wawancara secara mendalam (terbuka) kepada kakitangan tertinggi institusi wakaf di peringkat IPT termasuk wakaf mutawalli, pentadbir, pengarah, dan pengurus. Di samping itu, pendapat pakar undang-undang dan syariah juga dimasukkan di dalam kajian ini. Untuk memastikan dapatan kajian adalah komprehensif, kajian itu menggunakan sumber data melalui kaedah triangulasi untuk mengkaji pembiayaan wakaf, pelaburan, dan pembangunan IPT di kedua-dua buah negara. Dengan kata lain, kajian ini juga telah dijalankan ke atas kumpulan pengumpulan dana, pengurusan dana dan strategi penggunaan dana di kedua-dua negara. Selain itu, kajian ini juga mengkaji rangka kerja undang-undang bagi institusi wakaf serta isu-isu dan cabaran yang dihadapi oleh institusi wakaf di kedua-dua negara. Penemuan kajian mendapati bahawa institusi wakaf telah memberi sumbangan penting di dalam pembangunan pendidikan tinggi di kedua-dua buah negara. Di Pakistan, kedua-dua wakaf awam dan swasta sama-sama berfungsi tetapi peranan wakaf swasta adalah lebih besar. Dalam senario ini, wakaf IPT di Pakistan adalah lebih maju kerana mempunyai kepelbagaian kaedah di dalam pengumpulan, pengurusan dan penggunaan dana. Manakala di Malaysia, institusi wakaf adalah berpusat dan dikawal oleh majlis-majlis

agama seperti Majlis Agama Islam Negeri (MAIN) di setiap negeri. Kajian ini juga mendapati institusi wakaf yang cekap bukan sahaja mempunyai keupayaan untuk membantu pendidikan tinggi, tetapi juga dapat menjana pertumbuhan ekonomi negara. Walaupun institusi wakaf tidak digunakan sepenuhnya, didapati institusi wakaf mempunyai potensi untuk pembangunan pendidikan di peringkat tinggi. Atas sebab ini, adalah menjadi tanggungjawab bagi kedua-dua buah kerajaan untuk membantu institusi wakaf dengan mewujudkan pemahaman yang lebih baik dan memperkenalkan undang-undang untuk memelihara sistem wakaf di dalam pembangunan pendidikan tinggi sebagai sektor ketiga. Selain itu, penemuan kajian ini mencadangkan serta beberapa implikasi dasar yang mungkin dapat membantu para pembuat dasar, penggubal dana, pengurus dana, penggubal undang-undang, dan "mutawallis of wakaf" di setiap institusi.

Kata Kunci: wakaf, pembiayaan, pelaburan wakaf, pembangunan wakaf, institusi pendidikan tinggi

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TRANSLITERATION

A. Consonant

Arabic	Roman
ط	t
ظ	ẓ
ع	‘
غ	gh
ف	f
ق	q
ك	k
ل	l
م	m
ن	n
ه	h
و	w
ي	y
ة	h, t

Arabic	Roman
ا، ء	a, ’
ب	b
ت	t
ث	th
ج	j
ح	ḥ
خ	kh
د	d
ذ	dh
ر	r
ز	z
س	s
ش	sh
ص	ṣ
ض	ḍ

B. Vowel

Short vowel	Transliteration
َ	a
ِ	i
ُ	u

Long vowel	Transliteration
ا، ي	ā
ي	ī
و	ū

C. Diphthong

Diphthong	Transliteration
وَ	aw
يَ	ay
وُ	uww
يِ	iy, ī

LIST OF ABBREVIATIONS

AAOIFI	:	Accounting and Auditing Organization for Islamic Financial Institutions
AAU	:	Association of African Universities
AiU	:	Albukhary International University
CBR	:	Central Board of Revenue
CF	:	Chancellery Foundation
CL	:	Contingent Loan
CS	:	Cost Sharing
CSO	:	Civil Society Organization
CSR	:	Corporate Social Responsibility
DFID	:	Department for International Development
DMC	:	District Municipal Corporations
DT	:	Darul Tasnif
DWI	:	Dana Waqf Ilmu
DYMM		Duli Yang Maha Mulia
FBR	:	Federal Board of Revenue
FC	:	Federal Constitution
GDP	:	Gross Domestic Product
HE	:	Higher Education
HEC	:	Higher Education Commission
HEI	:	Higher Educational Institution
HEWI	:	Higher Educational Waqf Institution
HFP	:	Hamdard Foundation Pakistan
HLWP	:	Hamdard Laboratories (Waqf) Pakistan
IBT	:	Individual Benefits Theory

ICT	:	Information and Communication Technologies
IFI	:	Islamic Financial Institution
IIUM	:	International Islamic University Malaysia
IMF	:	International Monetary Fund
IPT	:	Institusi Pendidikan Tinggi
IREIT	:	Islamic Real Estate Investment Trust
ISO	:	International Organization for Standardization
KMC	:	Karachi Municipal Corporations
KUIS	:	International Islamic University College Selangor
MAIN	:	Majlis Agama Islam Negeri
MAINS	:	Majlis Agama Islam Negeri Sembilan
MAIS	:	Majlis Agama Islam Selangor
MBP	:	Malaysia Blue Print
MD	:	Managing Director
MIT	:	Massachusetts Institute of Technology
ML	:	Mortgage Loan
MPT	:	Modern Portfolio Theory
MR	:	Malaysian Ringgit
NACUBO	:	National Association of College and University Business Officers
NGO	:	Non-Governmental Organization
NIT	:	National Investment Trust
NITL	:	National Investment Trust Limited
NLC	:	National Land Code
NPO	:	Non-Profit Organisation
OIC	:	Organization of Islamic Conference
ORIC	:	Office of Research, Innovation, and Commercialization

PB	:	Purple Book
PCP	:	Pakistan Centre for Philanthropy
PEEF	:	Punjab Educational Endowment Fund
PIR	:	Prudent Investor Rule
PKR	:	Pakistani Rupee
PPP	:	Public-Private Partnership
PU	:	Public Universities
PWNS	:	Perbadanan Wakaf Negeri Sembilan
PWS	:	Perbadanan Wakaf Selangor
PWZ	:	Center for Awqāf and Zakāt
QCA	:	Qualitative Comparative Analysis
R&D	:	Research and Development
SAD	:	Student Affairs Division
SAP	:	Structural Adjustment Programme
SBP	:	State Bank of Pakistan
SBT	:	Societal Benefits Theory
SC	:	Supreme Court
SECP	:	Securities and Exchange Commission of Pakistan
SIRC	:	State Islamic Religious Council
SOP	:	Standard Operating Procedure
TDR	:	Term Deposit Receipt
UCB	:	University College Bestari
UIM	:	Islamic University of Malaysia
UK	:	United Kingdom
UKM	:	National University of Malaysia
UM	:	University of Malaya

UNDP	:	United Nations Development Programme
UniSZA	:	University Sultan Zainal Abidin
UPM	:	Putra University of Malaysia
US	:	United States
USD	:	United States Dollar
USIM	:	Islamic Science University of Malaysia
USIM	:	The University Of Science, Malaysia
UTM	:	University of Technology Malaysia
WAZAN	:	Centre for Management of Waqf, Zakat and Endowment
WHO	:	World Health Organization

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CHAPTER 1: INTRODUCTION

1.1 Introduction

This chapter presents a background of the study, statement of the problem, research objectives, research questions, the scope and significance of the study. In addition, it also takes into an account literature review, theoretical framework and a brief research methodology used in the study.

1.1.1 Background of the Study

Islam is a complete code of life that provides all the fundamentals for success in the world and hereafter. It reveals comprehensive guidelines for a welfare and progressive society, where everyone enjoys prosperity, happiness, and an ideal life spiritually and temporally. It introduces society having prior importance towards welfare institutions. Where the supremacy of the rights of Allah (*Huqūq Allāh*), the rights of human beings (*Huqūq al-bād*) are important as well. In the same manner, it creates unity and brotherhood among all the groups of the society that strongly encourages towards generosity for the entire Muslim *Ummah*. Amongst these welfare institutions, the institution of waqf played a tremendous role in the Muslim societies.¹

Waqf² offers a model of a charitable society that appears to be all-inclusive in human life across civilizations and religions. It has been eminent in the provision of charity since the advent of Islam and endowed as an institution that generated perpetual income to assist certain beneficiaries just like conventional endowment and welfare foundation. Hence, waqf is one of the earliest models of an endowment, which offers all essentials including religious, social, economic and educational needs. The beneficiaries

¹ Arif, Mahmmod al-Hassan. *Islam Kā Qānūn ī waqf, Tārīkh Muslim Awqāf* (Lahore, Pakistan: Markaz Tahqīq Diyāl Singh Trust Library, 1994), 5

² Waqf is an Arabic word derived from *waqāfa* that means to stop, restrain, or preserve in perpetuity, a certain amount of revenue or property for a charitable reason.

of waqf may comprise of individuals' and organizations such as hospitals, religious institutions, schools, colleges, and universities.³

In the perspective of Islamic law, the waqf institution permits an individual or organization to donate his/her assets in the way of Allah, for the well-being of humankind. A waqf is devoted to Allah for a welfare purpose specified by *waqif* (donor). As a result, waqf becomes public property along characteristic of perpetuity, that means cannot be sold, mortgaged and inherited. Though, it may be further invested. Formerly, most of the waqf assets invested in real estate or agriculture. While financial assets are also accessible. So, it can be invested in shares, stocks, bonds and other financial instruments recognised by Islamic Financial Institution (IFI).⁴

In the perspective of economics, waqf is an on-going public service that utilises a private wealth to establish institutions for public benefits. Therefore, waqf is a private institution or a trust, which provides assistance to the government in public services. Though in Islam, the state has the responsibility of common welfare. However, Islam also permits the third sector, including a waqf institution to facilitate the state in the prosperity and public welfare. Hence, waqf itself is a unique source of assistance for society that may cater to all activities of life from birth to death at zero cost.⁵

As a welfare institution, a well-modernised waqf system implies a significant reduction in government expenditures and an appropriate mechanism for sustainable development.⁶ Waqf as a noble sector contributes significantly to the common welfare. Hence, the importance of the waqf is primitive in Islam. From the beginning, it has been

³ Çizakça, Murat. "Awqāf in History and Its Implications for Modern Islamic Economies." *Islamic Economic Studies* 6, no. 1 (1998): 43-70.

⁴ Sherif, Barbara Ibrahim and Dina H. *From Charity to Social Change: Trends in Arab Philanthropy*. (Egypt: The American University in Cairo Press, 2012). DOI: 10.5743/cairo/9789774162077.001.0001

⁵ Monzer Kahf. "Financing the Development of Awaqf Property ". *American Journal of Islamic Social Sciences* 14, no. 4 (1999): 39-66.

⁶ Ambrose, Azniza Hartini Azrai Azaimi, Mohamed Aslam, and Hanira Hanafi. "The Possible Role of Waqf in Ensuring a Sustainable Malaysian Federal Government Debt." *Procedia Economics and Finance* 31 (2015): 333-45.

benefiting a significant segment of society and contributing to a number of public expenses.⁷ Throughout Islamic history, waqf played a tremendous role in overall societal wellbeing and financial development of welfare institutions. It directs charities to eternal and continuous benefits and facilitates all non-active participants of the society in economic activity.⁸

Based on the above discussion, it is believed that waqf has great potential to finance common welfare, more importantly, the educational institutions. Hence, among the advantages of waqf is that it can be a better alternative for financing education. More importantly, higher educational institutions.

With the beginning of the twenty-first century, higher education institution's financial management is becoming more challenging as compared to a business organization. A business organization may financially leverage by borrowing, but Higher Education Institutions (HEIs)⁹ rely more on public funding and tuition fees to remain financially viable.¹⁰

Over the period of time, public funding for higher education is constantly being criticized and legislators are facing an extra burden to finance programs other than higher education.¹¹ Equally, increasing tuition fees to acquire higher education is also observed as unfavourable.¹² Therefore, HEIs are looking for alternative sources of subsidizing the

⁷ *ibid*

⁸ *ibid*

⁹ Hereafter HEIs stands for higher education institutions vice versa

¹⁰ Bruce, C.W. "An Analysis of the Effects of Endowment Management Practices on Portfolio Performance. (Doctoral dissertations, Auburn University, 2000).

¹¹ Massy, William F. *Endowment: Perspectives, Policy, & Management*, (Washington, DC: Association of Governing Boards of Universities & Colleges, 1990); Massy, William F. *Resource Allocation in Higher Education*. (Washington, University of Michigan Press, 1996). DOI: [10.3998/mpub.14347](https://doi.org/10.3998/mpub.14347)

¹² Barr, Nicholas. "Higher Education Funding." *Oxford Review of Economic Policy* 20, no. 2 (2004): 264-83.

increasing cost of higher education, for which Muslim researchers are suggesting a waqf as a suitable alternative.¹³

Traditionally, waqf institutions have funded various educational institutions, i.e. mosques, schools, colleges, and universities. It also sponsored libraries and hostels in various educational institutions from which some are still in existence.¹⁴

The first and for most prominent HEI was founded by *Fāṭmīd* commander Jawhar al-Ṣiqillī (359 H. A /970 A.D). Gradually, the institution transformed into a huge university system called Al-Azhar University. Following *Fāṭmīd* ruler Al-Hakīm (395A.H/1006 A.D) constructed Dār al-Hikmah, Dār al-‘Ulūm, and a library. Further, he endowed various real estate properties and devoted their waqf income for financing these educational institutions.¹⁵

Nizām al-Mulk (1018 –1092 A.D) a *Wazīr* of the Saljūq Empire is recognized as the founder of a specific kind of religious educational institutions called *madrasah*. He constructed a university named Al-Nizāmīyah in Baghdād. Later, he endowed *awqāf* properties to finance the university in various cities including Nīshapūr, Īsfahān, Hīraṭ, and Mūsāl.¹⁶

In the sixth Islamic century, Nūr al-Dīn Zangī constructed a university, i.e. Dār al-Ḥadīth in Damascus and other HEIs such as Madrasah al-Ḥalawīyan (543 A.H), Madrasah al-‘Aṣrūniyah (545 A.H) and Madrasah al-Ḥalawabīn in Halab. These institutions were receiving operating and developing expenses from various waqf properties’ income. In the same way, Sulṭān Ṣalāḥ al-Dīn Ayyūbi (589 A.H/1193 A.D)

¹³ Asharaf Mohd Ramli, and Abdullaah Jalil. "Corporate Waqf Model and Its Distinctive Features: The Future of Islamic Philanthropy." (*Paper presented at the World Universities Islamic Philanthropy Conference 2013*. Menara Bank Islam, Kuala Lumpur, 2013).

¹⁴ Mahamood, Siti Mashitoh, and Asmak Ab Rahman. "Financing Universities through Waqf, Pious Endowment: Is It Possible?" *Humanomics* 31, (2015): 430-53. doi:org/10.1108/H-02-2015-0010.

¹⁵ Roy, Olivier. . *Globalized Islam: The Search for a New Ummah*. (New York, United States: Columbia University Press, 2nd Edition, 2006), 377

¹⁶ *ibid*

established a number of universities in Cairo, al-Quds and in Damascus along highly valuable endowed waqf properties.¹⁷

Ibn al-‘Zarī wrote that famous Umayyad caliphate’s ruler Al-Ḥākim Ibn Ḥishām (796-822A.D) constructed numerous educational institutions in the city of Qūrṭubah. He also endowed few shops as *awqāf* for these educational institutions. Besides that, he mentioned that there were 30 HEIs and each of them was like a city.¹⁸ An Andalusia historian, Ibn Jabbār (1145-1217A.D) stated about the universities of Damascus and Alexandria that these universities were supporting students in stipends, accommodation, health facilities, scholarships, and other services. All these services were financed by *awqāf* properties. Equally, Ibn Baṭūṭah (1304-1368A.D) discovered that the *awqāf* of Damascus had numerous objectives, for each objective there were separate *awqāf* such as helping wayfarer, maintenance of roads and streets, educational activities and even small deeds, for example replacing broken glass in the hand of students and servants.¹⁹

Abbasid Caliph al-Mustanṣir bi-llāh (625 A.H/1227 A.D) established an HEI Al-Mustanṣiriyah with free accommodation, food, and stationery to the students. For that reason, nearby arable land from the various villages was endowed as a waqf for it and used to finance these activities.²⁰ In Mamlūk era (1517A.D-1150A.D) the similar pattern had followed by Sulṭān al-Ashraf Sayf al-Dīn Qaitbay, Sayf al-Dīn Taman Bay, and Al Ashraf Qansuh al-Ghūwri.²¹

The era of the Ottoman Empire (1299 A.D-1923A.D) is very important. During this period various HEIs were developed and allocated various *awqāf* properties to

¹⁷ Ibn al-‘Adīm, Kamāl al-Dīn ‘Umar ibn Ahmed, *Zubdat al-Halab fi ta’arikh Halab*, (Dimashq, Sami Al-Han, 1954), 13

¹⁸ Allama Shabli Nomani . *Maqalat Shabli* . (Shabli Academy Azam Gardh UP India, Ma’arif Press, 1936), 46

¹⁹ Kahf, Monzer. "Sharī’ah and Historical Aspects of Zakāt and *Awqāf*" (Paper presented at the Background paper prepared for Islamic Research and Training Institute, Islamic Development Bank, Jeddah, 2004).

²⁰ Arif, Mahmmod al-Hassan. *Islam Kā Qānūn ī waqf, Tārīkh Muslim Awqāf* (Lahore, Pakistan: Markaz Tahqīq Diyāl Singh Trust Library, 1994), 253

²¹ *ibid*

finance academic activities. In this regard, Sultān Muḥammad Fataḥ (1481 to 1451) is well-known; he constructed a huge university in 1460 A.D/865 A.H, which had affiliations of eight other educational institutions. These institutions had a proper student assistantship system for each and every student. In the same manner, Sultān Bayzāid and Sultān Sulayman established four educational institutions in Makkah and Istanbul.²²

At the beginning of the 19th century, in the Ottoman Empire's three forth, Algiers's one-half, Tunis's one-third, and Egypt's one-eight arable land was waqf for the noble cause.²³ At the turn of the 20th century, only al-Quds had 64 running schools those were supported by revenues of various *awqāf* lands from Turkey, Syria, and Palestine. Similarly, in Sicily under the Muslim rule, three primary schools were funded by *awqāf* properties.²⁴

Up to the present time, a significant number of waqf higher educational institutions have established and maintaining academic programmes and activities. In the Muslim world, besides Al-Azhar University, there are many other examples of universities that benefited from the waqf, such as the University of Al-Qurawiyyin in Fez, Morocco; the University of Al-Muntaşiriyah, Iraq; the University of Qūrtubah, Spain; the King Abdul Aziz University, UAE; and the Islamic University of Indonesia in Yogyakarta, Indonesia. It is worthwhile to mention that in Turkey there are about 68 waqf universities and the number continues to increase.²⁵

In Europe, many universities are inspired by the concept of waqf i.e., Oxford and Cambridge.²⁶ Considerably, this benevolent giving has convinced the British government finance higher education through an endowment, which will make higher education sector

²² Allama Shabli Nomani . *Maqalat Shabli* . (Shabli Academy Azam Gardh UP India, Ma'arif Press, 1936), 46

²³ Mahamood, Siti Mashitoh. *Waqf in Malaysia: Legal and Administrative Perspectives*. (Kuala Lumpur, University of Malaya Press, 2006), 6

²⁴ Kahf, Monzer 2004 Op. cit.

²⁵ Mahamood, Siti Mashitoh (2015) Op. cit.

²⁶ *ibid*

less depended on public funding or any other sources.²⁷ In a similar manner, the United States (US) has become a premier higher education industry around the world. Formerly, most of these HEIs were taking public funding, besides that some of the private institutions such as Harvard and Yale were also receiving the majority of their funds from the state. Later, they found themselves under pressure and realised public funding will cut.²⁸ Subsequently, Harvard and Yale initiated soliciting donations and created their endowment funds.²⁹

In the perspective of Pakistan, the most appropriate example is Hamdard University which is developed and financed by waqf income. It might be considered an example of corporate waqf.³⁰ However, there are few other waqf institutions those are funding HEIs. However, literature is soundless regarding those waqf institutions. In Malaysia, there are numerous universities those have already established their own waqf-based university concept. These Universities established a waqf department/division under the top management. Notable universities among these are, USIM (University Sciences Islam Malaysia), Putra University of Malaysia (UPM), National University of Malaysia (UKM), Islamic University of Malaysia (UIM), International Islamic University Malaysia (IIUM) and Albukhary International University (AiU), Malaysia etc.³¹

1.1.2 Statement of Problem

Colleges and universities are the main sources to impart higher education thus serves as cradles for knowledge acquisition. The effective functioning of these institutions greatly

²⁷ Orkodashvili, Mariam. "Higher Education Funding Issues: U.S. / U.K. Comparison." (2007). <https://ssrn.com/abstract=1440464> or <http://dx.doi.org/10.2139/ssrn.1440464>.

²⁸ Purcell, Mark P. "The Smart Money: A Case Study Illustrating the Impact a Global Economic Recession Has Had on Endowment Funds at Three Ohio Higher Education Institutions (Doctoral Dissertation, Capella University, 2010).

²⁹ Hansmann, Henry. "Why Do Universities Have Endowments?". *The Journal of Legal Studies* 19, no. 1 (1990): 3-42.

³⁰ Hayat, Naeem, and Ammara Naeem. "Corporate Waqf: A Case of Hamdard (Waqf) Pakistan "Social Science Research Network (2014). doi:<http://dx.doi.org/10.2139/ssrn.2487713>.

³¹ Mahamood, Siti Mashitoh (2015) Op. cit.

depend upon the funds they receive from the government. This public funding most of the time remains the only main source of funding for these institutions. An HEI requires a substantial amount of funding, to fulfill its needs such as building labs, award scholarships to the needy and deserving students, purchase books, access electronic resources, and many for academic and infrastructure development purposes. However, due to local and global changes, over the last few decades, public funding has decreased and HEIs are facing financial constraints.³²

At the global level, due to globalisation, technological advancement, and the current global financial crunch (2007-08), the cost of higher education is rapidly increasing. Moreover, the transition towards the knowledge-based economy has raised the expense of higher education.³³ Till the 20th century, higher education had never been the slogan for development in excess demand. Every nation has realised that it is a key source for economic development and survival in this daunting competitive world. This has increased global demand for higher education.³⁴

At the local level, social, political, economic, and demographic elements affect higher education. Demand for higher education increases due to social development and demographic changes. Besides, it is key to acquire a higher professional and social status in society. In contrast, many countries face huge public debt that increases the fiscal deficit.³⁵ Likewise, fiscal constraints, budgeting formula, and higher education funding are politically sensitive and have serious implication for public funding.³⁶ On the other

³² Barr, Nicholas. (2004) Op. cit.

³³Jamshidi, Laleh, Hamidreza Arasteh, Abdolrahim NavehEbrahim, Hassanreza Zeinabadi, and Palle Damkjær Rasmussen. "Developmental Patterns of Privatization in Higher Education: A Comparative Study." *Higher Education* 64, no. 6 (2012): 789-803; Lebeau, Y. "Who Shall Pay for the Public Good? Comparative Trends in the Funding Crisis of Public Higher Education." [In English]. *Compare-a Journal of Comparative and International Education* 42, no. 1 (2012): 137-39.

³⁴Johnstone D.B. "The Economics and Politics of Cost Sharing in Higher Education: Comparative Perspectives." *Economics of Education Review* 23, no. 4 (2004): 403-10.

³⁵ Michael, Steve O. "Financial Constraints in Higher Education: Using a Case-Study Approach." *Studies in Higher Education* 21, no. 2 (1996/01/01 1996): 233-39.

³⁶Longden, Bernard. "Funding Policy in Higher Education: Contested Terrain." *Research Papers in Education* 16, no. 2 (2001): 161-82; Wangenge-Ouma, Gerald. "Globalisation and Higher Education

hand, the lack of accountability, and increase in corruption have also raised the questions to fund HEIs in various countries.³⁷

Putting together, increasing demand for higher education, increase funding requirements, higher government deficits, the extent of corruption, and lack of accountability have compelled HEIs to think for alternatives sources, besides improving their governance. Therefore, higher education is moving from public funding to the market system. This transition is because of resource allocation within the higher education system.³⁸ Barr³⁹ in his study on higher education in perspective of economic theory stated, “*The days of central planning have gone*”.

Observing the issue in Pakistan⁴⁰ and Malaysia⁴¹, HEIs are facing the same problems⁴² and seeking alternative sources of funding. There are few examples of HEIs generating fund through waqf institution. Accordingly, there is a need to study the development of waqf for HEIs in both countries and explore the financing, investment, and development are being practiced in these HEIs. As a result, waqf can become a perpetual source of income for HEIs.⁴³

1.1.2.1 Research Gap

Over the last many decades conventional endowments shared a significant portion in HEIs as a major alternative source of funding. Many global prestigious universities have applied various strategies to increase fundraising and fund management to achieve their

Funding Policy Shifts in Kenya." *Journal of Higher Education Policy and Management* 30, no. 3 (2008): 215-29.

³⁷Barnes, John, and Nicholas Barr. *Strategies for Higher Education: The Alternative White Paper*. (Aberdeen, Aberdeen University Press, 1988).

³⁸ Barr, Nicholas. "Financing Higher Education: Lessons from Economic Theory and Reform in England." *Higher Education in Europe* 34, no. 2 (2009): 201-09.

³⁹Barr, Nicholas. "Financing Higher Education: Reforms in Britain May Provide a Useful Framework for Other Countries." *Finance and Development* 42, no. 2 (2005).

⁴⁰ Hoodbhoy, P "Pakistan's Higher Education System—What Went Wrong and How to Fix It ". *The Pakistan Development Review* (2009): 581-94.

⁴¹ Mahamood, Siti Mashitoh (2015) Op. cit.

⁴² UNESCO. 1991, Op. cit.

⁴³ Mahamood, Siti Mashitoh (2015) Op. cit.

long-term objectives.⁴⁴ Therefore, it is crucial to producing more qualitative research on the present exercise of endowment funds to indemnify it⁴⁵. As an alternative source, the endowment is nearer in nature to the *waqf* institution and it may be used as a benchmark for waqf development.⁴⁶

Looking at this problem in the context of Pakistan⁴⁷ and Malaysia⁴⁸, both are facing the same situation.⁴⁹ In Malaysia, “*Waqf is one of the large financial sources that has not been fully explored especially in Higher Education Institution (HEI) development*”.⁵⁰ Moreover, the present decrease in the higher education budget and policy shift mentioned in Purple Book⁵¹ and Malaysia Blue Print⁵² 2015-2025 also suggest that universities have to strengthen their income generation and management while remaining focused on their core educational mission.⁵³ While in Pakistan, the waqf has not got full attention to finance the higher education alike Malaysia

Nevertheless, both nations have diverse examples of higher educational waqf institutions (HEWIs). However, there is a dearth of literature about the fundraising, fund management, and development of these waqf institutions. And what are the issues and

⁴⁴NACUBO. U.S. and Canadian Institutions. Endowment Market Value and Percentage Change in Endowment Market Value. In N.-C. S. O. Endowments (Ed.). (Washington, DC 20005: National Association of College and University Business Officers, 2013).

⁴⁵ Purcell, Mark P 2010 Op. cit.

⁴⁶ Ayuniyyah, Qurraoh, Mustaffa Kamail Nazrol Kamil, and Mohamed Aslam Haneef. "Investment of Endowment Fund in Higher Education: Best Practice, Performance and Issues." In *Pelestarian Institusi Wakaf, Memperkasa Pendidikan Tinggi Negara*, edited by Wan Kamal Mujani, 29-53. (Bangi, Universiti Kebangsaan Malaysia, Fakulti Pengajian Islam 2014).

⁴⁷ Hoodbhoy, P (2009) Op. cit.

⁴⁸ Siti Mashitoh Mahamood (2015) Op. cit.

⁴⁹ UNESCO. 1991, Op. cit.

⁵⁰ Harun, Farra Munna, Bayu Taufiq Possumah, M Mohd Shafiai, and Abd Halim Mohd Nor. "Issues and Economic Role of Waqf in Higher Education Institution: Malaysian Experience." *Al-Iqtishad: Journal of Islamic Economics* 8, no. 1 (2016): 149-68.

⁵¹ Ministry of Higher Education Malaysia. *Enhancing University Income Generation, Endowment & Waqf, University Transformation Programme, Purple Book*. 62200 (Putrajaya Malaysia: Ministry of Higher Education, Malaysia, 2016).

⁵² The Ministry of Education. "Malaysian Education Blueprint: 2013–2025." In *Ministry of Education Malaysia*. (Putrajaya, Malaysia, Ministry of Education, 2013).

⁵³ Mohammad Haji Alias. In *Waqf Financing Developments In Malaysian Public Universities: Understanding Recent Developments*, (Paper presented at YTI's Brown Bag Series FEM: Faculty of Economics and Muamalat USIM, Dean' Meeting Room, 2017).

challenges facing these waqf institutions in both countries? Further, there is also a need for a qualitative comparison between both countries.

1.1.3 Research Questions

1. How did higher educational waqf institutions developed in Pakistan and Malaysia?
2. How the higher educational waqf institutions utilise their funds in both countries?
3. How the financing and investment incorporated in higher educational waqf institutions of both countries?
4. What are the issues and challenges facing higher educational waqf institutions in both countries?
5. To what extent financing, investment, and development in higher educational waqf institutions in both countries are compared?

1.1.4 Research Objectives

1. To explore the development of higher educational *waqf* institutions in Pakistan and Malaysia.
2. To describe the financing and investment in higher educational waqf institutions in both countries.
3. To discuss the issues and challenges facing higher educational waqf institutions in both countries.
4. To compare the financing, investment, and development in higher educational *waqf* institutions in both countries.

1.1.5 Significance of the Study

In the beginning the study discusses literature and taxonomies of higher education funding and its theories including benefit theories, economic theories and theory of waqf. Based on the research objectives, this study contributes to exploring waqf financing, investment, and development of HEIs in Pakistan and Malaysia. In this context, the study tries to add new knowledge on the practice of waqf in HEI funding in both countries and discovers how waqf institution contributing as an alternative funding source and its competency to assist higher education through in-depth analyses of multiple cases from both countries. Further, the study gathering in-depth insight and producing some level of generalization by comparing cases and both countries. Moreover, to figure out similarities and dissimilarities. By studying the issues and challenges facing waqf in both countries, the study also contributes in policy recommendations to both countries' governments, HEWIs, waqf regulatory bodies, Islamic Financial Institutions, and stockholders. Mainly, the study yields some suggestions for policymakers, *waqf* mutawallis, administrators, managers, and directors. In addition, the study identifies some recommendations to legislators, politicians and *waqf* ministers. Finally, the study propose to creates public awareness regarding waqf and its expected role in higher education development. In this regard, the study also suggested some recommendations to include waqf introduction in the educational curriculum at primary and secondary levels of education. After a detail literature review, in-depth study of each case and multiple comparative analyses, the present study points out further key areas and recommendations for further research.

1.1.6 Scope of the Study

The study scope is primarily in Pakistan and Malaysia and focuses on three different waqf cases for HEIs from each country. Thus, the study does not cover the primary and secondary levels of waqf institutions. Due to time and financial constraint, the study is based on selected locations and rely on waqf institutions only. Geographically, in Pakistan, the study is based in Karachi, the biggest city of Pakistan. Whereas, in Malaysia, the study is based in the Malaysian state of Selangor and Nigari Sembilan.

1.1.7 Rationale of the Study

The study is based on multiple case studies for detail and in-depth study. From each country, the study has selected three waqf cases for HEIs. Though, there are many other higher educational *waqf* institutions. While time constraints do not allow to increase further in the sample. Moreover, the research aims to conduct an in-depth study; therefore, it offers a detailed investigation of the focus, which could provide a deeper and broader assessment. Consequently, it is presumed that all the possible areas would be cover to study the waqf financing, investment and development and how waqf could be a perpetual source of funding for HEI.

1.2 Literature Review

Education is a vital element of sustainable development. It is not only a pivotal element for societal development but also a key input for economic growth in the form of human capital.⁵⁴ Though education from primary to tertiary is important, the role of higher education is more important.⁵⁵ Due to its importance and location in the educational hierarchy, it contributes to the preceding levels of education. Likewise, preceding levels

⁵⁴ Banya, K., and J. Elu. "The World Bank and Financing Higher Education in Sub-Saharan Africa." *Higher Education* 42, no. 1 (2001): 1-34. doi: Doi 10.1023/A:1017584501585.

⁵⁵ Oliveira, Tania, and Pedro Telhado Pereira. "Who Pays the Bill? Study Costs and Students' Income in Portuguese Higher Education." *European Journal of Education* 24, no. 1 (2009): 111-21.

of education are reliant on higher education.⁵⁶ Over the last century, public sector performed a leading role in the nation's development. Several nations are constrained by the lack of trained and skilled human capital to manage the pace of economic growth thereby highlighting the importance of the higher education sector as a vital source of human capital development.⁵⁷ Similarly, the United Nations Development Programme's Millennium Development Goals, 2000, discussed the role of higher education and publicised it as an important element for economic growth, especially in developing countries.⁵⁸

Colleges and universities are the main vehicles to impart higher education and cradles for knowledge acquisition. The effectiveness of these institutions heavily depends upon funds they receive from the government, which is often their main source of funding. Higher education institutions (HEIs) require a substantial amount of funding, from building labs to awarding scholarships, from research and development (R&D) to library management systems, and from the expansion of educational programs to institutional development. However, due to local and global changes, over the last few decades, public funding has deteriorated and HEIs are facing financial constraints.⁵⁹

For all intents and purposes, the problem pertaining to financing higher education is concerned with the question "*Who should pay for higher education?*" In this regard, Leslie L⁶⁰ discussed individual benefit theory and societal benefit theory.

⁵⁶ Varghese, N.V. "Contribution of Higher Education and Research to Education for All (EFA)." (2009): 7-62. <http://unesdoc.unesco.org/images/0018/001800/180085e.pdf>.

⁵⁷ Wei, Bao. "Formational Mechanism and Regional Growth Patterns of Private Higher Education in China." *Chinese Education & Society* 42, no. 6 (2009): 74-90.

⁵⁸ Johnstone D.B. (2004) Op cit.

⁵⁹ Barr, Nicholas. (2004) Op. cit.

⁶⁰ Leslie L, Larry. "The Rationale for Various Plans for Funding American Higher Education." 1-43. Center for the study of higher education, 101, (Racley Bldg., the Pennsylvania State university, University park pennsylvania, 1972).

1.2.1 Benefits Theories

Individual Benefits Theory (IBT) identifies the individual students as the main beneficiaries of higher education who should pay the cost of higher education. The reasons for supporting this theory includes greater employment opportunities, higher earnings, and a better standard of living for HEIs graduates compared to non-graduates. For these and other reasons, this theory claims that the individual student should pay the full cost of tuition fees.⁶¹ Societal Benefits Theory (SBT) specifies the entire society as the real beneficiary and as such society should endure the financial burden of higher education. The reasons for supporting this concept include, HEI graduates are more liberal, critical, productive, and socially responsible. They are more sensible and contribute to society with social mobility, good attitude, and skilled human capital. As compared to non-graduates, HEIs graduates less frequently receive welfare aid and unemployment compensation. Therefore, society, through the local, state, and federal governments, should provide major support for higher education. In brief, this theory argues that the individual's economic productivity is shared by society in the form of taxes.⁶²

In brief, the individual benefits theory supports full cost tuition which is associated with Milton Friedman's concept of free-market economic theory.⁶³ Meanwhile, if the individual needs financial support, government loans might be offered. Although some proponents invoke the individual benefits theory to justify grants to low-income youth as the best means to equalise educational opportunity, this argument is grounded in what is essentially a social benefit. Hence, under the benefit theories, there

⁶¹ *ibid*

⁶² *ibid*

⁶³ Friedman, Milton. "Capitalism and Freedom : The Role of Government in Education ". (Chap. 85-107, 85-107: University of Chicago press, 2009). For more detail cf. Nerlove, Marc. "Some Problems in the Use of Income-Contingent Loans for the Finance of Higher Education." *Journal of Political Economy* 83, no. 1 (1975): 157-83.

are two major funding sources: students and institutions. Those are discussed in the economic theories by various scholars.

1.2.2 Economics Theories

One of the immediate steps HEIs took to bridge the funding requirements is a substantial increase in student fees.⁶⁴ A decrease in public funding is always manifested by an increase in tuition and other fees.⁶⁵ A number of HEIs increased fees to cover their deficits. This action started affecting the quality and promotion of higher education. The fee increase will prevent some students from accessing higher education.⁶⁶ In response to this situation, several countries introduced student loan schemes as an alternative.

In the UK, an international committee chaired by Lionel Robbins was formed in 1961 to propose suggestions for higher education development. The issues highlighted in this committee were growing demand for higher education and demographic changes. Several economists submitted their suggestions and policy recommendations and many proposed student loan as an alternative.⁶⁷

Numerous researchers⁶⁸ discussed the shape and design of student loans and its relationship with market forces, i.e. would they be mortgage-loans (MLs) or income-contingent loans (ICLs), MLs repayable in fixed installments over a fixed period of time.

⁶⁴ Kenton, Carol Piper, Mary E. Huba, John H. Schuh, and Mack C. Shelley. "Financing Community Colleges: A Longitudinal Study of 11 States." *Community College Journal of Research and Practice* 29, no. 2 (2005): 109-22.

⁶⁵ The Ministry of Education. "Malaysian Education Blueprint: 2013–2025." In *Ministry of Education Malaysia*. (Putrajaya, Malaysia, Ministry of Education, 2013). For more detail cf. Hoodbhoy, P (2009) Op. cit. and Mahamood, Siti Mashitoh (2015) Op. cit.

⁶⁶ Barr, Nicholas. (2009): op cit;

⁶⁷ Woodhall, Maureen. "Funding Higher Education: The Contribution of Economic Thinking to Debate and Policy Development." edited by DC: World Bank Education working paper series ; no. 8. (Washington: World Bank, 2007)

⁶⁸ Chapman, B. Income contingent loans for higher education: International reforms. *Handbook of the Economics of Education*, 2, (2006),1435-1503. For more details, Barr, Nicholas. (2009 & 2005): op cit,

ICLs are repayable with a fixed per cent of individual borrowing as a proportion of future income.⁶⁹ The idea of ICLs was introduced by Milton Friedman in 1955.⁷⁰

However, some scholars⁷¹ presented a counter argument and proposed free education should be provided. Loans depend on the students' future level of income and ability to repay. There are few issues with ICLs i.e. it gives borrower insurance besides the future lack of money.⁷² On the other hand, the students have to accept a higher fraction of the risk. This discourages students, especially those who are financially weak and it is also an inequitable and inefficient way of financing. Correspondingly, MLs generate issues on the supply side, it creates imperfection in the capital market, which leads to capital deficiency. Further, administrative costs and interest rates are also vexing and increasing the default rate.⁷³

The Robbins Committee report has appeared as a conflicting stance regarding student loans through creating two counter-arguments. Firstly, individual earning power and higher education can be over-stressed. All forms of higher education do not obtain a large earnings differential and social benefits of investment in HEIs may vastly exceed the commercial return, thus, it draws thought to real risks hidden in embracing loan. Secondly, it has not been favourable for youth to emerge from the process of higher education with a burden of debt. It is a serious, concerned risk and benefit to caution at a time when willing to take risks is favourable. Consequently, it is said that the student

⁶⁹ Rasmussen, Christopher James. "Effective Cost-Sharing Models in Higher Education: Insights from Low-Income Students in Australian Universities." *Higher Education* 51, no. 1 (2006): 1-25. doi:10.1007/s10734-004-6373-x.

⁷⁰ Friedman, Milton, (2009), op cit;

⁷¹ Goodman, Alissa, and Greg Kaplan. *Study Now, Pay Later or Higher Education for Free? An Assessment of Alternative Proposals for Higher Education Finance*. Ifs Commentaries. Edited by Economic and Social Research Council's 7 (Ridgmount Street, London: Institute for Fiscal Studies, 2003).

⁷² Chapman, B. (2006) op cit;

⁷³ Barr, Nicholas. "Alternative Funding Resources for Higher Education." *The Economic Journal* 103, no. 418 (1993): 718-28. DOI: 10.2307/2234544, <http://www.jstor.org/stable/2234544>.

loan, in comparing to the present system, might tend to lessen the supply of talent and leads to social loss.⁷⁴

Hence, an increase in tuition fee is not a viable option as it does not only affect the pace of HEIs but it is also a short-term solution. Further having to various drawbacks, student loan schemes are also not effective in this context. Thus, HEIs need to come up with a long-term and more sustainable alternative.

Due to the inadequacy of the public sector to finance higher education, the private sector appeared to fill this gap. In developed nations, a significant portion of the higher education sector belongs to the private sector.⁷⁵ Similarly, due to the growing population and the vast expansion in demand, many developing countries are seeking to transfer public universities to the private sector.⁷⁶ Several examples are available in developed and developing countries where the state allowed the private sector to establish universities. At present, a large proportion of students are studying in the private sector.⁷⁷ Lately, this process was also appreciated by the IMF and World Bank as a part of globalisation and structural adjustment programs (SAPs). Both global institutions emphasised the reduction of the government role through the privatisation of public assets, including higher education.⁷⁸ Lee claimed that government support for the private sector is to find alternatives for fiscal constraints and growing demand for higher

⁷⁴ Robbins, Lionel C. "Higher Education: Report of the Committee Appointed by the Prime Minister under Chairmanship of Lord Robbins." In *London: Her Majesty's Stationery Office*. (London: England. British Committee on Higher Education,, 1963).

⁷⁵ Jamshidi, Laleh, Hamidreza Arasteh, Abdolrahim NavehEbrahim, Hassanreza Zeinabadi, and Palle Damkjær Rasmussen. (2012) op cit;

⁷⁶ McCowan, Tristan. "Quality of Higher Education in Kenya: Addressing the Conundrum." *International Journal of Educational Development* 60, no. Supplement C (2018): 128-37. doi:<https://doi.org/10.1016/j.ijedudev.2017.11.002>, for more detail cf. Oketch, Moses O. "The Emergence of Private University Education in Kenya: Trends, Prospects, and Challenges." *International Journal of Educational Development* 24, no. 2 (2004): 119-36.

⁷⁷ Halai, Nelofer. "Private Higher Education in Pakistan." *International Higher Education* 64 (2011): 21.

⁷⁸ Kwiek, Marek. "De-Privatization in Higher Education: A Conceptual Approach." *Higher Education* 74, no. 2 (2017): 259-81. For more detail cf. Kwiek, Marek. "Structural Changes in the Polish Higher Education System (1990–2010): A Synthetic View." *European Journal of Higher Education* 4, no. 3 (2014): 266-80.

education.⁷⁹ Equally, issues such as the impact of technological advancement, research, and innovation and the massive expansion in demand for higher education are playing an important role in private sector development.⁸⁰ In various countries, in response to growing gross enrolment and institutional budgets, the role of the private sector is considerable.

However, exploring Privatization of Higher Education Subramanian⁸¹ stated that the private sector treated higher education as “product” and students are as “customers” thus, it is a “trading of education” (p. 16). Likewise, marketization, commercialisation, and internationalisation are increasing the cost of higher education.⁸² Further, privatization lowers the chances for low-income students and may risk a conflict of interest with organisations and other sponsors. In addition, with the market pressure, private institutions run programs and disciplines that have a definite market value equal to their cost and reduce the less demanded disciplines. It seems like privatization of HEIs appears to be more accountable. But to whom? In fact, with privatization, universities and colleges are less accountable to the public and elected officials.⁸³ Hence, the privatization of HEIs is not sustainable as a long-term alternative, thus requiring the search for other options.

⁷⁹ Marshall, Stephen James. "Financial Challenges, Constraints and Consequences of Funding Higher Education." (In *Shaping the University of the Future*, Springer, 2018). 103-21

⁸⁰ Kwiek, Marek. "De-Privatization in Higher Education: A Conceptual Approach." *Higher Education* 74, no. 2 (2017): 259-81. for more detail cf. Geethanjali, V., Prasad, Ch., & Raja, R. *Privatization of Higher Education: Some Issues*. In N. R. Kishan (Ed.) ed.: (New York: APH Publishing Corporation., 2008).

⁸¹ Subramanian, K. "Privatization of Higher Education in India: A Boon or Bane." *International Journal of Research in Economics and Social Sciences* 4, no. 6 (2014): 1-4.

⁸² Ng, Shun Wing. "Rethinking the Mission of Internationalization of Higher Education in the Asia-Pacific Region." *Compare: A Journal of Comparative and International Education* 42, no. 3 (2012): 439-59.

⁸³ Li, Amy Y. "Dramatic Declines in Higher Education Appropriations: State Conditions for Budget Punctuations." *Research in Higher Education* 58, no. 4 (2017): 395-429. For more detail cf. Lyall, Katharine C., and Kathleen R. Sell. "The De Facto Privatization of American Public Higher Education." *Change: The Magazine of Higher Learning* 38, no. 1 (2006): 6-13.

The concept of “cost-sharing” was first introduced by Johnstone D B⁸⁴, 1986. Studying the cost of higher education, he discovered that the demand for higher education was growing in those countries which had aroused the issue of affordability. He proposed a model for higher education financing by the combination of four funding sources and assumed that (p.327) “*cost of higher education in all countries and in all situations can be viewed as emanating from four principal parties*” (1) the state or taxpayers; (2) parents; (3) students; (4) philanthropy or endowment.

To advocate this belief, higher education should be to some extent be financed by public funding in the form of government revenues accumulated through taxation. Secondly, parents may also contribute to the cost through their income and savings. Thirdly, students may also share in the costs through their earnings, savings or loans etc. Lastly, the donor may also contribute to higher education through gifts, donations, and awards, etc. A number of scholars have applauded this concept and claimed that a mixed mode of financing is better than exclusively public funding.⁸⁵ They also proposed a public-private sharing concept with various diversification mechanisms and claimed that choice of public-private funding relies on the social and practical constraints of society, including the political process, evaluators, and researchers’ rational views etc. Similar concepts have appeared before Johnstone’s study such as the Carnegie Commission Report 1973 which used “*sharing the cost burden*”⁸⁶ and World Bank used “*cost*

⁸⁴ Johnstone D B. *Sharing the Costs of Higher Education. Student Financial Assistance in the United Kingdom, the Federal Republic of Germany, France, Sweden, and the United States*, (New York, ERIC, 1986). For more detail cf. Johnstone, D Bruce. "Cost Sharing in Higher Education: Tuition, Financial Assistance, and Accessibility in a Comparative Perspective." *Sociologický časopis/Czech Sociological Review* (2003): 351-74.

⁸⁵ Chevaillier, Thierry, and Jean-Claude Eicher. "Higher Education Funding: A Decade of Changes." *Higher Education in Europe* 27, no. 1-2 (2002): 89-99.

⁸⁶ Thomas, Russell. "The Carnegie Reports." *The Journal of General Education* 26, no. 2 (1974): 164-77.

recovery”.⁸⁷ Nonetheless, after Johnston’s study, the term “cost-sharing” widely appeared and received greater support than other ideas and was used in various studies.⁸⁸ The “cost-sharing” concept also requires an adequate financial assistance to ensure higher education access. While the student loan is not a viable option, some countries have to offer as many grants as possible or use an efficient alternative source of funding rather than creating a burden on the students and parents.

Moving towards the efficient alternative option, Johnstone assumed that costs should be shared by all four participants. If transfer a large burden on philanthropy or endowment funding, it has the ability to generate perpetual income as an alternative. HEIs rely on endowment funds because other resources are diminishing or they may not have the ability to sustain the increasing burden of financing its operations. Supporting this idea, Altbach, et al⁸⁹, commented on Johnstone’s concept and hypothesised “*It is a zero-sum game, in which a lessening of the burden upon, or revenue from, one party must be compensated either by a reduction of underlying costs or by a shift of the burden to another party*” (p. 380).

The classical meaning of philanthropy originates from an ancient Greek word “*Philanthrôpîa*” which is a composite of *phileô* and *anthrôpos*. “*phileô*” represents the concept of love, desire, or attraction, while “*anthrôpos*” is the standard word for “*humankind*”.⁹⁰ Many prominent scholars, for example, John Locke⁹¹, Adam Smith⁹², and Edward Gibbon employed the expression “*love of humanity*” when referring to

⁸⁷ Banya, K., and J. Elu. 2001; op cit;

⁸⁸ Ayalew, S. A. "Financing Higher Education in Ethiopia: Analysis of Cost-Sharing Policy and Its Implementation." *Higher Education Policy* 26, no. 1 (2013): 108-25.

⁸⁹ Altbach, Philip G, Patricia J Gumpert, and Robert O Berdahl. *American Higher Education in the Twenty-First Century: Social, Political, and Economic Challenges*. 3rd Edition (United State, JHU Press, 2011).

⁹⁰ Sulek, Marty. "On the Classical Meaning of Philanthrôpîa." *Nonprofit and Voluntary Sector Quarterly* 39, no. 3 (2010): 385-408.

⁹¹ John Locke, The Enhanced Edition of John Locke’s Two Treatises of Civil Government (1689, 1764) (Indianapolis: Liberty Fund, 2014). 1/8/2018. <<http://oll.libertyfund.org/titles/2638>>

⁹² Adam, Smith. *The Theory of Moral Sentiments*. (Edited by s: Indianapolis, Liberty Classic, 1759).

philanthropy in their writings. Similarly, an endowment is an act of charity for the love of humanity or an organisation supported by philanthropic funds. Giving to an endowment fund is a source of satisfaction for donors. The donors can sense their contribution relieves the whole society.⁹³ Therefore, the higher education endowment fund is one of the main alternative funding resources in academic activities, i.e. professorships, scholarships, research and innovations, and operating expenses. Throughout the world, in many universities, a significant portion of their operating budget is funded through an endowment fund.⁹⁴

In this era, the U.S is the premier higher education industry around the world. Formerly, most of these HEIs were taking public funding with some of the private institutions such as Harvard and Yale also receiving the majority of their funds from the state. Later, they found themselves under pressure from the state and realised public funding will be cut.⁹⁵ Harvard and Yale quickly initiated soliciting donations and created their endowments. The earnings accumulated by both institutions was more than 40 per cent of total income in the 1840s.⁹⁶ In 2013-14, 36 and 33 per cent of the institutions' operating expenses were acquired from the endowment, respectively.⁹⁷

In brief, HEIs may rely more on endowment rather than state funding and fees. It may also create diversification in management strategies. An endowment may assist HEIs fiscally and provides financial autonomy, In contrast, state funding is unpredictable and unreliable in the long-run.⁹⁸ Hence, HEIs should be dependent on perpetual alternative sources rather than the government only.

⁹³ Newman, Diana S. *Nonprofit Essentials: Endowment Building*. (New Jersey, John Wiley & Sons, 2005).

⁹⁴ NACUBO, 2014, op cit,

⁹⁵ Purcell, Mark P. 2010 Op cit,

⁹⁶ Hansmann, H. (1990) Op cit,

⁹⁷ Harvard. (2013). *Annual Financial Report* Retrieved from <http://finance.harvard.edu/annual-report>
Yale. (2013-14). *Annual Financial Report*. Retrieved from <http://finance.yale.edu/sites/default/files/2013->

⁹⁸ Newman, Diana S. 2005. Op cit;

The concept of endowment existed prior to formal higher education. In Egypt, the first and most prominent example of the pious endowment is Al-Azhar University in Cairo, founded by Jawhar al-Ṣiqillī in 972 A.D.⁹⁹ In Europe, the earliest HEIs are Oxford and Cambridge which were developed in the 12th century. In the colonial era, the earliest HEIs developed in the U.S Harvard, Yale, and Williams. Harvard University was endowed by John Harvard in 1638. These institutions initiated alumni to attend inauguration ceremonies and started endowment support. Numerous institutions organised alumni associations for fundraising. The first alumni association was established in Williams College in 1821 and started fundraising strategies. Similarly, the first president of Harvard was Henry Dunster who was tasked with raising funds for the institution.¹⁰⁰ These institutions introduced fundraising activities and started receiving gifts and donations. In the U.S almost every HEI has established an endowment fund.¹⁰¹

Till the 20th century, a soliciting system was organised inside the colleges and universities. Eventually, HEIs started targeting businesses and industrialists and organised alumni associations to identify and approach potential donors. Meanwhile, the solicitation was the major source of fundraising.¹⁰² With the intention to inspire others, highly influential people and figures such as celebrities, kings, and political leaders may assist the institutions to attract and motivate donors. Equally important, creating a legacy was also used to accumulate funds in addition to other campaigns and activities i.e. the one-dollar campaign, cultural exhibitions, workshops, etc. Although gifts and donations may be smaller, they will at least contribute to immediate financial needs, i.e. student financial

⁹⁹ Kamali, Mohammad Hashim. "Classical and Contemporary Approaches to Education: An Islamic Perspective." *Journal of Islam and civilizational renewal* 2, no. 3 (2011): 39-63.

¹⁰⁰ Purcell, Mark P. " 2010), op cit;

¹⁰¹ NACUBO, 2014, op cit;

¹⁰² Cohen, Arthur M. *The Shaping of American Higher Education: Emergence and Growth of the Contemporary System*. (San Francisco, John Wiley & Sons, 2007).

aid and operating expenses.¹⁰³ The effectiveness of these solicitation activities depends on transparency and accountability. It is essential for HEIs to properly engage and create a strong relationship with donors and listen to them and share how their donations and gifts are utilised and provide evidence of how their contributions make a difference in the institutional development.¹⁰⁴

In brief, HEIs obtain donations from alumni, non-alumni, individuals, business corporations, foundations, religious donations, among others. The association between an HEI and its donors is very important, and the success of an institution in accumulating funds is a crucial predictor of endowment support. Unlike public funding and government allocation, endowment resources are the relatively unrestricted form of spending for the HEIs and it can be expanded and increased without constraint. However, public funding is mostly prescribed and regulated. An endowment provides a margin of excellence, the element of vitality that separates one institution from another, and offers financial and fiscal autonomy. Thus, an endowment is a major alternative source of institutional discretionary funds that may be used for future development.¹⁰⁵

In the U.S and U.K, many HEIs are operating as non-profit institutions financed by religious people, visionaries, leaders, and philanthropists. These are highly ranked institutions and Ivy League universities like Harvard, Princeton, MIT, Stanford, Yale, Oxford, and Cambridge. These prominent HEIs are highly selective and all have large endowment funds.¹⁰⁶

¹⁰³ Masterson, Kathryn. *Recession Tempers the Usual Optimism in College Fund-Raising Offices*. (London, Oxford University Press, 2009).

¹⁰⁴ Rubley, J. N. . "Q & a Tips on Investing Endowment Funds,the Chronicle of Higher Education,States. (New York: The College Board,50 (2004), 38

¹⁰⁵ Leslie, L. L., & Ramey, G. (1988). Donor Behavior and Voluntary Support for Higher Education Institutions. *Journal of Higher Education*, 59(2), 115-132.

¹⁰⁶ Altbach, Philip G, Patricia J Gumpert, and Robert O Berdahl. 2011. Op cit; for more details cf. Levy, Daniel C. "Public Policy for Private Higher Education: A Global Analysis." *Journal of Comparative Policy Analysis: Research and Practice* 13, no. 4 (2011): 383-96.

Numerous famous universities employed different management strategies to achieve their long-term objectives. HEIs receive endowment funds which are further dedicated to investing in perpetuity. The profit, return, dividend and capital gain produced from these funds used to sponsor operating and other specified expenses.¹⁰⁷ It is essential to understand the laws and theories which help and govern endowment management, i.e. State laws, Prudent Investor Rule and Modern Portfolio Theory.¹⁰⁸ State laws: State law provides legal guidelines and framework to the endowment management and charity institutions. Normally, every country has constituted the legal framework for non-profit and charity institutions with respect to their environment. Prudent Investor Rule (PIR): helps in decision-making with certain guidelines to invest endowment assets such as investment manager should consider the needs of endowment beneficiaries. Modern Portfolio Theory (MPT): is a sound investment practice that refers to reducing risk in the portfolio using a systemic diversification mechanism within the particular asset class and across the asset classes. Modern portfolio theory has four major steps: 1. Valuation of securities, 2. Asset allocation decision, 3. Optimizing portfolio returns, and 4. Measuring performance.¹⁰⁹

Every endowment has unique features, some manage a few assets while others manage a large number of assets. Large institutions may focus on in-house management expertise. Whereas smaller endowments may focus on outside help.¹¹⁰ In both situations, endowment institutions are in some way ruled by the three rules above.

Having a greater endowment fund increases the responsibility of the investor to know the different assets and classes. National Association of College and University

¹⁰⁷ Khadaroo, S. T. . "Colleges Cope as Endowments Pinch." 101, no. 43 (2009): 1-11. <http://www.csmonitor.com/Business/2009/0128/p01s02-usec.html>.

¹⁰⁸ Maloney, E. F. (1999). The Investment Process Required by the Uniform Prudent Investor Act. *Journal of Financial Planning*, 12(9), 78.

¹⁰⁹ *ibid*

¹¹⁰ Bruce, C.W. 2000. Op. cit.

Business Officers reported that HEIs assets normally fall within these classes i.e. Equity, Fixed assets, Real estate, Cash, Hedge funds, Private equity, Venture capital, Natural resources, and etc. Many universities' endowment assets are diversified into different asset classes, but the majority of the universities' allocated assets are in equities. A few are allocated to real estate, real assets, and alternative securities. Real estate may be a common investment in HEIs. Cash or cash equivalents are represented by actual paper currency or by their liquidity¹¹¹, while, Hedge funds, venture capital, and natural resources make up the alternative asset class. Asset size affects the decision of the institution's investing in alternative assets. The larger endowment has a fiscal cushion in unstable financial markets, while the smaller endowment does not.¹¹²

In brief, endowment practice has been efficiently used for higher education financing through various fundraising and management strategies and which is very similar to the waqf institution. In Islamic jurisprudence, waqf has similar characteristics to an endowment and may be used as an institution in higher education financial development. However, as compared to the conventional endowment, waqf is not used efficiently for higher education development.

1.2.3 Theory of Waqf

Waqf institutions permit an individual or organisation to donate his/her assets for the well-being of mankind. It becomes public property with the characteristic of perpetuity, which means that it cannot be sold, mortgaged, and inherited. However, it may be further invested. Throughout history, Muslim societies were contingent and reliant on waqf to assist in higher education. Thousands of schools and hundreds of universities specializing in different fields of science, arts, humanities, and, etc. including those in major cities

¹¹¹ *ibid*

¹¹² Dimmock, Stephen G. *Portfolio Choice, Background Risk, and University Endowment Funds*, (2010). doi:available at SSRN: <http://ssrn.com/abstract=921910> or <http://dx.doi.org/10.2139/ssrn.921910>.

such as Andalusia, Baghdad, Samarkand, Bukhara, Damascus, Nishapur, and al-Quds famous as hubs for higher education¹¹³, were largely financed by waqf. Waqf institutions provided infrastructures, libraries, and books, teaching materials, salaries, stipends, and accommodation. HEIs were financially very strong and fulfilled their significant amount of expenses from *awqāf* management and earnings.¹¹⁴ In this context, the first and most prominent example is the Al-Azhar University in Cairo. Likewise, Al-Qarawiyyin in Fez, the University of Qūrtubah in Spain, University of Al-Mustanşiriyah, and, Al-Nizāmīyah in Baghdad are sources of inspiration for the Muslim *Ummah* to use waqf to finance higher education.¹¹⁵ Given the history, there is a need to revive waqf and use it as an alternative source of income for HEIs development.

As discussed earlier, numerous famous universities employed different management strategies to achieve their long-term objectives. HEIs endowment invests in financial assets. Similarly, higher education waqf institutions may invest in financial assets rather than investing exclusively in physical assets or real estate. Waqf managers may emphasise the following key areas: asset selection, portfolio management, risk management, liquidity, and spending policy.¹¹⁶ However, waqf management is challenging and further research is required such as how it can work as a legal entity, a corporation that has legal rights and obligations and can be used as an institution for higher education development.¹¹⁷ Discussing various kinds of waqf many scholars agreed

¹¹³ Çizakça, Murat. (1998) Op. cit.

¹¹⁴ Al-Zarka, Mustafa. *Ahkam-Ul-Awqāf* 2nd Edition ed.: (Oman, Published by Darul Ammar at Oman 1998)

¹¹⁵ Wan Marhanini, Asmak Ab Rahman, Che Aziz and , and Siti Masshitoh. "The Dynamics of Islamic Finance in the Development of Waqf Assets for the Higher Education Institutions." In *Pelestarian Institusi Waqaf Memperkasa Pendidikan Tinggi Negara* edited by Wan Kamal Mujani, 177-85. (Bangi: Faculty Pengajian Islam, Universiti Kebangsaan Malaysia, 2014).

¹¹⁶ Ayuniyyah, Qurraoh, Mustaffa Kamail Nazrol Kamil, and Mohamed Aslam Haneef, 2014, Op cit,

¹¹⁷ Usmani, Mufti Muhammad Taqi. "An Introduction to Islamic Finance ". Chap. The principles of limited liability, (Karachi, Pakistan: Maktaba Mar'urful Quran, 2006), 150-60

that cash waqf may be used for higher educational institutions' financial development by redefining its definition and mode of operations.¹¹⁸

Based on the above discussion, *Waqf* has all essentials features and characteristics to finance and develop an HEI. *Waqf* has a wide variety of range in term of modes of finance. The prior published literature also discussed various modes of waqf financing and development.

Kahf¹¹⁹ explored Islamic modes of finance for waqf development and identified the various ways in which Islamic waqf facilitated in public welfare including education. This study explored and explained new techniques for financing and development of waqf assets and suggested several ways to develop new sources of finance for waqf institution. In addition, the study further classifies modes of Waqf finance in three different categories, i.e. classical, contemporary and other Islamic modes of finance along with financial instrument. Though, discovering the best waqf financing mode is challenging, that requires compliance with *sharī'ah* as well as legal issues.¹²⁰

Classical literature of Islamic jurisprudence offered various modes of finance for the development of waqf institutions. Firstly, increasing in the principal of a waqf by adding newly established waqf, Secondly, exchanging one waqf with another with higher benefits, thirdly, borrowing a waqf repayment from the waqf net revenues, fourthly, using long lease (*Hukr*) with large advance payment and lastly, leasing with dual payment (*Ijāratān*), while, first mode will be only increased in the waqf principal and its constructive ability. Other four Islamic modes are related to operational financing for waqf institution.¹²¹

¹¹⁸Cizakca, Murat. "Incorporated Cash Waqfs and Mudaraba, Islamic Non-Bank Financial Instruments from the Past to the Future. (Munich, University Library of Munich, Germany, 2004). For more detail cf. Murat Cizakca. 1998, Op cit,

¹¹⁹ Monzer Kahf (1998), op cit;

¹²⁰ Sabit, T. "Alternative Development Financing Instruments for Waqf Properties." *Malaysian Journal of Real Estate* 4 (2009): 45-59.

¹²¹ *ibid*

Over the last few decades and particularly from the beginning of the 21st century, a remarkable increase in Islamic banking and finance has been observed. New innovations have been introduced, many new financial instruments and modes established by Islamic scholars through proper *sharī'ah* and legal legislation. Similarly, financing and development of waqf institution must be followed *sharī'ah* rulings properly. Whereas, it is necessary that the characteristics of waqf must be preserved, i.e. perpetuity, inevitability, and irreversibility.¹²²

Contemporary Islamic modes of waqf financing are also suitable for the provision of resources for an HEI development. These modes allow *nāzīr* and, *mutawalli* special rights on waqf execution, such as *murābahah*, *istisnā'*, *ijārah*, and *mudārbah*. These modes of finance convoked new ideas and innovations in certain modes in contemporary Muslims world on an institutional basis such as Islamic banks and financial institutions.¹²³

The published literature also discussed few other financial instruments those may be used as waqf financing instrument, i.e. output share, sharing ownership, partnership share, lease bonds, *ijārah* bonds, *ṣukūk al-intifa* (usufruct bonds), *ḥukr* shares (long-term lease), *Muqardah* bond, *Ṣukūk Mushārkah* or securitization and Islamic bonds (*Ṣukūk*). It is anticipated that the corporate waqf model for a university or higher educational waqf institution may be adopted by public universities for the income generation the corporate waqf earlier started in Pakistan and Turkey. Moreover, the term “Corporate Waqf” was used first time in Malaysia for Johor Corporation's (JCorp) in 2006.¹²⁴

Another important kind of waqf is cash waqf. It is very simple and similar to adding a new waqf in the previous one in the form of cash. It is a kind of fund soliciting

¹²² *ibid*

¹²³ Monzer Kahf (1999), Op cit,

¹²⁴ Asharaf Mohd Ramli and Abdullaah Jalil (2013) p.387 Op. cit.

and gathering resources for cash waqf. The donors give cash to the financing waqf institution. The difference between this mode and others is the nature of their capital that is in form of cash. While normally Muslims donate in form of real estate and direct its revenue for charity. In contrast, in cash waqf, cash endows and profit gained specifies for charity.¹²⁵

The fund comes for the cash waqf from contributors solicited from individuals, governments, and other funding agencies. This waqf fund may also obtain a special cash waqf for a specific purpose such as addition in waqf as building, infrastructure, and equipment or as a special cause for example financing HEI.¹²⁶

However, as far as its position in *sharī'ah* is a concern, the classical thought is alienated in two different views on the legitimacy of *cash* waqf due to the perpetual characteristic of the waqf assets. Initially, cash waqf is not obvious regarding perpetual nature of waqf. Imām Abū Ḥanīfah, Imām Abū Yūsuf, few of Mālikī and majority of Shāfi'ī's and Imām Aḥmed bin Ḥanbal alleged cash as valid for waqf.¹²⁷ Similarly, Imām al-Zuhrī and Imām Zufar allowed the cash waqf.¹²⁸

Furthermore, Ibn Taymiyah proved the majority of later Mālikī permitted cash waqf. Likewise, in the Ḥanbalī School of thought Imām Ibn Taymiyah supposed the permissibility of cash waqf. While the Shafi'ī School of thought is less leaning to permit cash waqf. The contemporary Muslims scholars are consent on the permissibility of *cash* Waqf for the purpose of loan financing and investment. Cash waqf is an important source for financing HEI, its features support in various ways, i.e. it has an efficient joint fund with higher liquidity and diversification, every participant of society can donate in it, it

¹²⁵ Çizakça, Murat (2010), op cit;

¹²⁶ Monzer Kahf (1999), op cit;

¹²⁷ S. A. Dunya. Al-Waqf al-Naqdi. Madkhal li Taf'il Dawr al-Waqf fi Hayatina al-Muasirah. *Awqāf*. 2002, 3, 57-82

¹²⁸ Ibn Abidin, Muhammad Amīn, *Radd al-Muhtar 'Ala Dur al-Mukhtar*. (Damisqh, Dārul-Kutub al – alīmīah, 1992) 4:338

creates more economic stimulus including that it can be used for higher education financing as well.¹²⁹

In brief, the waqf institution may be a sustainable and perpetual source of income. In a situation, increasing deficits and the huge financial burden on governments. Waqf may assist in the public goods including higher education that will not only benefit the present generation but future generations as well. Traditionally, waqf played a tremendous role in the financial development of HEIs. Waqf resources are relatively unrestricted which can be expanded and increased without constraints as compared to public funding, which is mostly prescribed and regulated by funding bodies and authorities. The HEIs waqf fund may be one of the main alternative sources of funding for academic activities. It may be a major source of institutional discretionary funds used for academic activities, research, and development (R&D), and risk-taking activities. Further, it may also create diversification in management strategies that may provide a margin of excellence, and constitute the element of vitality which separates one institution from another and offers financial and fiscal autonomy. An efficient waqf system directs charities to eternal and continuous benefits and recognises them as a religious and economic obligation. It will not only assist in higher education but will further strengthen the capital market and growth of the economy by appearing as a user of the financial market. Thus, it is essential that the aims of the waqf institution should align with the objectives of the Islamic and legal laws of the country. The main objective of waqf practice is common welfare, which is primarily the responsibility of government. However, waqf institutions may help the government as the third sector. Therefore, it is the responsibility of the governments to assist waqf institutions by creating greater

¹²⁹ S. A. Dunya. (2002), Op cit;

awareness and understanding about it and introducing legislation for a feasible environment so that it may support higher education development.

1.3 Theoretical Framework

Looking into a broader context, individual benefit theory and societal benefit theory discussed two main sources of funding HEIs, i.e. (1) individuals, and (2) institutions. Generally, the individual benefits theory supports full cost tuition from individual students or parents.¹³⁰ Conversely, the societal benefits theory claims full support from the Government. In the perspective of economic theories, being dependent exclusively on tuition fee or government grants are not viable options for funding HEIs. Likewise, privatization, commercialisation, and internationalisation are also deteriorating the students.¹³¹ It's not encouraging youth to attain higher education with a burden of debt.¹³²

Hence, HEIs are seeking a perpetual and long-term funding solution.¹³³ Supporting and filling the gap, the theory of cost sharing by Johnstone¹³⁴ suggested a combination of four sources of funding, i.e. students, parents, government, and philanthropy or endowment. It is observed that HEIs more rely on endowment funds because of other resources diminishing or they may not have the ability to sustain the increasing burden.

In Islamic jurisprudence, waqf has the best features as an alternative and a permanent source of funding like a western endowment.¹³⁵ These characteristics are endorsing waqf as an appropriate institution for the HEI's financial development as seen in perpetuity, irrevocability, and inalienability.

¹³⁰ It is allied with Milton Friedman concept, the leading spokesmen of free-market economic theory.

¹³¹ Barr, Nicholas (2009) Op. cit.

¹³² Robbins, L. C. (1963). Op. cit.

¹³³ Jamshidi, Laleh, Hamidreza Arasteh, Abdolrahim Naveh Ebrahim, Hassanreza Zeinabadi, and Palle Damkjær Rasmussen (2012) Op. cit.

¹³⁴ D. Bruce Johnstone, 1986 Op cit.

¹³⁵ Çizakça, Murat. (1998) Op. cit.

As a result, an HEI may rely more on waqf rather than state funding and fee. And it may also create diversification in investment strategies. A waqf is assisting HEI fiscally for the future. It inspires absolute and outright gifts.¹³⁶ In the same manner, waqf financing is a charity or act for well-being and a source of satisfaction for donors. They can sense their contributions to the HEI development.¹³⁷ Unlike public funding and government's allocation, waqf resources are relatively unrestricted spending forms for the HEIs. Moreover, it can be expanded and increased without constraint.¹³⁸

Since the deterioration of public funding, colleges and universities can financially support themselves by using waqf funds. A managed waqf shows long-term stability and may relieve pressure on the annual funds. Therefore, with the growing financial support of the waqf fund, operational expenses can easily be financed. It may also assist HEI in research and development and program expansions. So, HEIs need to be financially autonomous and constantly increase their waqf funds.¹³⁹ Waqf needs perpetual income flow that leads appropriate, soliciting and investment management strategies. A well-organized and managed waqf institution shows long-term stability.¹⁴⁰ (See Fig 1.1).

¹³⁶Newman, D. S. (2005) Op cit,

¹³⁷Rubley, J. N. (2004), Op cit,

¹³⁸Newman, D. S. (2005) Op cit;

¹³⁹Teker, S., & Teker, D. *Higher Education Financing: A Proposed Model for Turkey*. (5th World Conference on Educational Sciences. 2014), 116, 849-853. doi: DOI 10.1016/j.sbspro.2014.01.309

¹⁴⁰ Ramli, Nathasa Mazna, Muhamed, and Nurul Aini. "Good Governance Framework for Corporate Waqf: Towards Accountability Enhancement " (Paper presented at the World Universities' Islamic Philanthropy Conference 2013).

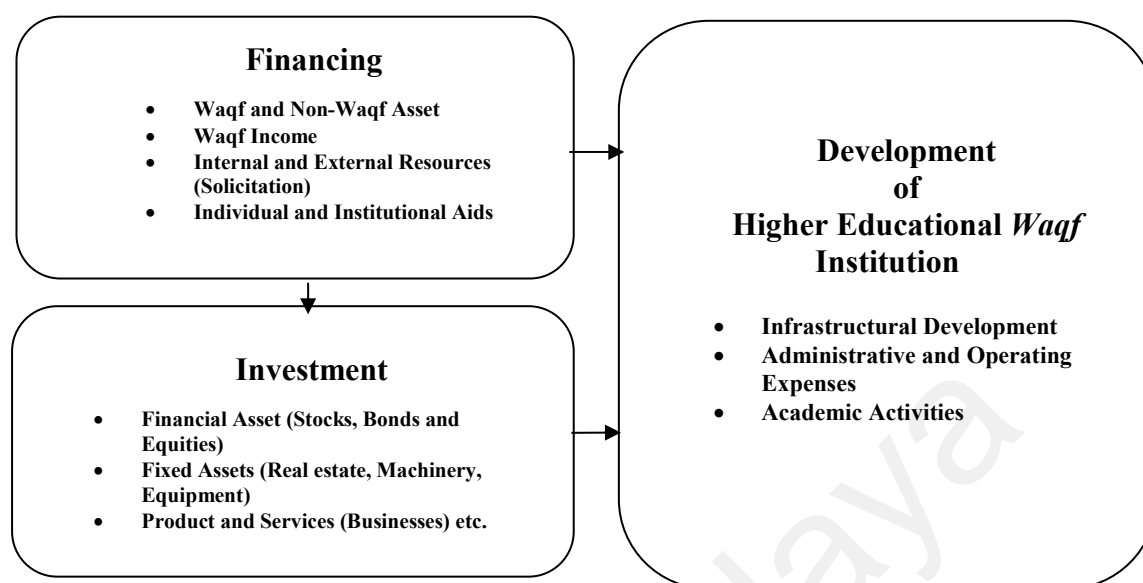


Figure 1.1: Framework of the Study

1.4 Definition of Terms

In the beginning, it might be useful to illustrate each using expression in the title of the dissertation and framework (See Fig 1.1) to understand the whole theme easily.

1.4.1 Model

The term *Model*¹⁴¹ (pl. *models*) means set of techniques used in the process of planning and budgeting in higher education waqf institutions¹⁴² i.e. models of financing, investment, and development for higher educational waqf institution. Moreover, the word model may also be used for waqf HEI as an exemplary model in the study.

1.4.2 Higher Educational Institution (HEI)

HEIs¹⁴³ in Pakistan and Malaysia comprises all enterprises for the tertiary education, including from small colleges to the huge state university system, from Polytechnic to

¹⁴¹ Hornby, A.S., M. Deuter, L. Hey, M. Hancock, and M. Ashby. *Oxford Advanced Learner's Dictionary of "Current English"*. (Oxford University Press; Cornelsen, 2015).

¹⁴² Lockwood, Geoffrey. "Planning in a University." *Higher Education* 1, no. 4 (1972): 409-34

¹⁴³ Duderstadt, James J, Daniel Ewell Atkins, and Douglas E Van Houweling. *Higher Education in the Digital Age: Technology Issues and Strategies for American Colleges and Universities*. Greenwood Publishing Group, 2002. p.137, furthermore detail, cf. UNESCO. *The Impact of Economics Crisis on Higher Education*. United Nations Educational, Scientific and Cultural Organization. (Bangkok, Thailand: UNESCO, 2012),14

vocational, from national to community-based, from secular to religious, from the public to private, from open to virtual, from academic to research institute or university.¹⁴⁴

1.4.3 Higher Educational Waqf Institution (HEWI)

The higher educational waqf institution refers to an HEI developed and running on the concept of waqf exclusively or partially.

1.4.4 Financing

The financing indicates numerous ways of generating and soliciting waqf assets for the developmental and operational activities of waqf HEI. As a legal entity, a waqf institution has the ability to own waqf and non-waqf (*mamlūkāt-i-waqf*) assets both. Therefore, apart from waqf assets, a waqf institution can request for non-waqf assets such as gifts, aids, donations, CSR funds and etc.

1.4.5 Investment

The investment¹⁴⁵ offers the commitment of funds for waqf HEI through proper waqf fund management with prudent investment strategies. It will preserve the waqf HEI or it will use with a positive expectation that, it will increase the value or income of waqf HEI.¹⁴⁶

1.4.6 Development

The Development¹⁴⁷ refers to the set of ways and means use for waqf establishment, expansion, and transformation of the higher education waqf institution.

¹⁴⁴ Here and after the term Higher Education Institution (HEI) and college and university will be used interchangeable, until unless specified.

¹⁴⁵ Jones, Charles Parker. *Investments: Analysis and Management, Thirteenth Edition Binder Ready Version*. (River Street, United State: John Wiley & Sons, Incorporated, 2016), 614

¹⁴⁶ Lawrence J. Gitman, Michael D. Joehnk, and Scott B. Smart. *Fundamentals of Investing*. (London, United Kingdom: Pearson Series in Finance, 2010).

¹⁴⁷ Development means just “good change”, as such ‘Development’ is positive word that in every day parlance is virtually synonymous with ‘progress.’ The term good implies a vision of a desirable society (‘well-being for all’) something to aim at, a state of being with certain positive attributes which can be measured so that we can talk of ‘more’ or ‘less’ development. ‘Change’, on the other hand is a process which ‘may entail disruption’ and which it may or may not be possible to direct. Progress: Progress implies

1.5 Methodology

This section discusses the whole methodology used in the study including research paradigm, research design, data collection sources, sampling techniques, and ethical considerations. It also describes the methods used for data collection, validation, reliability, trustworthiness and conducting the pilot study for the research. This section includes stages involve in the research process and further encapsulates the techniques used to analyse the data.

In the first place, defining research aim is an important step to be taken in a research study. The way to understand research aim have two queries. Firstly, what is the study about? Secondly, asking “who”, “what”, “where”, “why”, or “how” question.¹⁴⁸ For this reason, the study is about the waqf institution and how it may assist an HEI as an alternative source. Therefore, the current study aims “*How a waqf institution may finance higher educational institution as an alternative source?*” Thus, to response the research aim and objectives, the philosophical stance should be clear.

1.5.1 Research Paradigm

Generally, research paradigm means how a researcher views the world, how to explores the new things, how to starts, and conducts the research with certain assumptions and guiding principles which is called a research paradigm.¹⁴⁹ In other words, the research paradigm signifies an interpretative framework, which is led by “*a set of beliefs and*

continual improvement reaching higher and higher levels perhaps without limits. Development: Implies moving towards the fulfilment of a potential. Thus it is important to be clear about the different sense in which the term ‘development’ is used. In addition, whichever sense is in used the term ‘Development’ also embodies competing political aims, social values and constricting theories of social change. Bearing the focus in mind, we can distinguish three main senses in which the term ‘development’ is used: (1) As a vision, description or measure of the state of being of a desirable society, (2) As an historical process of social change in which societies are transformed over long periods, (3) As consisting of deliberate efforts aimed at improvement on the part of various agencies, including governments, all kinds of organizations and social movements. For further detail, cf. Thomas, Alan, and Tim Allen. *Poverty and Development into the 21st Century*. (London, Oxford University, 2000), 23-31

¹⁴⁸ Yin, Robert K. *Case Study Research: Design and Methods*. Sage publications, 2013.

¹⁴⁹ Creswell, John W. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. (Landon: Sage publications, 2013).

*feelings about the world and how it should be understood and studied.*¹⁵⁰ It is a study of the nature of knowledge, its justification, and relationality of belief.¹⁵¹

Based on the above discussion, this study employing interpretive research approach which is often used in qualitative research and assumes that the reality is socially constructed, to be precise, there is no single, observable reality. Somewhat, there are multiple realities or interpretations of a single case or event. The interpretivist comprehends the world of human experience, discovering reality through participant's opinions.¹⁵² To put differently, in the interpretive approach a researcher often does not "find" knowledge, however, he constructs knowledge by interpretation. Thus, interpretivism and constructivism are often interchangeable.¹⁵³ Since the late 1970s, the concept of interpretivism is using in the field of education. The concept is based on individual experiences, data collection through interviews and analysing documents.¹⁵⁴ In the current study, the researcher adopted interpretivism which is more likely to use an inductive approach using qualitative data.¹⁵⁵ This philosophy helps the researcher to ask the right questions and even gives additional confidence in a conclusion.¹⁵⁶

¹⁵⁰ Lincoln, Yvonna S, Susan A Lynham, and Egon G Guba. "Paradigmatic Controversies, Contradictions, and Emerging Confluences, Revisited." *The Sage handbook of qualitative research* 4 (2011): 97-128.

¹⁵¹ Carter, Stacy M., and Miles Little. "Justifying Knowledge, Justifying Method, Taking Action: Epistemologies, Methodologies, and Methods in Qualitative Research." *Qualitative Health Research* 17, no. 10 (2007): 1316-28.

¹⁵² Creswell, John W., 2013. Op. cit.

¹⁵³ Creswell, J. *Qualitative Enquiry & Research Design: Choosing among Five Approaches*. 4th ed. (London, Sage Publications, Incorporation, 2016).

¹⁵⁴ Lather, Patti. "Paradigm Proliferation as a Good Thing to Think With: Teaching Research in Education as a Wild Profusion." *International journal of qualitative studies in education* 19, no. 1 (2006): 35-57.

¹⁵⁵ Hammersley, Martyn. *Methodology: Who Needs It?* Sage Research Methods. (Sage Publications, Incorporation 2011). doi:<http://dx.doi.org/10.4135/9781412995580>.

¹⁵⁶ King, Gary, Robert O Keohane, and Sidney Verba. *Designing Social Inquiry: Scientific Inference in Qualitative Research*. (New Jersey Princeton University Press, 1994), 42

1.5.2 Research Design of the Study

The figure below illustrates the overview of the research design (See Fig 1.2).

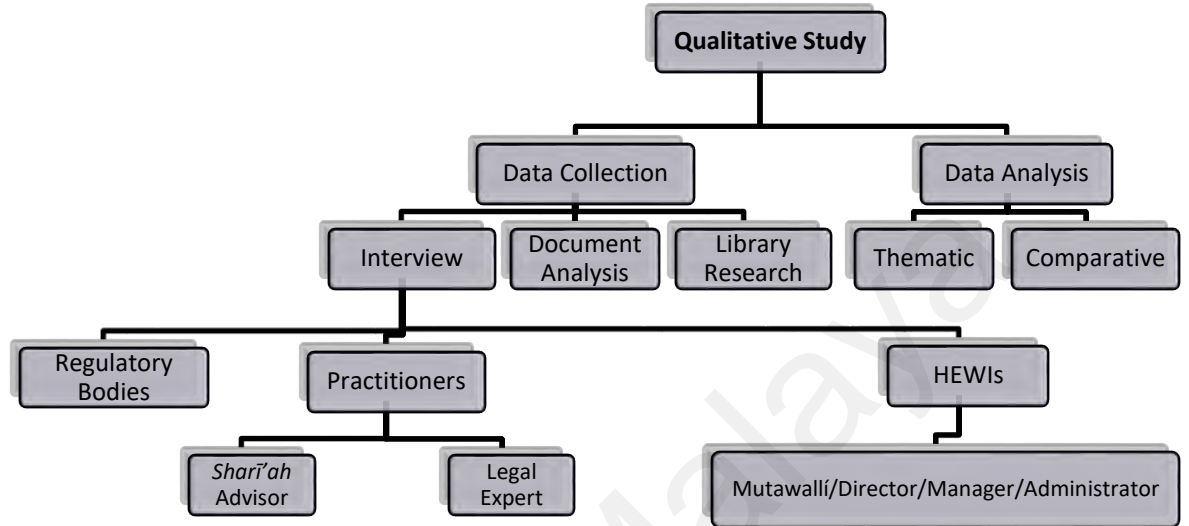


Figure 1.2: Research Design of the Study

Source: Researcher's own Compilation

The present study is centered on the researcher's investigation related to financing higher education through waqf institution. The outcomes of the study are more like narrative reports specifically interpretation based on the careful investigation of the waqf financing, investment, and development for higher educational institutions in both countries.

1.5.3 Rationale for the Qualitative Approach

Based on the research objectives, the present study is a qualitative research. For the reason that, it is required in-depth and rich information regarding waqf in Pakistan and Malaysia. In this context, it needs to learn more from participants through exploration.¹⁵⁷ For that reason, the study is based on a semi-structured interview (open-ended questions), mainly

¹⁵⁷Creswell, J W. *Educational Research: Planning, Conducting, and Evaluating Qualitative and Quantitative Research* (Harlow, United Kingdom, Pearson, International Edition, 2012)

on HEWIs personnel as well as waqf regulatory bodies, *sharī'ah* and legal experts from both countries. Based on the evidence mentioned above, the qualitative research approach is more suitable for this study. Several studies such as Purcell¹⁵⁸, 2011, Johnson¹⁵⁹, 2009 and Mashitoh¹⁶⁰, 2000, applied qualitative research approach for in-depth exploration.

In Malaysia, Mashitoh¹⁶¹, 2000, conducted a study on the administration of waqf, a pious endowment in Islam with special reference to the federal territory of Kuala Lumpur. Given that, the author also has a qualitative study on financing higher education on various countries; "*Financing Universities through Waqf, Pious Endowment: Is It Possible*" this study is based on the case of two countries including Malaysia and Turkey.¹⁶² In Pakistan, Hayat, Naeem, and Ammara Naeem¹⁶³ conducted a case study on "*Corporate Waqf: A Case of Hamdard (Waqf) Pakistan*" which is another relevant example for the current study. Hence, the present study is qualitative in nature and for in-depth analysis, it follows the case study technique.

1.5.4 Rationale for Case Study Technique

The present study uses the intrinsic case study¹⁶⁴, which is a study of a case e.g., organization. The exploration is aimed to know more about the uniqueness of the case

¹⁵⁸ Purcell, Mark P. 2010 Op cit,

¹⁵⁹ Johnson, Ane Turner. "Mobilizing Higher Education for Development in Africa: A Case Study of the Association of African Universities ", (New Jersey, United States Rowan University, 2009).

¹⁶⁰ Mahamood, Siti Mashitoh (2006) Op. cit.

¹⁶¹ Mahamood. Siti Mashitoh. *The Administration of Waqf, Pious Endowment in Islam : A Critical Study of the Role of the State Islamic Religious Councils as the Sole Trustees of Awqāf Assets and the Implementation of Istibdāl in Malaysia with Special Reference to the Federal Territory of Kuala Lumpur*, (Kuala Lumpur, University of Malaya,, 2000).

¹⁶² *ibid*

¹⁶³ Hayat, Naeem, and Ammara Naeem. "Corporate Waqf: A Case of Hamdard (Waqf) Pakistan "Social Science Research Network (2014). doi:http://dx.doi.org/10.2139/ssrn.2487713.

¹⁶⁴ The intrinsic case study offers an opportunity to understand particularities. The researcher is interested in context and is seeking both depth and breadth in his or her exploration. Qualitative research methods are best aligned with the philosophical underpinnings of the intrinsic case, where researcher, participants, and readers play a role in reconstructing experience. Jane Appleton contends that, although he does not state it explicitly, Stake's approach to case study research is underpinned by constructivism. The intrinsic case is exploratory in nature; however, preparation around whom to talk with, where to gather data, and which events to observe are still important. Data analysis will focus more on interpreting meaning rather than aggregate categorizing of data, as is in common the instrumental case. The intrinsic case strives to capture the richness and complexity of the case. The structure of the case report is likely to be emergent in nature,

rather than to build a theory or how the case represents other cases. Therefore; it should appreciate that choosing a particular case does not limit to the selected case in comparing with other cases of the same sort. Consequently, besides other possible reasons the researcher interest could also be accepted. This method allows to focus on a “case” and retains a holistic and real-world perspective to understand social phenomena i.e., Individual or group behaviour, organizational and managerial processes, college and university performance, transition, and maturation of industries.¹⁶⁵ As a consequence, anthropologist and sociologist in education, health, law, and social work have often been interested in specific cases for understanding a phenomenon. In this regard, a famous example may be by Piaget¹⁶⁶, he developed “*theory of cognitive development*” through researching his own two children.¹⁶⁷ For that reason, the selection of three cases from each of both countries in this study would be considered and accepted.

1.5.5 Selected Case Studies

In this study, the selected sample of cases is three from each country; (See. Table 1.1 and 1.2 for Pakistan and Malaysia respectively). For primary data collection, a semi-structured interview (open-ended questions) is conducted, particularly from waqf HEIs officials including waqf *mutawalli*, manager, director or administrator. Besides these selected HEIs, participants from waqf regulatory bodies or government/state agencies related to waqf institution are also interviewed. Lastly, interviews with *shari’ah* advisors

largely determined by the stories and experiences that surface from the data collected. For more detailed, cf. Mills, Albert, Gabrielle Durepos, and Elden Wiebe. *Encyclopedia of Case Study Research*. (Thousand Oaks, California 2010). DOI:10.4135/9781412957397

¹⁶⁵ *ibid*

¹⁶⁶ Wadsworth, B.J. *Piaget's Theory of Cognitive and Affective Development*. (The University of Michigan: Pearson, 2004).

¹⁶⁷ Merriam, Sharan B. *Qualitative Research: A Guide to Design and Implementation*. (United States, John Wiley & Sons, 2014).

and legal experts from various waqf research and Islamic financial institutions are also incorporated.

Table 1.1: Selected Cases from Pakistan

Waqif	HEIs	Financing Entity
Hakim Mohammed Said (Shaheed)	Madinat al-Hikmah Hamdard University And various other HEIs	Hamdard Laboratories waqf, Pakistan
Mr. Ebrahim Ahmed Bawany	Aisha Bawany Degree College & Asia Bawany Academy And various HEIs	Begum Aisha Bawany Educational and Welfare Waqf
Maulana Tufail Ahmed Farooqi	Tablighi College Nursing School Law College Murshid Hospital	Darul Tasnif (private) Limited

Sources: Compiled by Researcher

Table 1.2: Selected Cases from Malaysia

Waqf Center	HEIs	Waqf fund
Center for <i>Awqāf</i> and <i>Zakāt</i> (PWZ)	Islamic Science University of Malaysia (USIM)	Dana Waqf Ilmu (USIM)
Chancellery Foundation	Putra University of Malaysia (UPM)	Dana Waqf Ilmu(UKM)
Centre for Management of Waqf, <i>Zakāt</i> and Endowment (WAZAN)	National University of Malaysia (UKM)	Dana Waqf Ilmu,(UPM)

Sources: Compiled by Research

1.5.6 Rationale of Selected Cases

This study is based on two countries Pakistan and Malaysia. In research, multicultural studies involves dealing with countries that have different legal frameworks, demographics, languages, economies, social structures, behaviour, and attitude patterns. Thereby, the study focus on two said country. The constraint of time and space, do not

allowed to increase in number of countries and cases. An important point to keep in mind in designing multicultural research to be applied across cultures is to ensure comparability and equivalency of results. Different methods may have varying reliabilities in different countries. These differences must be taken into account in the design of multicultural research. Such differences may mean that different research methods are applied in individual countries¹⁶⁸ In Pakistan, the study is based on Karachi, the metropolitan city of Pakistan. Whereas, in Malaysia, the study is based on two states including Negeri Selangor and Negeri Sembilan. In Pakistan, three case studies are selected from private *awqāf* that is because in Pakistan public and private both waqf institutions are available. However, in term of HEIs funding the role of private *awqāf* is greater and considerable.¹⁶⁹ Hence, all three cases belong to private *awqāf* and declared as waqf institutions which can verify their founding bodies' official websites. In Malaysia, waqf is considered as a state matter, hence, the only those cases are selected have approval from State Islamic Religious Councils (SIRCs) and presented as relevant waqf models in the purple book.¹⁷⁰ Retaining on, purposive sampling¹⁷¹ only particular case studies, *sharī'ah*, and legal experts and relevant individuals are selected from the personnel of waqf institutions of these HEIs in both countries.

¹⁶⁸ Fields Andrew J 2010. Multicultural research and practice: Theoretical issues and maximizing cultural exchange. *Professional Psychology: Research and Practice*, 41, 196. For more detail cf. American Psychological Association. "Guidelines on Multicultural Education, Training, Research, Practice, and Organizational Change for Psychologists." *The American Psychologist* 58, no. 5 (2003): 377; Given Lisa M. *The Sage Encyclopedia of Qualitative Research Methods*. Sage publications, 2008.

¹⁶⁹ For more detail please see. Chapter 3

¹⁷⁰ Ministry of Higher Education Malaysia. *Enhancing University Income Generation, Endowment & Waqf, University Transformation Programme, Purple Book*. 62200 (Putrajaya, Malaysia: Ministry of Higher Education, Malaysia, 2016).

¹⁷¹ A purposive sample also referred to as a judgmental or expert sample, is a type of nonprobability sample. The main objective of a purposive sample is to produce a sample that can be logically assumed to be representative of the population. This is often accomplished by applying expert knowledge of the population to select in a non-random manner a sample of elements that represents a cross-section of the population. For more detail cf. Lavrakas, Paul. *Encyclopedia of Survey Research Methods*. (Thousand Oaks, California, 2008). p. 646. DOI: 10.4135/9781412963947.

1.6 Data Collection Sources

This study has a unique strength to deal with a full variety of evidence. Therefore, the study obtained data from primary and secondary sources. The primary data is collected through open-ended (semi-structured) interviews, and archival records (documentation). While secondary data sources are also incorporated. Hence, the study having multiple sources of evidence, which proves that the study is robust.¹⁷² In multiple cases, it is important to converge data sources, through triangulation to ensure comprehensive results that reflect the participants' understandings as accurately as possible. Triangulation is very crucial to performing a case study reliability. Additional sources of data allow creating a story based on the scope of research.¹⁷³ Hence, this study selected interview as a primary data collection instrument and then increased the thickness and richness of data with two additional data sources.

1.6.1 Interview

This study used an open-ended interview protocols as a primary data collection source, Therefore, semi-structured (open-ended) interview protocols (See appendix A, B C, D, and E) are designed to achieve the objectives of the study. Since, semi-structured detailed interviews are predominantly practiced interviewing technique for qualitative research¹⁷⁴. Accordingly, in this study the aim of interviewing is to explore and find out what is in participant's knowledge about waqf financing, investment, and development. Throughout interviews, a good relationship has been established between interviewer and interviewee. Each interview session started after taking proper consent and approval from the participants and lasting 1-2 hours. The interview finds out from participants those things

¹⁷² Green, Judith L, Gregory Camilli, and Patricia B Elmore. *Handbook of Complementary Methods in Education Research*. (Now York, Routledge, 2012).

¹⁷³ Yin, Robert K 2013. Op. cit.

¹⁷⁴ Esterberg, Kristin.G. *Qualitative Methods in Social Research*. (McGraw-Hill, 2002).

which the researcher cannot observe.¹⁷⁵ For that reason, interviews were conducted from July 2016 to December 2017 and all participants were found to have a strong passion and understanding regarding *waqf*, thereby provided useful insights. When conducting an interview, two-point has been practiced; active listening and non-judgmental behaviour and that cautioned against leading questions or dichotomous, which could lead to a closed style. Therefore, this study is using the interviews with open-ended questions. Before starting every interview, the researcher introduced himself with the participants to create the trust and communication follow and shared information about this study and which allowed the researcher to put participants at ease and allowed for an optimal interviewing environment. One of the main goals of this study is to understand how the participants made meaning of their experiences in waqf financing, investment and development of higher education institutional funds. The interview approach linked participants experience as they expressed the ways in which they viewed and reviewed. Since, mentioned in-depth interviews with semi-structured, describing the less rigid method than structured interviews, and allowing for a free exchange of idea and information between the interviewer and interviewee¹⁷⁶. Initially, this study framework is validated through expert's opinion and a pilot study. Finally, interviews were conducted with the participants.

1.6.1.1 Expert Opinion

In the present study, in order to ensure the content validity and face validity of the interview protocol, the first draft has been discussed with waqf experts in Pakistan and Malaysia. The opinions and discussions helped to improve the design of the interview. The improved interview protocol was sent to some professionals for expert opinions.

¹⁷⁵ Seidman, Irving. *Interviewing as Qualitative Research: A Guide for Researchers in Education and the Social Sciences*. Teachers College Press, 2013; for more detail cf. Patton, Michael Quinn. *How to Use Qualitative Methods in Evaluation*. (New Delhi: India, Sage, 1987).

¹⁷⁶ *ibid*

Hence, this study improved the interview protocol in light of their suggestions and expert opinions.

1.6.1.2 Pre-Pilot Testing of Interview Protocol

Experts amended the interview protocol and suggested a few points to be considered. Prior to conducting actual interviews, a pilot interview is designed and conducted to confirm the reliability and validity of the interview. For the pilot study, the interview protocols were prepared in English so that the participants do not face any difficulty in understanding and hence responding.

The interview participants were divided into three main categories which are (1) waqf HEIs personnel (2) state authorities or waqf regulatory bodies' and 3) waqf practitioners; legal and *shari'ah* experts (See Table 1.3).

Table 1.3: List of Participants¹⁷⁷

Categories	Pakistani Participants	Malaysian Participants
Waqf Institutions for HEIs	Sadia Rashid	Fuadah Johari
	Farrukh Imdad	Haji Mohammad Haji Alias
	Ismail Bawany	Haji Ahmad Zakie Ahmad Shariff
	Fareed Ahmed Entuley	Wan Kamal Mujani
Waqf Practitioners & Legal Experts	Abdul Baqi	Razali Othman
	Abdul Bari	Nuruliman bin Ibrahim
	Noor Ahmed Shahtaz	Md Nurdin Ngadimon
	Surayya Qamar	Noor Inayah Yaakub
	Zahir Ahmed Zahir	Sharifah Zubaidah Abdul Kader
	Kalil Ahmed Azami	Mohd Nazri Chik
	Irshad Ahmed Aijaz	Ahmad Azrin Bin Adnan
	Sheikh Muhammad Noman	Mohamad Noh Bin Abdul Rahim
	Muhammad Zahid Sanghaarwi	Tengku Mahmud Bin Mansor
	Muhammad Awais Naeem	Ibrahim Bin Mohd Hassan
	Muhammad Shakir Siddiqui	Mohd Faysal Bin Mohammed
	Khalid Manzoor Butt	Ibrahim Bin Kamat
Regulatory Bodies & States Authorities	Tahir Raza Bukhari	Azzeroel Effendi Abdul Kadir
	Pervaiz Ahmed	Nur Izzati Binti Adnan
	Kamran Shams	Anuar Hamzah Tohar
	Habib ur Rehman	Nawal Ashiqin Abdul Rahman

Source: Compile by Researcher

¹⁷⁷ Detail profile of each participants can be found in the references.

1.6.1.3 HEWIs Personnel

HEWIs officials are personnel having the responsibilities to deal with waqf financing, investment, and development as well as to handle all the issues and matters with waqf regulatory or state authorises. Every waqf institution has designated personnel and assigned a title to them with reference to the internal governing structure or legal frameworks accordingly, such as waqf *mutawallī*, director, manager or administrator.

1.6.1.4 Waqf Regulatory Bodies' Officials

In Pakistan, the officials from *awqāf* department under the Ministry Religious affairs and Securities and Exchange Commission of Pakistan (SECP) are included to understand the legal framework of the waqf for HEIs in Pakistan. While in Malaysia officials from Majlis Agama Islam Negeri (MAIN); for the state of Selangor and Negeri Sembilan, and Securities Commission Malaysia were interviewed as well.

1.6.1.5 Waqf Practitioners

To understand the concept of waqf in *sharī'ah* and legal perspective in both countries, *sharī'ah*, and legal experts' opinions are also incorporated. For that reason, waqf practitioners are interviewed to know the waqf status in *sharī'ah* and its regulatory framework.¹⁷⁸

1.6.2 Archival Records

In conjunction with the interview, for each case study archival records are also taken. The archival records mainly classify as legal, fiscal, administrative or historical records. These include charters, annual reports, budget, and organizational records. Likewise, documents which are available through the internet and libraries, are included. For example, agendas,

¹⁷⁸ A regulatory framework pertains to necessary regulations and other important information, like relevant rules, laws and regulatory bodies.

the announcement of minutes, other written reports, administrative documents, other internal records and formal studies or evaluations related to the cases.

1.6.3 Secondary Sources

The secondary sources are used. i.e., scholarly peer-reviewed sources, journal articles, books, contracts, state constitutions, charters and other existing published and unpublished reports.

1.7 Data Analysis

This study used the thematic analysis as the main technique for data analysis in each case study. Subsequently, all case studies are compared with employing Qualitative Comparative Analysis (QCA).

1.7.1 Thematic Analysis

Thematic analysis is considered as a foundation method for qualitative research analysis. It is a method for identifying, analysing, and reporting patterns (themes) within the data. It systematizes and describes your data set in rich detail.¹⁷⁹ Ryan and Bernard consider thematic analysis as a process performed within “major” analytic tradition.¹⁸⁰

Generally, the thematic data analysis might be followed in two primary ways; inductive or deductive.¹⁸¹ In an inductive approach, the themes identified are strongly linked to the data because assumptions are data-driven.¹⁸² This means that the process of coding occurs without trying to fit the data into a pre-existing frame. It is important to note that throughout this inductive process, it is not possible for the researchers to free themselves from their theoretical epistemological responsibilities. Deductive approaches,

¹⁷⁹ Braun, Virginia, and Victoria Clarke. "Using Thematic Analysis in Psychology." *Qualitative Research in Psychology* 3, no. 2 (2006): 77-101.

¹⁸⁰ Ryan, G.W. and Bernard, H.R. *Data Management and Analysis Methods*. Handbook of Qualitative Research. Sage, (2000). 789-780

¹⁸¹ Braun, Virginia, and Victoria Clarke (2006) Op. cit.

¹⁸² Boyatzis, Richard. 1998. Op. cit.

on the other hand, are theory-driven.¹⁸³ This form of analysis tends to be less descriptive overall because the analysis is limited to the preconceived concepts and theories. The result tends to focus on one or two specific aspects of the data that were determined prior to data analysis. The choice between these two approaches generally depends on the researchers' epistemologies. However, this study mainly follows an inductive approach.

Table 1.4: Steps of Thematic Analysis

Step	Description of the steps
Familiarisation with data	Transcribing data, reading and noting ideas
Coding	Coding interesting features of data
Thematising	Organising codes into potential themes
Reviewing themes	Generating a thematic “map” of the analysis
Defining and naming themes	Refine and generating clear definitions for each theme
Reporting	Selection of rich and convincing extract examples, the final analysis of selected extracts, relating back to the analysis to the research question(s) and literature, producing a scholarly report of the analysis.

Sources: Braun, Virginia, and Victoria Clarke. 2006,

1.7.2 Analysis Process

In the present study, the process of thematic analysis was started when the researcher began to notice, and look for, patterns of meaning and issues of potential interest in the data. It started with the data collection and ended reporting the content. The analysis included a continuous moving back and forward between the entire data set. Table 1.4 provides an outline of thematic analysis, the table provides a summary of phases of thematic analysis. During the analysis, this study important to realise that qualitative thematic analysis guideline are not rules, in the same way, the analysis should not be considered as a linear process from one phase to the next, but, it is a more recursive

¹⁸³ Crabtree, Benjamin F, and William L Miller. Doing Qualitative Research. (London, Sage Publications, 1999).

process, where movement back and forth needed, throughout the phases. Same as it is a process that develops over time thus, the researcher should not be in rush.¹⁸⁴

In the beginning, a large quantity of raw data from the different sources including Interview, archival records, and secondary sources are focused and labeled to generate codes. In this regard, the original sources are read and re-read, one by one, line by line. Straightaway found codes those are relevant to the research objectives. In the study, the code represents a label attached to a phrase or short sequence the researcher analysed. For instance, “waqf box” for each term mentioned in the text represents a traditional mechanism to collect cash waqf. Subsequently, the selected codes are re-examined to develop categories. In the study, a category¹⁸⁵ is a collection of similar data sorted into the same place and this arrangement enabled the researcher to identify and described the characteristics of the category. For instance, “Waqf laws and regulations” coded as “regulatory framework”, and “Waqf incorporation”. At the final stage, a higher level of categorisation, a meaningful essence that runs through data and identifies a major element of researcher thematic analysis of the text(s). For example sources of finance, fund management, and fund Utilisation. At the stage of reporting, the researcher accumulated and compiled all data and produced in the theoretical proposition with detail discussion. The interpretation and discussion of findings carried out based on the research objectives and themes. In addition, the researcher made an effort to lead the study to the best and most reliable conclusion. Thereby, as a tool, the researcher did not use any computer software for data analysis merely the research rely on the interpretation of the analysis.

¹⁸⁴ Anzul, M., M. Downing, M. Ely, and R. Vinz. *On Writing Qualitative Research: Living by Words*. (Washington D.C., Taylor & Francis, 2003).

¹⁸⁵ Morse, Janice M. "Confusing Categories and Themes." *Qualitative Health Research* 18, no. 6 (2008): 727-28.

1.7.3 Qualitative Comparative Analysis (QCA)

This study contains more than one cases. In this context, the study has employed a multiple-case design. Multiple cases allow researchers to discover differences within and between cases. The main goal is to imitate findings across cases. For this reason, comparisons will be drawn in two different manners; across cases and across countries. For this reason, the study follows the Qualitative Comparative Analysis (QCA) technique in comparing the given cases. It compares waqf financing, investment, and development used by these HEIs. In the first phase, within the country, each case study is compared with another one. Then, a general description is presented for each country. In the second phase, both countries are compared. This approach is centered on case-based knowledge and abbreviated QCA. Essentially, QCA conceived as an aid to interpretive analysis of the cases (p.120). As a research strategy, it imagines the “*dialogue between ideas and evidence*”. It is first and foremost *comparative in nature*. In brief, it strives to meet two goals. 1), gathering in-depth insight into the cases and 2) producing some level of generalization.¹⁸⁶ It is important that the cases are chosen carefully so that the researcher can predict similar results across cases, or predict contrasting results based on a theory.¹⁸⁷

1.7.4 Trustworthiness

In this study, interviews are contacted directly face to face and a digital recorder (Sony IC recorder ICD-PX440), was used to record the interview. Prior to that, a copy of the interview guidelines along with the synopsis of the research was mailed to participants. Every interview session started after taking consent and approval (See Appendix. I) from the participants. The recording helped to confirm the accuracy of the data collection as well as interview transcription and coding.

¹⁸⁶ Rihoux, Benoît. "Qualitative Comparative Analysis (QCA) and Related Systematic Comparative Methods Recent Advances and Remaining Challenges for Social Science Research." *International Sociology* 21, no. 5 (2006): 679-706.

¹⁸⁷ Yin, Robert K. 2013, p.57 Op cit.

This study refers to the accuracy of information obtained through the qualitative data collection. In a qualitative study, validation of data is crucial as it “determines whether the account provided by the researcher and the participants is accurate, can be trusted, and credible¹⁸⁸” (p. 134). In this regard, the study boarded various verification strategies to confirm the accuracy of the data and information collected. Therefore, member checking and data triangulation are conducted at various stages of the study, to determine the accuracy and credibility of the qualitative research findings gained from multiple evidence of data collection.¹⁸⁹ The study utilised triangulation as a research strategy to ensure internal validity and reliability of data findings. Triangulation essentially refers to the use of “multiple investigators, multiple sources of data, or multiple methods to confirm the emerging findings.¹⁹⁰

1.8 Organisation of the Thesis

The thesis comprises seven chapters.

Chapter One: *Introduction*, this chapter presented a background of the study, statement of the problem, research objectives, and research questions, the scope and significance of the study. In addition, it also takes into account a detail literature review as well as the theoretical framework and a brief research methodology used in the study.

Chapter Two: *Concept and theory of waqf*: this chapter comprehends theoretical discussion of waqf in various aspects such as its literal meaning, validation, and conditions, In addition, it discussed the concept of *ibdāl* (sale) or *istibdāl* (Exchange) besides various kind of waqf. Finally, considering the position of waqf, its importance,

¹⁸⁸ *ibid*

¹⁸⁹ Creswell, J W. *Educational Research: Planning, Conducting, and Evaluating Qualitative and Quantitative Research* (Harlow, United Kingdom, Pearson, International Edition, 2012)

¹⁹⁰ Merriam, Sharan B., 2014. Op cit,

objectives, and management have been discussed besides a few pieces of evidence of waqf practice around the world.

Chapter Three: *Waqf financing, investment, and development for the higher educational institution in Pakistan*, This chapter discusses waqf in terms of its legal framework, fundraising, fund management and fund utilisation with reference to Pakistan. Initially, this chapter briefly introduced the historical development of waqf in Pakistan along with the current practices of waqf in higher education institutions development. In the later part of this chapter, waqf governance, rules, and regulations are discussed. The chapter ends with the discussion of fundraising mechanism, fund management, and fund utilisation.

Chapter Four: *Waqf financing, investment, and development for the higher educational institutions in Malaysia*. This chapter discusses waqf in terms of its legal framework, fundraising, fund management and fund utilisation with reference to Pakistan. Initially, this chapter briefly introduced the historical development of waqf in Malaysia along with the current practices of waqf in higher education institutions development. In the later part of this chapter, waqf governance, rules, and regulations are discussed. The chapter ends with the discussion of fundraising mechanism, fund management, and fund utilisation.

Chapter Five: *Issues and challenges for higher educational waqf institutions in Pakistan and Malaysia*. This chapter mainly consists of two sections, the first section discusses issues and challenges to waqf institution in Pakistan and subsequently issues and challenges to waqf institutions in Malaysia. Each section addressed issues and challenges facing by waqf institution in term of waqf governance through state laws and regulations and within higher education waqf institution. Furthermore, to some extent, it is also highlighted some issues and challenges faced by the waqf institution in the society.

Chapter Six: *Findings and comparison.* This chapter presents a brief summary of findings on the waqf for higher education institutions in both countries and makes a comparison between them. The first section discusses the concept of waqf and its role in financing higher education. The second section discusses individual countries' Pakistan and Malaysia with respect to mentioned waqf cases' financing, investment, and development. In addition, the issues and challenges in waqf development for higher education are also mentioned. The third section presents a comparison of both countries.

Chapter Seven: *Conclusion and policy recommendations.* In the last chapter, the study discoursed conclusion, policy recommendation to Pakistan and Malaysia in three different perspectives including government, waqf higher educational institution and Islamic financial institution in both countries. In the last, the study discussed the limitation of the study and some future research recommendation.

1.9 Conclusion

This chapter has introduced the background of the study, statement of the problem, research gap, research objectives, research questions and significance of the study. In the same manner, it defined the scope and rationale of the study. Furthermore, it presented a relevant literature review, theoretical framework, and the study framework. In the section of methodology, the methodology of the study, the research paradigm, the rationale for the research method and selected cases, data collection sources, data analysis, and organization of the thesis are presented

CHAPTER 2: CONCEPT AND THEORY OF WAQF

2.1 Introduction

A full grasp of the concept of waqf helps to understand its practice in societal welfare and more specifically in higher education institutions development. It is therefore essential to understand the theory and concept of waqf before dilating on its practice in HEI development in Pakistan and Malaysia. The theoretical discussion of waqf includes a number of issues such as literal meaning, validation, and conditions of waqf. In addition, it also discusses the concept of *istibdāl* (exchange) besides various other kinds of waqf. This chapter sheds light on the importance of waqf, its overview, objectives, importance, and management substantiated by a few working examples of waqf practice around the world.

2.1.1 Literal Meaning of Waqf

The waqf (pl. *Awqāf*) is an Arabic word which means stop, restrain and hold. Normally, it is translated as "detention" ¹⁹¹ and is mostly used as "*waqf*". For example, in "*wuqūf* 'arāfah" the pilgrims restrain and hold themselves within the valley of 'arāfah for 'ibādah.

الوقف فلان يتبعه سالن بى لى بى وى واحد ، و هو غتال حبس عزال تنصرف فى الوقفت
كذا ايجس به ----- ومنه لمدق فل بى سالن اسفلى لى حبس اب فم اشق هرا ل
اسلم ف عول و هو لمدق وفى عور عن ال فى فل حبس ، وقا لى الم غرب : زى ر حباس

Translation: Waqf, *al-tahbīs* and *al-tasbīl* have similar meanings, it means literally "to hold" or "restrain" from using. For example, it is said, "I stopped something that is withheld it". Also derived from the word is "time or place to hold, detain people in it for accountability". It is also used as a past participle '*mawqūf*' for a suspended divorce, which is made time-bound, and is explained by 'to hold thru detention'. In Morocco, a waqf minister is called the minister of al-aḥbās.¹⁹²

¹⁹¹ Muḥammad Ibn Mukarram Ibn Manzūr, *Liṣān al-‘Arab*, al-ṭab’ al-‘Awlā vol. 15 (Bayrūt: Dār Iḥya’ al-Turāth al-‘Arabī, 1988), 384.

¹⁹² Al-Zūḥaylī, Wahbah, *al-Fiqh al-Islāmī wa ‘Adillatuh*, vol. 8 (Bayrūt: Dār al-Fikr, 1984), 153.

Based on the above discussion, waqf has various meanings, though the core and essence of the word remain the same in all usages.

2.1.2 Waqf in Fiqh

In Islamic jurisprudence, four different Sunni schools of thoughts interpreted waqf differently. In Ḥanafī School of thought, initially, Imām Abū Ḥanīfah defined waqf as follow:

حسب المال عين على ملك كالوقف الوقت صدق بالانف ع

Translation: The detention of a specific thing in the ownership of the founder, or its creator and, devoting or dedicating of its usufruct in charity.¹⁹³

It means the owner will remain *waqif*, and waqf income or usufruct can be utilised for charity purposes, for instance, to help the needy or other good deeds including lending or accommodating in the manner of ‘*ariyah*’ (loan).¹⁹⁴ However, later, two famous students of Imām Abū Ḥanīfah, Imām Abū Yūsuf, and Imām Muḥammad defined waqf as.

حسب المال عين على حكم ملك الله على وجه عتق مال لى عباد

Translation: Original property’s ownership transfers to Allah and its usufruct or income is devoted for the specified welfare purposes.¹⁹⁵

Based on the above discussion, in Ḥanafī School waqf property ownership goes back to Allah and only the yield or income can be utilised for specified purposes declared by *waqif*. The Malikī jurists describe waqf as:

وهو (الوقف) جعل عين مملوكة لربها لخدمة مقاصد شرعية مدومة لا لمصلحة

¹⁹³ Al-Marghīnānī, Burhān al-dīn Abū al-Ḥaṣan ‘li Ibn Bakr *Hidāyat ma’ Fataḥ al-Qadīr*, (Qūaṭṭā, Maktaba Rāshīdīa, 1983), 5:418

¹⁹⁴ Al-Zūḥaylī, Wahbah, *al-Fiqh al-Islāmī wa ‘Adillatuh*, vol. 8 (Bayrūt: Dār al-Fikr, 1984), 153; Nizām, al-Shīkh Jāma’t ‘ūlama al-Hīnd min al-Qarīn al-Aḥdā ‘Ashra, *Al-Fatawā Al-Hindīyah*, (Qūaṭṭā, Māktābā Mājīdīa, 1983), 2:350

¹⁹⁵ Al-Marghīnānī, Burhān al-dīn Abū al-Ḥaṣan ‘li Ibn Bakr, *Hidāyat ma’ Fataḥ al-Qadīr*, (Qūaṭṭā, Maktaba Rāshīdīa, 1983), 5:418; Nizām, al-Shīkh Jāma’t ‘ūlama al-Hīnd min al-Qarīn al-Aḥdā ‘Ashra *al-Fatawā al-Hindīyah*, (Qūaṭṭā, Māktābā Mājīdīa, 1983), 2:350

Translation: Waqf is (someone devotes his) property's income or usufruct for a particular duration, the time duration will be decided by *waqif*.¹⁹⁶

Certainly, in Mālikī School of thought only the income or usufruct is devoted for the duration of waqf property existence; while, waqf ownership will be retained with the founder (*waqif*), even though, the founder is no longer entitled to use the waqf property.¹⁹⁷ On the other hand, Shāfi'ī and Ḥānbalī have taken the strong view that waqf refers to the “*tying up of the substance of a property and the devoting of its usufruct for the benefit of mankind, in such a manner that ownership of it belongs to Allah*”.¹⁹⁸ Ibn Qudāmah define waqf as

تحبس أصله في الشئ

Translation: “Tying up the substance of a property and the devoting of its usufruct for the benefit of mankind”.¹⁹⁹

More precisely, this Ḥānbalī definition originates from *ḥādīth* when Holy Prophet Muhammad ﷺ said to Hazrat ‘Umar RA

حس أصله في الشئ

Translation: Preserve the original and devote usufruct.²⁰⁰

In brief, the designation of waqf is similar in all the *Sunni* madhhab; Ḥanafī, Mālikī, Shāfi'ī, and Ḥānbalī. While the interpretation of the essentials of waqf may differ to some extent. However, regardless of the disparity in term of waqf definitions, the basic legal meaning and fundamental concept of waqf is agreed all over the Muslim world as

“The dedication of property either in expressed terms or by implication, for any charitable or religious object, or to secure any benefit to human beings”.²⁰¹

¹⁹⁶ Abū al-barkāt aḥmad bin Muḥammad al-dardīr, *Al-Sharāḥ Al-Saghīr*, (Miṣr, Dārūl al-ma‘rīf, 1974) 4:97

¹⁹⁷ *ibid*

¹⁹⁸ *ibid*

¹⁹⁹ Mūfiq al-dīn Abū Muḥammad Abd Allah bin Aḥmad bin Muḥammad bin Qadāmah al-muqaddasī, *Al-Mughanī*, (al-Riyāḍ, , Dār ‘ilm Kūṭab,1997), 8:184

²⁰⁰ Ibn Hajar, Aḥmad bin ‘li bin Ḥajar al-‘Asqalānī, *Fataḥ al-bārī*, (Lāhor, Dār Nāshr lil kutub al-İslāmī, 1959), 5: 259; Al-shūkānī, Muḥammad bīn Muḥammad al-shūkānī “Nīl al-awṭār” (Miṣr, Mustāfā al-bābī al-halabī, 1926), 6:19

²⁰¹ Waatts-Chevalier .J, *Charity law: International Perspective*, (New York, Routledge, 2018), 59

Accordingly, waqf is created for welfare purposes, which may be religious, social and economic well-being. Waqf ‘retains’ a property in perpetuity, which means it cannot be sold, demoted and inherited, to anyone or otherwise disposed of. In *sharī’ah*, the institution of waqf permits a person to offer his/her property to Allah for all times and is used for the beneficial purpose specified by the *waqif* such as education, mosques, or helping the needy.²⁰²

2.1.3 Origin of Waqf

The concept of waqf appeared in the Islamic context despite the fact that there is not a clear specific reference to it in the *Qur’ān*. Legitimately, the concept of waqf in the *sharī’ah* is only confined by evidence of waqf presence during the Holy Prophet Muhammad ﷺ period and of his approval of it.²⁰³

When Hazrat ‘Umar RA came to the Holy Prophet Muhammad ﷺ and intent to endow some of his property from Khaybar, a garden of date-palms named “*thamgh*” ‘Umar said, “*O’ Allah's Messenger! I have a piece of land that I prize highly and I want to give it to charity.*” Prophet Muhammad ﷺ replied.

تَهْنِ دَقْبِلْ لِهْ، يَا غُ وَ يُوْهْبُ وَ يُوْرَثُ، وَلَئِنْ وَفَّيْتُ مَرْءَهُ

Translation: Give it to charity (i.e., as an endowment) with its land and trees on the condition that the land and trees will neither be sold nor given as a present nor inherited. But the fruits are to be spent in charity.²⁰⁴

²⁰² Bala shanmugan, Nafis Alam and Rina Zahari, *Encyclopaedia: Islamic finance*, (Kuala Lumpur, Insight Network, 2008), 551

²⁰³ Çizakça, Murat. (1998) op. cit.; cf. Cizakca, Murat. "Towards a Comparative Economic History of the Waqf System." *Al-Shajarah* 6 (1997): 63-102; Kuran, Timur. "The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System." *Law and Society Review* (2001): 841-98; See also Singer, Amy. *Charity in Islamic Societies*. (London, Cambridge University Press, 2008), Babacan, Mehmet, *Economics of Philanthropic Institutions, Regulation and Governance in Turkey* (October 1, 2011). *Journal of Economic and Social Research*, Vol 13(2) 2011, 61-89. Available at SSRN: <http://ssrn.com/abstract=2477426>

²⁰⁴ Ibn Hajar, Ahmad bin ‘li bin Hajar al-‘Asqalānī, *Fatah al-bārī*, (Lāhor, Dār Nāshr lil kutub al-İslāmī, 1959), 5: 259; Abū Bakr Ahmad bin al-Ḥaṣan bin ‘Alī al-Bayhaqī, “*Kitāb al-Sunan al-kubrā*” bāb al-sadaqāt al-mḥarmāt, (Bayrūt: Dār al-Kutub al-‘limiyyah, 2003), 159

So, “Hazrat Umar RA gave it in charity, and it was for Allah's cause, the emancipation of slaves, for the poor, for guests, for travelers, and for kinsmen. The person acting as its administrator could eat from it reasonably and fairly, and could let a friend of his eat it, provided he had no intention of becoming wealthy by its means”.²⁰⁵

In spite of that, many other Islamic jurists considered the first waqf in Islam was by the Prophet Muhammad ﷺ the mosque of Madīnah, famous as al-Masjīd al-Nabawī. Prophet Muhammad ﷺ bought a piece of land and constructed a mosque in Madīnah in first *Hijrah*. This land belonged to two orphans from Banī Najjār, Sahal, and Suhīl. Prophet Muhammad ﷺ desired to purchase it. But, both orphans said:

*“By Allah! We will demand its price from none but Allah”*²⁰⁶

They refused to take any money for this land. But, Hazrat Abū Bakr RA paid its price. It seems that it was the Abū Bakr, who purchased and endowed this land instead of the Prophet Muhammad ﷺ himself. Moreover, few other scholars consider the mosque of Quba’ as first religious waqf by Prophet Muhammad ﷺ at arrival in Madīnah.²⁰⁷

On the other hand, Ibn Hajar al-‘Asqalānī quoted that in Islam first waqf was endowed of Mukhayrīq a Jewish from Madīnah, when he bequeathed to his seven orchards to the prophet Muhammad ﷺ upon his death in the *Ghazwa Uhud* in third *Hijrah*. Afterward, Prophet Muhammad ﷺ endowed all these seven gardens. There is also another important reference when the verse of the *Qur’ān* was revealed.

لَن يَتَّقُوا اللَّهَ يَصِفُوا مَا أَحْبَبُوا

Translation: You will not attain piety until you spend what you love.

(Surah Āli ‘Imrān, 3:92)

²⁰⁵ Sahih al-Bukhari, *Kitab Al-Wasaya*, *ḥadīth* no. 2764.

²⁰⁶ *ibid*, *ḥadīth* no. 2771.

²⁰⁷ *ibid*, *ḥadīth* no. 2771.

Hazrat Abū Talhah RA came to the Prophet Muhammad ﷺ and said O' Prophet Muhammad ﷺ the most beloved property to me is a garden of *Bairuḥa*'. It is a valuable fertile land and beloved to me. I prize it above all my wealth. *"I give to Allah and His Messenger hopes for Allah's reward in the Hereafter. So, use it as Allah orders you to use it"* Prophet Muhammad ﷺ replied

"Brave! Abū Talhah distributes it amongst your relatives".²⁰⁸

From the above discussion, it may be concluded that there is a difference of opinions among the Islamic scholars regarding the first waqf in Islam. In short, there are mainly two main opinions, i.e. whether the Prophet Muhammad ﷺ or Hazrat 'Umar RA was endowed first waqf institution. However, the first legal (documented) waqf is considered the waqf of Hazrat 'Umar RA.²⁰⁹

Based on divine scripture, Islam provides various key economic related concepts including waqf, with moral and ethical values addressing humanity, sympathy, forgiveness, generosity, and charity. These economic concepts are mainly from the primary sources of authorities in Islam, specifically, *Qur'ān* and *Sunnah*.

2.1.3.1 In *Qur'ān*

The concept of waqf is connected with a *tawhidic* approach that reflects the Oneness of Allah. Allah has created human beings as His vicegerent to nurture and adore His bounties in the universe as prescribed in the *Qur'ān*

وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ

(Surah al-Dhāriyāt, 51:56)

Translation: And I (Allah) created not the jinn and mankind except that they should worship me (alone)

²⁰⁸ Ibn Hajar, Ahmad bin 'li bin Hajar al-'Asqalānī, *Fatah al-bārī*, (Lahore, Dār Nāshr lil kutub al-Islāmī, 1959), 5: 259

²⁰⁹ Abū Bakr Ahmad Ibn-'Umar Ibn Muhair al-ṣhaibānī al-Ḥaṣṣāf, *Ahkām al-Awqāf*, (Bayrūt: Dār al-Kutub al-'limiyyah, 1999)

It is essential for a human being to serve and worship the Allah Almighty alone. For that reason, this core philosophy should be embraced by all human beings in achieving the spirit of *taqwa*²¹⁰ by accepting Allah as the creator and custodians of the whole universe.

As mentioned in the *Qur'ān* in numerous ways:

لَا تَعْلَمُ أَنَّ اللَّهَ لَهُ مُلْكُ السَّمَاوَاتِ وَالْأَرْضِ وَمَنْ فِيهِنَّ مِنْ دُونِ اللَّهِ مِنْ يُدْعَىٰ وَ لَا يَنْصُرُهُ

(Surah al-Baqarah, 2:107)

Translation: Knowest thou not that to Allah belongeth the dominion of the heavens and the earth? And besides Him, ye have neither patron nor helper.

وَاللَّهُ مُطِيعُ السَّمَاوَاتِ وَالْأَرْضِ وَلِلَّهِ الْعِزَّةُ الْمُبِيحَةُ

(Surah Āli 'Imrān, 2:107)

Translation: To Allah belongs all that is in the heavens and on earth: To Him do all questions go back (for decision).

أَنِيبُوا إِلَىٰ رَبِّكُمْ وَأَقْبِلُوا لَاحِقَاتِ الْفِتَنِ مِمَّا جَاءَكُمْ مِنْ بَيْنِ يَدَيْهِمْ وَأَقْبِلُوا لَاحِقَاتِ الْفِتَنِ مِمَّا جَاءَكُمْ مِنْ بَيْنِ يَدَيْهِمْ وَأَقْبِلُوا لَاحِقَاتِ الْفِتَنِ مِمَّا جَاءَكُمْ مِنْ بَيْنِ يَدَيْهِمْ

(Surah al-Hadīd, 2:107)

Translation: Believe in Allah and His messenger, and spend (in charity) out of the (substance) whereof He has made you heirs. For, those of you who believe and spend (in charity), - for them is a great reward.

The human being as a waqf donor in this limited sense of the word forgoes his right of ownership on the condition that his property serves some charitable purposes. In any case, human beings are only in the position of trustees, humans are responsible for distributing their wealth to people in need.²¹¹ For this reason, the circulation of wealth is necessary by the use of some social support mechanisms including *sadaqāh* (charity), *zākah* (alms)

²¹⁰ Nor, Shifa Mohd. "Integrating Moral in a Dynamic Model of Corporate Social Responsibility in Islamic Economics and Finance." *Asian and African Area Studies* 11, no. 2 (2012): 137-50.

²¹¹ Mahamood, Siti Mashitoh (2006) Op. cit.

and waqf, to ensure equilibrium between the rich and the poor so that wealth is not just confined to the hands of only the rich.²¹²

In fact, Muslims believe that life on earth is a test and trial. In the hereafter, all our actions will be judged and rewarded accordingly. The trial aims to measure good needs and how well people deal with the income and wealth that has been put at their disposal.²¹³ Thus, waqf provides one of the ways to achieve this. In addition, the concept of waqf is very closely connected with the element of *taqarrub* or *qurbāh* which means seeking nearness to Allah. The establishment of philanthropic waqf has been accepted as a kind of means for *qurbāh*.²¹⁴ In this manner, an act is performed voluntarily for the benefit of mankind with sincerity and consciousness of contributing one's own property to charitable purposes recognised by *sharī'ah*. The *waqif* (dedicator) will obtain *thawāb*, a religious reward in accordance with the degree of the virtue of the good act. The *thawāb* serves as one of the inspiring factors, which encourages the waqf donors to do this pious act.

2.1.3.2 In Ḥadīth

The following *ḥadīth* has influenced many philanthropists when considering dedicating his or her property as a waqf. The Prophet Muhammad ﷺ said that²¹⁵

إذا مات الإنسان قطع عنه عمله إلا من أقضى اءصدقة جارية، أو غل غنقه عبه، أو ولد صالح يحى دعوله

Translation: When a man dies, his deeds come to an end, except charity with enduring benefits, his knowledge which benefits others and his virtuous son who prays for him.²¹⁶

²¹² Ahmed, Habid, *Role of Zakah and Awqāf in Poverty Alleviation*, (Jeddah, Islamic Development Bank (IDB) and Islamic Research and Training Institute (IRTI), 2004), 28

²¹³ *ibid*

²¹⁴ Al-Sarakhsī, Muḥammad bin Aḥmad Shams al-dīn, *Kitab al-Mabsut* (Bayrūt: Dār al-Ma'rifah, 1986); Mahamood, Siti Mashitoh (2006) Op. cit.

²¹⁵ Al-Husayn, A., Al-Hujjaj, B. and Al-Qushayri *Sahih Muslim, bab Ma yulhq al-Insan min al-thawāb ba'd wafatihi*", Vol. 11 (Karātashī, Dārūl Qur'ān, n.d) 2:85; Al-Zayla'ī, Jamāl al-din Abi Muḥammad, *Naṣb al-Rayah li Aḥādīth al-Hidayah*, (India, Dār al-Ma'mun, 1938)

²¹⁶ Ibn Hajar, Aḥmad bin 'li bin Hajar al-'Asqalānī, *Fatah al-bārī*, (Lāhor, Dār Nāshr lil kutub al-Iṣlāmī, 1959), 5: 259; Al-Husayn, A., Al-Hujjaj, B. and Al-Qushayri *Sahih Muslim, bab Ma yulhq al-Insan min al-thawāb ba'd wafatihi*", Vol. 11 (Karātashī, Dārūl Qur'ān, n.d) 2:85

Based on the interpretation of the majority of jurists, waqf falls into a charitable act which is categorised as enduring charity.²¹⁷ As compared to other charities, it ensures to provide a perpetual reward to the donor. The virtuous act of the waqf will reveal a *tawhidic* personality which results in him achieving precious rewards from Allah.²¹⁸ The *ḥadīth* mentioned is, indeed, one of the fundamental epistemological foundations embraced by Muslims.²¹⁹

In fact, the first and foremost foundation is, of course, the *Qur'ān* which lays down many verses relating to the benefits and rewards that a *waqif* may receive from his or her good deeds.

نَحْنُ الَّذِيْنَ وَفَّقُوْا اَمْوَالَهُمْ يَسْجُلَ اللّٰهُ نَحْلَ صَاعَةً لِّتَسْبَعِ عَشْرًا لِّاَلَيْ لِسِرِّهٖ هَدَّةٌ صَاعَةً وَاللّٰهُ
يُضَاعِفُ اَعْمَالَكُمْ مِّنْ وَّشَاءٍ وَاللّٰهُ وَلِيُّ عَالَمٍ

(Surah al-Baqarah, 2:261)

Translation: The parable of those who spend their substance in the way of Allah is that of a grain of corn: it groweth seven ears, and each ear Hath a hundred grains. Allah giveth manifold increase to whom He pleaseth: And Allah careth for all and He knoweth all things.

لَن يَنَالُوا لِبِرٍّ جَيِّدًا حَتَّى تُقْرَءُوا مِمَّا تُحِبُّوْنَ وَمَلْفُوقُوا مِّنْ شَيْءٍ فَاِنَّ اللّٰهَ بِهِ عَلِيْمٌ

(Surah Āli ‘Imrān, 3:92)

Translation: By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth Allah knoweth it well.

قُلْ لِّعِبَادِيَ الَّذِيْنَ آمَنُوا وَفَّقُوا الصَّالٰةَ وَفَّقُوا مَا رَزَقْنَا مِنْ سِرٍّ وَعَزَّوْا مِّنْ قَتْلِ اَنْفُسِهِمْ
بِغَيْرِ عِلْمٍ وَ خَلَّ

(Surah Ibrāhim, 14:13)

²¹⁷ Al-Zayla‘ī, Jamāl al-din Abi Muḥammad, *Naṣb al-Rayah li Aḥadīth al-Hidayah*, (India, Dār al-Ma‘mun, 1938), Vol. 3; Al-shūkānī, ‘Alī bin Muḥammad, *Nayl al-A‘wṭar, sharah Muntaqā al-akhār*, (Bayrūt, Dār al-Ma‘rifah, 2002)

²¹⁸ Al-Khaṭīb, al-Shirbīnī Muḥammad Nawawī, *Mughnī al-muhtāj ila ma‘rifat al-ma‘ani alāz sharh al-Minhāj*, (Miṣr, Dār al-Kutab al-‘Imiyah, 2004)

²¹⁹ Choudhury, M.A. *Islamic Economics and Finance: An Epistemological Inquiry*, (London, Emerald Group Publishing Limited, 2011), 21

Translation: Speak to my servants who have believed, that they may establish regular prayers, and spend (in charity) out of the sustenance we have given them, secretly and openly, before the coming of a Day in which there will be neither mutual bargaining nor befriending.

In the context of higher education financing, this study shows the way in which tawhidic²²⁰ epistemology, morality, and ethics have encouraged waqf founders to participate in and dedicate their property as waqf. Sultāns, emperors, rulers and governors, businessmen and laymen have set examples of enriching and sustaining universities and higher education in the past and at present.²²¹

2.2 The Classification of Waqf

Essentially, the classification of waqf is made on the basis of the purpose of its creation and that of its beneficiaries who shall benefit from waqf income or usufructs. Generally, there are three major kinds of waqf: 1) *Waqf Khayrī* (charitable waqf) and 2) *Waqf Ahlī* (family waqf) 3) *Waqf Mushtarak* (Quasi-public waqf)

2.2.1 *Waqf Khayrī* (Charitable Waqf)

It is created for charitable purposes covering religious, social and economic benefits.²²²

It can be defined as “a dedication of a property in perpetuity for unstipulated purposes and with no restriction imposed on the use of the property endowed and the income generated therein as well as the beneficiaries who shall enjoy the benefits (usufructs) of the property endowed, it is also known as waqf ‘*am*’.²²³ In contrast, *waqf khayrī* with stipulated purposes of its creation and specification of its beneficiaries to enjoy the usufruct of waqf is classified as *waqf khāṣ*. The common beneficiaries of waqf *khāṣ*

²²⁰ An understanding to perform deeds in line with faith, worship, and ethics in the life as servant and vicegerent of Allah. For more detail cf, Sarif, Suhaimi Mhd. "Tawhidic Paradigm and Organizational Policy and Strategy Practices." South East Asia Journal of Contemporary Business, Economics and Law 5, no. 2 (2014): 28-35.

²²¹ Mahamood, Siti Mashitoh (2015) 433

²²² Al-Maqṣūd, Aḥmad ibn ‘Alī, *al-Mawā‘i wa-al-i‘tibār fī dhikr al-khiṭaṭ wa-al-āthār*, (London, Markaz al-darasāt al-makḥṭūṭāt lamiyyah, 2013)

²²³ *ibid*

include charitable and religious establishments such as orphanages, old houses, religious schools, and mosques”.²²⁴ This type of waqf can be found in the early Islamic era and is still widely practiced in the present day as well.²²⁵

2.2.2 Waqf *Ahlī* (Family Waqf)

This waqf is exclusively established for the benefit of family members such as the founder himself, his descendants and other named beneficiaries including freed slaves. Accordingly, the waqf income or usufruct will be diverted for charitable purposes without any restriction upon the extinction of the founder’s descendants and named beneficiaries.²²⁶ The establishment of such type of waqf is common, particularly during the imperial Ottoman period.²²⁷ Mainly, it was inspired by a Qur’anic injunction to give priority to family members in relation to charitable provisions as mentioned:

وَأَتِ ذَا الْقُرْبَىٰ حَقَّهُ وَالْيَتَامَىٰ وَابْنِ السَّبِيلِ وَاتَّبِعِ الْفَيْسُورَ

And render to the kindred their due rights, as (also) to those in want, and to the wayfarer...

(Surah al-Isrā’, 17:26)

وَابْتَغُوا اللَّهَ وَتَشْرُوا وَلِبِشْرَتَا وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْفَيْسُورَ
وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْغُيُوبِ وَالصَّاحِبِ السَّبِيلِ وَمَا لَمْ يَكُنْ لَكُمْ إِنْ اللَّهَ
يُحِبُّ مَنْ أَنْ مُمْسِكًا فَخُورًا

(Surah al-Nisā, 4:36)

Translation: and “Serve Allah, and join not any partners with Him; and do good- to parents, kinsfolk, orphans, those in need, neighbours who are near, neighbours who are strangers, the companion by your side, the wayfarer (ye meet), and what your right hands possess.”

²²⁴ *ibid*

²²⁵ *ibid*

²²⁶ Al-Marghīnānī, Burhān al-dīn Abū al-Ḥaṣan ‘lī Ibn Bakr, *Hidāyat ma’ Fataḥ al-Qadīr*, (Qūatṭā, Maktaba Rāshīdīā, 1983), 5:418; Sait, Siraj, and Hilary Lim. *Land, Law and Islam: Property and Human Rights in the Muslim World*, (New York, UN-HABITAT, 2006), 147

²²⁷ A substantial *waqf ahli* was created by the governor of the Ottoman Egypt, Muhammad Bey Abū Dhahab in 1774 to support his named beneficiaries, himself, his slaves (upon his death) and the blind residents of al-Azhar mosques and its neighbouring mosques in al-Qāhīra (upon the death of his slaves). His deeds also stipulated that the revenues shall be spent on the poor and the needy among the Muslims ‘if this is not possible’ Singer, Amy. *Charity in Islamic Societies*. (London, Cambridge University Press, 2008; Shaham, Ron. "Masters, Their Freed Slaves, and the Waqf in Egypt (Eighteenth-Twentieth Centuries)." *Journal of the Economic and Social History of the Orient* 43, no. 2 (2000): 162-88.

On the other hand, It is commonly believed the common practice of *waqf ahlī* have two main purposes.

1) *To preserve the family properties intact*

It is believed that usually it is created to keep the real properties of family intact, to ensure the right of beneficiaries for the period of the objects, and to control the spread of usufruct rights for next generations.²²⁸ In the same manner, in Muslim countries where there are notions of political and economic upheaval frequently, *waqf ahlī* was seen as a mechanism to ensure important real properties of a family as “legally endowed property cannot be confiscated either to collect debts or to satisfy the whims of power”.²²⁹

2) *To limit fragmentations of real property*

It is also seen that in Muslim countries *waqf ahlī* is used to limit the disintegration and fragmentation of real properties by inheritance laws of *sharī'ah*.²³⁰

2.2.3 **Waqf Mushtarak (Quasi-Public Waqf)**

The third type of waqf is a combination of first two kinds of waqf and is known as *waqf mushtarak*, “it is created to satisfy both the founder’s family as well as charitable and public purposes”. It may be described as quasi-public waqf. To large extent, it is practiced in Egypt with the first share of waqf income to be directed to the founder’s preferred

²²⁸ Powers, David S. "The Maliki Family Endowment: Legal Norms and Social Practices." *International Journal of Middle East Studies* 25, no. 03 (1993): 379-406.

²²⁹ Doumani, Beshara. "Endowing Family: Waqf, Property Devolution, and Gender in Greater Syria, 1800 to 1860." *Comparative studies in society and history* 40, no. 01 (1998): 3-41.

²³⁰ According to the Islamic inheritance laws, the spouse as well as the daughters can legally inherit, although the son’s share is twice that of the daughter. The son can inherit all his parents’ properties, whilst any number of daughters can only inherit two-thirds, with the rest going to the nearest agnates of the deceased Doumani, Beshara. (1998) Op. cit.

mosque, educational institute and for specific religious services such as the reading of the *Qur'ān*, whereas, the second share is for public welfare.²³¹

2.3 The Validity of Waqf

Islamic scholars from all schools of law are agreed in that a *waqf* is created upon the existence of four different tenets; a *waqif* (founder), a *ṣighah* (a declaration), *mawqūf* 'alayh (beneficiary) and a *mawqūf*²³² (declared asset to be converted into a waqf).

2.3.1 Waqif

The *waqif* (founder) may be an individual or a group of individuals, and an organisation. Essentially, a *waqif* must be *mukallif* (legally and mentally fit) as the *waqif* requires to determine the objective of the waqf, allocate beneficiaries, and the management of waqf. Further, a *waqif* has a right to impose any restriction or requirement on it.²³³

2.3.2 Ṣighah

It is a legal declaration that specifies the various aspects of a waqf made by the *waqif* relating to the internal structure of the Waqf (i.e. choice of assets, beneficiaries, and management).²³⁴ It may be declared either verbally or in writing. In case of waqf buildings, one will *have to* provide physical details, its utilisation and its maintenance for future references²³⁵ while it may also contain information of the private life of *waqif* such

²³¹ Crecelius, Daniel. "The Organization of Waqf Documents in Cairo." *International Journal of Middle East Studies* 2, no. 3 (1971): 266-77. Sait, Siraj, and Hilary Lim. *Land, Law and Islam: Property and Human Rights in the Muslim World*. Vol. 1: (New York, UN-HABITAT, 2006), 149

²³² Sabran, O. *Management of Wakaf Assets (Pengurusan Harta Wakaf)*. First ed. (Skudai: Universiti Teknologi Malaysia, 2005) 92; Sait, Siraj, and Hilary Lim. *Land, Law and Islam: Property and Human Rights in the Muslim World*, (New York, UN-HABITAT, 2006), 147

²³³ Al-ṭarābalsī, Ibrāhīm bin Mūsā bin Ahī Bakr, *Al-as'āfi aḥkām al-awqāf* (Miṣr, Maktabah Hindīyyah, 1902), 9; Abū al-barkāt aḥmad bin Muḥammad al-dardīr, "*Al-Sharāḥ Al-Saghīr*" (Miṣr, Dārūl al-ma'rīf, 1974) 4:97; Muḥammad bīn al-'bbās Ahmīd bīn Hamzaḥ bīn Shahab al-dīn al-ramlī '*Niḥāya al-mahtāj Sharḥ al-Minhāj* (Bayrūt; Dār Ihya al-trath al 'arabi, n.d), 5:356

²³⁴ Deguilhem, R. The waqf in the city. In: Jayyusi, S.K. et al. eds. *The City in the Islamic World*. Vol. 2. (Leiden, the Netherlands: Koninklijke Brill LV, 2008), 1494

²³⁵ Sait, Siraj, and Hilary Lim. *Land, Law and Islam: Property and Human Rights in the Muslim World*, (New York, UN-HABITAT, 2006), 147

as their children, the wife (or wives) and their freed slaves if mentioned as beneficiaries of waqf.²³⁶

2.3.3 *Mawqūf ‘alayh*

It is dependent on the type of waqf and discretions of *waqif*, the beneficiary of waqf much be alive and legitimate. There are two possibilities in *waqf Khayrī (common waqf)* if it belongs to waqf ‘*am*, for that reason, the beneficiaries will be unrestricted, ranging from needy to poor, from a religious school to mosque, even though a university and higher education institution can also be included. In *waqf khas (specific waqf)*, only mentioned beneficiaries could enjoy the benefits of the waqf property. More closely, in waqf *ahlī*, mentioned family members and free slave of the waqif would enjoy the benefits of waqf assets.²³⁷ According to the Ḥanafī School the validity of waqf requires ‘eternal beneficiaries’. Similarly, Malīkī School specifies that corpus of the waqf *ahlī* may revert to its founder if he has passed away then to his heirs if there are no other beneficiaries.²³⁸

2.3.4 *Mawqūf*

The property to be converted into a waqf is called *mawqūf*, which much be a real estate property or anything which has some characteristic of perpetuity. It might be in the form of moveable including livestock, agriculture products, and tools. Generally, waqf properties are immovable such as land, buildings, or any other kind of real assets.²³⁹

²³⁶ Crecelius, Daniel. "The Organization of Waqf Documents in Cairo." *International Journal of Middle East Studies* 2, no. 3 (1971): 266-77.

²³⁷ Shaham, Ron. "Masters, Their Freed Slaves, and the Waqf in Egypt (Eighteenth-Twentieth Centuries)." *Journal of the Economic and Social History of the Orient* 43, no. 2 (2000): 162-88.

²³⁸ Layish, Aharon. "The Mālīkī Family Waqf According to Wills and Waqfiyyāt." *Bulletin of the School of Oriental and African Studies* 46, no. 01 (1983): 1-3

²³⁹ Abū al-Ḥaṣan ‘lī bīn Muhammad bin ḥabīb al-māwrdī ‘Al-Ḥāwī al-kabīr’ (Bayrūt; Dār kūṭab al-‘līmyyiah, 1993); Imām abū abdullāh muḥammad bin Ismail ‘Al-būkhārī m’ fatah al-bāri’ (Lāhor, dar Nashar lil kūṭub al-Islamiyya, 5:342 ḥadīth -2764, n.d); Ṣafar Ahmīd, ‘alā ‘sunan’ (karātashī, Idarātul al Qur’ān wa ‘lum al-islamiyya, 2014) 13:106

Muslim jurists believe that original *mawqūf* or principal of waqf asset shall be preserved intact. In other words, the value of the asset will not diminish with the passage of time.²⁴⁰ The difference of opinion among the Islamic jurists of different schools occurs over the question of the legality of movables assets which diminish in value with the passage of time, for instance, cash and its equivalents. In this regard, on 26-30 April 2009, the International Islamic Fiqh of OIC passed three resolutions.²⁴¹

1. Waqf shall comprise the permanent and temporary, the divided and the common, accommodations, utilities, money, real estates, and movable items.
2. The *sharī'ah* compliant and legal money are permissible to be endowed, corporate shares, investments, services, deeds, and, ethical (intellectual) rights.
3. The specific rulings are required to adhere accordingly when endowing corporate shares, services, deeds, moral rights, utilities etc.²⁴²

The rulings are regarded as innovative and appropriate, as the Muslim community has evolved, it will become more complex. Especially, the flexibility of the rulings may possibly lead to an increase in waqf creation all over the world.²⁴³ In addition, because of a wider range of waqf creation from Muslim to non-Muslims. Therefore, in Muslim communities, non-Muslims may also participate in waqf creation in their own communities for a noble cause. However, it is subjected to the *sharī'ah* law of waqf.²⁴⁴

²⁴⁰ Çizakça, M. *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present*, (Istanbul, Boğaziçi University Press, 2000), 30

²⁴¹ The resolutions were arrived at the 19th Session held in Ash-Shariqah Emirate (UAE). The session was conducted on 1-5 Jumadil Awwal, 1430H (26-30 April 2009).

²⁴² Endowed shares need to be kept and only the revenues are to be used. Trustee has no right to dispose the shares unless for reasons approved by authorised authority. In the case of dissolution, the endowed shares may be exchanged for other assets, which are subject to the conditions set by the endower. If the endowment involves cash money for buying shares, deeds and the like, the shares and deeds shall not be regarded as endowment but the cash money, unless stipulated by the endower. Endowment of moral rights comes to an end with the lapse of the legal term for them.

²⁴³ The resolutions were arrived at the 19th Session held in Ash-Shariqah Emirate (UAE). The session was conducted on 1-5 Jumadil Awwal, 1430H (26-30 April 2009).

²⁴⁴ Mūfiq al-dīn Abū Muḥammad Abd Allah bin Aḥmad bin Muḥammad bin Qadāmah al-muqaddasī, *Al-Mūghanī*, (al-Riyād, , Dār 'līm Kūṭab, 1997) 8:184 ; Abū Bakr Aḥmad Ibn-'Umar Ibn Muhair al-shaibānī al-Ḥaṣṣāf, *Ahkām al-Awqāf*, (Bayrūt: Dār al-Kutub al-'limiyyah, 1999); Al-ṭarābalsī, Ibrāhīm bin Mūsā bin Ahī Bakr, *Al-as'āf fi ahkām al-awqāf* (Miṣr, Maktabah Hindīyyah, 1902), 9

2.4 Conditions in Waqf

In *sharī'ah*, an endowed property is subject to three main conditions, irrevocability, perpetuity and inalienability. These conditions make waqf unique in comparison to other charities.²⁴⁵

2.4.1 Irrevocability

Once a *waqif* declares an asset as a waqf, it is irrevocable. With waqf declarations, the ownership of the asset is transferred to Allah Almighty. The *waqif* and his/her descendants cannot reverse or change the status.²⁴⁶ Even though, on the attribute of irrevocability, Islamic scholars have a consensus they had a difference of opinion with regards to final ownership of a waqf property. Islamic scholars of Ḥanafī and Shāfi'ī schools believed that final ownership of a waqf property is completely transferred to Allah Almighty, hence waqf is completely irrevocable. On the other hand, the Mālikī School of the law allows reverting to the owner the waqf in case the benefit of the waqf is no longer applied to the purpose for which the waqf is created.²⁴⁷ Ḥanbalī jurists believed that ownership of waqf depends on its type. In the case of waqf property is devoted to public utilities and mosque, the ownership is moved to Allah Almighty, while, if the beneficiaries are specified the ownership is transferred to the beneficiaries.²⁴⁸ In this regard, Mohsin, 2009 mentioned that the purpose of designing this control on a *waqf* property is to make sure the property endures to benefit the beneficiaries and the *waqif* endures to acquire rewards from Allah Almighty.²⁴⁹

²⁴⁵ Mohamad Akram b. Laldin, Mek Wok b. Mahmud, and Mohd. Fuad b. Sawari. "The *Sharī'ah* Objectives in the Execution of Waqf (Maqasid Syariah Dalam Pelaksanaan Waqaf)." *Jurnal Pengurusan Jawhar* 2, no. 2 (2008): 1-24.

²⁴⁶ *ibid*

²⁴⁷ Layish, Aharon. "The Mālikī Family Waqf According to Wills and Waqfiyyāt." *Bulletin of the School of Oriental and African Studies* 46, no. 01 (1983): 1-32.

²⁴⁸ Sait, Siraj, and Hilary Lim, (2006), 147

²⁴⁹ Mohsin, M. I. A. *Cash waqf: A new financial product*. (Petaling Jaya: Prentice Hall, Pearson Malaysia, 2009).

2.4.2 Perpetuity

In *sharī'ah*, the waqf dedication requires perpetuity, once the asset is endowed as a waqf, it will remain everlasting to ensure regular benefits to beneficiaries. In fiqh, all schools of thought insist on the perpetuity of dedication of waqf asset except the Mālikī.²⁵⁰ Because of that, the Mālikī jurists consider “a waqf as a gift of a usufruct of a corpus, binding on the founder so long as the corpus exists, but with the ownership of the asset remaining with the founder”.²⁵¹ Typically, the Mālikī jurists advocate that waqf “shall not necessarily be in perpetuity. Although some scholars refute that perpetuity contributes to the rigidity and inefficiency of waqf”²⁵², “it does constitute the main difference between waqf with other forms of charity in Islam, as well as to inheritance in Islam.”²⁵³ In the case of inheritance, the ownership of property remains intact, while in waqf the ownership of the property is relinquished or it implies the relinquishment and permanence of the stipulation of the Waqf founder”.²⁵⁴

2.4.3 Inalienability

The inalienability attribute of a waqf is subject to the earlier condition that when a *waqif* has created the ownership of waqf assets it is absolutely transferred to Allah Almighty. As a result, the waqf assets cannot be sold, gifted, mortgaged or inherited. However, Ḥanafī jurists permit the *ibdāl* or *istibdāl* (sale and exchange) arrangements for a waqf property as sources of diversifying in the waqf property management and sustainable development.²⁵⁵

²⁵⁰ Van Leeuwen, Richard. *Waqfs and Urban Structures: The Case of Ottoman Damascus*. Vol. 11: (Leiden, Brill, 1999), 232

²⁵¹ Layish, Aharon. "The Mālikī Family Waqf According to Wills and Waqfiyyāt." *Bulletin of the School of Oriental and African Studies* 46, no. 01 (1983): 1-32

²⁵² Kuran, Timur. "The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System." *Law and Society Review* (2001): 841-98.

²⁵³ Sait, Siraj, and Hilary Lim. (2006), 153

²⁵⁴ Hasan, Samiul. *Philanthropy and Social Justice in Islam: Principles, Prospects and Practices*. (Kuala Lumpur, AS Noordeen, 2007)

²⁵⁵ Çizakça, M. *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present*, (Istanbul, Boğaziçi University Press, 2000), 19

In a nutshell, the Mālikī School restricts that only a maximum of one-third of the inheritable property can go to waqf.²⁵⁶ A similar limit has been imposed by the Ḥanafī School which is specified in waqf jurisprudence; al-*Khaṣṣāf*.²⁵⁷ Ḥanbalī and Shāfi‘ī schools do not impose any limit on the quantity or the purpose of waqf. It can be seen that the limit and restriction on waqf could hypothetically be utilised to prompt a preference for transferring of inheritable assets; hence, it ensures benefit to legal heirs.²⁵⁸

2.4.3.1 The *Ibdāl* (Sale) or *Istibdāl* (Exchange) of a Waqf

Exchange of waqf assets is made to offer a better alternative with the intention to ensure the perpetuity of waqf. Therefore, the concept of *ibdāl* (sale) is linked to the actual sale of a waqf asset while the *istibdāl* (exchange) involves the purchase of new assets as an alternative to former waqf assets. Normally, the whole concept is also referred to as exchange (*istibdāl*) of a waqf asset²⁵⁹.

Due to the fact that a waqf asset cannot be sold, the views of Muslim scholars regarding *ibdāl* and *istibdāl* were divided but many developments in this arrangement make reference to the authorities of Ḥanafī School that normally permits diversification in the management of waqf by employing these arrangements. While Mālikī and Shāfi‘ī schools strictly prohibit the *ibdāl* and *istibdāl*, Shāfi‘ī scholars declare, “a waqf is an absolute contract dedicating a property to Allah and thus it cannot be sold, transferred or alienated by any means and thus they argued that both the *ibdāl* and *istibdāl* are in fact

²⁵⁶ Layish, Aharon. "The Mālikī Family Waqf According to Wills and Waqfiyyāt." *Bulletin of the School of Oriental and African Studies* 46, no. 01 (1983): 1-32; Powers, David S. "The Maliki Family Endowment: Legal Norms and Social Practices." *International Journal of Middle East Studies* 25, no. 03 (1993): 379-406.

²⁵⁷ Van Leeuwen, Richard. *Waqfs and Urban Structures: The Case of Ottoman Damascus*. Vol. 11: (Leiden, Brill, 1999), 232

²⁵⁸ Layish, Aharon. "The Mālikī Family Waqf According to Wills and Waqfiyyāt." *Bulletin of the School of Oriental and African Studies* 46, no. 01 (1983): 1-32; Powers, David S. "The Maliki Family Endowment: Legal Norms and Social Practices." *International Journal of Middle East Studies* 25, no. 03 (1993): 379-406.

²⁵⁹ Al-ṭarābalsī, Ibrāhīm bin Mūsā bin Ahī Bakr, *Al-as ‘āf Fī aḥkām al-awqāf* (Miṣr, Maktabah Hindīyyah, 1902), 9

instruments to destroy waqf properties". While Mālikī scholars permit such agreements on condition that original purposes of waqf have become impossible, the revenue is deficient for the maintenance and *waqif* has permitted such arrangements.²⁶⁰ If such provisions could not found in the *ṣighah* (waqf declaration), for that reason, such arrangements are prohibited.²⁶¹ However, Muslim scholars have agreed that in case a waqf asset is not appropriate and not producing sufficient revenue to cater to expenditures, *ibdāl* and *istibdāl* arrangements are permitted subject to approval by the judge (*Mufti*) and the ruler of the respective state in the benefit of waqf asset and beneficiaries.²⁶²

History tells us since the eighteenth century both arrangements have been extensively practiced in the Ottoman Empire. For example, Egyptian laws permit such arrangements for a waqf asset with prior permission of the ruler.²⁶³ Particularly in the twentieth century, these arrangements have regained considerable attention in a wake of waqf revival, as many waqf properties were destroyed in the colonial era.²⁶⁴ In Singapore, the *Majlis Ugama Islam Singapura*: Muslim Religious Council of Singapore (MUIS), has made use of these arrangements in its limited waqf properties development.²⁶⁵ A study in Malaysia by Mashitoh Mahamood discussed the possibility of executing the concept of *istibdāl* arrangement in the Federal Territory of Malaysia, Kuala Lumpur²⁶⁶.

²⁶⁰ Cizakca, Murat. "Towards a Comparative Economic History of the Waqf System." *Al-Shajarah* 6 (1997): 63-102.

²⁶¹ Layish, Aharon. "The Mālikī Family Waqf According to Wills and Waqfiyyāt." *Bulletin of the School of Oriental and African Studies* 46, no. 01 (1983): 1-32

²⁶² Al-ṭarābalsī, Ibrāhīm bin Mūsā bin Ahī Bakr, *Al-as 'āf Fī aḥkām al-awqāf* (Miṣr, Maktabah Hindīyyah, 1902), 9; Mahamood, Siti Mashitoh (2006) Op. cit.

²⁶³ Singer, Amy. *Charity in Islamic Societies*. (London, Cambridge University Press, 2008).

²⁶⁴ Çizakça, M. *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present*, (Istanbul, Boğaziçi University Press, 2000), 21

²⁶⁵ Karim, Shamsiah Bte Abdul. "Contemporary Shari'a Compliance Structuring for the Development and Management of Waqf Assets in Singapore." *Kyoto Bulletin of Islamic Area Studies* 3, no. 2 (2010): 143-64.

²⁶⁶ Mahamood, Siti Mashitoh. *Waqf in Malaysia: Legal and Administrative Perspectives*, (Kuala Lumpur, University of Malaya Press, 2006)

2.4.3.2 The Cash Waqf

Traditionally, the most popular forms of waqf were real estate and buildings. At this time, new forms of wealth have been introduced, therefore, newer forms of waqf are also becoming increasingly well-known including cash waqf, which allows more flexibility. It is defined as “*a charitable waqf established with cash capital*”.²⁶⁷ In the same manner, it has been defined “the confinement of an amount of money from founder and dedication of its usufruct according to *waqif*’s condition, in perpetuity to the welfare of the society”.²⁶⁸

Cash waqf is unlike ordinary real estate waqf “in that its original capital, or corpus, consists purely or partially of cash”.²⁶⁹ Being a most liquid asset, cash waqf is a source of mobilising fund to be pooled as waqf asset and properly managed to generate further income besides sustaining its actual value to increase, or at least to preserve its nature of perpetuity.²⁷⁰ It seems to have a problem with perpetuity despite their consensus on waqf of moveable assets.²⁷¹

In this regard, Mālikī, Ḥanbalī and Shāfi‘ī schools permitted waqf of a movable property given that the principal capital of the waqf remains permanent and perpetual. As a result, because of consumption, it should not diminish.²⁷² According to the interpretation of Imām Zufar “cash deposited as a waqf can be invested in the form of capital for

²⁶⁷Cizakca, Murat. "Incorporated Cash Waqfs and Mudaraba, Islamic Non-Bank Financial Instruments from the Past to the Future. (Munich, University Library of Munich, Germany, 2004).

²⁶⁸ Mohsin, Magda Ismail Abdel. *Cash Waqf: A New Financial Product*. (Petaling Jaya: Prentice Hall, Pearson Malaysia, 2009).

²⁶⁹Cizakca, Murat. "Latest Developments in the Western Non-Profit Sector and the Implications for Islamic Awqāf." In *Islamic Economic Institutions and the Elimination of Poverty*, (edited by Munawar Iqbal, Islamic Foundation, 2002) 263-96

²⁷⁰ Al-Jaberi, Ahmed. *Concept and Applications of Cash Waqf Funds for Equity Financing*, (Kuala Lumpur, International Islamic University Malaysia, 2017).

²⁷¹Mohsin, Magda Ismail Abdel. *Cash Waqf: A New Financial Product* (Petaling Jaya: Prentice Hall, Pearson Malaysia, 2009); Mandaville, Jon E. "Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire." *International Journal of Middle East Studies* 10, no. 03 (1979): 289-308

²⁷² Çizakça, M. *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present*, (Istanbul, Boğaziçi University Press, 2000), 18

mudharaba partnership and the profit will then be spent in accordance with the conditions of the *waqif*".²⁷³

For this reason, cash waqf was widely practised in Balkans and Anatolia, but Cizacka²⁷⁴ mentioned that "they were seldom invested in the *mudharaba* partnership as initially affirmed, but rather they were invested through constant returns, fluctuating within a narrow margin". Likewise, the practice of cash waqf was discovered in Egypt, Syria, and India, and can be attributed to lack of proper Islamic financial institutions during the period.²⁷⁵ However, in the contemporary waqf revival, such type of waqf has a distinctive role in most of the Muslim countries including Malaysia, Kuwait, Qatar, Bangladesh, Singapore, and Indonesia.²⁷⁶

2.5 The Importance of Waqf

The role of waqf in socio-economic development is very important. It has performed a great role to support social, cultural, religious and economic activities in the Muslim community. Waqf has been considered as a vehicle for sustainable development to support Muslim civilization and far better than normal forms of charities.²⁷⁷

²⁷³ Cizacka, Murat. "Latest Developments in the Western Non-Profit Sector and the Implications for Islamic Awqāf." In *Islamic Economic Institutions and the Elimination of Poverty*, (edited by Munawar Iqbal, Islamic Foundation, 2002) 263-96; Cizacka, Murat. "Incorporated Cash Waqfs and Mudaraba, Islamic Non-Bank Financial Instruments from the Past to the Future. (Munich, University Library of Munich, Germany, 2004)

²⁷⁴ Cizacka, Murat. "Latest Developments in the Western Non-Profit Sector and the Implications for Islamic Awqāf." In *Islamic Economic Institutions and the Elimination of Poverty*, (edited by Munawar Iqbal, Islamic Foundation, 2002) 263-96

²⁷⁵ Siraj, Siti Alawiah. "An Empirical Investigation into the Accounting, Accountability and Effectiveness of Waqf Management in the State Islamic Religious Councils (SIRC's) in Malaysia. Ph.D Thesis " (Wales, Cardiff University, 2012).

²⁷⁶ Ahmed, Habib. "Waqf-Based Microfinance: Realizing the Social Role of Islamic Finance." *World Bank* (2007); Toraman, Cengiz, Bedriye Tuncsiper, and Sinan Yilmaz. "Cash *Awqāf* in the Ottomans as Philanthropic Foundations and Their Accounting Practices." (Paper presented at the 5th Accounting History International Conference, Banff, Canada, 2007); Mohsin, Magda Ismail Abdel. *Cash Waqf: A New Financial Product*, (Petaling Jaya: Prentice Hall, Pearson Malaysia, 2009).

²⁷⁷ Hoexter, Miriam. *Endowments, Rulers, and Community: Waqf Al-Oharamayn in Ottoman Algiers*. Vol. 6: (Leiden, Brill, 1998), 55

2.5.1 Socio-Economic Development

The flexibility in waqf permits a wider range of beneficiaries to enjoy its benefits is enjoyed to a great extent, a fact which is distinct from other types of charities. For instance, the seventeenth-century ruler of the Ottoman Empire established a public foundation called *al-Haramayn* for the inhabitants of Madīnah and Makkah. It was a perpetual charity that provided security and all welfare services to the inhabitant of both cities as mentioned “It was the largest public foundation in Algiers controlling 1,748 properties in and around Algiers. The foundation controlled two categories of *awqāf*. The first included assets endowed to benefit the poor of the holy cities, either exclusively or jointly with either the Great Mosque of Algiers or the waqf al-’Andalus. The second comprised other *awqāf*. The waqf was administered in accordance with the Ḥanafī School despite the fact that majority of the population in Algiers were loyal to Mālikī. Waqf al-*Haramayn* was also present in other cities of Istanbul, Cairo, and Damascus, reflecting the strong religious recommendations on pilgrimage, the *Hajj*.²⁷⁸ Therefore, the vital role of waqf in Muslim societies has been discovered by various studies on waqf institutions.²⁷⁹

2.5.2 Social Welfare Activities

Waqf has contributed well to the social welfare of society through the provision of public goods and services, such as hospitals, orphanages, schools, libraries, roads, and

²⁷⁸ Hamouche, M. B. 2007. Sustainability & urban management in old Muslim cities: The role of pious foundations. *Journal of King Saud University (Architecture & Planning)* 19(2), pp. 27-48.

²⁷⁹ Cizakca, Murat. "Latest Developments in the Western Non-Profit Sector and the Implications for Islamic Awqāf." In *Islamic Economic Institutions and the Elimination of Poverty*, (edited by Munawar Iqbal, Islamic Foundation, 2002) 263-96; Mahamood, Siti Mashitoh (2006) Op. cit.

bridges.²⁸⁰ In Jerusalem, a public kitchen was operated entirely with the revenues of waqf that fed up nearly up to four hundred of 'the poor and pious, the weak and the needy'.²⁸¹

Moreover, the wife of Caliph *Harun al-Rashid* contracted a road from Baghdad to Makkah, especially for Hajj pilgrims. Besides the road, some basic necessities were also provided for wayfarers such as water, food, and accommodations.²⁸²

In the sixteenth century Ottoman Empire, the institution of waqf became more significant in providing social welfare services with the inclusion of cash waqf. In this era, cash waqf acted on behalf of 'middle fund' in providing social security and mutual aid to the members of the fund to relieve members in natural disasters, supply food, provide clothes, afford religious costs, help an unemployed person, and bear costs of funeral services. Further, cash waqf also provided financial support to students, orphans, poor, needy and widows. In general welfare, it was used to provide healthcare facilities and maintain district and village roads.²⁸³

2.5.3 Sustainable Development

Being the third sector, waqf contribution to the economy can be recognised by its role in reducing government burden through financing public welfare services. The function can be performed well by the wealthy section of society to finance and support social services

²⁸⁰ Mandaville, Jon E. "Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire." *International Journal of Middle East Studies* 10, no. 03 (1979): 289-308; Çizakça, Murat. (1998) Op. cit.; Hasan, Samiul. *Philanthropy and Social Justice in Islam: Principles, Prospects and Practices*. (Kuala Lumpur, AS Noordeen, 2007).

²⁸¹ Van Leeuwen, Richard. *Waqfs and Urban Structures: The Case of Ottoman Damascus*. Vol. 11: (Leiden, Brill, 1999), 232

²⁸² Sadeq, AbulHasan M. "Waqf, Perpetual Charity and Poverty Alleviation." *International Journal of Social Economics* 29, no. 1/2 (2002b): 135-51;

²⁸³ Noordin, Nazrul Hazizi, Nazrul Hazizi Noordin, Siti Nurah Haron, Siti Nurah Haron, Salina Kassim, and Salina Kassim. "Developing a Comprehensive Performance Measurement System for Waqf Institutions." *International Journal of Social Economics* 44, no. 7 (2017): 921-36; Cizakca, Murat. "Incorporated Cash Waqfs and Mudaraba, Islamic Non-Bank Financial Instruments from the Past to the Future (Munich, University Library of Munich, Germany, 2004); Toraman, Cengiz, Bedriye Tuncsiper, and Sinan Yilmaz." "Cash *Awqāf* in the Ottomans as Philanthropic Foundations and Their Accounting Practices." (Paper presented at the 5th Accounting History International Conference, Banff, Canada, 2007); Cizakca, Murat. "Latest Developments in the Western Non-Profit Sector and the Implications for Islamic *Awqāf*." In *Islamic Economic Institutions and the Elimination of Poverty*, (edited by Munawar Iqbal, Islamic Foundation, 2002) 263-96

through the institution of waqf. In view of that, the government will have lesser budget deficits and borrowing for public finance. It will lead to a reduction in public expenditure and interest rate, which eventually creates a conducive environment for private investment and economic development.²⁸⁴ Hence, waqf helps the growth of the economy as it happened in the Ottoman Empire where it was utilised in the economy to finance public goods including education.²⁸⁵ It is abundantly clear that the waqf institution has been a major participant in Muslim countries in reducing the burden of government and increasing the role of civil society.²⁸⁶ In this regard, the exemplary waqf organisation has been created in Indonesia by the *Yayasan Dompot Dhuafa Republika*. It is an independent non-profit organisation funded by numerous public community groups to disburse income among those who are in need. The organisation managed the fund with honesty in various forms of productive investments including *mudharabah* investments, equity participation, and small and medium-sized industry. The waqf income proceeds are utilised to support the many socio-community activities such as poverty alleviation, health, education, and research activities.²⁸⁷ Likewise, the pooled cash waqf is utilised in Bangladesh, not only to finance *madrassahs* and universities but also shopping complexes and commercial centres.²⁸⁸

²⁸⁴ Çizakça, M. *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present*, (Istanbul, Boğaziçi University Press, 2000), 8

²⁸⁵ Cizakca, Murat. "Incorporated Cash Waqfs and Mudaraba, Islamic Non-Bank Financial Instruments from the Past to the Future, (Munich, University Library of Munich, Germany, 2004); Mohsin, M. I. A. *Cash waqf: A new financial product*, (Petaling Jaya: Prentice Hall, Pearson Malaysia, 2009)

²⁸⁶ Faisal M. Atbani, and Cristina Trullols. *Social Impact Finance*. 978-1-137-37269-7, 2014. doi:<https://doi.org/10.1057/9781137372697>.

²⁸⁷ Candra, Hari, and Asmak Ab Rahman. "Waqf Investment: A Case Study of Dompot Dhuafa Republika, Indonesia." *Jurnal Syariah* 18, no. 1 (2010): 163-90.

²⁸⁸ Sadeq, Abulhasan M. "Awqāf in Bangladesh." Syed Khalid Rashid's *Awqāf Experiences in South Asia* (2002a): 161; Sadeq, AbulHasan M. "Waqf, Perpetual Charity and Poverty Alleviation." *International Journal of Social Economics* 29, no. 1/2 (2002b): 135-51.

Evidence has shown that waqf also plays a significant role in strengthening a nation's economic growth, and cultivating sustainability.²⁸⁹ For example, during the Ottoman period, the establishment of waqf by the imperial power in Damascus can probably be situated somewhere between social welfare and economic strengthening.²⁹⁰ The social services supplied to constituencies during the period of *Khāshkī khurm Sulṭān* were, in fact, extending his patronage as well as consolidating the Ottoman government's political authority. Furthermore, an endowment or simply a gift to a modern university, which is commonly acknowledged by attaching or inscribing names to the structure of the property endowed, may affirm the donors' special prominence, immortalising their reputation in the institution.²⁹¹

At the outset, waqf substantially benefited the whole Muslim community in strengthening religious practices, welfare services, and imparting free knowledge with the advancement of art and science. Holy Prophet Muhammad ﷺ built the mosque al-Masjīd al-Nabawī upon his arrival in Madīnah. It was an institution, centered on religious practices, education, culture, and admin activities.²⁹²

2.5.4 Educational Institution Development

From that point in time, endowing waqf has been a common practice in Muslim communities. Initially, religious schools and education centers were established within the vicinity of the mosques to acquire benefits of waqf. Over time, libraries and students

²⁸⁹ Singer, Amy. *Charity in Islamic Societies*. (London, Cambridge University Press, 2008); Kuran, Timur. "The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System." *Law and Society Review* (2001): 841-98

²⁹⁰ Van Leeuwen, Richard. *Waqfs and Urban Structures: The Case of Ottoman Damascus*. Vol. 11: (Leiden, Brill, 1999), 232

²⁹¹ Kuran, Timur (2001) Op. cit.

²⁹² Latiff, AZA, CZ Ismail, and NM Daud. "Waqf Assets Management and Its Potential toward the Enhancement of Education for Muslim Community in Malaysia (Pengurusan Harta Wakaf Dan Potensinya Ke Arah Kemajuan Pendidikan Umat Islam Di Malaysia)." (Paper presented at the National Wakaf Seminar, 2006); Latiff, AZA, AH Ramli, CZ Ismail, K Sulaiman, and NM Daud. "Waqf: The Management and Contribution towards Islamic Education in Malaysia (Wakaf: Pengurusan Dan Sumbangannya Terhadap Pendidikan Islam Di Malaysia, Shah Alam: UPENA, UITM, 2008).

lodging facilities were also added. Some of the waqf institutions later evolved and developed into higher educational institutions like colleges and universities. The University of al-Qarawiyin in Morocco is believed to be the first university of this kind and the greatest example of the involvement of waqf in the development of the higher educational institution.²⁹³ Similarly, in Egypt, the well-known Al-Azhar University is one of the best examples which has been using waqf to finance educational activities.²⁹⁴

Up to the present time, the institution of Waqf has significantly funded strengthening religious practices, imparting free education, and spurring a culture of arts and science. For example, many religious schools and HEIs in Malaysia, Bangladesh, and Pakistan are financed significantly by waqf resources.²⁹⁵ In the Malaysian perspective, waqf has also contributed to strengthening Islamic education significantly through the establishment of *madrassahs* (religious schools) and *maahad tahfiz*²⁹⁶ (schools for memorising the *Qur'ān*). The contribution of waqf to higher education is largely claimed to have influenced the creation of some of the greatest educational institutions, such as Merton College at Oxford University.²⁹⁷

²⁹³ Raissouni, A. "Islamic 'Waqf Endowment': Scope and Implications (A. Benhallam, Trans.)." (*Rabat: Islamic Educational, Scientific, and Cultural Organisation, ISESCO*, 2001).

²⁹⁴ Çizakça, M. *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present*, (Istanbul, Boğaziçi University Press, 2000), 18

²⁹⁵ Sadeq, Abulhasan M. "Awqāf in Bangladesh." *Syed Khalid Rashid's Awqāf Experiences in South Asia* (2002a): 161; Sadeq, Abul Hasan M. "Waqf, Perpetual Charity and Poverty Alleviation." *International Journal of Social Economics* 29, no. 1/2 (2002b): 135-51.

²⁹⁶ Latiff, AZA, CZ Ismail, and NM Daud. "Waqf Assets Management and Its Potential toward the Enhancement of Education for Muslim Community in Malaysia (Pengurusan Harta Wakaf Dan Potensinya Ke Arah Kemajuan Pendidikan Umat Islam Di Malaysia)." (Paper presented at the National Wakaf Seminar, 2006); Latiff, AZA, AH Ramli, CZ Ismail, K Sulaiman, and NM Daud. "Waqf: The Management and Contribution towards Islamic Education in Malaysia (Wakaf: Pengurusan Dan Sumbangannya Terhadap Pendidikan Islam Di Malaysia, Shah Alam: UPENA, UITM, 2008); Mahamood, Siti Mashitoh (2006) Op. cit. Wafa, SMGWSA, and BSA Wafa. "Development of Waqfs for Education in Malaysia." (Paper presented at the Seventh International Conference-The tawhidi epistemology: Zakat and waqf economy, 2010)

²⁹⁷ Mahamood, Siti Mashitoh, and Asmak Ab Rahman. "Financing Universities through Waqf, Pious Endowment: Is It Possible?" *Humanomics* 31, (2015): 430-53. doi:org/10.1108/H-02-2015-0010.

2.6 The Objectives of Waqf

In *sharī'ah*, every waqf creation has two main objectives: individual and society.²⁹⁸ It discourses the important spirit of Islamic teaching about charitable deeds.

In an individual perspective, it is an altruistic act to please (*taqarrub*) Allah Almighty by endowing his/her assets for a waqf as a charitable deed. The act determines the level of gratitude for the bounties enjoyed and acknowledgment of the blessings of Allah Almighty. In Islamic teachings, waqf acts as a reminder to endeavour towards the forgiveness accorded in the hereafter as it may well be possible the process of wealth creation and accumulation trap a person in its demands. Beliefs of seeking the pleasure of Allah Almighty, forgiveness and reward in the hereafter are reflected in historical inscriptions and waqf documents.²⁹⁹

In a societal perspective, the waqf creation exhibits the help an individual extends to the community by facilitating it in basic necessities, for instance; food, shelter, clothes, health, and education. The other forms of charities for the provision of these basic necessities are scarce. Similarly, these charities have mostly predefined beneficiaries such as the beneficiaries of *zakāt* are explicitly stated in the *Qur'ān*. The holy book says *zakāt* can be *only* be consumed by eight different beneficiaries. The central spirit of waqf inspires people to sincerely exercise their responsibilities towards the public as specified in the *Qur'ān*, make sure the basic necessities of the needy citizens and society are provided in a guaranteed manner. Furthermore, this act of benevolence and endowing waqf asset to public encourages individuals to think for future generations.³⁰⁰

²⁹⁸ Raissouni, A. "Islamic 'Waqf Endowment': Scope and Implications (A. Benhallam, Trans.)." (Rabat: Islamic Educational, Scientific, and Cultural Organisation, ISESCO, 2001); Deguilhem, R. The waqf in the city. In: Jayyusi, S.K. et al. eds. *The City in the Islamic World*. Vol. 2. (Leiden, the Netherlands: Koninklijke Brill LV, 2008) ,1494

²⁹⁹ Hasan, Samiul. *Philanthropy and Social Justice in Islam: Principles, Prospects and Practices*. (Kuala Lumpur, AS Noordeen, 2007)

³⁰⁰ Doumani, Beshara. "Endowing Family: Waqf, Property Devolution, and Gender in Greater Syria, 1800 to 1860." *Comparative studies in society and history* 40, no. 01 (1998): 3-41.

2.7 The Management of Waqf

Waqf institution is a purely civil institution. It has proved itself as a private organisation which is 'organisationally and financially independent from state apparatuses'.³⁰¹

In the *sharī'ah* perspective, the Waqf founder (waqif) describes the type of its management. A *waqif* may appoint himself/herself as administrator or another person or organisation as a manager or a trustee which is known as *mutawallī*.³⁰²

Primarily, a *mutawallī* is in charge of managing and administrating waqf property in the best interests of the *waqif* and beneficiaries. Furthermore, he is responsible to preserve the waqf property and develop it to maximise the benefits of the property in accordance with the generally expected returns and values of Islam.³⁰³

In Islamic jurisprudence, the Ḥanafī and Shāfi'ī jurists made a provision to allow the founder himself/herself or his/her family member to be the *actual* administrator.³⁰⁴ In this regard, historical evidence shows that the appointment of an administrator or *mutawallī* connected to the founder led to good results and good management.³⁰⁵ On the other hand, the Mālikī, jurists did not allow the *waqif* or his/her family to be as the administrator (*mutawallī*) of a waqf. The *mutawallī* appointment would be mentioned as part of the terms and conditions of waqf and should be documented (*waqfiyya*) for the reference of future since waqf is an eternal agreement. Typically, a waqf document

³⁰¹ Abdallah, Tarak. "The State and Awqāf (Charitable Endowments) in the Twenty-First Century: From Tutelage to Partnership." *Contemporary Arab Affairs* 3, no. 4 (2010): 503-14.

³⁰² Abū Hāmid Muḥammad bin muḥammad bin muḥammad al-ghazālī, *Al-wajī*, (Bayrūt; Dār ul al ma'rifah al'limiyyah, 1978) 1:248; Yayā bin sharf al-nawawī, *Rūḍah al-tālibīn wa 'amdh al-mūftīn*, (Bayrūt; maktabah al-islamī, 1985) 5: 342; Al-Marghīnānī, Burhān al-dīn Abū al-Ḥaṣan 'lī Ibn Bakr, *Hidāyat ma' Fataḥ al-Qadīr*, (Qūaṭṭā, Maktaba Rāshīdīa, 1983), 5:418

³⁰³ Al-Marghīnānī, Burhān al-dīn Abū al-Ḥaṣan 'lī Ibn Bakr, *Hidāyat ma' Fataḥ al-Qadīr*, (Qūaṭṭā, Maktaba Rāshīdīa, 1983), 5:418; Maḥmūd bin Ismā'īl al-shahīr babin qaḍi samāwah "*Jām' al-faṣūlīn* (Karātashī, Islami kutub Khānah, 1980) 2:15

³⁰⁴ Yayā bin sharf al-nawawī, *Rūḍah al-tālibīn wa 'amdh al-mūftīn*, (Bayrūt; maktabah al-islamī, 1985) 2:37; Mūfiq al-dīn Abū Muḥammad Abd Allah bin Aḥmad bin Muḥammad bin Qadāmah al-muqaddasī, *Al-Mughanī*, (al-Riyāḍ, , Dār 'līm Kūṭab, 1997) 8:184 ; Abū abd 'Allāh Muḥammad bin abdul Rahmān Al-Ḥaṭāb ' Mūahib al-Jalīl' (Bayrūt;, Dār al-fikar, 1978) 6:37

³⁰⁵ Dale, Stephen F, and Alam Payind. "The Ahrārī Waqf in Kābul in the Year 1546 and the Mughūl Naqshbandiyyah." *Journal of the American Oriental Society* (1999): 218-33.

mentions: who is *mutawallī*, how the *mutawallī* is compensated for his efforts. If in case, the document does not mention any compensation for the *mutawallī*; the *mutawallī* will either volunteer for the work or appeal for compensation in court.³⁰⁶

The institution of waqf received importance within societies and contributed significantly to its religious, social and economic growth. Islamic fiqh has entrusted to the judiciary and Islamic courts the important role to supervise and resolve conflicts regarding waqf, mainly in the area of jurisprudential, administrative and fiscal issues.³⁰⁷

The vestment of powers to supervise and manage waqf in the judiciary is aimed at strengthening the waqf institution and realisation of the conditions of the *waqif*, who make dedications to further sustain the development of waqf. When a waqf institution shifts from individual management to a collective institutionalised management, the conditions become even more important for the sake of improving its viability and protecting it from manipulation. During the Ottoman Empire, waqf reached its peak of development and Islamic courts supervised and managed all public waqf properties and individuals were left to manage their *waqf ahlī*. Towards the end of the Ottoman Empire, the trusteeship power of all waqf was shifted from Islamic courts and private individuals to a centralised administration, directly under the supervision of the Ministry of *Awqāf*.³⁰⁸

The above step, centralisation of waqf administration, has attracted great attention from scholars who have studied its various aspects over the years and concluded that the centralisation or nationalisation of the waqf administration led to a lot of mismanagement and distraction of waqf properties.³⁰⁹ The process of nationalisation

³⁰⁶ Toraman, Cengiz, Bedriye Tuncsiper, and Sinan Yilmaz. "Cash *Awqāf* in the Ottomans as Philanthropic Foundations and Their Accounting Practices." (Paper presented at the 5th Accounting History International Conference, Banff, Canada, 2007).

³⁰⁷ Abdallah, Tarak. "The State and *Awqāf* (Charitable Endowments) in the Twenty-First Century: From Tutelage to Partnership." *Contemporary Arab Affairs* 3, no. 4 (2010): 503-14.

³⁰⁸ Mohsin, M. I. A. *Cash waqf: A new financial product*. (Petaling Jaya: Prentice Hall, Pearson Malaysia, 2009).

³⁰⁹ Çizakça, Murat. (1998) Op. cit. Cizakca, Murat. "Towards a Comparative Economic History of the Waqf System." *Al-Shajarah* 6 (1997): 63-102; Sait, Siraj, and Hilary Lim (2006), 162; Abdallah, Tarak. "The

through centralisation policy continued even after the end of the Ottoman Empire and its process continued even under European colonisation, which took place almost throughout the Muslim world. Over the last few decades, the waqf institution has undergone a revival under a centralised authority in the public sector despite its harms as experienced in Ottoman Empire. Existing involvement of the public sector in the revival of waqf has exceeded beyond the historical supervisory role of appointing and removing the trustee and resolving disputes and confiscation of waqf assets. Mainly, public sector association with waqf institution emphasises reorganisation, modernisation, and development of waqf.³¹⁰

The Muslim world has realised and modified some of the waqf laws in accordance with newer fiscal instruments to increase the flexibility³¹¹ of waqf institution such as it has allowed the concept of *ibdāl* (sale) and *istibdāl* (exchange) of waqf assets to tackle uneconomic and scattered unproductive waqf assets. The nationalisation of waqf was undertaken to improve the administrative system of waqf and save it being mismanaged by individuals'.³¹² By and large, massive administrative machinery, human resources, and financial resources were made available by states to ensure sustainable waqf development, which could not be made possible by individuals or private entities. These positive steps will help the waqf institution perform the same role in the provision of public goods and services which it performed with exemplary success in the past.³¹³

State and Awqāf (Charitable Endowments) in the Twenty-First Century: From Tutelage to Partnership." *Contemporary Arab Affairs* 3, no. 4 (2010): 503-14.

³¹⁰ Islahi, Abdul Azim. "Provision of Public Goods: Role of the Voluntary Sector (Waqf) in Islamic History." (Jeddah, Financing Development in Islam, 1992). 367-91

³¹¹ Babacan, Mehmet, Economics of Philanthropic Institutions, Regulation and Governance in Turkey (October 1, 2011). *Journal of Economic and Social Research*, Vol 13(2) 2011, 61-89. Available at SSRN:<http://ssrn.com/abstract=2477426>

³¹² Mahamood, Siti Mashitoh (2006) Op. cit.

³¹³ Siraj, Siti Alawiah. "An Empirical Investigation into the Accounting, Accountability and Effectiveness of Waqf Management in the State Islamic Religious Councils (SIRC) in Malaysia. Ph.D Thesis " (Wales, Cardiff University, 2012).

2.8 Conclusion

This chapter comprehended theoretical discussion of waqf in various aspects such as its literal meaning, validation, and conditions, In addition, it discussed the concept of *ibdāl* (sale) or *istibdāl* (exchange) besides various kind of waqf. Finally, considering the position of waqf, its importance, objectives, and management have been discussed besides a few pieces of evidence of waqf practice around the world.

Universiti Malaya

CHAPTER 3: WAQF FINANCING, INVESTMENT, AND DEVELOPMENT OF HEIS IN PAKISTAN

3.1 Introduction

The analysis of this study mainly dilates the objectives in the context of higher education waqf institution development including the legal framework, fundraising, fund management, income utilisation and issues and challenges faced by waqf institution.

This chapter discusses waqf in terms of its legal framework, fundraising, fund management and income utilisation with reference to Pakistan. Initially, this chapter briefly introduces the historical development of waqf in Pakistan along with the current practices of waqf in higher education institutions development. In the later part of this chapter, waqf governance, rules, and regulations are discussed. The chapter ends with the discussion of fundraising mechanism, fund management, and income utilisation.

3.1.1 Brief Historical Development of Waqf

In the 18th century, Britishers stepping up in undivided India³¹⁴ in the guise of East India Company. Initially, they entered in the sub-continent as a trading company but slowly and gradually, the company had occupied the whole of India. In the beginning, the Muslims' had full freedom of practicing their own religious laws and beliefs and had no restrictions. But as the political power of East India Company became strong and they took full control of each and everything, the rulers began to intervene in Muslim religious laws. They also made serious amendments to the Islamic laws related to waqf and charities.³¹⁵

³¹⁴Sub-continent; south Asia it was consisted of present India, Pakistan and Bangladesh

³¹⁵ Arif, Mahmmod al-Hassan. *Islam Kā Qānūn ī waqf, Tārīkh Muslim Awqāf* (Lahore, Pakistan: Markaz Tahqīq Diyāl Singh Trust Library, 1994), 253

In Islam, there are two main types of Waqf, *awqāf al-khayrī* (charity) and *awqāf ahli* (family waqf), the former one is for all needy and deserving people but the later is exclusively for the family members and relatives of the deceased. The British rulers kept the former intact but abolished the later one. The interference was first started in 1838 when the court declared that Islamic concept of family waqf/trust³¹⁶ against the British law. Again in 1873, Bombay court gave an identical verdict, followed by many such decisions.³¹⁷ The decision was based on the argument that under the British rule, charity is exclusively for the poor and the needy and whatever one gave to his family or relatives would not be considered as charity. The verdict declared null and void Islamic provision for the family waqf. Hence, Justice Magistrate Travelin clearly gave his remarks that;

I understand the word *khayrāt*, which is equivalent to charity in English and the word is used in this meaning. I was expected to understand the meaning of the word in the light of Muslims' viewpoint on the issue and use the vernacular word.³¹⁸

The British government's decision was clearly against Muslims' religious law and an infringement on religious freedom. Muslims reacted angrily to the verdict and started pressurising the rulers to honour their religion and make a new law that truly reflects the Islamic teachings. Muhammad Ali Jinnah made a speech on the topic at a meeting of Muslim League, which was the Muslim representing a political party in India. At that time Muhammad Ali Jinnah was also an elected member of the Imperial Legislative Council and an active political person. On that issue, he presented a draft on March 17,

³¹⁶ English trust has its closest parallel in waqf (Islamic trust). The nature, features, and mechanisms of waqf vis-à-vis trust have been repeatedly juxtaposed with each other from different angles. Legally, In India (undivided Pakistan, India) waqf and trust were treated similar. Same the situation is continue in the Pakistan, some waqf institutions are registered in the Trust Act 1882, [Act No.2 Of 1882] for example Begum Aisha Bawany Waqf. For more detail cf. Abdullah, Mohammad. "Waqf versus Implied Trust: A Comparison of Form and Substance." *Trusts & Trustees* 22, no. 3 (2016): 336-44.

³¹⁷ Muhammadan Law-Waqf-Settlement on a Man and His Descendants-Perpetuity-Aulad Dar Aulad-Warrasan, Bombay Court, 1873 (10), BHCR 007 Abdul Ganne Kasam and others v. Hussien Miya Rahimtula and others (1873).

³¹⁸ Arif, Mahmmod al-Hassan. *Islam Kā Qānūn ī waqf, Tārīkh Muslim Awqāf* (Lahore, Pakistan: Markaz Tahqīq Diyāl Singh Trust Library, 1994), 253

1911.³¹⁹ His draft was not discussed anything new, but it was a revised version of the old Islamic waqf law. In his draft, he had extracted all provisions from the *Qur'ān* and the *Sunnah* of the Prophet (peace be upon him). Furthermore, he also consulted with Maulana Shibli Nomani to discuss that issue. Shibli Nomani was a well-known religious scholar and well experienced in Islamic jurisprudence.³²⁰ The result was a true blessing for the Muslims. After the strong public response to the support of the Quaid's draft, the colonial government made a law in 1913 which was named as Mussalman Waqf Validating Act.³²¹

The Partition of India took place in August 1947, which resulted in the formation of two new independent states named as, Republic of India and the Islamic Republic of Pakistan. In July 1947, barely a month before the partition, a pact was signed among All India Muslim League, All India Congress, and Sikh representatives. In the pact, it was clearly declared that all communities would honour and ensure protection to civil and religious rights of all citizens irrespective of caste, creed, and religion. Since, if any issue that was related to religious rights, no one is allowed for any tit for tat action in this regard so, at the time of partition, legislation was formed accordingly by the British government.³²²

After partition, the government of Pakistan set the ministries of religious affairs at the federal and provincial levels which looked after and managed the affairs of Muslims³²³ and non-Muslims *awqāf*³²⁴ separately. The ministries took over all old mosques, shrines, religious places, and charitable organisations along with the all such

³¹⁹Al Mujahid, Sharif. *Quaid-I-Azam Jinnah: Studies in Interpretation / Sharif Al Mujahid*. Historical Studies (Pakistan); 2. (Karachi: Quaid-i-Azam Academy, 1981),453

³²⁰Arif, Mahmmod al-Hassan. *Islam Kā Qānūn ī waqf, Tārīkh Muslim Awqāf* (Lahore, Pakistan: Markaz Tahqīq Diyāl Singh Trust Library, 1994), 255

³²¹The Mussalman Waqf Validating Act, 1913 (Act No. VI of 1913). [7th March,1913] http://bdlaws.minlaw.gov.bd/pdf_part.php?id=101

³²²The Indian Independence Act 1947 (1947 c. 30 (10 & 11. Geo. 6.) The Indian Independence Act 1947 is an Act of the Parliament of the United Kingdom that partitioned British India into the two new independent dominions of India and Pakistan

³²³Auqaf & Religious Affairs Department Punjab: https://www.punjab.gov.pk/auqaf_and_religious_affairs

³²⁴Evacuee Trust Properties' (Management and Disposal) Act, 1975 (Act No. XIII of 1975).

waqfs whose founders or even the nominated patrons had died, provided that they were not family waqfs. The miniseries were not only managing waqf's affairs but also responsible for their upkeep and maintenance.³²⁵

The department of *awqāf* works under a chief administrator and currently, they are taking care of thousands of mosques, shrines, and charitable organisations. Other than these, many religious and welfare organisations are also working under the *awqāf* department which includes *ulama* academy, hospices which are running at several shrines, libraries and a host of other charitable organisations, thus there is not any HEI under the *awqāf* ministries. The Director-General of *Awqāf*, Ministry of Religious Affairs Dr. Tahir Raza Bukhari stated that

To date, the Ministry of *Awqāf* does not involve itself in any University development program. However, they are supporting few *Madaras* (Religious Schools) from 2001 under Pakistan Madrassah Education Board. Other than that *Awqāf* ministry is also responsible for the pilgrimage beyond Pakistan, such as *Umrah* and *Hajj*, etc. They are also responsible for the welfare and safety of the Pilgrims. The main activities also include research-based Islamic studies, holding conferences, conducted seminars, organising training education of *Ulama* and *Khaṭīb*, exchange of visits of scholars of Islamic learning with the liaison amongst foreign and international institutions.³²⁶

Based on the above discussion, the annual budget of the *awqāf* department runs into millions of Pakistan rupees but the department does not play any significant role in the provision and sponsoring of higher education in Pakistan. In this regard, many precedents have been set by private waqf alike i.e. Hamdard University by Hamdard Laboratories Waqf, Pakistan

³²⁵ Pervaiz Ahmed "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

³²⁶ Tahir Raza Bukhari. "Director General Awaqf, Ministry of Religious Affairs Punjab, Pakistan." By Muhammad Usman. (*Monday, 26 September, 2016, 11:45:52 PM*) (2016).

3.2 Legal Framework for Waqf

In Pakistan, the non-profit sector is categorised by considerable diversity, it includes traditional waqf institutions, same as Non-Governmental Organizations (NGOs). Likewise, many community-based organisations are also active. However, in Pakistani law, such organizations usually work as societies or voluntary welfare institutions and large numbers of the proportion of the sector remain informal. As a result, a large number of waqf or welfare institutions are unregistered. Private *Awqāf*; waqf which is not under the ministries of religious affairs are also considered as the types of Non-Profit Organisation (NPO).³²⁷ Based on the above discussion, there is a need for proper legislation for waqf institutions in Pakistan. In this regard, Pervaiz Ahmed mentioned that

According to the *sharī'ah* perspective, it is not necessary to give a particular legal name to a waqf. The more essential is that it only fulfill all the characteristics of the waqf, no matter either it may be worked under the name of charity, help, trust, or society etc.³²⁸

However, the 65.4 per cent of waqf and charity institutions are registered under the societies registration act, and 14.6 per cent are registered as divergent whereas the remaining 20 per cent are unregistered³²⁹. Apart from the Society Act, legally there are few other possible options for waqf registration. Like, Waqf can be registered under trust act 1982, or under Section 42 of companies' act 1984 of SECP.³³⁰

³²⁷ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

³²⁸ *ibid*

³²⁹ Vardag, Zaman Khan. "What Is Law and Procedure for Registration of NGO in Pakistan?" *ZAMAN VARDAG Law Associates; Pakistani law Firm* (2012) <https://pakistanilaws.wordpress.com/2012/06/25/ngo-registration-laws-and-procedure-in-pakistan/>. For more details cf. Josh and Mak. "Legal Principles of Waqf in Pakistan (Legal Advice Series 10)." *Law Firms in Pakistan* 2017, no. 4-2-2017 (2014). <https://joshandmakinternational.com/legal-principles-of-waqf-in-pakistan-legal-advice-series-10/>.

³³⁰ Kamran Shams. "Chief Executive Officer, the Punjab Educational Endowment Fund (FEEF)." By Muhammad Usman. (*Thursday, 10 November, 2016, 11:55:01 AM*) (2016).

Securities and Exchange Commission of Pakistan (SECP) is the regulatory agency in Pakistan whose objective is to develop an efficient corporate sector. Formally, the Not for profit charity organizations including waqfs are also registered under SECP.³³¹

3.2.1 Legal Framework for University Formation

In Pakistan's law, a public or private university can only be formed under the act which is passed by any Provincial Assembly or National Assembly of Pakistan. This was seen when Hamdard University was established under the Hamdard University Karachi Act³³² that was passed in 1991 in the Sindh Assembly. If there would be a non-democratic government, the university would be constructed under the President's Order.³³³ Hamdard University has a board of governors like every other university. Hamdard Foundation Pakistan (HFP) is the founding body of the university which has its own board of Trustees. However, Hamdard (Waqf) Laboratories is the funding body of the university which has its own separate Board of Mutawallis.³³⁴ In case of the higher educational institution such as degree colleges can be affiliated to the affiliating universities, for example, Aisha Bawany College³³⁵ and Tablighi College³³⁶ are affiliated colleges of the University of Karachi. Hence, the formation of university and requirement of fund for

³³¹ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

³³² The Hamdard University Karachi Act, 1992, Sindh Act No.Vi of 1992.

³³³ Aga Khan University Order, 1983. President's Order No. 1983

³³⁴ Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (*Tuesday, 2 August, 2016, 11:02:18 AM*) (2016).

³³⁵ Ismail Bawany. "Director of Begum Aisha Ibrahim Bawany Educational and Welfare Waqf." By Muhammad Usman. (*Tuesday, 2 August, 2016, 2:36:54 PM*) (2016).

³³⁶ Abdul Baqi bin Abdul Bari "Grandson of Waqif and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

any particular reason are the separate issues, Waqf institution can help in the development of higher educational institutions.³³⁷

3.2.2 Tax Exemption on Waqf Institutions

No exemption is granted on waqf income such as property, capital gains, and waqf proceeds. Being legal entities, waqf institutions are entitled to collect donations and a certain level of tax exemptions. In this matter, only donations are potentially exempted from taxes provided that the funds are applied solely in furtherance of that charity's objects. On the other hand, such exemption has to be applied directly to the Ministry of Finance and is not automatically granted.³³⁸ To be eligible for these benefits a waqf institution must register with the Federal Board of Revenue (FBR), Government of Pakistan. Provisionally, the approval is for three years period only, henceforth institution has to apply again for the next turn. In addition, this approval will be required certification from the Pakistan Centre for Philanthropy (PCP).

“PCP conducts a performance evaluation of Non-Profit Organisations including private waqf institutions on behalf of FBR and certifies that either waqf institution meets with the desired requirements of certification standards (notified by FBR) in the areas of internal governance, financial management, and program delivery”.³³⁹

The PCP was established in 2001 as an only authorized body by the Federal Board of Revenue (FBR) Government of Pakistan to certify NPOs that includes all waqf institutions. It has a unique mandate to enhance the volume and effectiveness of charity in Pakistan and facilitates partnerships among the Government, business and civil society for promoting social development. Hence, formally all waqf institutions need to register

³³⁷ Higher Education Commission. “Standard Operating Procedure (SOPs) for Establishment of a New University/Institution of Higher Education.” (Islamabad, Pakistan: Higher Education Commission, 2002), 1-2

³³⁸ Income Tax Ordinance, 2001 and The Income Tax (Amendment) Act, 2016

³³⁹ Pakistan Centre for Philanthropy, Our Mission. (2017). Retrieved from <http://www.pcp.org.pk>

with SECP and get certification from PCP and avail the opportunity of Tax exemption from the FBR. However, without registration under SECP, a waqf institution will not get a certificate from PCP, and without this certification, institutions will not be able to avail the tax exemption facility.³⁴⁰

3.3 Higher Educational Waqf Institutions in Pakistan

To realise the important role of waqf in sustainable development, in the beginning, the government of Pakistan called for waqf and charity institutions. For the reason that, from its very inception in 1947, Pakistan faced a large number of difficulties; therefore, the government invited the third sector to help in health, education, and welfare. As mentioned By Mr. Fareed Ahmed Entuley

When Pakistan came into being, the 22 renowned families and business tycoons were living there; at that time, the Pakistani government specially requested them to start some waqf and charity in health and education sector because it was the need of at that time. For this purpose, the government also assisted and allotted different real estate properties to them.³⁴¹

That announcement was for the richest families of Pakistan, but gradually many religious leaders, politicians, businessman, visionaries, alumni, and entrepreneurs contributed to that sector as much as possible. At last, the HEWIs of the newly born country was designed and formed by getting inspiration from formal waqf institutions of India such as Aligarh Muslim University, *Darul Uloom Nadwtul Ulama* (Islamic University), and *Darul Uloom Deoband*.³⁴² The following table shows the famous and selected waqf institutions in Pakistan.

³⁴⁰ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

³⁴¹ *ibid*

³⁴² Surayya Qamar. "Professor, Dean, Faculty of Social Sciences, Jinnah University for Women Karachi" By Muhammad Usman. (Wednesday, 31 August, 2016, 12:24:56 PM) (2016).

Table 3.1: Pakistan's Famous Waqf Higher Education Institutions

Waqif/Founder	HEIs	Financing Entity
Hakim Mohammed Said (Shaheed)	Madinat al-Hikmah, Hamdard University	Hamdard Foundation Pakistan
Mr. Ebrahim Ahmed Bawany	Aisha Bawany Degree College & Asia Bawany Academy etc.	Begum Aisha Bawany Educational and Welfare Waqf, Trust
Maulana Tufail Ahmed Farooqi	Tablighi College, Law College, Murshid Hospital and Nursing School	Darul Tasnif (private) Limited, (A waqf company)

Source: Compiled and Modified by Researcher

In Pakistan, private waqf institutions are mainly registered under The Societies Act, The Trust Act and, Companies Ordinance; Like Hakim Mohammed Said declared his Hamdard Laboratories Pakistan as waqf in 1953 and registered as Hamdard Foundation Pakistan under Societies Act of 1860³⁴³ on 23rd October 1969. Begum Aisha Bawany Educational and Welfare Waqf³⁴⁴ registered under The Trust Act 1882 in 1953. Other institutions named as Darul Tasnif (private) Limited³⁴⁵ and Indus Hospital³⁴⁶ are registered under the Companies Ordinance, 1984 (Section 42).

All these laws or acts such as Trust Law, or Societies Act, and the Companies Ordinance has its own advantages and disadvantages. Though, in the current scenario, the research supported that waqf should be registered under Section 42 of Companies Ordinance 1984 of SECP. The waqf institutions like Darul Tasnif (private) Limited and

³⁴³ Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

³⁴⁴ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf". By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

³⁴⁵ Group, Jaffar. "The Greatest of All Arts Is the Art of Losing Ourselves in the Service of Others." EfroTech Services, <http://www.jaffer.com/contact/contact.aspx>. And for more detail cf. Abdul Baqi bin Abdul Bari "Grandson of Waqif and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (Tuesday, 18 October, 2016, 11:24:33 AM) (2016).

³⁴⁶ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (Wednesday, 14 September, 12:09:34 PM) (2016).

Indus Hospital Karachi are registered under Section 42 of Companies Ordinance 1984 and working efficiently as independent organisations. This act strongly supported the institution to take its own decisions and make their rules and regulations by their own selves. On the other hand, under this act, the waqf can be called as an autonomous body publically or privately. Section 42 of Companies Ordinance 1984 of SECP ensures that;

The assets cannot be diverted to any other object. Enactments are not perpetual but Section 42 of Companies Ordinance, of SECP, ensures perpetuity, independence, and sustainability.³⁴⁷

The other most important advantage of opting SECP registration is that in case if the government decides to dissolve a waqf or charity institution under section 42 for any particular reason, its funds or assets can be utilised only for the similar cause only.³⁴⁸

3.3.1 Hamdard Laboratories Waqf, Pakistan

The founder of Hamdard University, Hafiz Hakim Mohammed Said Shaheed migrated from India to Pakistan in 1947, he met with very good and helping people in the beginning, like Jamshed Nusserwanjee Mehta (He was the first elected Mayor of Karachi), Syed Miran Mohammad Shah (He was the second speaker of the Sindh Assembly). Hafiz Hakim Mohammed Said Shaheed always said that he just need moral support from the people. In the beginning, he established Hamdard Dawakhana in 1948 inside a small shop of Karachi. Initially, it was only an herbal clinic, but gradually, it became an herbal medicine industry called Hamdard Laboratories Pakistan that was declared as Waqf by Hakim Mohammed Said and titled Hamdard Laboratories (Waqf) Pakistan in the year 1953.³⁴⁹

³⁴⁷ *ibid*

³⁴⁸ *ibid*

³⁴⁹ Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

Generally, Hamdard Laboratories provide health products and services, therefore it has more than 500 herbal preparations (syrups, semi-solids, and solids) which are manufactured on the principles of the Greco-Arab system of medicine which is also called Unani. Hamdard has a team exceeding 1,500 employees across the country, including physicians, doctors, scientists, pharmacists, technicians, and other skilled and unskilled personnel.³⁵⁰ The majority of the profit earned from Hamdard Waqf Laboratories called as 'Qaumi Income' goes to the Hamdard Foundation Pakistan (HFP) which is further used for Education, Health and Welfare purposes.³⁵¹

The term 'Hamdard' is derived from two Persian words; Hum and Dard. The prefix "Hum", used for 'those who share', and suffix "Dard" means pain. Altogether, Hamdard means someone who shared pain with someone. As in, if you share my pain with me, you are my Hamdard. Hafiz Hakim Mohammed Said Shaheed's daughter Ms. Sadia Rashid mentioned about her father,

"He was a remarkable humanitarian, an eminent social scientist, a renowned physician and revivalist of traditional medicine, who had lent a new dimension to alternative medicine and successfully get it recognised by the World Health Organization (WHO). Hamdard Laboratories (Waqf), Hamdard Foundation Pakistan, Hamdard Clinics and Madinat al-Hikmah – A City of Science, Culture, and Education are a testimony of his love for humanity, devotion to the promotion of education and learning and dedicated service to the people of Pakistan".

A lot of charitable activities were initiated and completed by the waqf from 1953 to 1968. These charitable activities were, however, administratively separated from Hamdard Laboratories (Waqf) Pakistan on 1st January 1964 after establishing of Hamdard Foundation Pakistan (HFP). Since then Hamdard Foundation Pakistan involved in various types of charitable activities. The activities are increased rapidly and systematically. The

³⁵⁰ Hamdard Brand Management. In *Hamdard as Industry* edited by Hamdard Laboratories Waqf Pakistan, (Kararach, Hamdard Laboratories Waqf Pakistan, 2014).

³⁵¹ Farrukh Imdad. "Acting Vice Chancellor, Hamdard University Karachi." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

body i.e. HFP was, however, registered under the societies' registration Act XXI of 1860 on 23rd October 1969.

Sadia Rashid further added:

We are working from last more than one hundred years on waqf

Hakim Mohammed Said purchased 350-acre land and donated that to the development of Madinat al-Hikmah (A City of Education, Science, and Culture). This is the dream and vision of his entire life. Madinat al-Hikmah is known as a city because it has a Hamdard Village School, Hamdard School, Hamdard College, Hamdard University and various research institutes under one roof. Being a real beneficiary of waqf income, Hamdard University along with various other higher education institutions and research centres have been developed by funding from Hamdard laboratories Waqf Pakistan. The developmental cost of Hamdard University was financed by Hamdard Laboratories (Waqf) Pakistan through Hamdard foundation. While in operational expenses the university is self-sufficient.³⁵²

3.3.2 Begum Aisha Bawany Educational and Welfare Waqf

Apart from individual contribution, there are some communities or families who contributed very well to the higher education waqf institution development. Among these, the Memon community is one of them. It is a business community working on a slogan "earns to give". This is a truly charitable community, consisted of various families. Adamjee, Lakhani, Dadabhoy, and Bawany are very famous and played a great role in higher education development.³⁵³ Among these families, Bawany is very famous and has a very significant contribution to the development of Waqf institution. Originally, Bawany was the head of the family who was known as "*Bawa*" to honour his honesty and

³⁵²*ibid*

³⁵³ A Hameed Tayyab Suriya. "Role of Memon Community Independence Movement ". *Memon Alam* 43, no. 643 (2011): 7-14.

hard working in Jetpur, India. After partition, the family moved to Pakistan. The Bawany family also established a Waqf institution for educational purpose after the appeal called by the government of Pakistan.

Mr. Fareed Ahmed Entuley mentioned

The Begum Aisha Bawany Waqf was established in 1953 in memory of (Late) Mrs. Aisha Ahmed Bawany, for serving the noble cause of Islam in various fields of human welfare including higher education. Mr. Ibrahim Bawany; the father of a present trustee/*mutawalli* initiated this by the name of his mother. It is a family waqf and doesn't receive any donation.³⁵⁴

The Bawany family is very popular in various businesses such as sugar, leather, textiles, jute, particle board, oxygen, garments, and cables tanneries. They are considered as business Tycoon and one of richest families of Pakistan having various firms including Latif Jute Mills, Bawany Sugar Mill, Farhan Sugar Mill, Pioneer Cables Bawany Air Products Ltd, Al-Noor Textile and Bawany Metals. As a charitable family, they have devoted 10 per cent of their profit for the sake of Allah in their waqf institutions. The total annual expenditure of these businesses is approximately over two million PKR.³⁵⁵ In addition, the *zakāt* and another kind of charities are also fixed for the Waqf institution but distributed among the actual beneficiaries of *zakāt*. The Bawany family is also involved in the following activities.³⁵⁶

The Aisha Bawany Academy was established in 1960. Initially, it was comprised of only boys & girls, primary and secondary school. Hereafter, in 1962 Degree College section was also established.³⁵⁷ To some extent, the Aisha Bawany Waqf also helped and assisted to establish several prestigious higher educational institutions in Pakistan. Hence,

³⁵⁴ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf". By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

³⁵⁵ Rifat Ahmed Khan. "A Brief Account of the Activities of Begum Aisha Bawany Waqf." (Habib Square M.A Jinnah Road, Karachi, Aisha Bawany Waqf, 2016)

³⁵⁶ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf". By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

³⁵⁷ *ibid*

being one community, the Bawany Waqf Institution also contributes to many higher educational institutions.³⁵⁸ Following are some remarkable examples:

- Aisha Bawany Academy
- Ahmed Bawany Academy
- Hussain Ebrahim Jamal Institute of Chemistry-Karachi University
- Dawood Engineering College
- Rounaq-e-Islam Girls College
- Usman Institute of Technology
- Hashmani Post Graduate Eye Institute
- Memon Institute of Data Processing
- Adamjee Institute of Information Technology

The second aspect of the Bawany waqf is to render monetary help to the poor and give financial assistance for the construction of mosques and provide aid to religious social, cultural and educational institutions, including construction of special units in hospitals and community welfare centres in Pakistan. In case of any calamity & emergency, all possible assistance is rendered by the waqf to the afflicted. The Bawany Waqf has provided thousands of copies of the Holy *Qur'ān* and a substantial quantity of clothes, medicines and other material for the needy people across the country.³⁵⁹

The third aspect of the Bawany waqf institution has been engaged in the propagation of the message of Islam all over the world. In order to achieve this objective, the waqf disseminates Islamic literature free of cost, in various languages. It has published more than 50 books contain a valuable treasure of knowledge on Islam to meet the requirement of Muslims as well as Non-Muslims by presenting a comparative study of

³⁵⁸ A Hameed Tayyab Suriya. (2011) Op. cit.

³⁵⁹ Rifat Ahmed Khan 2016. Op. cit.

religion. The waqf institution also published a monthly magazine “Muslim News International” for about 15 years which has a wide circulation in Pakistan & abroad.³⁶⁰

3.3.3 Darul Tasnif Waqf

After the creation of Pakistan in 1947, Maulana Tufail Ahmed Farooqi, founder/*waqif* of Darul Tasnif, who claimed himself a descent from the second rightly guided caliph Hazrat ‘Umar (may Allah be pleased with him), migrated to the new homeland of Muslims. In 1950, he asked the government for property allotment in compensation for whatever he had left behind in Saharanpur, India. He had planned to establish a waqf institute in that allotted place. Fortunately, the government allotted some piece of land to him, and the moment he took possession of the land, he donated it to his institute and established a waqf to run its affairs.³⁶¹

The meaning of Tasnif is “writing” and “composing”. While this term is also used for compiling different facts on a subject. So, it was decided that the newly established Waqf institute named as Darul Tasnif (DT). Being a waqf company, welfare services in health, education and common welfare are also provided to the people. Initially, the founder brought out a magazine “al-Yaqīn” and undertook the translation of the *Qur’ān* as well its rendering in roman Arabic. The objective of rendering in Arabic is that the modernly educated persons who find it difficult to read Arabic text but can easily read English able to read the *Qur’ān* with the help of roman Arabic. He accomplished the task in 1951.³⁶²

It is interesting to know that the founder of Darul Tasnif actually wanted to get the magazine registered with the authorities concerned, and for this purpose, he first established an institute. He organised a meeting of his disciples and told them that he was

³⁶⁰ *ibid*

³⁶¹ Abdul Baqi bin Abdul Bari “Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited” By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

³⁶² *ibid*

about to receive a piece of land which was planned to waqf (donate) to the institute. The institute was then in the conceptual stage. As mentioned by the present Director DT and grandson of the *waqif*;

He said that the envisaged institute would be a laboratory of Islam where students would be taught how to practice Islam without compromising its essentials and losing its spirit. The institute would produce scholars who would be well versed in both traditional Islamic knowledge and modern sciences.³⁶³

For that reason, he gathered his disciples and informed them about the salient features and objectives of the proposed institute and offered the disciples to become shareholders in the proposed company. He then established the institute and had it registered with the SECP as a ‘private limited company’. According to SECP, it is the first of its kind waqf institute in the country which is a welfare and charitable organisation as well as a private company.³⁶⁴ Many times, SECP advised to get the institute registered as a ‘trust’ with the SECP but the founder was not agreed upon this and he had very strong reasons behind that. The PCP officials objected how the SECP could issue tax exemption certificates to a private waqf company. The SECP chairman replied on that objection:

You are just looking at a pile of papers which said that it is a private company but we have been examining their accounts for decades and we, therefore, know they are doing a noble work being a waqf institution.³⁶⁵

Since it was impossible for the institute to be declared as a trust, SECP chairman hand out a letter with this note “*being a public company Darul Tasnif can work as a charitable and waqf organisation*”.³⁶⁶ The law allows that a private limited company can work as a

³⁶³ Abdul Baqi bin Abdul Bari “Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited” By Muhammad Usman. (Tuesday, 18 October, 2016, 11:24:33 AM) (2016).

³⁶⁴ *ibid*

³⁶⁵ *ibid*

³⁶⁶ *ibid*

waqf provided that its directors do not draw a salary from the company, and its earning is purely spent on the organisation.

The intention of the grandfather is now understandable when he invited his disciples and told them that the institute would include school, madrassah, Degree College etc. and it was a great beneficial cause. 'If you spend one for the sake of Allah you will earn 10'. It has been guaranteed by Allah.

At the present time, Darul Tasnif waqf has various charity ventures besides higher educational institutions such as Murshid Hospital with Nursing School, Law College, and a technical college. The Murshid Hospital is a little different from the college, though it too came under the Darul Tasnif. The hospital has a separate board of governors which take care of its affairs and run it on the basis of no profit no loss. It spends whatever it earns and charges only the fee that is used for patients' treatment.

3.4 Funding HEWIs:

To be sure, waqf is perpetual in nature and its income is the main source of utilisation. The person or organization, who establishes a waqf, may decide who will be the beneficiaries. In Islamic law, the *waqif* has liberty in terms of allocating the waqf income; it can be for 'self', for relatives, for public health, or maybe for higher education. Waqf is a very broader term in its concepts, yet its conditions should be considered. Once a waqf is established, the principal amount "seed waqf" will be sustained. The principal amount will not be consumed or dissolved. Mufti Dr. Khalil Ahmed Azami shared his thoughts by saying that

My opinion is that there should be less principal amount of waqf, and there should be more donations. The principal amount of waqf cannot be consumed, but donations, which become '*mamlūkāt-i-waqf*', (properties of waqf) can be consumed easily.³⁶⁷

³⁶⁷ Azami, Mufti Dr. Khalil Ahmed. 2010. Op cit.

It appears that the Islamic jurists have regarded waqf as a separate legal entity and have ascribed to it some characteristics similar to those of a natural person. In this regard, Mufti Taqi Usmani, mentioned two rulings given by the Islamic jurists

“Firstly, if a property is purchased with the income of a Waqf, the purchased property cannot become a part of the waqf automatically. Rather, the jurists say, the property so purchased shall be treated, as a property owned by the Waqf. It clearly means that a Waqf, like a natural person, can own a property. Secondly, the jurists have clearly mentioned that the money given to a mosque as donation does not form part of the Waqf, but it passes to the ownership of the mosque”.³⁶⁸

Based on the above discussion, to some extent, this study also mentioned non-waqf assets collected and hold by waqf institutions. For the reason that these non-waqf assets are additional sources and can be used directly to the beneficiaries in a higher education institution.

The remainder of the chapter focuses on higher education funding in terms of 1) waqf financing 2) management and 3) development i.e. fundraising, fund management, fund utilisation respectively.

3.5 Financing

Basically, the financing of waqf institutions can be categories mainly into two major sources. First is internal sources in which funds are produced internally i.e. inside the waqf institutions and second is external sources in which funds are coming to the waqf institutions from outside. These both sources are important in waqf HEI development for making them self-sufficient and to meet their operating expenses.

³⁶⁸ Usmani, Mufti Muhammad Taqi. "An Introduction to Islamic Finance ". Chap. The principles of limited liability, (Karachi, Pakistan: Maktaba Mar'urful Quran, 2006), 150-60

3.5.1 Internal Sources

The preceding section discusses the funding sources inside the waqf institutions or the resources being generated directly through internal institutions' soliciting policy and decisions in waqf institution.

3.5.1.1 Waqf Income

Hakim Mohammed Said set a great example regarding the income generated by Waqf. He established Hamdard waqf laboratories, which is providing various health products and services to the people at very minimal prices. Subsequently, Hamdard waqf laboratories' majority of income devoted to the welfare of the nation. This waqf income directly goes to three different channels; health, education, and welfare.³⁶⁹ Thus, by this way of illustration Hamdard waqf only using internal sources of income for higher education. More precisely, under the purview of Hamdard waqf laboratories, and are practically proven that the internal sources are sufficient enough for the University development. For earning more profit and return, waqf institutions also invested some money inside the premises by constructing auditorium, community halls, conventional centres, computer labs, etc. The higher education commission of Pakistan also encouraging this step of HEIs. In certain circumstances, these facilities can be offered for commercial, academic, vocational and occasional purposes. Hamdard University and other waqf institutions can earn handsome amount of money by giving the premises and portions on rent.³⁷⁰ In this regard, Darul Tasnif receiving rent from the fuel station. Similarly, since 2005 Aisha Bawany waqf is offering their land and resources for

³⁶⁹ Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

³⁷⁰ *ibid*

advertising. Hence, it is evident that these waqf institutions have significant income sources.

3.5.1.2 Internal Donations

Usually, staff and faculty members offer their personal income or services voluntarily, perhaps, in some waqf institutes, the founder, and board of trustee funded personally. Darul Tasnif Tablighi College's *waqif* and founder Maulana Tufail Ahmed Farooqi set the perfect example of self-charity by endowing his 34 acre land for the waqf institution. Besides the founder, the college also receives donations from Managing Director of Darul Tasnif; Hamid Jaffar.³⁷¹

3.5.2 External Sources

3.5.2.1 Individual Support

As discussed earlier, the waqf dedication requires perpetuity, therefore, it will remain everlasting to ensure the regular benefits to beneficiaries. However, other charities can be directed to beneficiaries. Donations can be classified into two broad categories, waqf, and non-waqf. In the second category, one of the important sources of individual support is in the form of *zakāt*, *sadaqāh*, and other donations. These individuals may be well-wishers, businessmen, politicians, celebrities, industrialists, and government officials etc. Most people pay *zakāt* during Ramadhan, so mostly a campaign for *zakāt* collection is more effective in that month. Then, *sadaqāh*, which is collected anytime. During the interview, one of *sharī'ah* and legal experts Pervaiz Ahmed mentioned that; Waqf institutions also collect hives during Eidul Azha. Similarly, they are also tapping CSR

³⁷¹ Abdul Baqi bin Abdul Bari "Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

(Corporate Social Responsibility) funds of registered and listed companies, in the same manner, *zakāt* funds of the company owners as well as staff.³⁷²

To this extent Mufti, Dr. Khalil Ahmed Azami stated that

After a thorough study of human psychology, different methods of seeking waqf and donations from industrialists, businessmen, politicians, kings etc. are used.³⁷³

Based on the above discussion, to collect donation efficiently waqf institutions officials are also taught human psychology and learns new ways of innovative donation collection methods. To some extent, Abdul Baqi stated that

People established companies and factories in the world with a view to earn and multiply profits but my grandfather was offering dividends in the hereafter and said whoever put his money in the waqf company (Darul Tasnif) would surely get a lasting and durable profit.³⁷⁴

However, he never begged for donations. He did not believe in propagating his work through pamphlets and booklets. He did not want that general public get aware about his good work through any promotion. He used to say it would be a mockery of ones' own words if he had been urging people from his pulpit. He always put all their trust in Allah alone and asks only Him for their needs and He will fulfill all the needs. It can further be illustrated in one example from his life.

A man once came to visit the college. He liked the system and educational process of college very much and gave a blank cheque to Maulana Tufail . He was told that the managing director of Pakola Company Haji Muhammad Ali had given a blank cheque and asked him to fill whatever amount he needed. Haji Ali met Maulana Tufail after two months and said 'Maulana, I had gone to the bank and was told that the cheque that I had given to you had still not been encashed. Maulana Tufail said, he did not cash the cheque until you would write some

³⁷² Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

³⁷³ Mufti Dr. Khalil Ahmed Azami "Chairperson, *Shari'ah* Board Bank Al-falah Islamic, and Ustaz at Darul Uloom Karachi." By Muhammad Usman. (*Sunday, 14 August, 2016, 12:07:20 AM*) (2016).

³⁷⁴ Abdul Baqi bin Abdul Bari "Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

amount on it. He returned the cheque to Haji Ali and requested him to donate the desired amount by for the education. Haji Ali's family is one of the 22 wealthiest families in Pakistan, he said.³⁷⁵

Hence, there are lots of examples of people showed the individual contribution in waqf's higher educational institutions. It might be further increased through the innovative and efficient way of collection. But, most importantly, trust in Allah and sincerity for this noble cause is very necessary.

3.5.2.2 Government Support

In public institutions, the major funding comes from the government. While private higher educational institutions rarely received any grant from the government. But, being a waqf institution the Darul Tasnif set a unique example and during the development of nursing school at Darul Tasnif in 1984, 4 million PKR was received from the government.

As mentioned by the present Director of Darul Tasnif:

My grandfather obtained 4 million from the government for the first time in the history of establishing the nursing school.³⁷⁶

It is first and the only example where private waqf institution received a fund from the government in Pakistan, however, some of the board of Directors of Darul Tasnif disliked it but the institution has accepted the fund for the betterment of the society. Subsequently, the next democratic government elected and they started an investigation regarding that fund and they came to Darul Tasnif and investigated it. The government checked the full audited record of the waqf institution and found out that the total cost of construction was 10 million PKR, but out of the total amount only 4 million was funded by the government, rest of the amount was spent by their own resources. That record satisfied the government completely and Darul Tasnif got free from all investigations.

³⁷⁵*ibid*

³⁷⁶*ibid*

It also shows that there is no legal framework nor any procedural format about receiving funding private waqf institutions from the government. The government also provided *zakāt* fund to some waqf institutes.³⁷⁷ This is done through proper procedure. The government collects *zakāt* through banks, which is deducted from the account holders' accounts in the month of *Ramadhan*. This amount is then transferred to the federal government which is distributed among provincial *zakāt* councils and thus the money trickles from top to the bottom where the *zakāt* committee lies. The *zakāt* committee registers the deserving and the needy people of the country and the committee is supposed to take care of them. In some cases, the committee pays them directly and in others, they handed over the *zakāt* to the welfare organizations to cash out the *zakāt* fund. A major chunk of the fund falls prey to rampant corruption and the amount gets smaller and smaller as it trickles down to the lowest rung.³⁷⁸ One of the legal and *sharī'ah* experts; Pervez Ahmed exposed

A *zakāt* official once came to me and gave me a cheque for 5 million PKR on condition that I would pay him 10 per cent of the total amount. I proposed that the government should set up a transparent structure and invited the private sector to invest in it.³⁷⁹

It is necessary to scrutinize and establish a well transparent and accountable system for the collection of donations. Because of the lack of transparency, the public perception regarding the government is not good and they are failed in providing proper delivery of services. Normally, people have greater confidence in private waqf institutions and people feel convenient to give money to the private sector.³⁸⁰

³⁷⁷ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

³⁷⁸ *ibid*

³⁷⁹ *ibid*

³⁸⁰ *ibid*

3.5.2.3 Donations or Grants

In the modern era, besides the religious alms, there are many other sources of donations for a waqf institution. Grants and donations are by a person and by a legal entity, aim for charitable purposes or to benefit a cause like higher education. A donation may take various forms, such as cash, capital goods, and services. Charitable goods or services are also called gifts in kind. However, in our selected cases from Pakistan mostly waqfs are supported by their own families and their particular family businesses. While due to strong religious belief and autonomy of power, these waqf institutes do not rely on any grants and funding. Even though, these waqf institutions are not only supporting higher education but also working for health and common welfare. There is an example of a case in which international donation was rejected by Darul Tasnif's founder *waqif* and *mutawalli*.

In 1975-76, the government of Britain had given 100,000 pounds separately to the madrassahs and academic institutions of Pakistan. Out of that money, some amount was also sent to Darul Tasnif through cheque. The founder received the cheque and wrote on its back 'returned with thanks. We cannot accept any donations from a non-Muslim government. Our institution does not need your aid'. He used to say if we did not seek aid from our own government, how we could accept the same from others.³⁸¹

Being a founder and *mutawalli*, Maulana Tufail believed on *Tawakal* on Allah; he said," Put all your trust in Allah alone and ask only from Him for the needs and He will fulfill all the need. Do not ask people to fulfill the needs.³⁸²

3.6 Investment

An investment is an asset purchased for the purpose of earning profit whether via income or capital appreciation. The person or an entity who is doing investment is called investor.

³⁸¹ Abdul Baqi bin Abdul Bari "Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (Tuesday, 18 October, 2016, 11:24:33 AM) (2016).

³⁸² *ibid*

In waqf perspective, the investment³⁸³ means the commitment of funds for waqfs. It will either support the waqf or it will use with a positive expectation that, it will increase the value or income of waqfs.³⁸⁴

Mr. Pervaiz Ahmed quoted that

Managing the waqf is a big responsibility. Waqf's revenue is contributed by thousands of people and we cannot request everybody to grant us forgiveness as we did not use the fund properly.³⁸⁵

Therefore, waqf assets should be managed in accordance with the conditions laid down by the *waqif* with proper protection and maintenance. In this way, all the *sharī'ah* and legal aspect should be considered in the waqf asset management. According to the *sharī'ah* perspective, it has just put one main binding condition that money should be invested in those halal businesses which at least secure the principal amount. Investment should be made after analysing all dimensions. There are so many safe options for investment in present times. First of all, there can be a 'body' to look after the managerial issues of waqf. It can be made productive for a business to enhance its income, and various measures of profit maximization and risk minimization can be adopted.³⁸⁶

In waqf, there can be two main kinds of assets. One kind is Real Assets which are physical assets including equipment, real estate and businesses. The other kind is Financial Assets which are actually bonds, shares, securities, and certificates of deposits. In the investment strategy, there are three kinds of investments. First is Conservative Investment which states that a strategy seeking to invest in lower-risk securities to secure

³⁸³ Jones, Charles Parker. *Investments: Analysis and Management, Thirteenth Edition Binder Ready Version*. (River Street, United State: John Wiley & Sons, Incorporated, 2016), 614

³⁸⁴ Lawrence J. Gitman, Michael D. Joehnk, and Scott B. Smart. *Fundamentals of Investing*. (London, United Kingdom: Pearson Series in Finance, 2010).

³⁸⁵ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

³⁸⁶ Mufti Dr. Khalil Ahmed Azami "Chairperson, *Sharī'ah* Board Bank Al-falah Islamic, and Ustaz at Darul Uloom Karachi." By Muhammad Usman. (*Sunday, 14 August, 2016, 12:07:20 AM*) (2016).

portfolio. The second kind is a Balance Investment which defines as a strategy that aims to balance between risk and return and the third one is a Recursive Investment which is more inclined towards risky assets. Therefore, most of the waqf institutions are retaining a prudent investment strategy, and they are more conservative in investment. Mr. Pervaiz Ahmed during the interview as mentioned

I have a document here with me that I cannot show you at the moment because it has not yet been approved by the board". It says we should pursue a prudent investment strategy. We should at least be meeting the inflation and generating some excess waqf income at the same time that can be used for the charity. For example, if currency depreciates by 5 per cent in the market and there are 100, 000 PKR at the moment in the waqf fund and the like amount for managing it, I should basically earn 5 per cent extra. When I look at the amount of waqf income I require, it should be 110, 000 PKR which means only if I generate 10 per cent, the board (Board of trustees) will allow me then to spend 5 per cent of the total amount".³⁸⁷

Precisely, it is essential for the waqf institutions to at least meet the current inflation level which helps them to cover the depreciation. Some extra income is also required for charity. Mufti Khalil Ahmed wrote in his book "System of *Awqāf* in Islam: History, Importance, and Directions mentioned."³⁸⁸

There is a probability of less income if modern methods are not used.³⁸⁹

Further, the author elaborated the concepts of "*Istisnā'*", "*Ijārah*", and *Shukūk* in his book. And he further said, "Wisdom is the lost property of a Muslim". *Sharī'ah* allows that waqf's principal can be invested in any profitable (Halal) business to earn better income by western patterns of 'shares', 'equity', 'property', 'sale and purchase of goods'. It helps to provide benefit to the beneficiaries.³⁹⁰ Subsequently, this section illustrated waqf

³⁸⁷Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (Wednesday, 14 September, 12:09:34 PM) (2016).

³⁸⁸Azami, Mufti Dr. Khalil Ahmed. *System of Awqāf in Islam: History, Importance and Directions*. (Karachi, Pakistan: Idarah Islamiyat, 2010).

³⁸⁹ Mufti Dr. Khalil Ahmed Azami "Chairperson, *Sharī'ah* Board Bank Al-falah Islamic, and Ustaz at Darul Uloom Karachi." By Muhammad Usman. (Sunday, 14 August, 2016, 12:07:20 AM) (2016).

³⁹⁰ *ibid*

investment in three different dimensions 1) Real Assets 2) Financial Assets and, 3) Business Ventures

3.6.1 Real Assets

The study revealed that in Pakistan, the most extensive and commonly available strategy in waqf management is real estate properties because it is considered as an almost secure investment. Most of the time donors waqf their real assets and land properties. While it is also discovered that sometimes they “will” save for the waqf. However, there is no legal procedure is applicable to oversee or solve that deal. As mentioned in this example;

An elderly childless couple wanted to waqf (donate) their property to us because they thought that their property would be distributed among distant relatives after their death. Hence, they transferred their property to us and we, on our part, gave them a written undertaking that as long as they are alive they can use their property and it's earning and it will be transferred to us only after their death. We did it in an informal manner.³⁹¹

The above extraction creates more emphasis on the need for a formal legal framework with the attributes of transparency, reliability, and efficiency. In today's situation, if someone is willing to waqf the property to a HEIs he/she comes to know that the management is corrupted, he, therefore, mostly opts for donating waqf for a mosque or a *madrasah*. In real estate, most of the waqf institutions are safe and they have better investment opportunities. Even if, they don't get income from the rental, they will earn from the cost of building as the property's price will keep rising by the time.³⁹²

As considered it more secure, real estate is broadly using waqf institutions as a mode of investment. Darul Tasnif Tablighi College rented out the waqf land for fuel station in order to generate funds for Darul Tasnif. The *waqif*, Maulana Tufail Ahmed

³⁹¹ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

³⁹² *ibid*

Farooqi RA established a filling station and diverted its income to the institute. He obtained a no-objection certificate for the filling station from the government on the contention that the filling station would provide fuel to Quetta-bound. It is the entry point of One of the largest province of Pakistan, Baluchistan. This step was taken to finance the Darul Tasnif in 1953, but on the other hand, it was a great facility for the people of Baluchistan from a waqf company. It is also regarded as the first professional step by the waqf institute in Pakistan. The waqf institution received three-year rent in advance for new construction or maintenance of the building. The waqf earning from the filling station is not used for the day to day activities. It is kept as a fixed asset.³⁹³

From 1954, fuel station income only used for development purpose, for 3-years we earned 10.8 million PKR. However, sometimes, if there is not any further development required, that amount was invested in the National Investment Trust (NIT), as already did the same back in 2004.³⁹⁴

Hence, it is evident the fuel station has a significant source of income in the waqf institution. Mainly, it is helping to improve infrastructural development and maintenance such as students and faculty accommodation.

The founder of the institute decided that his children could be allowed to live in the residential quarters but could not rent or sell the waqf premises. During his last days, he used to say to his children “Maulana Qasim of Darul Uloom Deoband prepared his ‘will’ in his life and inserted two sections in it which were later struck off from the original will. They read ‘no member of his family will ever work as an employee in the waqf institute until the day of judgment if the institute remains in existence till that day, which it will Allah’s willing’. The second section stated ‘none of my progeny shall ever be

³⁹³ Abdul Baqi bin Abdul Bari “Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited” By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

³⁹⁴ *ibid*

principal or administrator in the institute even if he works for a salary or without salary. He can but offer his services selflessly to the institute.³⁹⁵

Henceforth, Maulana Tufail set an example for many other waqf institutions. He not only waqf his land but also contributed continuously from his personal businesses in the waqf institution. Being a businessman and good administrator, he planned an efficient strategy for waqf management.

Aisha Bawany Educational and Welfare Waqf set another good example by investing 10-floor building in the prime location of Karachi as a real estate investment.

A plan was made to build a ten-storey building at Burns Road, Karachi. In that area, there is no other building like that. The ground floor is dedicated to the commercial purpose and the rest of the floors are for residential purpose from where the waqf institute earned a profit by means of rent.³⁹⁶

Aisha Bawany's plot came under commercial land and it is considered as very significant for generating waqf's income. Hence, Aisha Bawany waqf has a sustainable and perpetual source of income for their upcoming developmental expenses.

Traditionally, waqf institutions were using their waqf properties for agriculture and cattle farming. Correspondingly, various waqf institutions are still investing in farming and cattle. Sometimes donors only waqf their lands with the intention that agricultural land would help in the educational activities of the HEIs. For example, the Hamdard and Darul Tasnif both waqf institutions are involved in this investment plan. Darul Tasnif formed a coconut palm tree and Hamdard has utilised the land for their herbal product and plants. Whatever they invested and earned from these *awqāf* properties are only being utilised for educational purposes.

³⁹⁵ *ibid*

³⁹⁶ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

3.6.2 Financial Assets:

Likely, selected waqf institutes are financially stable and have a prudent investment strategy for their waqf management. In Pakistan, a higher education institution's registration is subject to the satisfaction of the Higher Education Commission (HEC), Pakistan. The HEI is financially stable and has the ability to sustain a regular functioning on a long-term basis; the financial resources of the institution are sufficient to enable it to make due provision for its continued maintenance and efficient working portfolio. For this purpose, the sponsor which may be a waqf institution shall be required to create a non-transferable fund in the name of the Society or Trust or it may be a waqf's fund. It should be invested in the name of the higher education institution.³⁹⁷

The value of the investment, however, will be determined by actual value or face value and waqf profit accrued thereon is to be utilised for the academic development of the HEI. The HEI is required to furnish proof of such investment. The waqf investment fund would be liable for periodic monitoring of the HEC. It says that the institution shall furnish such reports, returns, and other relevant information as the HEC may require, to enable it to judge the financial sustainability and soundness of the HEI.³⁹⁸ There are some famous waqf fund management strategies in selected cases in Pakistan.

3.6.2.1 Secure Securities

Being a private waqf institution, Hamdard Waqf has also invested in scheduled banks. It is the most conservative investment plan to save the seed money. Accordingly, mostly waqf institutions send quotations to the banks for the purpose of investing more and

³⁹⁷Higher Education Commission. "Guidelines for the Establishment of a New University or an Institution of Higher Education ". (Islamabad, Pakistan Higher Education Commission, 2007).

³⁹⁸ *ibid*

generate greater yielding and feasible income, these all decisions were decided by the board of governors of the HEIs.

3.6.2.2 Long-Term Deposits

Due to emerging trends and new concepts adopted by Islamic banking and finance, the role of Islamic Financial Institutions (IFIs) is very much effective in Pakistan's capital market. Thereafter, waqf institutions are trying to convert their investments according to the *sharī'ah* complaint. In the same manner, Hamdard Waqf initiated its investment in Islamic financial institutions since 2000 and receiving a markup on fixed deposit-profit long-term deposits (FIB) and *Ṣukūk* bonds.

The funds are secured and are looked after by the director of finance. All accounts are in Islamic Banking. 'Excessive income', and 'reserve funds' are in the form of Term Deposit Receipt (TDR).³⁹⁹

Based on the above discussion, Hamdard waqf is unique in its own way. This waqf does not accept the donation. The primary source of income is Hamdard Waqf Laboratories which is a sufficient source for them.

3.6.2.3 *Ṣukūk* (Islamic Bond)

Beside secure funds in the capital market, Hamdard Laboratories Waqf Pakistan (HLWP) is also investing funds in the *ṣukūk*. It is the only case which revealed an investment strategy in *ṣukūk*. It is an investment mode fully modified according to *sharī'ah* compliance. It is also commonly referred to as "Sharia Compliant" bonds.

We also invest in the bonds offered by different banks and *ṣukūk* bonds. We also invest in Meezan Bank's 'capital fund' and in the stock

³⁹⁹Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

exchange. Our all investments are according to the Islamic patterns of investments.⁴⁰⁰

Shukūk are defined by the AAOIFI (Accounting and Auditing Organization for Islamic Financial Institutions) as “*shukūk* are certificates of equal value representing undivided shares in ownership of tangible assets, usufruct and services or ownership of the assets of particular projects or special investment activity”.⁴⁰¹ According to State Bank of Pakistan (SBP), 3-years and 5-years *ijarah shukūk* are offered.⁴⁰² Where the HLWP invested in government *shukūk* program which is a security of the government of Pakistan.⁴⁰³

3.6.2.4 Royalty

A royalty is a payment to an owner for the use of an idea, especially patents, copyrighted works, franchises or natural resources. A royalty payment is made to the legal owner of the property, patent, copyrighted work or franchise by those who wish to make use of it for the purposes of generating revenue or other such desirable activities. In most cases, royalties are designed to compensate the owner for the asset's use, and they are legally bonded whereas the payment owner might be an individual or any organisation.⁴⁰⁴ Although, Hamdard Laboratories Waqf Bangladesh using Hamdard Pakistan's patents. But in this regard, they are not taking any royalties.⁴⁰⁵ Thus, his study found that selected cases studies from Pakistan are not receiving any royalty.

⁴⁰⁰*ibid.*

⁴⁰¹Watkins, Latham and. "The Sukuk Handbook: A Guide to Structuring Sukuk (2015)." <https://www.lw.com/thoughtLeadership/guide-to-structurings-sukuk-2015>

⁴⁰²State Bank of Pakistan. "Domestic Markets & Monetary Management Department: Auction Target Calendar for Sale of Government of Pakistan Ijarah Sukuk from April to June. (2016).

⁴⁰³Farrukh Imdad. "Acting Vice Chancellor, Hamdard University Karachi." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

⁴⁰⁴Alchian, Armen A. "Rent." In *The World of Economics*, 591-97 :(Springer, 1991). https://doi.org/10.1007/978-1-349-21315-3_79

⁴⁰⁵Farrukh Imdad. "Acting Vice Chancellor, Hamdard University Karachi." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

3.6.2.5 National Investment Trust Limited (NITL)

Darul Tasnif has also invested in mutual funds and equities, in the National Investment Trust (NIT). NIT is Pakistan's first and a largest asset management company, According to Director of Darul Tasnif;

NIT worked on the basis of Islamic rule of shares in profit and loss. Henceforward, all earnings from the filling station as well as donations were invested in NIT.⁴⁰⁶

It provides different investment avenue under the one roof with the benefit of the tax credit (as per applicable tax law). NIT Islamic equity and income fund have offered *shari'ah* compliant, *riba* free Investment returns. Darul Tasnif mostly did investments in the NIT and its earned profit is utilised for the developmental expenditure of Darul Tasnif.

3.6.3 Business

Being legal entities, waqf institutions are also involved in various business ventures to generate some more income. The businesses are herbal product manufacturing, farming, real estate and many others like these. To a certain extent, they are also providing some welfare services as well. In Pakistan, waqf institutions are getting a significant amount of income from their business. There are three main sources of waqf business earning 1) Manufacturing Product, 2) Trading and 3) Services

3.6.3.1 Hamdard Laboratories (Waqf) Pakistan

The first corporate waqf, Hamdard Laboratories (Waqf) adopted a strategy of good product development and prudent investment through which they maximise their profits and minimizes their risks. According to Sadia Rashid, Chief Mutawallia and Chancellor of Hamdard University, Hamdard Laboratories are providing the best products and

⁴⁰⁶Abdul Baqi bin Abdul Bari "Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

services at very minimal prices that bring customer satisfaction. They are also ensuring international standards including ISO certification from the International Organization for Standardization (ISO) and fulfill the World Health Organization (WHO) requirements as mentioned below.⁴⁰⁷

“Customer satisfaction comes only with effective products development. Hamdard Laboratories (Waqf) Pakistan ensures this by adhering to the most stringent international standards, including ISO and WHO requirements to produce quality products”.⁴⁰⁸

Hamdard’s central structure is based in Pakistan’s industrial Hub, Karachi. The other manufacturing units are also working in other cities where they produce traditional herbal products and medicines by using the latest modern machinery and techniques. Its best-selling product is Rooh Afza- natural flavors, herbal distillates, sugar-based beverage. Following is a list of some herbal products.

Table 3.2: List of Some Famous Products by Hamdard Laboratories Waqf

Rooh Afza	Rooh Afza is a fruit-filled, friendly punch
Safi	Safi purifies the blood and keeps skin pimple free
Roghan Badam	Almond oil had been used extensively for its health benefits
Joshina	It helps clear up your stuffy nose and soothe your scratchy throat.
Sualin	It a natural & effective remedy for sore throat, cough and hoarse voice.
Arq Gulab	Pure Rose Water,
Neo Carmina	A natural digestive tablet, helpful in all gastric disorders
Hamdard Masturin	A natural and wonderfully effective women’s health restorative, Menstrual Problems, Cramps and Leucorrhoea
Revand Toothpaste	its herbal ingredients give strength and shine to the teeth
Toot Siyah	Proven and time-tested remedy for throat pain, swelling, and inflammation

Sources: Hamdard Laboratories (Waqf) Pakistan, 2017

⁴⁰⁷Sadia Rashid. “Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said.” By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

⁴⁰⁸Hamdard Laboratories (Waqf) Pakistan. “Quality Policy” Globe Sign, <http://www.hamdard.com.pk/quality-policy>.

For the manufacturing of products, the industry uses various plants to manufacture medicines and beverages. The total number of products are above 500. It is prepared by using a Greco-Arab system which is also called Unani medicine. To provide services, throughout the country, Hamdard Laboratories Waqf Pakistan has more than 1500 experts including scientists, hakims, doctors, pharmacists, technicians, and others. In trading, products are distributed and sold both nationally and internationally. Locally, it is distributed through zonal offices, distributors, and agencies. It is totally decided that the earned profit which is called Qaumi income; a waqf income.⁴⁰⁹

3.6.3.2 Aisha Bawany Educational Waqf as Advertising Agency

To generate income for catering waqf's expenses, the Begum Aisha Bawany Educational and Welfare Waqf registered itself as an Advertising Agency and successfully working in that field. In 2002, the government issued a notification for all religious plots and waqf institutions that they are allowed to commercialise 5 per cent part of the land in order to meet the expenses of the institution. Fareed Ahmed Entuley stated:

A notification was issued in 2002, which stated that religious plots and waqf institutions are allowed to convert its 5 per cent space into commercial land in order to meet the expenses from the earnings.⁴¹⁰

Aisha Bawany institute earned handsome amount through Billboards advertising and by different promotional activities took place in the premises of various waqf institution's real estate properties. They invested a large amount in that business and it is working very successfully but the latest Supreme Court (SC) order about billboards and hoardings affected their business. The SC order stated:

⁴⁰⁹ Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

⁴¹⁰ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

There is no law which permits KMC (Karachi Municipal Corporation), DMC (District Municipal Corporation), and Cantonment Boards or any other agency in Karachi to install billboards or hoardings on a public property.⁴¹¹

Although, it is a property owned by private family waqf government officials removed all their billboards from the vicinity. These are the issues which are faced by all charity or private waqf institutions. However, they filed a case against it and demanded justice from the court. The waqf institution also faces other hurdles and problems. The few hotels and shops in Madīnah Masjid Clifton were decided to construct by the administration of the waqf institute to generate more money. The map was approved in 2010 and in the beginning, all the work was going on very smoothly. But after some time, it was declared as unauthorised without giving any legal reason and remained closed for many years. Now the case has been won by the waqf and the issue is resolved now and shops and hotels rented out again. Today, the fast-food businesses are being run there and earning directly goes to waqf institution.⁴¹²

Table 3.3: Waqf Fund Management in our Selected Cases

Status	Waqf Entities	Real Assets	Financial Assets	Business
Private	Hamdard Laboratories (waqf) Pakistan	Yes	Yes	Yes
Private	Begum Aisha Bawany Educational and Welfare Waqf	Yes	No	Yes
Private	Darul Tasnif Limited	Yes	Yes	Yes

Source: Compiled and Modified by Researcher

The above table shows that HEWIs in Pakistan are more efficient and they mostly earn money from real assets, financial assets, and businesses. The waqf's income and all resources are utilised in that manner as directed by the *waqif* and donor of the waqf. A

⁴¹¹ Naeem Sahoutara. "Supreme Court Orders Takes Down of All Billboard in Karachi." *The Express Tribune* (May 6, 2016).

⁴¹² Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (*Tuesday, 2 August, 2016, 2:36:54 PM*) (2016).

person or organization, who establishes a waqf, have full authority to decide who will be the beneficiaries. As discussed earlier, *sharī'ah* has granted liberty in terms of allocating the income of waqf; it can be for 'self', for relatives, for public health, or for higher education.

3.7 Fund Utilisation

In preceding sections, the study discovered how waqf institutions were initiated in Pakistan, the process of their legal frameworks, funding sources, and investment management. The proceeding section discusses the fund utilisation. This section explains how waqf helped the HEI in Pakistan. In this perspective, the research uses Development⁴¹³ concept. It describes the set of ways and sources needed for the establishment, expansion, and transformation of the higher education waqf institution.

There are various aspects of higher educational waqf institutional development the legal framework has been discussed earlier. While the three main aspects are discussed as following; developmental expenditure, operating expenses and, academic expenses.

3.7.1 Developmental Expenditure

Being a waqf beneficiary, Hamdard University has large-scale infrastructural development from a waqf through Hamdard Foundation Pakistan. The *waqif*; Hakim Mohammed Said who believed in devotion and considered service to humanity as the first preference. He adopted the "Shavian philosophy" which directed the life as:

Some men see things as they are and say, why? I dream things that never were and say, why not?⁴¹⁴

⁴¹³. Thomas, Alan, and Tim Allen. *Poverty and Development into the 21st Century*. (London, Oxford University, 2000) 23-31

⁴¹⁴ Levin, Ira M. "Vision Revisited Telling the Story of the Future." *The Journal of Applied Behavioral Science* 36, no. 1 (2000): 91-107.

3.7.1.1 Madinat al-Hikmah, City of Education Science and Culture

The vision of Hakim Mohammed Said was as clear as his heart, he had some set of values and guiding principles on which he acted upon sincerely. That honesty and truthfulness differentiated him from other dreamers or visionaries. His hard work and consistency in work helped him to turn a vision into reality. He had a strong sense of belief in destiny. His continuous hard work gave fruitful results, his dream became true and he successfully built a "Heartland of Education" in a desert land of scrub and sand. That is why his dream city is called Madinat al-Hikmah, a city of education science, and culture. He totally devoted himself in education. Further, he endowed (waqf) most of his income including Hamdard waqf laboratories, Pakistan for this cause.

He firmly believed that the well-being of a nation not only comes through creating awareness about health but also through creating a sense of understanding on the importance of education. Education has an enormous impact on personal development and economic prospects.⁴¹⁵

With the help of waqf income, institute reached its peak and became "Madinat al-Hikmah" the City of Education, Science, and Culture, in 1983. When Hakim Mohammed Said initiated the step of developing an educational institute on 350 acres of land in the suburbs of Karachi, no one knew that one day it would turn out into the great city of education.

The Madinat al-Hikmah has:

- Hamdard University
- Bait al-Hikmah Library
- Bait al-Hikmah Research Institute
- Herbal Garden (where herbal medicinal plants are cultivated and grown)

⁴¹⁵ Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

- Science Museum
- Sports Stadium
- Hamdard schools and Colleges

The University is progressing so rapidly, newer campuses are constructed to fulfill the requirement of students. The university is turned into a large organisation that provides a bright career for the students. Aisha Bawany waqf started an academy for higher education and Aisha Bawany Degree College is also provided along with a vocational training center which is working successfully as well. As discussed earlier, there are various HEIs helped and financially assisted by the Asia Bawany waqf.⁴¹⁶ Darul Tasnif waqf besides Tablighi College, they also run Murshid Hospital, Nursing School and recently they started Law College.⁴¹⁷ Alike, Hamdard University Hospital (Taj Medical Complex) is a contribution of Hamdard Waqf Laboratories. Thus, they took part in generating human capital. And these higher education institutions are contributing to education and for the betterment of the society.

3.7.1.2 Infrastructural Development

In Hamdard University, all infrastructure including building construction, equipment's, workshops libraries, laboratories, and materials are financed by the Hamdard Foundation Pakistan. Similarly, the maintenance of the entire educational city, Madinat al-Hikmah is the responsibility of Hamdard Foundation Pakistan. While Hamdard University is self-sufficient in its operating expenses which are mostly covered by tuition fees and other service charges.⁴¹⁸ Correspondingly, Tablighi College, Aisha Bawany Academy, and

⁴¹⁶ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

⁴¹⁷ Abdul Baqi bin Abdul Bari "Grandson of Waqif and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (Tuesday, 18 October, 2016, 11:24:33 AM) (2016).

⁴¹⁸ Farrukh Imdad. "Acting Vice Chancellor, Hamdard University Karachi." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

college have the same situation. All infrastructural development is covered by Darul Tasnif waqf and Bawany family waqf respectively. In brief, the research discussed three HEIs; Hamdard University, Tablighi College, Aisha Bawany Degree College, their internal sources are self-sufficient for them.

3.7.1.3 Research & Development

Under the imperial rule, the Unani (traditional or alternative) system of medicine was considered unscientific and then further obsoleted. This gave the advantage to the Western system of medicine, which was beyond the reach of the masses. Little or no research or investigation was undertaken in the traditional system of medicine. Hakim Mohammed Said, realizing the truth of Dr. Samuel Waksman's words,

The cures of all of man's illnesses are under our feet and around us. God put them there. It is up to science to identify and apply them', made the revival and recognition of the Unani (Greco-Arab) system of medicine, the central point of his work is in Pakistan.⁴¹⁹

Hamdard University was one of the initiatives for the research and development of herbal medicines. Primarily, Hakim Mohammed Said revived the Unani medicine system in the world besides indigenous pharmaceutical industry. Hamdard University is one of the best private research universities having the largest library named as Bait-ul-Hikmah. It is one of the largest research libraries in the region of South Asia. Having a large collection of books, and journals which almost covers all the subjects including science, technology, management sciences, history, religion, Islam, jurisprudence, alternative system of medicine, social sciences, literature, and law. The books are available in different languages such as English, Urdu, Arabic, and Persian. Furthermore, Hamdard University

⁴¹⁹ Idara-e-Said. "A Profile of Choices, Challenges and Commitments ". (Karachi, Hamdard University, 2017).

is self-contributed in the publication of books and journals with research activities.

Following are the few journals published under the Hamdard.⁴²⁰

- Hamdard Islamicus (Quarterly, English)
- Hamdard Medicus (Quarterly, English)
- Hamdard Naunehal (Monthly, Urdu)
- Hamdard Sehat (Monthly Health Education)
- Journal of Pakistan Historical Society (Quarterly-English)

3.7.2 Operating Expenses

The operating expenses of the HEIs include expenses such as payrolls, employee benefits, transportation, meal, rental, maintenance, utilities, and others. The study found that Hamdard University is self-sufficient in its operating expenses. While Aisha Bawany waqf subsidizes their fee more than 50 per cent. Incredibly, Darul Tasnif waqf has also different charity chapters including higher secondary school, Tablighi College, Nursing College (for boys and girls) and Murshid Hospital. Under the one waqf i.e. Darul Tasnif funding body, the students are treated free in the OPD (Outpatient Department). Darul Tasnif Tablighi College completely provides free education with accommodation and a daily meal. The hostel has more than 100 rooms covering an area of 22x10 foot, large playgrounds, two-sided coconut gardens, a park, student mess hall, and a beautiful mosque Masjīd al-Awliyā.⁴²¹

Currently, all higher education waqf institutions are facing the issue of huge maintenance cost and security. The country is continuously facing security threats. Take an example of Madinat al-Hikmah which covers a huge area of 350 acres, so, to maintain and provide security from every corner is quite expensive and difficult. There are many

⁴²⁰ *ibid*

⁴²¹ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

examples in which terrorists directly target the educational institutes of Pakistan. One incident took place on 16th January 2016 when four gunmen opened fire at Bacha Khan University near Charsadda, Pakistan.⁴²²

3.7.3 Academia Supporting Activities

In 1982 Hamdard University initiated a society Hamdard Education Society (HES). Later, the society merged into HFP. The objective is to increase the literacy rate in Pakistan, constructive and purposeful system of education, formulation of a curriculum conforming to Islamic philosophy of education, promote and publish well-researched textbooks, scholarships, freeships and stipends (total or partial) for deserving students at all levels and in all fields.⁴²³

3.7.3.1 Students' Support Programmes

Hamdard Foundation Pakistan being a charitable waqf organisation is carrying out welfare, charitable, and educational activities across Pakistan. Students from primary classes to post-graduate levels are availing this facility. Similarly, Hamdard also provides grants to various institutes, organisations, religious madrasahs, and societies regularly. On the other hand, deserving and meritorious students are encouraged to avail scholarships and freeships at Hamdard University. The waqf institution undertakes many other forms of scholarships to deserving students, health education thru the media, and all these forms are parts of Hamdard's philanthropic activities.⁴²⁴

Correspondingly, Darul Tasnif Tablighi College and Aisha Bawany Academy have also rewarded scholarships to deserving students. Aisha Bawany waqf is offering scholarships not only in Aisha Bawany academy and college but other higher educational

⁴²²For more details please see chapter five "Issues and Challenges"

⁴²³Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

⁴²⁴*ibid*

institutions, a sample would be their yearly supports for Sheikh Zayed Islamic Centre, University of Karachi, where they are providing three scholarships award annually. In the same manner, they are also helping orphans, deprive and underprivileged students of the society. Most importantly⁴²⁵, Darul Tasnif Tablighi College providing 100 per cent scholarships for all students. Without any discrimination, food, meal, accumulations are also provided. In case of any emergency, free medical treatment is provided to the students in Murshid Hospital.⁴²⁶

3.7.3.2 Faculty Development Programme

The waqf HEIs are also working for human capital development. In the university/HEIs, students are receiving knowledge and faculty members are imparting their knowledge and experience. Various research projects are financed by this waqf fund for human capital development. In this regard, in Hamdard research and technical collaboration also started with WHO (World Health Organization), Ministry of Agriculture, food, and livestock (MINFAL) and Ministry of Environment (Biodiversity). These collaborations are not only contributing to research and development but also very supportive of resources generation for students and academic staff.⁴²⁷ The study determined that most of the waqf income are mainly contributing to the student's supports programs and faculty development program.

⁴²⁵ Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (Tuesday, 2 August, 2016, 2:36:54 PM) (2016).

⁴²⁶ Abdul Baqi bin Abdul Bari "Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (Tuesday, 18 October, 2016, 11:24:33 AM) (2016).

⁴²⁷ Sadia Rashid. "Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf) Pakistan, Daughter of the Waqif Hakim Mohammed Said." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

3.8 Conclusion

This chapter discussed waqf in terms of its legal framework, fundraising, fund management and fund utilisation with reference to Pakistan. The chapter briefly described the overview of the waqf institution along with the current practices of waqf in higher education institutions. In the later part of this chapter history, governance, rules, and regulations are discussed in detail. The chapter ended with the discussion of fundraising mechanism, fund management, and fund utilisation

Universiti Malaysia

CHAPTER 4: WAQF FINANCING, INVESTMENT, AND DEVELOPMENT OF HEIS IN MALAYSIA

4.1 Introduction

This chapter discusses waqf in terms of its legal framework, fundraising, fund management and fund utilisation with reference to Malaysia. Initially, this chapter briefly introduces the historical development of waqf in Malaysia along with the current practices of waqf in higher education institutions development. In the later part of this chapter, waqf governance, rules, and regulations are discussed. The chapter ends with the discussion of fundraising mechanism, fund management, and income utilisation.

4.1.1 Brief Historical Perspective of Waqf

In the 14th century, Muslims traders moved towards the Malaysian peninsula which brought about dramatic changes in the region, specifically to the way of life and worldview of its inhabitants. This also includes the waqf practice. It is presumed waqf institution has existed since the advent of Islam in Malaysia.⁴²⁸ Historically, the development of waqf institution in Malaysia can be divided into three periods: early history, colonization, and post-independence.

In the early days, waqf was commonly administered by community leaders, for instance, *Qādīs*, *Īmām*, *Muazin*, and religious leaders.⁴²⁹ In the 17th century, official trustees were appointed either by the British rulers or the states' religious councils (SRC's) to govern waqf institutions. Up to this point in time, several laws have been passed on waqf in conjunction with Muslim and Hindu endowment as well.⁴³⁰ After the

⁴²⁸ Mahamood, Siti Mashitoh (2006) Op. cit.

⁴²⁹ Sharifah Zubaidah Syed AbdulKader, and Nuarrual Hilal Md Dahlan Nuarrual. "Current Legal Issues Concerning *Awqāf* in Malaysia." In *Waqf Laws and Management*, edited by Syed Khalid Rashid, 162-93. (Kuala Lumpur, Malaysia, International Islamic University Malaysia IIUM Press, 2017), 162-93.

⁴³⁰ *ibid*

independence, Malaysia's waqf properties came under the authority of respective States' Islamic Religious Councils (SIRC's) which are usually called "Majlis" or Majlis Agama Islam Negeri (MAIN). Great efforts have been made to develop new types of waqf. Further, support from the government and private sector played an important role in enhancing and stimulating this philanthropic institution to achieve its objective of improving the socio-economic welfare of people in the country.⁴³¹ Thereunder, to manage waqf properties various laws and enactments have been made.⁴³²

4.2 Legal Framework for Waqf

Legally speaking, the SIRC's or Majlis of respective states in Malaysia are the sole trustees of all waqf properties, whether waqf 'am or waqf Khas.⁴³³ The term "sole trustee" implies that the Majlis of each state has been legally appointed under their respective laws to supervise all waqf assets and be responsible for their management and development. No other parties or bodies are entitled to hold trusteeship power, except in cases of the past, i.e. before the promulgation of the Islamic administrative laws of the states. Hence, delegating the powers to others, or the existence of private trustees, would be treated as illegal and not conforming to the laws.⁴³⁴

"Notwithstanding any provision to the contrary contained in any instruments or declaration, creating, governing or affecting any waqf, the Majlis shall be the sole trustee of all waqf whether waqf 'am or Khas, situated in the State of Selangor".⁴³⁵

⁴³¹ Hanefah, Hajah Mustafa Mohd, Abdullaah Jalil, Asharas Mohd Ramli, Hisham Sabri, Norhaziah Nawai, and Syahidawati Shahwan. "Financing the Development of Waqf Property: The Experience of Malaysian and Singapore." *The Journal of Muamalat and Islamic Finance Research (JMIFR)* 8, no. 1 (2011): 89-104.

⁴³² Kader Abdul, and Zubaidah Sharifah. "The Legal Framework of Waqf in Malaysia" (2015). doi:<http://dx.doi.org/10.2139/ssrn.2547440>, <https://ssrn.com/abstract=2547440> or https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2547440.

⁴³³ Mahamood Siti Mashitoh, and Monzer Kahf. "Law of Waqf in Malaysia: Recent Developments." In *Essential Readings in Contemporary Waqf Issues*, edited by Siti Mashitoh Mahamood, (Kuala Lumpur, Malaysia: CERT Publications Sdn. Bhd, 2011). 77-106.

⁴³⁴ *ibid*

⁴³⁵ Enactment No 7 of 1999; Wakaf (State Of Selangor) Enactment 1999 Section 32.

However, Malaysian civil law denies the applicability of any waqf properties. Based on some federal laws, waqf shall not be included in the civil law. The civil law only relates to the National Land Code 1965 (NLC). This provision cannot terminate laws relating to waqf since NLC cannot be applied to laws on waqf. Alternatively, waqf land basically comes under religious law and any other rule and law cannot affect waqf land. It can be seen, in the case of *Pesuruhjaya Hal Ehwal Agama dan Lain-Lain v. Tengku Mariam* (1970: 2 MLJ, 222), how Islamic law protects the waqf property. Malaysian government enforced Islamic law in Terengganu in 1955 which is called Terengganu Administration of Islamic Law Enactment. Initially, this law was not appropriate to handle all issues and challenges in an amicable manner and the government had to include in it a provision allowing local Mufti to make an amendment to the government edicts. Afterward, the government established the jurisdiction of the *Shari'ah* Court in every state⁴³⁶, which means that court plays the role in respect of jurisdiction of the *shari'ah* under the list of 9th Schedule to the Federal Constitution (FC). Federal Constitution list is given below:

“Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, partitions and noncharitable trusts; wakafs and the definition and regulation of charitable and religious trusts, the appointment of trustees and the incorporation of persons in respect of Islamic religious and charitable endowments, institutions, trusts, charities and charitable institutions operating wholly within the State...”⁴³⁷

In brief, waqf is a state subject as well as an Islamic affairs enactment in respective states' *Shari'ah* Courts. This to a great degree highlights higher educational waqf institution development in Malaysia. Any party that wants to deal with waqf, including for the purpose of establishing a waqf HEI or a waqf-based university -- whether waqf forms part

⁴³⁶ Kader Abdul, and Zubaidah Sharifah. (2015) Op. cit.

⁴³⁷ Government of Malaysia. "Ninth Schedule, Constitution of Malaysia, List II - State List." 1957.

of the whole application or even part thereof -- must seek permission from the State Islamic Religious Council (SIRC) beforehand. In this context, the higher authority of a university or an HEI has to follow the above laws for the waqf development whereby the application to the relevant SIRC should be made before implementing waqf in their institutions.⁴³⁸

4.2.1 Incorporation of Waqf Corporations

As discussed earlier, the Majlis of each state has been legally appointed under their respective laws to supervise all waqf assets and be responsible for their management and development. For that reason, there were some provisions which had been enacted in the Wakaf Enactments which must be utilised and implemented to further strengthen the management of the waqf institution. Among them is the appointment of waqf registrar, the establishment of waqf management committee, types of waqf such as waqf *Irsha'd*, waqf shares, cash waqf, and waqf fund.⁴³⁹

To realise this goal, a management team was established on 10th June 2005, specifically to carry out waqf operations in Majlis Agama Islam Negeri Sembilan (MAINS).⁴⁴⁰ This agency specializing in waqf management called the Perbadanan Wakaf Negeri Sembilan (PWNS), (700214-M) later became one of the wholly-owned subsidiaries of MAINS Holdings. As a subsidiary of MAINS, PWNS plays a role in the waqf management and matters related to waqf in Negeri Sembilan in a professional and organized manner. Likewise, in the Negeri Selangor on 30th October 2009, DYMM Tuanku Sultan Selangor proposed that the Majlis Agama Islam Selangor (MAIS) should

⁴³⁸Siti Mashitoh Mahamood, and Asmak Ab Rahman. "Waqf Financing for Higher Education: Contemporary Funding Application in Selected Countries." In *Pelestarian Institusi Wakaf, Memperkasa Pendidikan Tinggi Negara*, edited by Wan Kamal Mujani, (Bangi: Malaysia Faculty Pengajian Islam, Universiti Kebangsaan Malaysia, 2014), 263-78.

⁴³⁹Nawal Ashiqin Binti Abdul Rahman. "Marketing and Corporate Division, Perbadanan Wakaf Selangor (PWS)" By Muhammad Usman. (*Tuesday, 8 August, 2017, 3:01:32 PM*) (2017).

⁴⁴⁰ *ibid*

establish the Perbadanan Wakaf Selangor (PWS), a corporation, to strengthen waqf management in Selangor. Hence, on 11 January 2011 establishment of the PWS was approved.⁴⁴¹

In the light of the above discussion, the function of PWS and PWNS is to advise Majlis regarding policies, measures, and actions to be taken for *awqāf* properties and product development in respective states. Therefore, any HEIs willing to develop a waqf fund, it has to deal and collaborate with respective waqf corporation such a University Putra Malaysia (UPM) and University Kebangsaan Malaysia (UKM), are collaborating with PWS and USIM is collaborating with PWNS.

4.2.2 Legal Framework for University Formation

The term “university” is a Latin word which was first used to refer to the University of Bologna that developed in Italy in 1088. It is the first university in the world. Accordingly, in the middle of 12th-century Oxford and Cambridge began to follow the University of Bologna structure in their institutions. Several scholars point out that the university is actually present the European legacy.⁴⁴² It merely served the European consortium and provides fundamental functions in the society.⁴⁴³

Legally speaking, under the Malaysia Universities and University Colleges Act, 1971, every single university and college would be considered as a higher education institution. Under the amended version of the Act enacted in 1996, all private universities and colleges would also be considered HEIs under section 21 and include such private higher educational institutions also which are affiliated with a university or university

⁴⁴¹ Azzerol Effendi Bin Abdul Kadir. "Perbadanan Wakaf Negeri Sembilan (PWNS)." By Muhammad Usman (2017).

⁴⁴² Ruegg, Walter. *A History of the University in Europe*. Vol. 3, (Trumpington Street, Cambridge, United Kingdom Cambridge University Press. 2004).

⁴⁴³ Wan, Chang Da, Morshidi Sirat, and Dzulkifli Abdul RazakDa Wan. "The Idea of a University: Rethinking the Malaysian Context." *Humanities* 4, no. 3 (2015): 266-82.

college whether within or outside Malaysia and they would be conferred with the status of a university or a university college.⁴⁴⁴

In the formation of any higher educational institution either college or university, it can be formed by presidential order by the head of the state the Yang di-Pertuan Agong.

“The Yang di-Pertuan Agong may, on the advice of the Minister, by order published in the Gazette, authorize the establishment of any higher educational institution having the status of a University, whatever its name or style, if he is satisfied that it is expedient in the national interest that such higher educational institution should be established”.⁴⁴⁵

Subsequently, after the formation, an HEI has the power to use general fund and donations as stated in the constitution as the power of the Board to seek funds, accepts gifts, etc. The study reveals that the public and private universities are following a similar pattern. Apart from donations and grants, waqf is considered under the jurisdiction of state matters as discussed earlier.

To create an extra funding to finance the HEI, almost each of the public universities has developed their waqf fund for an extra fund generation⁴⁴⁶. There are also some initiatives taken by the Malaysian government and ministry of higher education to encourage HEIs and universities to obtain extra income through waqf.⁴⁴⁷

4.2.3 Strategic Initiatives

Regarding higher education funding, Malaysia is also facing the same problem, which is the most developed countries are also grappling with nowadays. The cost of higher

⁴⁴⁴ Universities And University Colleges Act 1971, act 30 As 1 August 2012

⁴⁴⁵ *ibid*

⁴⁴⁶ Juoh, Dato' Sri Idris. "Waqf: Untuk Kesejahteraan " (Paper presented at the Seminar Pembantuan and Pembiayaan Waqf IPT, Kuala Lumpur: Malaysia, Universiti Malaya, 2017)

⁴⁴⁷ Ministry of Higher Education Malaysia. *Enhancing University Income Generation, Endowment & Waqf, University Transformation Programme, Purple Book*. 62200 (Putrajaya Malaysia: Ministry of Higher Education, Malaysia, 2016).

education is increasing and public funding is periodically decreasing. Thus, a number of strategies have been initiated to resolve or lessen the problem. It includes the introduction of private higher education institutions.⁴⁴⁸ Equally, the ministry of higher education Malaysia has taken various initiatives to get help from a waqf.⁴⁴⁹

4.2.3.1 Tax Exemption

What is more interesting about waqf donations in Malaysian universities is that a waqf donor or *waqif* is given tax exemptions for the amount endowed provided that a request for dealing with waqf has been made beforehand to the Director General of the Inland Revenue Board. The same also applies to other institutions and organisations in Malaysia which implements a similar practice.⁴⁵⁰ The above is based on Section 44(6) of the Income Tax Act 1967 (Act 53) which provides that:

"There shall be deducted pursuant to this subsection from the aggregate income of a person for the relevant year reduced by any deduction falling to be made for that year in accordance with subsection (1), an amount equal to any gift of money made by him in the basis year for that year to the Government, a State Government, a local authority or an institution or organisation approved for the purposes of this section by the Director General of the application of the institution or organisation concerned".⁴⁵¹

In light of the above discussion, all the contributing parties will receive a tax exemption for their contributions.

⁴⁴⁸ Siti Mashitoh Mahamood, and Asmak Ab Rahman 2014 Op. cit.

⁴⁴⁹ Ministry of Higher Education Malaysia. *Enhancing University Income Generation, Endowment & Waqf, University Transformation Programme, Purple Book*. 62200 (Putrajaya Malaysia: Ministry of Higher Education, Malaysia, 2016).

⁴⁵⁰ *ibid*

⁴⁵¹ Income Tax exemption under section 44 (6) of the income tax act 1967

4.2.3.2 Malaysian Education Blueprint

To keep pace with global trends, the Ministry of Higher Education published the Malaysian Education Blueprint⁴⁵² 2015-2025 (MEB). In this Blueprint, the Malaysian government refers to the strategic plan of higher education (HE) through the transformation of Malaysia's higher education institutions to meet new local and global challenges. The blueprint sets out 5 aspiration goals comprising access, quality, equity, unity, and efficiency.⁴⁵³

On the other hand, since the government expenses are increasing rapidly, the issue of future needs and sustainable development for higher education institutions is of utmost importance in Malaysia. To achieve that end, the transformation of higher education institutions is the need of the time. In this regard, Malaysian Blueprint guides and creates a roadmap for the process of transformation and maps out a clear programme for critical improvement being carried out in public universities.⁴⁵⁴

The fifth shift of the Education Blueprint focuses financial stability through sustainable development which is the bedrock of the policy being pursued by the ministry of higher education. Thus, Minister of Higher Education (MOHE) is collaborating with public universities and higher education institutions to launch the University Transformation Programme (UniTP) to assist public universities and higher educational institutions in forming and implementing transformation plans.⁴⁵⁵

⁴⁵²The Ministry of Education. "Malaysian Education Blueprint: 2013–2025." In *Ministry of Education Malaysia*. (Putrajaya, Malaysia, Ministry of Education, 2013).

⁴⁵³ Mohamed Aslam Haneef. "Funding of Higher Education in Malaysia- the Potential Role of *Awqāf* and Endowments." In *International Symposium on Waqf and Higher Education (ISWHE 2016)*, 20-25. (Istanbul, Turkey, 2016).

⁴⁵⁴ Mohamed Aslam Haneef. 2016. Op. cit.

⁴⁵⁵ Blueprint, Malaysian Education. 2013. Op cit.

4.2.3.3 University Transformation Programme

Ministry of higher education has unveiled three new guideline books as part of University Transformation Programme.⁴⁵⁶ Among them, one titled University Transformation Programme's 'Purple Book' specifically focuses on enhancing university income generation through waqf, endowment and other sources. Fundamentally, this book lays out a set of guiding principles for the top management about how to go about for waqf fund establishment for public universities. This book discusses in detail all the vital structures in public universities currently put in place in Malaysia and offer practical approaches and frameworks to address an important challenge of diversification of fund management and enhancement of income. Likewise, the book illustrates three possible waqf governance models to be adopted in public universities and higher educational institutions.⁴⁵⁷

- The first model, where the university has been awarded a status of *mutawalli* by setting up a waqf center under university management and board of directors. Therefore, decisions on waqf fund and activities are conducted by the proper approval of The University Management.
- The second model sets up a waqf office under the University board of trustees. The waqf fund is under University Foundation (Yayasan Chancellery) having a separate account and financial management.
- In the third model, the University Waqf Board (UWB) is established. This UWB is considered as a separate and autonomous entity from the University. The role and responsibility of UWB will be suggested in a written agreement or waqf deeds. Administratively, the UWB will comprise representatives

⁴⁵⁶ Ministry of Higher Education Malaysia. *Purple Book*. 2016. Op. cit.

⁴⁵⁷ *ibid*

from both the University and SIRC's (Majlis). An ideal and an independent waqf board is presented in the third model.⁴⁵⁸

The book serves as a guide for public universities and higher educational institutions subject to their level of willingness and approval from the respective state religious council or Majlis. Equally, the book also illustrated four practical waqf model universities as illustrated in USIM, UPM, UKM, and USM.⁴⁵⁹

4.3 Higher Educational Waqf Institutions in Malaysia

In Malaysia, waqf establishment for higher education became a national agenda. Almost every public university (PU) has initiated waqf fund. Universities which have already developed their own waqf-based concepts in their higher education operations are involved in welfare services, academic activities, and professional programmes. These universities⁴⁶⁰ are the Putra University of Malaysia (UPM), the National University of Malaysia (UKM), the Islamic Science University of Malaysia (USIM), the International Islamic University of Malaysia (IIUM), the University Sultan Zainal Abidin (UniSZA), the University of Technology Malaysia (UTM), the University of Malaya (UM), the University Utara Malaysia (UUM), the National Defense University of Malaysia (UPNM), the University of Malaysia Sarawak (UNIMAS), the University of Malaysia Sabah (UMS), the University of Malaysia Terengganu (UMT), the University Tun Hussein Onn Malaysia (UTHM), the University of Malaysia Perlis (UMP), the University of Technology Malaysia Melaka (UTeM). The private HEIs are the Al-Madinah International University (MEDIU), the Islamic University of Malaysia (UIM), Albukhary International University (AiU), and University College Bestari (UCB). Given below is a

⁴⁵⁸ Rohayati Hussin, and Rusnadewi Abdul Rashid. "Diversifying Income Generation through Waqf in Public Universities in Malaysia: Efforts and Challenges." (Paper presented at the 4th International Conference on Education and Social Sciences 6-8 February 2017, Istanbul, Turkey, 2017)

⁴⁵⁹ Ministry of Higher Education Malaysia. *Purple Book*. 2016. Op. cit.

⁴⁶⁰ Juoh, Dato' Sri Idris. "Waqf: Untuk Kesejahteraan " (Paper presented at the Seminar Pembantuan and Pembiayaan Waqf IPT, Universiti Malaya, Kuala Lumpur, Malaysia 2017).

list of selected universities which have already established waqf centers or divisions in the HEI.

Table 4.1: Malaysian Famous Waqf HEIs

HEIs	Waqf Entity
Islamic Science University of Malaysia (USIM)	Center for Awqāf and Zakāt
Putra University Malaysia (UPM)	Centre for Management of Waqf, Zakat and Endowment (WAZAN).Dana Waqf Ilmu,
National University of Malaysia (UKM)	Chancellery Foundation, Dana Wakaf Ilmu Universiti Kebangsaan Malaysia (UKM)
Islamic University of Malaysia (UIM)	Yayasan Amanah Universiti Islam Malaysia (YAUM)
University of Science, Malaysia (USM)	Centre for Islamic Development Management Studies (ISDEV)
University Sultan Zainal Abidin (UniSZA)	Pejabat Wakaf Dan Infaq
University of Malaya	UM Awqāf
International Islamic University Malaysia (IIUM)	Waqf Ilmu, IIUM Endowment Fund,
International Islamic University College Selangor (KUIS)	Zakāt, Waqf and Infaq
University of Technology Malaysia (UTM)	UTM Endowment Fund (UEF)
University College Bestari (UCB)	Pertubuhan Kebajikan Anak Yatim Malaysia (PEYATIM)

Sources: Compiled and Modified by Researcher

Whereas, the Albukhary International University (AiU) also operated as a waqf university. The AiU has been shut down due to some problems. The reasons cited for poor financial performance, lack of business mindset, and poor management, stiff competition and funding issues. The AiU was established by a Malaysian tycoon, Tan Sri Syed Mokhtar Al-Bukhari.⁴⁶¹

The present study focuses on public universities (PU) as part of a research project from the ministry of higher education. Secondly, it further narrows down its focus to two selected states; Selangor and Negeri Sembilan for the purposes of sampling and likewise study selected cases, which are also presented as best model waqf universities in the purple book of higher education.⁴⁶² Hence, next section the study will discuss selected cases of waqf fund including those functioning in Islamic Science University of Malaysia

⁴⁶¹ Bakara, R., Sakinahb, W., Zainic, R. M. & Sarmin, F. 2019. Corporate Waqf University: A Sustainability Model. *Journal of Emerging Economies & Islamic Research* 7, 24-36. Mahamood, Siti Mashitoh, and Asmak Ab Rahman 2014 Op. cit.

⁴⁶² Ministry of Higher Education Malaysia. *Purple Book*. 2016. Op. cit.

(USIM), National University of Malaysia (UKM) and Putra University of Malaysia (UPM).

4.3.1 Dana Waqf Ilmu, USIM

The University Science Islam Malaysia (USIM), a public university, which was established on 25 September 1996 and was initially commissioned as KUIM (Kolej University Islam Malaysia) on March 13, 1998. KUIM was awarded status of a university on 1st of February 2007 and renamed as USIM to give it global recognition. Now, the university continues to strengthen its faculties in teaching, research, and writing. As a pioneering university that integrates *Naqlī* and *'Aqalī* knowledge, the university has confidence in waqf institution as a sustainable source of funding. Realizing the importance of waqf institution for sustainable development, the university developed a center called Center for *Awqāf* and *zakāt* (formerly, Center for Financing Development Waqf). Actually, this decision was from the top down.⁴⁶³ The university's former vice-chancellor, Y.Bhg. Professor Dato' Asma Ismail, delivered a speech in Amnat Tahun Baharu on 6 February 2013.

“For the idea of creating a hybrid university, USIM wants to implement a combination of concepts: social enterprise, *sharī'ah* compliant and waqf financing. Former, Vice-Chancellor, Professor Dato' Dr. Asma Ismail, in her speech in 2013, identified waqf as a source of funding for financing sustainable development in the USIM for the use of the university, community, and society”.⁴⁶⁴

Afterward, the Center's first director Professor Dato' Dr. Haji Mohammad Haji Alias and other members put forward a proposal and paper to set up a new waqf center. The proposal illustrated the objectives of waqf center as follows.

⁴⁶³ Haji Mohammad Haji Alias. "Center of Waqf and Zakat, Universiti Sains Islam Malaysia, "By Muhammad Usman. (*Friday, 28 July, 2017, 11:20:28 AM*) (2017).

⁴⁶⁴ Center of Waqf and Zakat. "Introduction." 71800 Nilai, (Negeri Sembilan, Malaysia: Universiti Sains Islam Malaysia, 2017).

Firstly, waqf fund collection and management; secondly, research on waqf financing for higher education; thirdly, product development for waqf fund. Last but not the least, identification of projects and activities that can be funded by waqf fund.⁴⁶⁵

Initially, the proposal was discussed at the high level of the university management where the board of university management agreed to the proposal. After this, the proposal was presented to MAINS. In July 2013, the religious council approved USIM's application and delegated its powers to be *mutawallī* (manager) of USIM's Waqf Fund.⁴⁶⁶

“University Science Islam Malaysia (USIM) has established the Waqf Fund. The USIM led by the University's Center for Financing Development Waqf (PPPW) is now known as the Center for Waqf and *Zakāt* (PWZ). The establishment of this fund has been approved and registered with MAINS, which appointed USIM as *mutawallī*⁴⁶⁷ of Waqf Fund on July 22, 2013. In its capacity as *mutawallī*, USIM can develop and manage the Waqf Fund and distribute benefits to target groups that are desirable. USIM as *mutawallī* of the waqf fund has to submit annual financial reports to MAINS for reference.⁴⁶⁸

Cooperating with each other, Majlis Agama Islam Negeri Sembilan (MAINS) and USIM created a waqf fund in March 2013. USIM was appointed as the *mutawallī* by the state religious council, MAINS, whereby the university has been entrusted the task to manage and develop the waqf fund and distribute the benefits to target groups as entrusted by the *wakif*.⁴⁶⁹ The appointment of USIM as a *mutawallī* is pursuant to *Wakaf* Enactment, 2005. Under section 5 of the enactment, Majlis is the sole trustee of waqf assets in the state of Negeri Sembilan.

⁴⁶⁵ Haji Mohammad Haji Alias. "Center of Waqf and Zakat, Universiti Sains Islam Malaysia." By Muhammad Usman. (Friday, 28 July, 2017, 11:20:28 AM) (2017).

⁴⁶⁶ *ibid*

⁴⁶⁷ Letter MAINS reference number KEW / BAIT-NS400-5 / 16Jld.9 (2)

⁴⁶⁸ Center of Waqf and Zakat. "Introduction." 71800 Nilai, (Negeri Sembilan, Malaysia: Universiti Sains Islam Malaysia, 2017).

⁴⁶⁹ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

“The Majlis shall be the sole trustee for any *mawqūf*, situated in the state of Negeri Sembilan”.⁴⁷⁰

Under section 33 of the same enactment, Majlis on the advice of advisory panel may appoint a person who is considered competent and qualified.

“Appoint any person whom the Majlis reasonably considers competent and qualified to manage and develop any *mawqūf*, including to manage the investment of the *mawqūf*”.⁴⁷¹

In the case of USIM, the agent is called *mutawallī*, who is responsible for developing and managing *mawqūf* including specific waqf (*waqf Khas*) and general waqf (*waqf ‘am*). Section 33(b) of the same enactment specifies that the *mutawallī* can also manage the waqf usufruct from any *mawqūf* for the interest of its *muwqūf ‘alayh*. However, under the terms and conditions of the approval from MAINS, USIM is required to submit periodic reports of waqf fund. Usually, after 6 months the financial reports are required to be submitted as mentioned by Professor Madya Fuadah Johari during the interview. In this regard, the university will set up a separate account so that the collected waqf funds are differentiated from the university’s account.

“In the waqf board, we have two entities’ representatives from MAIN’s and University. In university, we have here our chairperson, our director and we have MAIN’s representatives in our panel. From their consensus, we have the right to manage and invest”.⁴⁷²

At the outset, MAINS not only granted the university status of *mutawallī* but also agreed to help it with 3.5 million RM, 2 million for the specialist clinic, one million for the waqf fund development and another million as a *Qard Hasan*. They agreed that after four years when the university started earning profit from the clinic, the one million will be paid back to MAINS. Another 1.5 million has actually been allocated for Hemodialysis clinic,

⁴⁷⁰ Wakaf (Negeri Sembilan) enactment 2005, section 5 (Enactment No.5, 2005)

⁴⁷¹ *ibid*

⁴⁷² Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

which the USIM Waqf Center is running with the cooperation of the faculty of medicine and health sciences. This specialist clinic consists of dentistry, mobile specialist eye clinic, and hemodialysis clinic.⁴⁷³

The mobile clinic is actually also supported by state government, which has provided it with a lorry equipped with customized equipment. Its value is around 650, 000 RM. This mobile clinic carries out a minimum of 6-12 activities in a year. For example, it goes to the rural area and checks eyes of 100 people, 12 or 7 of them are referred for operation. The mobile clinic is actually a community service under the waqf project to benefit society although, the waqf project itself is a source of human capital development including the university medical staff and students. Likewise, people know about the USIM through this community service. It promotes the university's cause and creates goodwill among people as the aim of the university suggests in its 3R's motto: relevant, respected and referred. With this waqf project, the university is carrying out positive activities for social development with the help of the waqf.⁴⁷⁴

At the moment, USIM waqf has an *ijārah* contract with the 3-slot owner. The waqf center is trying to purchase these slots but they need money to pay in lump sum. Before it, waqf center wants to purchase it in four years' installment. But the center officials were not sure whether they would get waqf fund or not. Therefore, the university management did not allow them to sign an agreement with the owner without placing full confidence in waqf fund. Professor said during the interview "we have targeted this money of 1.9 million at the end of this year. We are trying to get this money from donors. At this moment in time, the total waqf assets are worth 505, 9920.53 RM with 3.5 million from MAINS and one mobile clinic of 650, 000 RM.⁴⁷⁵

⁴⁷³ *ibid*

⁴⁷⁴ *ibid*

⁴⁷⁵ *ibid*

4.3.2 Dana Waqf Ilmu, UKM

The National University of Malaysia (UKM: University Kebangsaan Malaysia) created a waqf center called Dana Wakaf Ilmu (DWI) in 2008 under the Chancellery Foundation and became the first PU to initiate a waqf fund for the noble cause. The DWIUKM was created to provide a sustainable financial infrastructure to the UKM students. In addition, the main objective of DWIUKM was to work towards further enhancement of academic programs, research, industry networking and student mobility in UKM.⁴⁷⁶

The university is collaborating with the Selangor Wakaf Corporation (PWS: Perbadanan Wakaf Selangor), an agency under the Selangor Islamic Religious Council (MAINS; Majlis Agama Islam Negeri Selangor) which is the sole *mutawalli* in the State of Selangor, as stated below.

“Notwithstanding any provision to the contrary contained in any instruments or declaration creating, governing or affecting any waqf, the Majlis shall be the sole trustee of all waqf, whether waqf ‘*am or Khas*, situated in the State of Selangor”⁴⁷⁷

Initially, UKM had collaborated with Majlis Agama Islam Negeri Selangor and got approval from MAINS to receive waqf fund. The first approval was for two years and DWIUKM collected half a million RM before the Majlis stopped it. They ordered the suspension of fund collection and set up a statutory body called Perbadanan Wakaf Selangor (PWS) to oversee the transformation.⁴⁷⁸

(We were told) until UKM has not signed an agreement with PWS we cannot collect waqf fund but it proved very difficult to get PWS approval because they wanted to know how the funds were to be used for and how the states and fundraiser will share the collected fund between themthey wanted it split into 30:70. They said they wanted to keep 30 per cent of the fund’s income and return us 70. It was waqf income and we thought to give away 30 per cent to the Majlis was too

⁴⁷⁶ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kebangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

⁴⁷⁷ Enactment No 7 of 1999; Wakaf (State of Selangor) Enactment 1999 Section 32.

⁴⁷⁸ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kebangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

much. So we negotiated and ultimately were told, 'you can collect the fund and keep 85 per cent for UKM and we will receive 15 per cent'. At last, we signed what we had agreed upon with them.⁴⁷⁹

After a long time, the university received a confirmation letter from PWS declaring it as its agent for funds collection in March 2017. Now, the university can collect all sources of waqf e.g., cash waqf, land, and building etc., but within the rules put in place by PWS.⁴⁸⁰ The university has been authorised to manage all of the *awqāf*, keep 85 per cent of the proceeds itself and give 15 per cent to PWS. At this early stage of dealing with waqf, the university faced problems because of some regulations and the State Islamic Religious Council. The university is very fortunate to have signed an agreement in March 2017 and begin to collect the fund. Waqf in UKM has not so far garnered the acceptance it should. The university collects the funds from every road and every faculty and still, it can collect just 3000 RM. The biggest chunk of funds come through a deduction in salary. Last month, the university got 5000 RM and the amount is expected to grow further.⁴⁸¹

Haji Ahmed Zakie further said:

"We are trying to collect so much waqf funds that we can pay salaries of our lecturers. We haven't yet begun to collect the fund from corporations but I do know if we go to corporations we will surely receive donations. We are fortunate that some banks also offer us waqf deposits. We can say we have an ability to grow the fund and manage it"⁴⁸²

At the moment, there are two entities in WDIUKM. The first entity deals with *sharī'ah* and the other handles investment. Regarding investment management in WDIUKM, Haji Ahmed Zakie said:

I am not talking about managing funds because half of a million is not enough. Once we cross the threshold of three million to 5 million then

⁴⁷⁹ *ibid*

⁴⁸⁰ Wan Kamal Mujani. "Dean Faculty of Islamic Studies, Universiti Kebangsaan Malaysia (UKM)." By Muhammad Usman. (*Tuesday, 16 May, 2017, 2:32:36 PM*) (2017).

⁴⁸¹ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kebangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

⁴⁸² *ibid*

we will start managing the funds. Once you have critical mass you will be able to use the returns on it.⁴⁸³

The other sources are not waqf. Basically, they divided funds into three categories; waqf, endowment, and donations. A donation is one that can be directly utilised and spent up. The endowment is like a waqf but waqf has perpetual reasons. One is the waqf fund; others are donations and endowment fund. Suppose, donations can be used for one-off repair and maintenance but if you want to put aside some amount for the purpose for long-term then you put it into waqf fund. We have a large size of the endowment fund. I don't know the figure exactly, probably, UKM has 72 million RM endowments including chairs that are endowed. They are willing to spend this and its returns for a research grant, for seminars expenses. The general idea is that professors are not paid by the university but through charity funds including waqf.⁴⁸⁴

The university is also preparing a proposal for the royal family of Selangor for a request for waqf donation. The draft will be presented after the approval of higher management⁴⁸⁵. Similarly, they are also focusing on cooperative agencies for waqf fund and CSR funding. The fundraising is directed toward student welfare and development, research and academic development and the UKM's Industry and Community Partnerships. The funds collected from donations, waqf, endowments, and gifts are used to provide such things as student aid (basic costs of living), tuition fees, interest-free loans, and funding for various activities involving rural community development, international training for students, and academic awards.⁴⁸⁶

⁴⁸³ *ibid*

⁴⁸⁴ *ibid*

⁴⁸⁵ *ibid*

⁴⁸⁶ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (Wednesday, 10 May, 2017, 6:35:02 PM) (2017).

4.3.3 Dana Waqf Ilmu, UPM

Like UKM and USIM, University of Putra Malaysia (UPM) also initiated Dana Waqf Ilmu, under the Centre for Management of Waqf, Zakat and Endowment (WAZAN). This waqf fund was established by the UPM's Chancellor, the Sultan of Selangor: Sultan Sharifuddin Idris Shah on 16 August 2011. The University has been receiving donations from various stakeholders including individual, corporate, non-governmental organizations etc. Prominently, chancellor of the university himself has endowed 300,000 RM as a significant support to DWI's programme. The waqf fund collected from this programme will be used towards the development and prosperity of academic activities in the university.⁴⁸⁷

As discussed earlier, Malaysian law stipulates that all waqf is under state jurisdiction, thus the consent of State Islamic Religious Council (SIRC) or Majlis Agama Islam Negeri as a sole trustee must be sought prior to implementing waqf in the university.⁴⁸⁸ For that reason, UPM had signed a Memorandum of Understanding (MoU) with Majlis Agama Islam Selangor (MAIS) to collect and manage the waqf fund. MAIS delegated the power of its agent to the UPM. Subsequently, Memorandum of Agreement (MoA) had been signed between UPM and MAIS for three years period which lapsed in February 2015. In March 2015, MAIS gave temporary permission to UPM to collect waqf fund. A new agreement is being negotiated with the Perbadanan Wakaf Selangor (PWS), a body incorporated by Majlis Agama Islam Selangor (MAIS).⁴⁸⁹ UPM waqf fund Committee is responsible for carrying out the function to manage and administer any waqf asset or property in University Putra Malaysia.⁴⁹⁰

⁴⁸⁷ Siti Mashitoh Mahamood, and Asmak Ab Rahman. 2014. Op. cit.

⁴⁸⁸ Enactment No 7 of 1999; Wakaf (State of Selangor) Enactment 1999 Section 32.

⁴⁸⁹ Fadhilah Abdullah Asuhaimi, Zurina Shafii, and Mohammad Alias. "The Efforts of Selected Public Universities in Developing Awaqf Properties Using Cash Waqf" (Paper presented at the International Conference for Cash Waqf 2015).

⁴⁹⁰ Nuruliman Ibrahim. "Head of Fund Management Section of Wakaf Ilmu, University of Putra Malaysia UPM)." By Muhammad Usman. (Friday, 9 December, 2017, 12:28:26 PM) (2017).

Dana waqf Ilmu has 17 different traditional and modern fundraising initiatives through waqf. For that reason, they collect waqf through waqf counter (cash, check, and debit), contribution box, online banking, deduction from salary, e-claims facilities and crowdfunding through “*Mysadaqāh*” smartphone application etc.⁴⁹¹ The funds are collected from individuals, cooperatives and non-governmental organizations to four different waqf schemes 1) general waqf 2) waqf masjid UPM 3) waqf for scientific equipment and 4) waqf for special vehicles.⁴⁹²

The main objective of this waqf initiative is to create a sustainable long-term infrastructure to meet the needs and funding of academic activities in UPM.⁴⁹³ Formerly, DWI management was under the Student Welfare Section at the Student Affairs Division (BHEP) under the portfolio of the deputy vice-chancellor (Student Affairs and Alumni). Starting on 1 August 2013, DWI management has been taken over by the Bursar's Office to further enhance the effectiveness and quality of waqf management in UPM, in line with the increase in collection and application of waqf from time to time. In brief, Dana Waqf Ilmu in UPM provides a facility for waqf dedication whether as cash or real estate properties. Under the management of the DWI chaired by the UPM Vice-chancellor,⁴⁹⁴ This waqf initiative will enable the university to receive waqf and through proper waqf management and income, it can be utilised on facilities required in academic activities, student development, and research. Additionally, the acquisition of waqf fund, besides being able to cope with the contribution of all levels of campus, alumni, and society as

⁴⁹¹ Nuruliman Ibrahim. "Head of Fund Management Section of Wakaf Ilmu, University of Putra Malaysia UPM)." By Muhammad Usman. (*Friday, 9 December, 2017, 12:28:26 PM*) (2017).

⁴⁹² *ibid*

⁴⁹³ Razali Othman. "Director Dana Wakaf Ilmu, WAZAN (Centre for Management of Waqf, Zakat and Endowment) University of Putra Malaysia: UPM)." By Muhammad Usman. (*Thursday, 20 April, 2017, 10:54:26 AM*) (2017).

⁴⁹⁴ *ibid*

well as corporate bodies, in the long run, the university will also encourage participation of the community in the noble cause to cater to the needs of the university.⁴⁹⁵

Based on the above discussions, it can be seen that waqf in Malaysia is centralized and controlled. The HEIs have to turn to the State Islamic Religious Council concerned for all issues regarding waqf while privately controlled waqf institutions are not allowed.

4.4 Funding HEWIs

The remainder of the chapter focuses on higher education funding in terms of 1) waqf financing 2) management and 3) development i.e. fundraising, fund management, fund utilisation respectively.

4.5 Financing

To understand the fundraising sources of waqf institution we can categorise them mainly into two major sources e.g. internal sources which can be produced inside the HEIs and external sources which lie outside the HEIs. Both the sources are important for HEIs waqf development and making them self-sufficient at least in meeting their operating expenses.

4.5.1 Internal Sources

The preceding section discusses the funding sources inside the HEIs or the resources being generated directly through internal institutions' soliciting policy and decisions.

4.5.1.1 Waqf Income

The waqf is permanent and perpetual in nature while its yield is a source of utilisation. In Malaysia, most of the waqf institutions, especially those related to higher education are new and recently developed. Further, the ministry of higher education is also encouraging

⁴⁹⁵ *ibid*

them to use waqf as an alternative source of income as mentioned in the purple book⁴⁹⁶ and Blueprint⁴⁹⁷ for higher education. At the moment, there is less amount of income and fundraising from the waqf institution in higher education. HEWIs have, however, taken a couple of measures which will lead to sustainable development and perpetual source of income.

4.5.1.2 Smart Partnership

The recent collaboration between MAINS and USIM in which MAINS financed the clinic Parker (See Fig 4.1) and Haemodialysis clinic and USIM provided human capital from the faculty of medicine and dentistry is a smart partnership that provides health facilities to common people through mobile clinic and health clinic and also be a source of income and human capital development for the university.⁴⁹⁸



Figure 4.1: Health Clinic Pakar, USIM

⁴⁹⁶ Ministry of Higher Education Malaysia. *Purple Book*. 2016. Op. cit.

⁴⁹⁷ Blueprint, Malaysian Education. 2013. Op cit.

⁴⁹⁸ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (*Thursday, 11 May, 2017, 10:36:22 PM*) (2017).

In the same manner, there are some other projects in the pipeline which will be included as sources of income in USIM including International school, Pusat Convention Center, USIM Hotel Tower, shops and residential colleges. Alike USIM, UPM, and UKM have also launched some agricultural and industrial projects for generating revenue. Further, they are also planning for health clinics in future development.⁴⁹⁹ It is, therefore, anticipated that these sources will contribute to waqf significantly and as a result higher educational institutions will be able to receive a sufficient amount of waqf income.

4.5.1.3 Real Estate Properties' Income

By and large, waqf donors endow their real estate properties. Usually, donors endow their wealth through their "will" with the waqf. During an interview with the director of Yayasan Canselor, Haji Ahmed Zakie, the head of WDI-UKM said about one donor who came to him and said:

I am living in a house. Now, I would like to give you my house on condition that when I die this house will be transferred to educational waqf. Hence, now we have an agreement with him, after his death, the property will be transferred to UPM instead of his children"

Furthermore, UPM has waqf land in the form of agriculture and commercial properties which are a source of earning for the university. For example, the university has a piece of real estate property in Putra Jaya which fetches it 15000 RM per month in the form of rental. It is therefore considered the most secure and preferable form of waqf financing. On the one hand, one can have a regular source of income from the rent on real estate

⁴⁹⁹ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

properties as long as one wants and on the other market value of these properties is most likely to appreciate by each passing day.⁵⁰⁰

4.5.1.4 Deduction from Salaries

The second internal source of waqf for the HEIs is obtained from deduction at source of salaries. In fact deduction from salary can be considered the largest source of waqf fund collected from within a higher education institution. Hence, the faculty members and staff usually allowed online salary deduction. Professor Dr. Wan Kamal Mujani from UKM said during an interview:

“Our quarter million is from the salary of our staff”⁵⁰¹

More precisely, it can be seen from the experience of these HEIs, probably, the internal sources are more reliable than the external ones. In this regard, Haji Ahmed Zakie said:

Our important achievement is a deduction from salaries. We sign an agreement with faculty members on condition that he/she will donate 15 RM monthly to waqf until retirement. Every month we are going to two or three faculties to get consent for waqf deduction. So I keep telling them and usually we get 1000 RM every time. Last month, we received 5000 RM and it will hopefully grow.⁵⁰²

The Waqf in USIM, UKM, and UPM are receiving waqf deduction from salaries of the staff and also from the board of directors in some cases. The study found that USIM sometimes receives an honorarium from the board of directors as waqf fund.

We have three types of deductions, deduction from salary, deduction from mileage claim and deduction from the honorarium from the board of directors of the university.⁵⁰³

⁵⁰⁰Razali Othman. "Director Dana Wakaf Ilmu, WAZAN (Centre for Management of Waqf, Zakat and Endowment) University of Putra Malaysia: UPM)." By Muhammad Usman. (*Thursday, 20 April, 2017, 10:54:26 AM*) (2017).

⁵⁰¹ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

⁵⁰² *ibid*

⁵⁰³ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (*Thursday, 11 May, 2017, 10:36:22 PM*) (2017).

Since the HEIs have only recently set up their waqf centers after a long wait for official permission from the Majlis, these institutions had to be more dependent on internal sources. For example, UKM received approval as late as March 2017 after a long discussion and repeated requests to PWS,

4.5.1.5 Alumni Contribution

Former graduates of HEIs can be waqf donors. It is generally seen that most alumni have always had a great attachment to their alma mater and they are always ready to contribute something to its betterment. Sometimes, individual alumnus or group of alumnus help generously but unfortunately in Malaysia, according to a finding, no efficient database has so far been created for former students.⁵⁰⁴ But they have now realised the importance of alumni and their contribution and have therefore begun to establish contacts with them.

We have now reached out to our alumni to ask them to contribute to waqf fund which we called an educational fund. It is not just for one sector alone we want waqf for general education. We said we would use it for scholarships, research, and development and for the provision of facilities. So if it is general then it is allowable. But if you allow us just for scholarships or just for repairs of our masjid then it is not easy.⁵⁰⁵

It can be concluded from the above discussion that if these institutions are willing to increase their funding sources they will have to create proper databases of their students and maintain them as well. After graduation, ultimately their students are going to be part of the corporate sector, government, non-governmental organizations, industry, and other businesses. Hence, it can be a great source of waqf and other external donations if the HEIs remain in contact with them.

⁵⁰⁴ Nuruliman Ibrahim. "Head of Fund Management Section of Wakaf Ilmu, University of Putra Malaysia UPM)." By Muhammad Usman. (*Friday, 9 December, 2017, 12:28:26 PM*) (2017).

⁵⁰⁵ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

4.5.1.6 Individual Support

Rather than the support from organization, one of the important sources for waqf HEIs is individual support in the form of moveable and non-movable assets, donations from various stakeholders such as individuals, corporate personalities, businessmen, government officials, and showbiz celebrities and kings. Realizing the importance of individual support and donations, Selangor Sultan, Sultan Sharafuddin Idris Shah himself has endowed 300,000 RM as a significant support to DWI's programme in UPM.

Different methods can be used to appeal to man's generosity and be able to obtain donations from industrialists, businessmen, politicians, and kings etc. In the modern era, HEWIs in Malaysia are fast using modern techniques by expanding their Information and Communication Technologies (ICT) to generate cash waqf fund. Hence, HEIs are using various efficient collection mechanisms which are based on innovative techniques, making use of traditional culture and modern methods for seeking aid from donors.

4.5.2 External Sources

The study found that the HEIs can also solicit funds outside as well. Consequently, the study probed external sources of waqf funding in HEIs in Malaysia.

4.5.2.1 Traditional and Modern Techniques for Waqf Collection

Traditional and modern methods are put to use to solicit waqf funding. In the traditional method, a safe box (See Fig. 4.2) is placed in a mosque with waqf written on it. It is though old practice, but the UPM collected more than one million RM of cash waqf through the box. It is a traditional campaign, in which a collection box is used to collect money for cash waqf. In UKM it is usually placed at the roadside, in the mosque and nearby area of the university such as Bangi. In the same manner, In UPM, the box is

placed five different places of UPM Majlis, one in administration department and one in each faculty.⁵⁰⁶



Figure 4.2 : Peti Besi (Waqf Box)

Generally, this method is very common in fundraising for cash waqf. This concept is considered an effective way of fundraising because; firstly, it offers an opportunity to the general public to participate directly and actively in fundraising according to their financial capacity and within their own community. Moreover, it provides an important mechanism for interaction and information exchange between fundraising organizations and their donors.⁵⁰⁷

Secondly, anyone can come to waqf counter in UPM and donate anything as waqf. Likewise, our staff can also donate cash waqf from e-claim and/or donation from e-mail. The university also introduced the concept of waqf book or royalty. Any individual who is the author of a book or writes in journals can make his/her royalty a waqf for the noble cause. This concept is named as an e-journal. Dr. Razali Othman said

⁵⁰⁶ Nuruliman Ibrahim. "Head of Fund Management Section of Wakaf Ilmu, University of Putra Malaysia, UPM)." By Muhammad Usman. (Friday, 9 December, 2017, 12:28:26 PM) (2017).

⁵⁰⁷ Razali Othman. "Director Dana Wakaf Ilmu, WAZAN (Centre for Management of Waqf, Zakat and Endowment) University of Putra Malaysia: UPM)." By Muhammad Usman. (Thursday, 20 April, 2017, 10:54:26 AM) (2017). for more detail cf. Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

during an interview that he himself had declared royalty from his two books as a waqf for the university.⁵⁰⁸

4.5.2.2 Online Banking (e-waqf)

E-waqf provides online banking facility to pay and transfer money as a cash waqf. It is another mode to accelerate fundraising within the shortest possible time and it plays a pivotal role in accelerating the process of fundraising. This method is time and cost-effective mode of collecting cash waqf from various donors. Therefore, alike USIM and UKM, UPM offers various bank accounts in numerous banks for cash waqf such as; CIMB, Bank Islam, BSN, AmIslamic Bank, Bank Rakyat, and Maybank. For donors' information, the details of bank accounts are available on the official website.⁵⁰⁹

4.5.2.3 Crowdfunding

In an era of technological advancement, the process of development is very rapid. Present technological advancements facilitate various methods of marketing and fundraising. Crowdfunding it is another innovative method of fundraising for development⁵¹⁰ through social media smart phone applications where technology and finance work together. Further, it is a very convenient and accessible mode that helps donors to contribute effectively in a cost-effective, easy, efficient and secure manner. In the case of Malaysia, this scheme of the waqf collection has been found to be very common. The evidence proves that USIM, UKM, and UPM are using this innovative way in an efficient manner. In addition, USIM has various projects under the waqf institution and they proposed

⁵⁰⁸ Razali Othman. "Director Dana Wakaf Ilmu, WAZAN (Centre for Management of Waqf, Zakat and Endowment) University of Putra Malaysia UPM)." By Muhammad Usman. (*Thursday, 20 April, 2017, 10:54:26 AM*) (2017).

⁵⁰⁹ Nuruliman Ibrahim. "Head of Fund Management Section of Wakaf Ilmu, University of Putra Malaysia UPM)." By Muhammad Usman. (*Friday, 9 December, 2017, 12:28:26 PM*) (2017).

⁵¹⁰ Josefy, M., Dean, T. J., Albert, L. S., & Fitza, M. A. (2017). The Role of Community in Crowdfunding Success: Evidence on Cultural Attributes in Funding Campaigns to "Save the Local Theater". *Entrepreneurship Theory and Practice*, 41(2), 161-182.

JomPay and other sites for crowdfunding for general waqf fund and specific waqf projects as well.⁵¹¹

4.5.2.4 Support of Authoritative Bodies

Generally, in public HEIs' major funding comes from the government while private higher educational institutions rarely receive any grant from the government. Therefore, waqf higher education institutions in Malaysia relies merely on the general public for waqf funds. As mentioned earlier the waqf in Malaysia is controlled by religious councils of respective states. The state of Negeri Sembilan has set a very good example in this regard. The state's Majlis supported USIM and the state government aided the university's waqf initiative and provided basic financing as seed waqf fund as well.

At the outset of 2013, when USIM applied for permission of waqf collection and management, the Majlis Agama Islam Negeri Sembilan not only granted it the status of *mutawalli* but also agreed to help it with 3.5 million RM of this amount, 2 million were for specialist clinic development (one million as waqf fund and another million as *Qard Hasan*). They had agreed that after four years when the university started getting profit from the clinic it would have to return the 1 million to MAINS. The remaining 1.5 million was actually allocated for Hemodialysis clinic. This specialist clinic consists of dentistry, mobile specialist eye clinic, and hemodialysis clinic. Likewise, the state government provided a lorry to USIM waqf, which was equipped with essential equipment valued at around 650, 000 RM.⁵¹²

⁵¹¹ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

⁵¹² *ibid*

4.5.2.5 Donations or Grants

There is a common misperception that public universities are almost wholly financed by the government and the industry, cooperatives, business, members of royalty and celebrities are still not realised the importance of HEIs and do not contribute significantly to their kitty. But the fact is that Malaysian higher educational waqf institutions target the above-mentioned to seek donations and grants. For example, Maybank donated 100,000 for USIM clinic⁵¹³, while UKM collaborates with telecom and cooperate holding companies⁵¹⁴. In the case of UPM, the study reveals that the university is trying to capture CSR funding and it has organized a team for collaboration with cooperative bodies.⁵¹⁵

These were some sources of waqf financing which are commonly generated with the help of some fundraising strategies in waqf HEIs internally and externally. To understand waqf fund management, it is required to know how these funds are managed in waqf universities.

4.6 Investment

As discussed earlier Islamic law has put just one binding condition on the use of waqf fund that it be invested in something in which the principal amount remains safe. The investment should be made after due care and assessment of all aspects. There are many safe investment options but first of all, there should be a 'body' or 'authority' to look after managerial issues of waqf.

In the case of Malaysia, the waqf HEIs have waqf centers that deal with all the administrative issues of waqf, though legally these waqf institutions are under the

⁵¹³ *ibid*

⁵¹⁴ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

⁵¹⁵ Razali Othman. "Director Dana Wakaf Ilmu, WAZAN (Centre for Management of Waqf, Zakat and Endowment) University of Putra Malaysia, UPM." By Muhammad Usman. (*Thursday, 20 April, 2017, 10:54:26 AM*) (2017).

umbrella of SIRC's in their respective states. Even though waqf for HEIs is a new development in Malaysia and the HEIs are still trying to reach a sufficient mass level to be able to focus on investment management. Haji Ahmed Zakie the head of WDIUKM said during an interview:

The biggest waqf fund of higher education in Malaysia is UPM. It has to negotiate with MAIN operational matters which are rather simple but people make them appear difficult in prolonged meetings. We are very fortunate that finally in March we signed the agreement and we are beginning fund collection.⁵¹⁶

The WDIUKM started waqf collection after prolonged negotiations with the MAIN. An efficient waqf fund management can be achieved through enhancement in waqf income. Therefore, waqf managers make use of various measures of profit maximization and risk minimization.

The following section discusses two main kinds of assets management in Malaysian HEIs. 1) Real Assets which are physical assets (tangible assets) including equipment, real estate, and businesses and 2) Financial Assets which are including bonds, shares, securities, and certificates of deposits. We have learnt earlier from our previous discussion that there are three kinds of investments i.e. 1) conservative, 2) balance, 3) recursive and the study has found that in case of Malaysia most of the waqf institutions follow a prudent investment strategy, which is more conservative. They try to achieve maximum funding and use the strategy that provides maximum profits to reach the inflation level. It is essential to at least reach the current inflation level to cover depreciation and some extra waqf income. This section illustrates the findings of waqf management in three different dimensions 1) real assets, 2) financial assets and, 3) business ventures.

⁵¹⁶ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

4.6.1 Real Assets

In the case of Malaysia, most of the waqf funds are reserves as a cash waqf and real assets. Investment in real assets is commonly considered as the most secure investment strategy. During an interview, Dr. Razali Othman said that usually they received waqf fund in the form of cash waqf through various solicitation activities and this fund has to convert into real estate through the concept of *istibdāl*. UPM has waqf properties in Putrajaya from where it is receiving 15000 RM monthly as rental and it is also expected that the value of the property will appreciate with the passage of time. In addition, UPM also has some sort of real estate, agriculture land, and industrial projects. These assets are sources of income. Likewise, UKM tries to build enough funds to be able to invest in real estate. The university has also made a few agreements with waqf donors if they are willing to bequeath their property to waqf institution. UKM facilitates such donors. Haji Ahmed Zakie said:

We have just now begun collecting waqf funds so we don't have enough money. We will use the collected fund to generate more funds. Initially, we will look for a small house and rent it out to use its returns in line with one of the characteristics of the waqf that it should be for perpetual purposes.⁵¹⁷

UKM also facilitates waqf donors of real estate who want to bequeath their property to waqf in their lives or after their death. The university sign agreements with them under which their property transfers to the waqf institution after the donors' death. In this manner, they receive waqf land and manage it.

When it comes to the USIM, it has very good strategies and projects and active support of Majlis Agama Islam Negeri Sembilan. It is expected that with continuous collaboration among USIM, MAINS and state government the university will sooner or

⁵¹⁷ Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

later become one of the pioneering institutions in Malaysia which has implemented the concept of waqf for sustainable development of the university and produced a significant amount of income from the waqf investments or assets. USIM has various projects in the pipeline, some of which has already been completed and work on the remaining ones is expected to start as soon as the land for the projects has already been allocated. Thus, the waqf institution in the USIM is seeking a large amount of funding for the waqf projects including; Health Clinic Pakar USIM, and Haemodialysis Clinic, International School, Pusat Convention, and USIM Hotel Tower, King Sulman Center, and shops, various residential colleges, and educational fund.⁵¹⁸

4.6.1.1 Islamic Financial Instruments and Products

There are several Islamic financial instruments and products which can be used for the waqf development for HEIs such as the concepts of “*Istisnā’*”, “*Ijārah*”, and *Shukūk* etc. These concepts are now commonly used in Islamic Financial Institutions (IFIs) and it can be hoped that the IFIs and waqf HEIs will also collaborate on these concepts for waqf development. However, IFIs are not fully ready and supporting waqf institution in these mentioned contracts just for commercial and business reasons; therefore, not enough products and services are available for the waqf institution development in the market. The study revealed that USIM has “*Ijārah*” contract with the owner of shops, the 3-slots where the health clinic Pakar is situated. Initially, the USIM waqf was considering signing a contract “*Diminishing Musharika*” but the higher management of the USIM did not allow it to do so and the reason behind it was that the university was not sure if the waqf fund would receive the required amount of returns from it or not.

⁵¹⁸Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

4.6.2 Financial Assets

As the cash waqf and other donations collected from donors remain safe in the financial sector in the form of savings or securities, the HEIs are also receiving profits from the securities and other benefits.⁵¹⁹ Although, the study found that these financial reserves are limited but it is expected that with the passage of time the financial reserves will increase to become perpetual sources of income for the HEIs development. Based on the above discussion, in Malaysia, waqf HEIs financial reserves are not sufficient. Therefore, raising cash waqf would take a long period of time. To develop large-scale productive waqf projects would require substantial capital outlays. Further, some good investment instruments can be implemented to develop waqf funds such as *Shukūk Musyarakah*, *Shukūk Ijārah*, *corporate waqf*, and Islamic Real Estate Investment Trust (IREIT).⁵²⁰

4.6.3 Business

A waqf institution can participate in various business ventures for waqf income. Malaysian's higher educational waqf institutions are still in the process of underpinning, therefore, they are facing a host of issues and challenges in the whole process of approval. Further, the approval from the Majlis remains limited and for the next term, they have to apply again and Majlis can impose new conditions as faced by UKM and UPM. Thus, they have to enter lengthy negotiations again and seek approval for waqf collection from their respective Majlis. It is obvious waqf HEIs in Malaysia are still in the transition phase of their development and they have to reach maturity level. The issue of dealing with Majlis mostly relates to human relationships and psychology.⁵²¹ Therefore, if the waqf

⁵¹⁹ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

⁵²⁰ Mohammad Haji Alias. In *Waqf Financing Developments In Malaysian Public Universities: Understanding Recent Developments*, (Paper presented at YTI's Brown Bag Series FEM: Faculty of Economics and Muamalat USIM, Dean' Meeting Room, 2017).

⁵²¹ Mohd Nazri Chik. "General Manager, Group Chief *Sharī'ah* Officer, *Sharī'ah* Division" By Muhammad Usman. (Wednesday, 3 May, 2017, 5:18:46 PM) (2017).

HEIs are led by highly professional and cooperate linked personalities the results will be favorable⁵²². A waqf can receive income from any kind of business that does not contravene *shari'ah*. There are three main sources of business earning 1) services 2) manufacturing 3) trading.

In the case of Malaysia, the study could not find sufficient information about a waqf institution that has employed a business strategy for waqf income generation. However, there is evidence that shows that waqf HEIs have some future strategies to invest come in businesses like USIM has initiated various projects, some of which had already been completed and will soon become profit-making businesses.

4.7 Fund Utilisation

In the proceeding section, the study discusses waqf fund utilisation. In due course, this last section will try to discover how waqf helps in the HEIs development in Malaysia. There are various aspects of waqf HEIs development but this section will discuss only three main aspects of development covering developmental expenditure, operating expenses and academic activities.

4.7.1 Developmental Expenditure

Malaysian waqf for HEIs are still just soliciting and fundraising, whereas the reserve waqf funds are not producing enough amount of income for any developmental expenditures. The waqf fund in our selected universities UKM, USIM, and UPM come to 1.5 million, 4.5 million and 9.2 million RM respectively, therefore, these waqf universities are still focusing on waqf collection rather than on waqf fund investment. However, there are a few schemes which provide development of facilities in the university.

⁵²² Ahmad Azrin Bin Adnan. "Director, Center of Waqf and Infaq, University of Sultan Zainal Abidin" By Muhammad Usman. (Wednesday, 17 May, 2017, 2:42:06 AM) (2017)

4.7.1.1 Infrastructural Development

A general scheme refers to the development of infrastructure. This scheme may also provide a revenue-generating opportunity for the waqf institutions in future. There is a list of schemes and facilities are provided or will be provided under the waqf institution in selected case studies USIM and UPM.

- *Transportation*: special vehicles for disabled and general students
- *Projects Funding*: research grants and equipment for those working with the research and development. Instruments include air conditioners, laboratory tools, and others. Especially, the research on waqf is also supported.
- *Research Material*: Provision of various fields of scientific material and books
- *Health Facilities*: Healthcare center with dental and hemodialysis clinic
- *Accommodation Facility*: residential colleges and hostels for students inside the campus
- *International School*: for locals and foreigners' children inside the campus
- *Convention Center*: multipurpose convention center with world-class facilities
- *USIM Hotel Tower*: an international five-star hotel

The above-mentioned developments in waqf HEIs in Malaysia will not only contribute to facilitating the staff and students, will also contribute to community services. Moreover, with the passage of time and development, these waqf projects will also become a perpetual source of income generation.

4.7.1.2 Research & Development

Initially, these waqf institutions are trying to focus more on research and development on waqf and some religious concepts. Therefore, USIM, UKM, and UPM are supporting and collaborating with local and international organizations in organizing waqf conferences and research panels. Professor Fuadah said during an interview:

We organized a conference in Thailand on waqf and we plan to hold it every year.⁵²³

UPM, with a larger waqf fund at its disposal in Malaysian universities, is also providing funding to final year graduates and masters students for their projects in various fields such as science, technology, and social work and etc. Besides other projects, the university is also busy finding out new ventures for maximising waqf income. It is focusing more on making research collaboration with other universities and organizing research projects and conferences on waqf development for higher education.

4.7.2 Operating Expenses

The biggest challenge for a waqf institution is “how to acquire operating and administrative cost with all these activities”. However, UKM, UPM and USIM waqf’s operating expenses are financed by their respective universities. Dr. Razali Othman said that only UPM center of WAZAN is meeting its expenses.⁵²⁴ It is a great achievement for UPM while UKM and USIM have to be more self-reliant in their operating expenses.

4.7.3 Academia Supporting Activities

The main focus of the waqf universities is to facilitate students in their studies. Therefore, Waqf Dana Ilmu, UPM, and UKM and USIM focus waqf scholarships. Due to limited resources, the funding is mostly provided to undergrad and diploma students, however, graduate and master students are supported in their final year. More specifically, somehow their final projects are financed through waqf income.⁵²⁵ In UPM they are also providing fully-funded scholarships to the needy and talented students.

⁵²³ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (*Thursday, 11 May, 2017, 10:36:22 PM*) (2017).

⁵²⁴ Razali Othman. "Director Dana Wakaf Ilmu, WAZAN (Centre for Management of Waqf, Zakat and Endowment) University of Putra Malaysia: UPM)." By Muhammad Usman. (*Thursday, 20 April, 2017, 10:54:26 AM*) (2017).

⁵²⁵ *ibid*

4.7.3.1 Students Support Programmes

These waqf universities are trying to support students with various initiative from the waqf sources. Dr. Razali Othman said during the interview:

Our main focus is to provide scholarships to the needy and talented students, fund research and development and arrange a van for the disabled. We arrange a van from waqf fund for the disabled students. Two years ago we used our waqf fund to buy a vehicle for students. We want to use our waqf fund to buy vehicles for our all students.⁵²⁶

In addition, UPM has cosmic fundraising sources, therefore, UPM utilised their money in varied fragments such as student scholarship, research and development, academic activities and waqf ambulance. The university is planning to launch a waqf clinic like USIM. Furthermore, UPM has utilised their fund in the welfare of the community and in extending monetary assistance to the people who are poor or not able to do well in society. Over and above, the UPM waqf is playing a positive role in social development and student support activities. In this regard, UPM last year received 442,413.81 RM and distributed in following areas (See Table 4.2).

Table 4.2: Distribution of Waqf Income 2017-2018 in Malaysian Ringgits

Donation to foundation students	20000
Research and Development	26650
Publication	59834
Scholarships for foundation	9670
Scholarships for diploma students	63932
Scholarships for youngsters	95940
Specific scholarships	9988
Facilities and equipments	7898
Kitab	4204
Vehicle	1801
Others	142584
Total	442501

Sources: Dana Waqf Ilmu, UPM

⁵²⁶ *ibid*

4.7.3.2 Faculty Development Programme

The waqf HEIs are also working for human capital development. In the university, students are receiving knowledge and faculty members are imparting their knowledge and experience. Various research projects are financed by this waqf fund for human capital development. In case of USIM, the study discovered that the university is facilitating their medical faculty and students to work in Health Clinic Pakar and Homodialysis Clinic, which is a community service in which people receive health services at a very nominal price. This initiative also created a positive image and goodwill for the USIM in nearby universities. The similar, planning has been adopted from the two other waqf universities UPM and UKM, and soon they will announce like USIM.

In brief, these acts of charity have a positive impact on the waqf HEIs as well as on those who benefit from them. It also encourages other waqf HEIs to help society with greater zeal and fervour.⁵²⁷

4.8 Conclusion

This chapter discussed waqf in terms of its legal framework, fundraising, fund management and income utilisation with reference to Malaysia. The chapter briefly described the overview of the waqf institution along with the current practices of waqf in higher education institutions. In the later part of this chapter history, governance, rules, and regulations are discussed in detail. The chapter ended with the discussion of fundraising mechanism, fund management, and income utilisation

⁵²⁷ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

CHAPTER 5: ISSUES AND CHALLENGES FOR HIGHER EDUCATIONAL WAQF INSTITUTIONS IN PAKISTAN AND MALAYSIA

5.1 Introduction

This chapter mainly consists of two sections, the first section discusses issues and challenges to waqf institutions in Pakistan and subsequently, section discusses issues and challenges to waqf institutions in Malaysia. Each section addressed issues and challenges facing by waqf institution in term of waqf governance through state laws and regulations and within higher education waqf institution. Furthermore, to some extent, it also highlighted some issues and challenges faced by the waqf institution in the society

5.2 Issues and Challenges in Pakistan

The following section throws light on the issues and challenges facing higher educational institutions in waqf development, including its legal framework, financing, and management and income utilisation in the context of Pakistan. Since most, higher educational Waqf institutions are run and managed by the private waqf entities. Therefore, waqf practices have various issues and challenges being a private higher educational waqf institution. However, the issues and challenges mainly pertain to a waqf institution being a private entity under the state jurisdiction, higher educational waqf institution, and general society.

5.2.1 Government

5.2.1.1 Lack of Incorporation and Legal Framework

The major obstacle to the development of the waqf, however, is poor management of waqf institutions, by reason of limited regulation and supervision mechanisms. The

existing legal framework for waqf is not comprehensive. There is no specific regulatory body to oversee and regulate private waqf institutions.⁵²⁸ Therefore, most of the private waqfs are not incorporated as a waqf.

In keeping with the spirit of an Islamic waqf, a suitable and comprehensive law should be enacted to provide for the registration of the *awqāf*.⁵²⁹

Under the obtaining laws, private waqf institutions are registered under Society Act 1860, Trust Act 1862 and Section 42 of Companies Ordinance 1984. The only government department that oversees waqf properties works under the ministry of religious affairs and looks after mosques, cemeteries, shrines and some religious seminaries. In Pakistan, waqf or trust institutions are considered to be akin to not-for-profit organisations that include traditional waqf institutions as well as non-governmental organizations (NGOs). The research found out that religious scholars have suggested some steps to resolve the many challenges related to the waqf. In this regard, a large seminary, Darul Uloom in Karachi, has put forward a number of proposals for legislation on waqf. As mentioned by Mufti Dr. Khalil Ahmed Azami

I have made a little attempt to compile waqf laws for Pakistan. The draft of my proposal is ready and under review by Mufti Taqi Usmani. It is a small effort by religious scholars to facilitate the government in this regard. We will present the 'draft' to the government if it wants to formulate a comprehensive law on waqf.⁵³⁰

The proposed draft comprises 15-20 pages with various 'clauses', 'acts', 'sections' etc.

It addresses issues like:

⁵²⁸ Mufti Dr. Khalil Ahmed Azami "Chairperson, *Shari'ah* Board Bank Al-falah Islamic, and Ustaz at Darul Uloom Karachi." By Muhammad Usman. (*Sunday, 14 August, 2016, 12:07:20 AM*) (2016).

⁵²⁹ Hamdard Foundation Pakistan. "Auqaf Al-Islami: Karachi Declaration " In International Seminar on the Place of Waqf in Islam edited by Hamdard foundation Pakistan. (Karachi, Hamdard foundation, 1988).

⁵³⁰ Mufti Dr. Khalil Ahmed Azami (2016). Op. cit.

What are pre-conditions for waqf? What should be the characteristics of a waqf property? What should be the auxiliaries of the purpose of waqf? Who can be assigned the responsibility to be *mutawallī* for waqf? etc.⁵³¹

Based on the above discussion, this draft which is still in its preliminary stage. Therefore, it a challenge and need for waqf institutions to have properly incorporated. Unfortunately, in Pakistan waqf institution are not incorporated.

5.2.1.2 Limited Tax Exemption

The existing legal framework provides little tax relief to waqf institutions. The Income Tax Ordinance, 2001, describes in detail the incomes which have either been exempted fully from tax or have been given some concession in the tax. As a rule, a waqf institution has to apply to the ministry of finance to seek tax exemption, which is, however, limited only to donations. The exemption does not cover income from property, capital gains, business activities and payment of bills for utilities.⁵³²

Initially, a waqf institution has a tax exemption on overall income and expenses. But, in 2001 and 2005 government took actions and gradually remove the tax exemptions. Hence, waqf institutions pay all kinds of taxes on utilities at the same rate as commercial entities do.⁵³³ Hence, a tax rebate is offered only on donations, though it should cover the overall income and expenses of a waqf institution i.e. utilities, real assets, business activities etc.

⁵³¹ *ibid*

⁵³² Farrukh Imdad. "Acting Vice Chancellor, Hamdard University Karachi." By Muhammad Usman. (Tuesday, 2 August, 2016, 11:02:18 AM) (2016).

⁵³³ Abdul Baqi bin Abdul Bari "Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (Tuesday, 18 October, 2016, 11:24:33 AM) (2016).

5.2.1.3 High Certification Fee

It is a prerequisite for every waqf or charity institution to apply to the Pakistan Centre for Philanthropy (PCP) for the issuance of a certificate. It is the only body authorized by the Federal Board of Revenue (FBR) Government of Pakistan to certify not-for-profit organisations (NPOs), including all charity and private waqf. The PCP charges waqf institutions a hefty fee for certification, which is 5 per cent of the annual budget of a waqf institution. An old waqf institution Darul Tasnif which had more than 10 million rupees annual budget was asked to pay 0.5 million PKR as a certification fee, which was indeed a huge amount for a waqf institution to pay. Abdul Baqi, director of Darul Tasnif, said during an interview: “Our Managing Director Hamid Jaffer said in response to PCP’s demand for fee...

Donors want their donations to be spent on welfare and humanitarian causes and not to waste and squander away their hard earned money. So, we do not need to register with PCP.⁵³⁴

The exorbitant fee has become an impediment to the registration of waqf institutions in the country with the PCP and discourages the waqf institutions which are already facing financial constraints and limited resources. The government, therefore, needs to introduce reforms and put in place such a legal framework which helps to create an environment conducive to the development of waqf institutions.⁵³⁵

5.2.1.4 Lack of Mutual Cooperation among Public Institutions

In addition to the conducive legal framework and viable tax rules, proactive mutual cooperation among government institutions is extremely important for the development of waqf. The world moved from the Industrial Age to the Information

⁵³⁴ Abdul Baqi bin Abdul Bari “Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited” By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

⁵³⁵ *ibid*

Age several decades ago but Pakistan governments' institutions are still struggling to keep pace with ever-changing information technologies and lag far behind many countries of the third world because of interest from the authorities and government. In practice, client have to transfer information from one government institution to the other manually while government officers' behavior is indifferent towards waqf. Based on above discussion, according to laid down procedure, if a private waqf institution is to be created it has to first get registered with the Securities and Exchange Commission of Pakistan (SECP) as the first step, then it has to apply to PCP for certification as a waqf or charity entity to be able to qualify for tax exemption from FBR. As a rule, without registration with SECP a waqf institution or charity foundation will not be able to get certification from PCP and without the PCP certification, FBR will not allow tax exemption to the institution.⁵³⁶

5.2.1.5 Lack of Government Role and Inconsistent Policies

Since the independence of Pakistan, government did not perform an effective role in *awqāf* protection and management. A proper waqf regulatory framework is a prerequisite for the promotion of proper *awqāf* protection and management.⁵³⁷

There is vast government waqf property in the surrounding of shrines which is used by custodians of the shrines without fear of accountability. There is no programme for the public good in place and no structure for welfare work in these *awqāf* run shrines. In fact, it has not been institutionalized yet. The greatest challenge Pakistan faces in this regard is how to revamp the old and outdated waqf law. For example, if somebody wants to put his or her property in a waqf, there is no detailed procedure to guide him. We follow an informal system to help such prospective philanthropists.⁵³⁸

⁵³⁶ *ibid*

⁵³⁷ Hamdard Foundation Pakistan. "Auqaf Al-Islami: Karachi Declaration " In *International Seminar on the Place of Waqf in Islam* edited by Hamdard foundation Pakistan. (Karachi, Hamdard foundation, 1988).

⁵³⁸ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

In governance, public institutions are not seen as viable. Sometimes the government takes strong actions against private *awqāf* properties and take them into custody as happened in 1970s when the government nationalized all private institutions including the waqf ones. Hence, due to lack of trust in government, *awqāf* institutions avoid possessing huge waqf properties while large *awqāf* in possession of massive properties have to live in fear of occupation by the government at any moment. There are many cases in courts which linger on and not settled yet. So, there is a great need for the creation of a conducive waqf properties protection environment.⁵³⁹

5.2.1.6 Backdoor Policy

Being a legal entity, a waqf institution in Pakistan has to work within the legal framework of the country and abide by all relevant rules and regulations. In this regard, waqf institution has to collaborate with public institutions, while, Corruption in public sector institutions erodes their legitimacy and transparency, impedes sustainable development activities and encourages favouritism, patronage of delinquent workers etc. As mentioned by Mr. Fareed Ahmed Entuley

‘Backdoor policy’ (bribe culture) is rife in the government hierarchy. Almost all government departments accept bribes to get any legal and illegal job done. You have to pay a bribe to get approval or permission for anything.⁵⁴⁰

The malaise scuttles social institutional development in any society. The corrupt system has become so entrenched in Pakistan that if one refuses to pay the bribe for any legal or illegal job, his file will attract numerous objections and will eventually gather dust in the bureaucratic labyrinth and will never find its way back to its owner

⁵³⁹ *ibid*

⁵⁴⁰ Fareed Ahmed Entuley. “Administrator of “Begum Aisha Ibrahim Bawany Educational and Welfare Waqf”.” By Muhammad Usman. (*Tuesday, 2 August, 2016, 2:36:54 PM*) (2016).

till he is compelled to pay the price. In short, the system raises innumerable hurdles to an individual's work and forces him to toe the line or wait indefinitely.⁵⁴¹

5.2.1.7 Nationalization Policy

The government of Pakistan imposed Nationalization Policy in 1971 under which almost all private waqf institutions and private properties were brought under direct government control. It was a self-destructive decision in the economic history of Pakistan which jolted the very foundations of the national economy and discouraged the private sector's contribution to the country's development. It was part of a programme to lay the foundation of socialist economics in the country in 1972.⁵⁴² The policy also hit privately-managed waqf institutions and barring a few institutions the landed properties of Jinnah University for Women, Aisha Bawany (waqf) Degree College, Darul Tasnif, Tablighi College and Government National Degree College, some of them are still in the custody of the government.⁵⁴³

On the international level, United Nations and IMF strongly opposed the nationalization policy and recommended openness and liberalisation⁵⁴⁴ in the economy. However, later the government revised the policy and returned some *awqāf* properties to Aisha Bawany Academy and Darul Tasnif but the Government National Degree College, Aisha Bawany Degree College and three acres of Jinnah University for Women are still under government control.⁵⁴⁵ As a result, most *awqāf* entities avoid using the terms "*Awqāf*" or "*waqf*" for their institutions and try to get registered as

⁵⁴¹ *ibid*

⁵⁴² *ibid*

⁵⁴³ Surayya Qamar. "Professor, Dean, Faculty of Social Sciences, Jinnah University for Women Karachi" By Muhammad Usman. (Wednesday, 31 August, 2016, 12:24:56 PM) (2016).

⁵⁴⁴ Banya, K., and J. Elu. 2001 Op. cit.

⁵⁴⁵ Surayya Qamar. "Professor, Dean, Faculty of Social Sciences, Jinnah University for Women Karachi" By Muhammad Usman. (Wednesday, 31 August, 2016, 12:24:56 PM) (2016).

independent, sustainable and permanent institutions which are governed by other legal frameworks as discussed earlier.

5.2.2 Higher Educational Waqf Institutions

5.2.2.1 Lack of Proper Audit and Annual Ceremony

Most of the waqf institutions in Pakistan has a loose system with little documentation. Hence, the practice of record keeping and maintenance of accounts is not very common. But a reputable and established waqf institution has to get accounts properly audited in order to be able to make a presentation in front of prospective donors and supporters to get an extra increase in their contributions. Likewise, the performance reports should be submitted to regulatory bodies to maintain financial integrity as should be the practice in a waqf institution.

Darul Tasnif has its accounts audited by the best audit companies of Pakistan, like Sadad and Hadir, every year without fail since the day of its inception. Similarly, we present our annual performance and progress report titled “Roodat” in general gathering, especially on the 27th of Ramadan each year, which helps promote our cause.⁵⁴⁶

However, the practice of maintaining financial integrity is not very common because most of the waqf institutions function in a traditional, informal manner.

5.2.2.2 Lack of Transparency and Credibility

When it comes to attracting local and international donors, institutional credibility and transparency become a very crucial factor. Normally, donors prefer to see the performance of the waqf institution concerned rather than listening to their fundraiser.⁵⁴⁷ When a donor observes institutional transparency and credibility he/she

⁵⁴⁶ Abdul Baqi bin Abdul Bari “Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited” By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

⁵⁴⁷ Stuckenschneider, Kristie, and Amanda Nerg. "Domestic Disasters and Geospatial Technology for the Defense Logistics Agency." (Monterey, California: Naval Postgraduate School, 2014).

will be ready to help. Therefore, performance and credibility for a waqf institution are essential to inspire donors and convince them to lend a helping hand to the waqf institution for its noble cause.⁵⁴⁸

For instance, under the proposed 5-year scholarship program the Department for International Development (DFID) has agreed to provide a grant of Rs1.625 billion over a period of five years to award 28,000 scholarships. The main reason the Punjab Educational Endowment Fund (PEEF) received fund is that “PEEF is a transparent, effective and proactive model. Therefore, DFID would like PEEF to disburse its Rs1.6 billion for scholarships. In the same manner, a waqf institution can establish credibility and transparency which will help it get international grants and donations easily.⁵⁴⁹

A waqf institution could increase its credibility and transparency by properly registering itself with regulatory bodies and submitting periodic reports. However, in the case of Pakistan, this practice is not common. Mostly, waqf institutions are informal and not registered. Waqf requires perpetuity, irrevocability, and permanency. The reason a waqf institution should register itself under Section 42 of the Companies Ordinance, 1984, is that the law ensures it financial and administrative autonomy and is sustainable and perpetual in nature.⁵⁵⁰

5.2.2.3 Misperception Regarding IFIs

The Islamic Financial Institutions (IFIs) can perform a very important role in waqf management. It has the requisite potential to help capital market and even the IFI itself. Unfortunately, in Pakistan, the perception of the Islamic banking sector has not

⁵⁴⁸ Abdul Baqi bin Abdul Bari “Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited” By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

⁵⁴⁹ Kamran Shams. "Chief Executive Officer, the Punjab Educational Endowment Fund (PEEF)." By Muhammad Usman. (*Thursday, 10 November, 2016, 11:55:01 AM*) (2016).

⁵⁵⁰ Abdul Baqi bin Abdul Bari “Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited” By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

developed. Only 10 per cent people in Pakistan use banks for financial transactions while 90 per cent do not make any transaction through banks. A large portion of the economy belongs to the informal sector. Most importantly, only 1 per cent of the population is a taxpayer. So, in this situation, the IFI has not enough contribution to the financial sector.⁵⁵¹ Especially, since the Islamic capital market has not garnered people's confidence as properly *sharī'ah* compliant and IFIs in Pakistan mostly invest in T-bill (Government's Treasury bill), there is no real productivity. The role of bank as an intermediary is questionable with regard to many institutions, including those that do not have any trust and confidence in Islamic financial institutions. They see them as similar to conventional financial systems. Therefore, they try to avoid investing in IFIs. One stark example of this trend is Aisha Bawany waqf.⁵⁵² During an interview with Fareed Ahmed Entuley, the study found that the board of trustees of the waqf did not consider IFIs to be completely *sharī'ah* complaint banks. Misperceptions abound about IFIs not being fully *sharī'ah* complaint. However, the IFIs are still growing and hope they will have a great role to play in waqf management in near future. Fortunately, the private waqf institutions the study selected as its case studies mostly abided by *sharī'ah* edits in their affairs.⁵⁵³

5.2.2.4 Lack of Diversity in Waqf Management

Most waqf institutions invest in real estate as their boards of trustees/Mutawalies/governors approve of putting money only in safe and risk-free

⁵⁵¹ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

⁵⁵² Fareed Ahmed Entuley. "Administrator of "Begum Aisha Ibrahim Bawany Educational and Welfare Waqf"." By Muhammad Usman. (*Tuesday, 2 August, 2016, 2:36:54 PM*) (2016).

⁵⁵³ *ibid*

investments through scheduled banks. Some waqf institutions use the most conservative form of investment i.e. and avoid diversification in assets management. In this regard, IFIs can play a big role in waqf management by introducing innovative and diversified products and services for waqf institutions like Al-Meezan mutual fund and Al-Ahsan waqf trust for higher education.⁵⁵⁴

5.2.2.5 Lack of Delivery Arms or Limited Sources

Most waqf institutions in Pakistan have to make do with lack of funding. The sources of *awqāf* and donations are so limited that sometimes the waqf institutions do not even have enough resources to meet operating expenses. Hence, whatever they receive in donations they direct it to operational expenses. Faced with funds shortage HEIs need to be armed with enough knowledge about prudent fund management and investment strategies to attract maximum donor contribution.⁵⁵⁵

5.2.2.6 Lack of Infrastructural Development

Infrastructural development is a basic requirement for innovation but institutions can rarely meet their operational expenses due to lack of delivery arm of waqf fund.

Traditionally, it is observed that in Islam the infrastructural development of the welfare sector is provided by waqf and thereby *zakāt* was used for operating expenses.⁵⁵⁶

This phenomenon is very instructive for the development of any waqf institution. In addition, good infrastructure and conducive environment are essential for research and development that is the main objective of higher education. These institutions have to

⁵⁵⁴Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

⁵⁵⁵*ibid*

⁵⁵⁶ *ibid*

adopt new and innovative techniques and technologies to attract a maximum number of donors and increase funding and generate waqf funds for infrastructural development. Moreover, HEIs need to focus on diversity in fund management, other collaborations and linkages for perpetual income and other income sources.

Develop Academia-Industry linkages: In addition to teaching and research, HEWIs are increasingly seen getting involved with society and engaging in business and industry on the basis of its contribution to science and technology. These days, universities are also considered to be responsible for engaging in activities and attaining achievements as their “third mission” through academia-industry linkages.⁵⁵⁷ The phenomenon accounted significantly for higher education renaissance; due to trends of expansion, privatization and emergence of new funding channels.⁵⁵⁸

Corporate Social Responsibility Fund Capturing: In today’s world, CSR funds of businesses and industries can be one of the major sources of funds for waqf institutions. A waqf with its wider scope can seek CSR contribution for higher education. Likewise, charity by business tycoons can be tapped into. Business owners’ individual *zakāt* can be an additional source of HEI income.⁵⁵⁹

Charitable Co-Branding or Cause Marketing: In law, a waqf institution is considered to be a non-profit organization for mutual and social benefits. Normally, the term cause

⁵⁵⁷ Tijssen, Robert J. W., Alfredo Yegros-Yegros, and Jos J. Winnink. "University–Industry R&D Linkage Metrics: Validity and Applicability in World University Rankings." *Scientometrics* 109, no. 2 (2016): 677-96.

⁵⁵⁸ Zavale, Nelson Casimiro, and Elísio Macamo. "How and What Knowledge Do Universities and Academics Transfer to Industry in African Low-Income Countries? Evidence from the Stage of University-Industry Linkages in Mozambique." *International Journal of Educational Development* 49 (7// 2016): 247-61.

⁵⁵⁹ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016). For more detail cf. Kumari, Jayanti. "Public–Private Partnerships in Education: An Analysis with Special Reference to Indian School Education System." *International Journal of Educational Development* 47 (2016): 47-53.

marketing is used for any type of marketing effort for social and other charitable causes. It tends to display a charitable side of their company through donation and fundraising.⁵⁶⁰ Therefore, managers face increasing pressure to engage their firms in socially responsible behaviors such as for cause marketing.⁵⁶¹

Public-Private Partnership (PPP): It is a modern mantra in the development strategies in many developed and developing countries. In education, it can help overcome the shortage of funding and infrastructure development. It is a form of collaboration between government and the private sector in which the private sector's skill and management expertise are employed in delivering public infrastructure projects. Therefore, many governments across the globe are now seeking to tap the private sector's expertise and capital to minimize their infrastructural deficit. A wide range of contractual agreements is currently used in education around the world including infrastructural partnerships and educational charity. Higher Education Commission (HEC) also supports public-private partnership through 14 million PKR funding.⁵⁶²

ORIC, Business Incubation, Product Commercialisation Centre: Office of research, innovation, and commercialisation is a relatively new concept based on innovative entrepreneurship and commercialisation. Nowadays, universities try to commercialise their innovations in the field of technology, especially for higher learning institutions funding. Hamdard University affords a good example of where waqf laboratories research, innovation, and commercialisation contributes not only to the university but

⁵⁶⁰ *ibid*

⁵⁶¹ Peasley, Michael C., Joshua T. Coleman, and John A. Narcum. "Leveraging Cause-Marketing as an Organizational Strategy: Exploring the Impact on Job Seekers—an Abstract." In *Creating Marketing Magic and Innovative Future Marketing Trends: Proceedings of the 2016 Academy of Marketing Science (Ams) Annual Conference*, edited by Maximilian Stieler, 991-91. (Cham: Springer International Publishing, 2017).

⁵⁶² Zahir Ahmed Zahir. "Executive Director Endowment Fund Secretariat (EFS), University of Agriculture, Faisalabad, Pakistan). ." By Muhammad Usman. (*Tuesday, 27 September, 2016, 5:41:52*) (2016).

an entire city called Madinat al-Hikmah, the city of education, science, and culture. However, currently the contribution of technology innovation is small but with the passage of time, it is bound to increase. There are some examples that can be used in the university such as the Office of Research, Innovation, and Commercialization ORIC:

If we develop a biochemistry and microbiology lab that work as diagnostic and research lab linked with pathological lab, we can initially set up 50 franchises then increase the number to 200 as was done by Aga Khan University. The university's computer science department can set up software and hardware development divisions and sell products in the local market as well as export them. Likewise, chemistry department can be linked with textile industry, pharmacy department can be linked with pharmaceutical industry and fashion designing and calligraphy can be linked with fashion industry.⁵⁶³

Moreover, the university can provide testing services for soil, water, chemicals, and blood etc. to help the varsity earn much-needed income and increase pragmatic knowledge of students. The relationship of the university and industry will generate various scholarships but in order to achieve it there needs to be a good team and liberty to work.⁵⁶⁴

5.2.2.7 Lack of Copy Rights and Patents Registration

In the fast-changing era, technology and innovation need to be preserved with patents and copyrights, which is an exclusive legal right granted by the government to an originator or an assignee. Most of the higher education institutions have no preset solid guidelines and directions for these issues. Copyright and patent are rarely registered by universities. Sometimes, copyrights and patents are registered but not effectively followed by the scientist concerned because they often do not obey relevant

⁵⁶³ Sulaiman D.Muhammed. "Vice-Chancellor. Federal Urdu University of Arts, Science & Technology "By Muhammad Usman. (*Monday, 12 September, 2016, 2:54:44 PM*) (2016).

⁵⁶⁴ *ibid*

laws and sell their innovation for personal income or gain without involving the university. Sometimes, the university registers a patent after paying a huge amount as a fee but the scientist does not honour copyrights. Subsequently, product marketing and commercialisation is also not very efficient and the scientist sells their product and innovation without giving any benefits to the university concerned which provided them with a platform to work on research project.⁵⁶⁵

In this regard, Hamdard has a very effective policy for patents and copyrights. They allow the use of its products only inside the varsity premises. Although sometimes Hamdard Pakistan does share its patents and copyrights with the Hamdard India and Bangladesh, this cooperation is usually for public welfare and not for any financial gain. The study has discovered that universities have now realised the need and significance for an efficient and effective policy to preserve and maintain their copyrights and patents and efficient product marketing and commercialisation. The universities have started concentrating these issues by specialising and creating divisions for; product marketing & commercialisation responsible for resource management and communication with industries and creating academia-industry linkages.⁵⁶⁶

5.2.2.8 Lack of Specialization in Human Resources

Lack of specialization and limited staff pose another challenge to waqf institutions. The study found that in terms of waqf financing, management and development they did not have required human capital needed to perform a given job in an efficient manner. This lack of human resources goes against waqf institutions because people

⁵⁶⁵ Zahir Ahmed Zahir. "Executive Director Endowment Fund Secretariat (EFS), University of Agriculture, Faisalabad, Pakistan). ." By Muhammad Usman. (*Tuesday, 27 September, 2016, 5:41:52*) (2016).

⁵⁶⁶ *ibid*

tend to help and give their donations to well-organized and credible institutions. Further, the study discovered there was a lack of connection between society and waqf for HEIs.⁵⁶⁷

In the developed world, to utilised resource in an efficient manner the universities have specialised divisions for fundraising, fund management, and income utilisation. In the light of their experiences, it is suggested that there should be three different divisions for waqf development i.e. fundraising, fund management, and fund utilitisation divisions. Fundraising committee or division should be responsible for collecting donations from individuals to organizations, from local to international donor agencies with the help of various modern fundraising methods and personal relationship with donors. The second division should be responsible for making the best possible prudent investment strategies for future income. The third division should be specialized in the distribution of the waqf income and other non-waqf collected fund, which should be allocated for feasible areas of development or deserving student's scholarships.⁵⁶⁸

5.2.2.9 Vested Interest of West

International donor agencies and western countries are keen to finance charity and waqf institutions for their vested interests, such as propagation and spread of their culture and particular worldview. However, they do not encourage investment in sustainable development by imposing different terms and conditions. If one is taking aid from them, he will have to follow their conditions and thereby will surely veer away from the objectives originally set for the waqf institution. Founder of Darul

⁵⁶⁷ Azami, Mufti Dr. Khalil Ahmed. *System of Awqāf in Islam: History, Importance and Directions*. (Karachi, Pakistan: Islamiat, 2010),23

⁵⁶⁸ Khalid Manzoor Butt. "Government College University (GCU) Endowment Fund Trust Secretary." By Muhammad Usman. (*Thursday day, 22 September, 2:42:06 PM*) (2016).

Tasnif (waqf) Maulana Tufail Ahmed Farooqi's words when he received a cheque for 1 million British Pound from the UK in 1975-76 are highly instructive for all.

The Maulana returned the cheque with thanks. He used to say "it will be a mockery of ones' own words if he has been urging people from his pulpit to put all their trust in Allah alone and ask only Him for their needs as only He can fulfill all the needs but then he himself begs from people to fulfil his needs."⁵⁶⁹

According to the spirit of Islam, a Muslim should have firm belief in Allah only and have no expectation from anyone. The Maulana's action was actuated by his personal *tawakkal* on Allah. Any grant for waqf can be used for waqf development. A waqf institution may gradually become financially self-reliant and increase internal resources by searching for new venues of income generation such as research and development.

5.2.2.10 Lack of Research and Development (R&D)

The research and development "activities throughout the world have long been recognized as one of the critical components to improve a country's productivity and competitiveness as well as people's wellbeing".⁵⁷⁰ Hence, waqf institutions should focus on sustainable development which is dependent on the infrastructural development and conducive environment to help in research and development. A waqf institution whose objective is common wellbeing has to generate enough resources through efficient utilisation of its own resources and focus research and development to become financially sustainable and autonomous in the long term.⁵⁷¹

⁵⁶⁹ Abdul Baqi bin Abdul Bari "Grandson of *Waqif* and Present Director of Darul Tasnif (Waqf) Private Limited" By Muhammad Usman. (*Tuesday, 18 October, 2016, 11:24:33 AM*) (2016).

⁵⁷⁰ Albert, Jose Ramon G, Donald B Yasay, and Raymond E Gaspar. "Examining Processes in Research and Development at the Department of Science and Technology." (Philippine, Institute for Development Studies, 2016).

⁵⁷¹ Khalid Manzoor Butt. "Government College University (GCU) Endowment Fund Trust Secretary." By Muhammad Usman. (*Thursday day, 22 September, 2:42:06 PM*) (2016).

5.2.3 Misperception in the Society

5.2.3.1 Lack of Awareness in the Society

There are many misconceptions about waqf. It is commonly believed that waqf is or should be confined to a masjid or madrassah and there is little if any realization about its potential for bringing about positive change in society and catering to every aspect of our life. Since people fail to grasp the eternal nature of the characteristics of waqf institutions such as perpetuity, irrevocability, and inalienability, most waqf assets do not get the sustained support they should from the general public as well as donors.⁵⁷²

5.2.3.2 Lack of Public Trust in Government

Ideally speaking, public welfare is the responsibility of a government and the well-to-do should help it with their donations to enable it to carry on its welfare work but rampant corruption in government departments and unfair means has badly eroded the government's credibility in public eyes and they do not like to donate waqf, *zakāt* and other kinds of donations to the government. Most private *awqāf* in Pakistan are founded and managed by individuals. The fact that philanthropy to GDP (Gross Domestic Product) is higher than tax shows the dismal level of confidence people have in the government.⁵⁷³

5.3 Issues and Challenges in Malaysia

The following section throws light on the issues and challenges facing higher educational institutions in waqf development, including its legal framework, financing, and management and income utilisation in the context of Malaysia. Waqf

⁵⁷²Azami, Mufti Dr. Khalil Ahmed. *System of Awqāf in Islam: History, Importance and Directions*. (Karachi, Pakistan: Idarah Islamiyat, 2010).

⁵⁷³ Pervaiz Ahmed. "CEO and Executive Director, Communication and Resource Development the Indus Hospital,) Former Committee Member of Security and Exchange Commission of Pakistan for Takaful Ruling," By Muhammad Usman. (*Wednesday, 14 September, 12:09:34 PM*) (2016).

practices have various issues and challenges in the public sector since most are run and managed by the state. Therefore, the issues and challenges mainly pertain to a waqf institution in the public sector involving State Islamic Religious Councils (SIRCs), Higher Educational Waqf Institutions (HEWIs) and general society.

5.3.1 State Islamic Religious Councils

As discussed earlier, in Malaysia a waqf is considered as a state matter. Therefore, first, the study will look at the issues and challenges regarding SIRCs.

5.3.1.1 Underdeveloped Waqf Assets

There are waqf properties estimated at over 111 billion RM worth throughout Malaysia. The size of general waqf in Malaysia is 6925.17 hectares whereas specific waqf land is 9825.93 hectares, making the grand total of waqf land property 16751.10 hectares throughout the country.⁵⁷⁴ In Negeri Selangor total waqf land is 265.45 hectares, the size of general waqf land is 235.63 hectares whereas specific waqf land is 31.82 hectares. In Negeri Sembilan total waqf land is 34.49 hectares in which the measurement of general waqf land is 11.651 hectares and specific waqf land is 15.50 hectares.⁵⁷⁵

Waqf properties in the state of Selangor are mostly situated in rural areas while some pieces of waqf lands are located in the towns. The lands located in strategic areas and in towns have not been developed because of financial constraints or the waqf being specific. Waqf land cannot be developed or managed easily due to specific conditions bound up by *waqif*. In addition, a religious state counsel does not have full ownership for the administration of waqf lands, which may be a major reason most

⁵⁷⁴ Harun, Farra Munna, Bayu Taufiq Possumah, M Mohd Shafiai, and Abd Halim Mohd Nor (2016) *Op cit*,

⁵⁷⁵ *ibid*

waqf lands are left fallow and unproductive. In addition, maintaining a database is imperative for proper monitoring of assets. The existing database in use of waqf asset is not sufficient as it does not have detailed information.⁵⁷⁶

5.3.1.2 Unregistered Waqf Assets

There are many waqf assets which are not registered with SIRC's because of lack of knowledge regarding the waqf land registration. Prior to the formation of MAIS in Malaysia, most waqf properties in Selangor were managed by private/individual manager such as an *Imām* without having any proper administration and documentation. Therefore, it is a challenge for MAIS to recognise waqf properties that have not been registered yet, particularly when the *waqif* or *mutawallī* or both are dead. There are some instances in which family members had misused waqf properties for personal interests or due to lack of awareness.⁵⁷⁷

Waqf properties may be neglected as not much attention is paid to them. A tedious check is only conducted each year by MAIS which manages a large size of waqf lands with limited staff. As a result, some of the waqf lands has been mismanaged or illegally transferred.⁵⁷⁸

The SIRC's are trying to ensure registration of entire waqf land throughout Malaysia in order to sustain development. On the other hand, Malaysia has a large size of waqf land which needs to be developed. Probably, the estimated unregistered waqf land is 10 per cent meaning that the total size of waqf land is 20,000 hectares. This

⁵⁷⁶ Norhaliza Mohd Nor, and Mustafa Omar Mohammed. "Categorization of Waqf Lands and Their Management Using Islamic Investment Models: The Case of the State of Selangor, Malaysia." In *Waqf Laws and Management*, edited by Syed Khalid Rashid, 231-43. (International Islamic University Malaysia: IIUM Press, 2017).

⁵⁷⁷ Noor Aimi Bt Mohd Puad, Nurauliani Bt Jamlus Rafdi, and Wan Shahdila Shah Bt Shahar. (2014). *Op.cit.*

⁵⁷⁸ *ibid*

huge size of land represents the potential impact of waqf on the development of the country.⁵⁷⁹

5.3.1.3 Willingness of State Islamic Religious Council (SIRC)

In any case, successful waqf implementation in public HEIs/universities (PUs) requires the willingness of SIRC, mainly about waqf administrator status with the aim of managing and administering their waqf assets independently. As discussed earlier, any HEI that intends to implement waqf requires authorization from the State Islamic Religious Councils (SIRCs). Waqf implementation in the HEIs without the endorsement by SIRCs is considered to be contrary to Malaysian laws. The authorization power is held by SIRC. Accordingly, HEIs are allowed to develop a waqf entity as well as establish waqf committee based on suggested waqf governance models prescribed in the purple book. Thus, the status as waqf administrator should be appropriately granted to HEIs by respective SIRC as the holder of sole trustee of waqf assets.⁵⁸⁰

Based on the above discussion, it is revealed that the different PUs have acquired different status from their respective states. Moreover, there is no provision in the law regarding this matter. At this time, USIM⁵⁸¹ and UNISZA⁵⁸² have been delegated the title of *Mutawallī*. Quite the reverse, UKM⁵⁸³, and UPM⁵⁸⁴ have been delegated status as *Qayyim* (an agent). Findings of this study show that the difference

⁵⁷⁹ Harun, Farra Munna, Bayu Taufiq Possumah, M Mohd Shafiai (2016) Op. cit.

⁵⁸⁰ Razali Othman. "Director Dana Wakaf Ilmu, WAZAN (Centre for Management of Waqf, Zakat and Endowment) University of Putra Malaysia: UPM)." By Muhammad Usman. (Thursday, 20 April, 2017, 10:54:26 AM) (2017).

⁵⁸¹ Fuadah Johari. "Coordinator, Center of Waqf and Zakat, Islamic Science University of Malaysia (USIM)." By Muhammad Usman. (Thursday, 11 May, 2017, 10:36:22 PM) (2017).

⁵⁸² Ahmad Azrin Bin Adnan. "Director, Center of Waqf and Infaq, University of Sultan Zainal Abidin" By Muhammad Usman. (Wednesday, 17 May, 2017, 2:42:06 AM) (2017)

⁵⁸³ Wan Kamal Mujani. "Dean Faculty of Islamic Studies, Universiti Kebangsaan Malaysia (UKM)." By Muhammad Usman. (Tuesday, 16 May, 2017, 2:32:36 PM) (2017).

⁵⁸⁴ Razali Othman., (2017). Op. cit

in title attained by PUs reflect their power in managing waqf fund. However, there are no specific requirements fixed by SIRC in delegating status for a university.

5.3.2 Higher Educational Waqf Institutions

5.3.2.1 Implementation of Waqf

As a policy measure, since 2016 the Malaysian government reduced public funding from 90 per cent to 70 per cent for the public universities (PUs)⁵⁸⁵ to reduce over-dependence on public funding. On the other hand, the ministry of higher education urged public universities to establish a waqf fund.⁵⁸⁶ In view of that, waqf for higher education is a recent development in Malaysia, The top management of PUs should be ready to move forward to set up a waqf entity for the said purpose. There should not be a reason for PUs avoiding launching waqf fund in their institutions. PUs require willingness and understanding about executing waqf from top management as well as other stakeholders in the universities. It is important for a waqf university and higher education waqf institution to have its own regulations or rules to govern the overall system of the institution. Moreover, without a shred of doubt, the waqf management and officials must understand clearly the nature and spirit of waqf as waqf bears some unique attributes and characteristics and, to some degree, some strict *sharī'ah* legal principles.⁵⁸⁷

It is more challenging for the universities that have recently established waqf entities to have a full grasp over waqf rules and regulations as compared to the universities that have been running waqf institutions for several years, for instance,

⁵⁸⁵ Blueprint, Malaysian Education. 2013. Op cit.

⁵⁸⁶ Ministry of Higher Education Malaysia. *Purple Book*. 2016. Op. cit.

⁵⁸⁷ Mahamood, Siti Mashitoh (2015) Op. cit.

USIM, UKM, and UPM. In order to make the waqf concept easy to comprehend the ministry of higher education, Malaysia has published a purple book for the novices.⁵⁸⁸

Secondly, the university concerned needs to maintain good liaison with SIRC in the respective state and have it implement waqf in the university in an efficient manner. A word of advice for a university; it should never rely solely on waqf funds to survive and also accept other sources of contributions such as charitable donations, gifts, and bequests.⁵⁸⁹

5.3.2.2 Creation of Waqf Framework

Besides having to abide by the laid down procedure for waqf, a university has to put in place its own rules and regulations to govern the entire system of waqf institution within the university. A waqf institution has some unique characteristics such as strict *shari'ah* principles. Siti Mashitoh Mahamood and Asmak Ab Rahman⁵⁹⁰ explained in their study that there should be a guiding framework with a set of authoritative instructions for a waqf university to follow.

“Provision for a supervisory board of trustees should be made in the regulations, as the university will run its business using a collection of waqf funds received from waqf donors or *waqifs* which need continuous supervision to prevent any misuse on the part of the personnel of the university who manage the funds”.⁵⁹¹

Most probably, the *waqifs* or donors can impose specific conditions for their waqf, which are immutable in nature and no condition can be changed except in the circumstances that demand change when the purpose of *waqif* can no longer be realised in the presence of a particular condition. But before striking down a condition,

⁵⁸⁸Jusoh, idris. "Public Universities to Increase Waqf Funds." news release, 20th October 2016, <http://www.thesundaily.my/news/2010097>.

⁵⁸⁹Mahamood, Siti Mashitoh (2015) Op. cit.

⁵⁹⁰*ibid*

⁵⁹¹*ibid*

a proper evaluation must be carried out to assess the situation and permission must be sought from a relevant authority such as Mufti. The process (of changing or striking down a particular condition in waqf) is called *istibdāl* under the waqf law, which means “any condition imposed by a *waqif* or a waqf donor is regarded as (akin to) text from the *sharī’ah* and it has to be followed by proper action. The provisions for the waqf management team, development of *mawqūf*, *istibdāl* and the authoritative body (a body for any unsettled matters attached to any *mawqūf* that requires a solution to the problem) are imperative. All these provisions are aimed at avoiding any misinterpretation and misunderstanding in the implementation of the waqf regulations. References must be made carefully to the *sharī’ah* authorities, books, legislation, and also relevant statutes governing the university⁵⁹² while making such a change in conditions of waqf.

5.3.2.3 Specialisation in Waqf Management

One of the major challenges for higher education waqf institutions is lack of specialisation and professionalism in managing waqf assets. Most PUs have set up waqf centres but they lack human capital and professionals. There is a lot of room to improve in waqf financing through various fundraising strategies since existing waqf revenues are insufficient to meet even the operating cost of a waqf institution. Therefore, there is a greater need for specialisation in fundraising, fund management, and fund utilisation in higher educational waqf institutions.⁵⁹³

The university’s waqf managers should be competent and professional in ensuring that the conditions of waqf are strictly followed as waqf assets are the

⁵⁹²*ibid*

⁵⁹³Haji Ahmad Zakie Ahmad Shariff. "Director, Chancellery Foundation Dana Wakaf Ilmu, University Kabangsaan Malaysia." By Muhammad Usman. (*Wednesday, 10 May, 2017, 6:35:02 PM*) (2017).

properties of Allah. Secondly, the personnel involved in waqf management should be armed with correct understanding and awareness regarding waqf.⁵⁹⁴ If they fail to do so it will expose them to slander and tarnish the image of universities' waqf fund. Subsequently, institutional reforms of waqf must be preceded by having an in-depth knowledge of waqf.⁵⁹⁵

The managers must learn about the waqf management thoroughly. Lack of specialisation and human capital is one of the challenges the waqf universities face and is one of the factors behind the general reluctance to waqf (donate) a property to the university which has a shortage of waqf funds. A joint management committee should make up for highly professional and competent waqf managers, who not only possess proper waqf understanding as well as technical and professional abilities to manage and invest waqf assets in order to achieve returns.⁵⁹⁶ These returns will ultimately be used to finance the various projects in PUs that are targeted in the blueprint.⁵⁹⁷

5.3.3 Misperception in the Society

5.3.3.1 Lack of Awareness in the Society

There is a common misperception about waqf that it is the responsibility of Muslims only. Though, waqf may also be donated by non-Muslims. On the other hand, Muslims still could not realised the significance of waqf in subsidising public goods including

⁵⁹⁴ Siti Mashitoh Mahamood, Asmak Ab Rahman, and Azizi Che Seman. "The Establishment of a Waqf-Based Higher Educational Institution in Malaysia: Proposed Model for Implementation." *Jurnal Syariah* 26, no. 1 (2018): 1-22.

⁵⁹⁵ Ihsan, Hidayatul, and Abdullah Ayedh. "A Proposed Framework of Islamic Governance for *Awqāf*." *Journal of Islamic Economics, Banking and Finance* 11, no. 2 (2015): 117-33.

⁵⁹⁶ Siti Mashitoh Mahamood, Asmak Ab Rahman, and Azizi Che Seman. "The Establishment of a Waqf-Based Higher Educational Institution in Malaysia: Proposed Model for Implementation." *Jurnal Syariah* 26, no. 1 (2018): 1-22.

⁵⁹⁷ Haneef, Mohamed Aslam. 2016. Op. cit.

higher education. People may believe that *zakát* is the only best tool to help the needy and reduce the gap between the poor and the rich⁵⁹⁸. Furthermore, the majority of Muslims still believe that waqf can be used only for Surau(Masjīd) and Pondok madrasah.⁵⁹⁹ For that reason, more must be done through public awareness programmes, educational programmes and training, to educate waqf; donors, trustees, beneficiaries and all other stakeholders, as to the actions that will be necessary if we are to fulfil the exact purpose of waqf institution and ensure its sustainability.

5.3.3.2 Misunderstanding about *Sharī'ah*

There are many misunderstandings about waqf institutions in society. Among these, the concept of perpetuity in the waqf is generally misinterpreted. The perpetuity of waqf properties means that it cannot be sold or disposed of in any form, i.e., waqf asset remains in the waqf domain perpetually but any new waqf can be added to it, implying that waqf properties are only liable to increase. The waqf assets are not permitted to decline since it is illegal to consume waqf assets or leave them idle by any action of neglect or transgression. Once the properties become waqf, the usage of waqf is only limited to the benefit of its usufruct based on the intention of *waqif*.⁶⁰⁰ The above discussion shows that the perpetuity ensures no confiscation of waqf properties either by the administration or by the state. Moreover, it ensures regular support from the waqf properties to finance charities such as higher education. Secondly, waqf may not be used for collateral. It means whenever the management likes to seek any financing for a project such as the establishment of an academic department etc.; they cannot

⁵⁹⁸Noor Aimi Bt Mohd Puad, Nurauliani Bt Jamlus Rafdi, and Wan Shahdila Shah Bt Shahar. (2014). Op. cit.

⁵⁹⁹ Latiff Azha, Sayin Baharuddin, Sayurno, S.S Salahuddind, M. Rani Afandi, and Hamid Afifah Hf. "The Practice and Management of Waqf Education in Malaysia." *Procedia-Social and Behavioral Sciences* 90 (2013): 22-30.

⁶⁰⁰*ibid*

use the waqf properties as collateral to obtain a loan from the banks. Using waqf properties as collaterals are against the Islamic jurisprudence. Majority of Muslim jurists believe the waqf must be perpetual once it is created.⁶⁰¹

5.4 Conclusion

This chapter mainly consisted of two sections, the first section discussed issues and challenges to waqf institutions in Pakistan and subsequent section discusses issues and challenges to waqf institutions in Malaysia. Each section addressed issues and challenges facing by waqf institution in term of waqf governance through state laws and regulations and within higher education waqf institution. Furthermore, to some extent, it is also highlighted some issues and challenges faced by the waqf institution in the society.

⁶⁰¹*ibid*

CHAPTER 6: SUMMARY OF FINDINGS AND COMPARISON

6.1 Introduction

This chapter presents a brief summary of findings on the waqf for higher education institutions in both countries and makes a comparison between them. The first section discusses the concept of waqf and its role in financing higher education. The second section discusses individual countries' Pakistan and Malaysia with respect to mentioned waqf cases' financing, investment, and development. In addition, the issues and challenges in waqf development for higher education are also mentioned. The last section presents a comparison of both countries.

6.1.1 The Concept

The problem pertaining to financing higher education, Leslie L Larry⁶⁰² presented benefit theories discussed two main sources of funding HEIs; individual students and public institutions. While economic theories suggested that being depended exclusively on individuals' tuition fee and government grants are not viable options.⁶⁰³ To resolve this matter, Johnstone 1986 presented Cost Sharing theory suggested endowment as a perpetual and sustainable alternative funding solution for HEIs.⁶⁰⁴ In *shari'ah* perspective, waqf institution has similar characteristics to an endowment and

⁶⁰² Leslie L, Larry. "The Rationale for Various Plans for Funding American Higher Education." 1-43. Center for the study of higher education, 101, (Racley Bldg., the Pennsylvania State University, University Park Pennsylvania 16802, 1972).

⁶⁰³ Barr, Nicholas. "Financing Higher Education: Lessons from Economic Theory and Reform in England." *Higher Education in Europe* 34, no. 2 (2009/07/01 2009): 201-09.

⁶⁰⁴ Johnstone D B. *Sharing the Costs of Higher Education. Student Financial Assistance in the United Kingdom, the Federal Republic of Germany, France, Sweden, and the United States*, (New York, ERIC, 1986). For more detail cf. Johnstone, D Bruce. "Cost Sharing in Higher Education: Tuition, Financial Assistance, and Accessibility in a Comparative Perspective." *Sociologický časopis/Czech Sociological Review* (2003): 351-74.

it has the best features as an alternative and sustainable source of funding i.e. perpetuity, irrevocability, and inalienability.⁶⁰⁵

The study discourse that the institution of waqf permits an individual or organization to donate his/her assets in the way of Allah, for the well-being of mankind.⁶⁰⁶ As a result, waqf becomes public property along with the characteristic of perpetuity, which ensures that it cannot be sold, mortgaged and inherited. However, it may be further managed properly and its yielding will remain the main source of utilisation. As a welfare institution, a well-modernized waqf system implies a significant reduction in government expenditures and an appropriate mechanism for sustainable development. As a noble sector, waqf may contribute significantly to common welfare and offers all essentials including religious, social, economic, and educational needs. The beneficiaries of waqf may be an individual or organisation including HEIs.⁶⁰⁷

The historical evidence proves that from the beginning waqf is being contributed significantly to the development of higher education. Traditionally, Al-Azhar, Dār al-Hikmah, Dār ‘Ulūm, Al-Nizāmīyah, Al-Mustanşiriyah, Madrasah al-Ḥalawīyan, Madrasah al-‘Aşrūniyah and, Madrasah al-Ḥalawabīn are examples of incredible higher educational waqf institutions. To a greater extent, these HEIs’ were receiving operating and developmental expenses from the income of various waqf properties. Realising its importance, western universities like Oxford, Harvard, and Cambridge were greatly inspired by the concept of waqf and gradually adopted it. In

⁶⁰⁵ Çizakça, Murat. "Awqāf in History and Its Implications for Modern Islamic Economies." *Islamic Economic Studies* 6, no. 1 (1998): 43-70.

⁶⁰⁶ Ambrose, Azniza Hartini Azrai Azaimi, Mohamed Aslam, and Hanira Hanafi. "The Possible Role of Waqf in Ensuring a Sustainable Malaysian Federal Government Debt." *Procedia Economics and Finance* 31 (2015): 333-45.

⁶⁰⁷ *ibid*

the Muslim world, up to date, to a certain extent, a significant number of waqf-based HEIs have developed. To some extent, they are maintaining academic activities from waqf income. Hence, the present research explains all the issues in details with respect to Pakistan and Malaysia. Filling the research gap, the study reveals that both countries have a diverse practice of waqf HEIs. Therefore, in the proceeding sections, the study discussed the summaries of findings in terms of waqf financing, investment, and development for higher education institutions.

6.2 Waqf in Pakistan

6.2.1 Legal Framework

The findings reveal that the concept of waqf in Pakistan, to some extent, considered as being a part of the not-for-profit sector. It categorized as considerable diverse, includes traditional waqf institutions, as well as non-governmental organizations. Likewise, many community-based waqf organisations also participate in this cause. In the public sector, the ministry of religious affairs looked after and manage the affairs of *awqāf*. The department of *awqāf* works under a chief administrator. The department is taking care of thousands of mosques, shrines, and religious organisations. Nevertheless, it does not involve any kind of University and higher education development. Private Waqf; which is not under the ministries of religious affairs is considered as one of the types of non-profit organisations. The waqf institutions are registered under the Societies Act of 1860, the Trust Act 1882 and, the Companies Ordinance, 1984 (Section 42). For instance, Hakim Mohammed Said declared Hamdard Laboratories as waqf in 1953 and registered it under the Societies Act. Begum Aisha Bawany Educational and Welfare Waqf registered under The Trust in 1954, and Darul Tasnif (private) Limited registered under Companies Ordinance in

1951. However, waqf and the western trust shares many similar principles and attributes though with some differences also, such as in the trusteeship power, permanency requirement and vesting authority.⁶⁰⁸

All the above-discussed registration process have their own pros and cons. To some extent, the present legal framework is determined that waqf should be registered under Companies Ordinance, 1984 (Section 42), which has a similar characteristic like waqf. There are some examples of waqf institutions, such as Darul Tasnif (private) Limited, and Indus Hospital Karachi, are registered under section 42. This way, the waqf institution would be an independent organization. It can make its rules and regulations. On the other hand, it can be an “autonomous body” under the government or working privately. There is another benefit, in case the government decides to dissolve a waqf under section 42, its funds or assets can be utilised for the similar cause only. The funds and assets of an organization that is formulated for education, if dissolve, the funds cannot be used for any other purpose. Hence, the above discussion highlighted that there is a lack of legislation and regulatory authority for waqf institutions in Pakistan. Despite the fact that, the HEI formation and its funding both are separate issues and a waqf institution can help in HEI development. The findings discovered that administratively each HEIs has a board of governors, while founding and funding bodies have separate board of mutawallis or board of trustees or Board of Directors such as in Hamdard Laboratories (Waqf) Pakistan, Begum Aisha Bawany Educational and Welfare Waqf, and Darul Tasnif (private) Limited respectively.

⁶⁰⁸ Mahamood, Siti Mashitoh (2015) Op. cit.

6.2.2 Financing

Waqf is perpetual in nature, its income is the main source of utilisation. A founder (*waqif*) who establishes a waqf, he may decide who will be the true beneficiaries of the waqf income. Hakim Mohammed Said devoted Hamdard waqf laboratories' majority of income to the welfare of nation including higher education. In this regard, he endowed 350 acres land for Madinat al-Hikmah. Thus, Hamdard Waqf only depends on its internal sources of earning for higher education development. In addition to this, some other religious and community leaders also developed waqf institutions by endowing their personal properties such as Begum Aisha Bawany Educational and Welfare Waqf and Darul Tasnif Limited. To certain extent, these waqf institutions are further supported by some famous communities such as Bawany, Memon, and Jaffer families.

Being a legal entity, waqf institution has the ability to own waqf and non-waqf assets. Therefore, the financing indicates both sources are generated and solicited in the waqf institutions for HEIs development. The study found that the HEWIs also solicited the funds inside the institutions. Usually, staff and faculty members voluntarily offer their personal income or services. From external sources, there is a list of famous sources of waqf institutions in Pakistan such as waqf pool, alumni donations, CSR (Corporate Social Responsibility), charitable co-branding cause marketing, grand in aid and local and international donations.

The most important financial sources are individual support from businessmen, politicians, celebrities, industrialist and government officials who donate in the form of *zakāt*, *sadaqāh*, and other donations. The money can be classified into two parts, *zakāt*, and non-*zakāt*, While some people argue that the *zakāt*, and donations do not belong to waqf. But a the truth is that being a legal entity, the waqf

institutions can hold and spend that money as holding of Waqf (*mamlūkāt-i-waqf*) for beneficiaries in the waqf HEI.

There are some business tycoons, richest families, and communities who are contributing very well to higher education development. Among them, the most famous communities are named Memon, Adamjee, Lakhani, Dadabhoy, and Bawany. These communities played a great role and devoted 10 per cent of their earnings from their own various businesses to waqf institutions.

In public institutions, the major funding comes from the government. While private higher educational institutions rarely receive any grant from the government. The first and only example of receiving fund by the government for the development of private waqf institution took place in 1984 when four million PKR was donated by the government for the development of Darul Tasnif Nursing School.

6.2.3 Investment

The *sharī'ah* has put one main binding condition that waqf management should be at such a place that principal amount must remain safe. In the modern era, there are many safe options, equally, various profit maximization and risk minimization techniques can be adopted. Therefore, waqf investment should be made after due care of all dimensions.

The findings reveal that the most commonly available strategy is investing in real estate properties because it is considered the most secure investment option. Even if one cannot get income from the rental, able to earn a profit as the property's price will be appreciated with respect to time. On the other hand, donors' usually prefer to waqf their real assets properties. Many examples are easily found in the society where higher educational waqf institutions are getting some earnings from farming and cattle. Sometimes, the donor also prefers to donate in form of agriculture lands such as Darul

Tasnif and Hamdard institutions received wasteland from the founder. Darul Tasnif formed a coconut palm tree and Hamdard has wasteland for herbal plants.

For sustainable long-term financing plan, Darul Tasnif's *waqif* Maulana Tufail Ahmed Farooqi established an oil filling station in 1953 and fixed its income for the higher education development. The earning from the filling station is dedicated for infrastructure development and Darul Tasnif is the first waqf institution which took that step. Similarly, Aisha Bawany Educational and Welfare Waqf had invested in a 12-storey building situated in the prime location of Karachi. Most importantly, Madinat al-Hikmah, the city of Education, Science and Culture is an example which successfully runs by Hamdard Laboratories (waqf) Pakistan's. Apart from investing in property, waqf institutions also earn handsome amount of money by rented out HEIs auditorium, community hall, conventional centers, computer lab and etc., for the purpose of commercial, academic, and vocational occasions.

The findings also discovered that there are some examples of managing waqf's fund in Islamic financial institutions. Hamdard and Darul Tasnif, both are managing well in the financial sector. In the case of Hamdard, their investments are in the form of fixed deposits, long-term and securities. While Darul Tasnif invested in NIT (National Investment Trust) fund. The recent development in Higher Education Commission (HEC) Pakistan, any university and a higher educational institution's registration is subject to the HEI financial stability. Hence, every university and college have to appear with financial reserves. For every university, these reserves are almost 50 million PKR and for any college (HEI) it is 15 million PKR. This financial reserves may be under the society, waqf, trust or endowment. In addition, findings also proved that waqf institution can take royalty and also participate in *shukūk* investment.

In this regard, Hamdard is an example of a waqf institution that is receiving income from their product and also invested in *ṣukūk* bonds.

Being a corporate waqf, Hamdard is providing health services by manufacturing herbal products. The earnings from such products and services are waqf's income. Similarly, Darul Tasnif is also providing health services along with education. It developed Murshid Hospital and Nursing School in Karachi. It seems that in Pakistan, along with higher education, the health services are also part of waqf institutions. In addition to such services, they are also developing human capital in form of medical and paramedical staffs as well. The findings revealed that Hamdard Waqf Foundation is ISO certified and also fulfils the WHO (World Health Organization) requirements to produce a quality product.

In the modern era, business collaboration and cause base marketing is another source of earning for waqf institutions. At the beginning of the 21st century, the third sector discovered new modes of income and management. Since 2002 all charity institutions including waqfs are allowed to use religious plots for commercial motives for additional earnings in Pakistan. In 2002, the government allowed waqf institutions to use 5 per cent of their land for commercial purposes in order to meet their expenses. The study discovered that initially, Begum Aisha Bawany Educational and Welfare Waqf registered itself as Advertiser Company. Mainly the property is used for billboards etc. Hence, these activities can strengthen them financially and gradually, it might become a permanent source.

6.2.4 Fund Utilisation

The study discovered that the building construction cost, equipment's, workshops libraries, laboratories, and materials used in Hamdard University and Madinat al-Hikmah, are all financed by the Hamdard Waqf laboratories Pakistan. Similarly,

infrastructural development of Tablighi College and Aisha Bawany Academy and Degree College is covered by Darul Tasnif and Aisha Bawany waqf respectively. Hamdard University is self-sufficient in its operations and providing basic transportation, meal, and medical facility. While Aisha Bawany waqf subsidizes its 50 per cent fee. The Darul Tasnif has several charity chapters including Higher Secondary School, Tablighi College, Nursing College, Law Collage and Murshid Hospital, under its waqf funding body.

The study exhibits that in the field of research and development, these waqf HEIs played a very significant role and have various publications and books. In reviving and recognising the Unani medicine in the world, Hamdard University initiated the research in herbal medicines. Hamdard is the largest private research university having largest research library of South Asia '*Bait-ul-Hikmah*' with a collection of 4 million books and journals. In the same manner, Darul Tasnif publishes a quarterly magazine "al-Yaqīn" from last 70 years. Likewise, the translation of the *Qur'ān* as well it's rendering in roman Arabic, Darul Tasnif accomplished the task in 1951. The Aisha Bawany waqf has also published more than 50 books contain a valuable treasure of knowledge on Islam to meet the requirement of Muslims as well as Non-Muslims by presenting a comparative study of religions. This waqf institution also published a monthly magazine 'Muslim News International' for about 15 years which was also circulated in abroad.

To support academia, Hamdard University formulated Islamic philosophy of education, publishes well-researched textbooks, and provides scholarships, free ships, and stipends for deserving students at all levels and in all fields. Subsequently, Hamdard has research and technical collaboration with WHO, Ministry of Agriculture, food, and livestock (MINFAL) and Ministry of Environment.

To support students, Hamdard is providing grants to various institutions, organisations, religious madrasahs, and societies regularly. On the other hand, deserving and meritorious students can avail scholarships and free ship in Hamdard University. Similarly, Aisha Bawany waqf is offering scholarships not only inside the waqf institution but also in other higher educational institutions including Sheikh Zayed Islamic Centre, University of Karachi. Darul Tasnif provides 100 per cent scholarships to all students. Further, without any discrimination, food, meal, accumulations are also provided to the students. In addition to that in case of any mishap and medical treatment, students are treated in Murshid Hospital freely. Darul Tasnif's Tablighi College is completely free education providing with accommodation and daily food. It has more than 100 residential rooms, surrounded by a two-sided garden, a park, student mess hall, and a beautiful mosque *Masjid al-Awliyā'*.

6.2.5 Issues and Challenges

The study also focuses on the issues and challenges faced by the waqf institutions. One of the greatest issue faced by waqf is that the country law is not clear and there is no specific regulatory body to help and regulate private waqf separately. To resolve the issue, some scholars attempt to compile and proposed some proposals but still, not a single serious step has been taken from the government. Hence, to bring them in one platform a policy and legal reforms are necessary to be formed. Secondly, no exemption has been granted for income, capital gains, and business activities. Only donations are tax exempted while waqf institutions are paying all kind of taxes on utilities on commercial bases. The only method by which waqf get an exemption from taxes is, first of all, get a certification from Pakistan Centre of Philanthropy (PCP) and then applied to the ministry of Finance. In this situation, a waqf institution may avoid this method because of the PCP charges with a ratio of 5 per cent of the annual budget

as a certification fee which is very high and discouraging not to apply for any tax exemption.

As a legal entity, waqf institution has to follow the legal framework of the country and other all necessary rules and regulation. In this regard, public institutions are not supporting well. Public officials have not fully aware of the concept of waqf. Secondly, being a private waqf, it has a feeling of insecurity that any time it could be nationalized or occupied, as it happens in the past 1972. Therefore, normally, records and accounts keeping practice are not common in waqf institutions. As a result, most of the private waqf institutions are informal. To attract donors, institutional credibility and transparency is a very important factor. When a donor sees institution transparency and credibility he/she will ready to help. So, waqf institution's audit reports, performance and credibility are the inspiring sources for donors.

In waqf management, most of the waqf properties are managed in real estate, and there is a lack of diversification in the assets management which is caused by lack of specialization in human resources and limited staff. The study found that in waqf financing, management and development, the required human capital is deficient and they are mostly concerned about the internal sources specially waqf's income. Hence, there should be three different divisions for waqf development including 1) fundraising, 2) fund management and 3) income utilisation. Fundraising division should be responsible for collecting donations from individual to organization, from local to international donor agencies with the help of various modern fundraising methods, and good relationships with the donors as well. The fund management system should be responsible for the best prudent investment strategies for waqf's income. Finally, the income utilisation division should be specialised in income distribution efficiently. In this regard, the role of Islamic Financial Institutions (IFIs)

is very important. Having a potential, they did not pay attention to the issues which can help capital market and even the IFI itself. To some extent, the perception regarding Islamic banking sector is not fully developed and the sector has not the full trust and confidence in *sharī'ah*-compliant banking. In this regard, the finding discovered that Aisha Bawany waqf board of trustees have not fully trusted on IFI being a completely *sharī'ah*-compliant bank. Hence, there is a need to create greater understanding and awareness regarding IFI and its role being a *sharī'ah*-compliant bank.

The study also finds that most of the waqf institutions have not firm guidelines and directions regarding their copyrights and patents. Therefore, copyrights and patents are registered rarely or if registered they are not effectively followed. Subsequently, product marketing and commercialisation is also not efficient, thereby, usually, scientists sell their products or innovation to the concerned university without getting any benefit. In this regard, Hamdard has a very effective policy, their patents and copyrights are preserved and only used inside the Hamdard. Hence, this phenomenon might be useful for any waqf institution's development.

Based on the above discussion, it is a great need of time that waqf HEIs will make an efficient and effective policy to preserve and maintain their copyrights and patents, along with this efficient product marketing and commercialisation is also required. In this regard, some connections may also support such as; academia-industry linkages, charitable co-branding or cause marketing, corporate social responsibility fund capturing, a public-private partnership, business incubation, and product commercialisation center.

6.3 Waqf in Malaysia

6.3.1 Legal Framework

In the Malaysian context, the findings revealed that the waqf is considered as a state matter. Legitimately, the State Islamic Religious Councils (SIRCs) or Majlis of respective state is the sole trustee of all kinds of waqf whether waqf *`Am* or waqf *Khas*. The term “sole trustee” implies that the Majlis of each state has been legally appointed by their respective laws to supervise all waqf assets and be responsible for their management and development. Hence, delegating the powers to others, or the existence of private trustees, would be treated as illegal and not conforming to the laws.⁶⁰⁹ On the other hand, Malaysian’s civil law denied any applicability on waqf. Based on some federal laws, waqf shall not be included in the civil law. Therefore, *shari’ah* court plays the role in the respect of Jurisdiction of the *shari’ah* under the list of 9th Schedule to the Federal Constitution (FC).

To strengthen waqf management, under the SIRCs of Negeri Selangor and Negeri Sembilan, waqf cooperation’s have been established. Each corporation, became one of the wholly-owned subsidiaries of respective state’s SIRCs and are specialized in waqf management, for Negeri Selangor it is called Perbadanan Wakaf Selangor (PWS) and in Negeri Sembilan it is called Perbadanan Wakaf Negeri Sembilan (PWNS), PWNS plays a role, in the Waqf management and matters related to waqf in Negeri Sembilan in a professional and highly organized manner. In the same way, PWS tries to strengthen waqf management in Selangor. So, PWS and PWNS

⁶⁰⁹ Mahamood Siti Mashitoh, and Monzer Kahf. "Law of Waqf in Malaysia: Recent Developments." In *Essential Readings in Contemporary Waqf Issues*, edited by Siti Mashitoh Mahamood, (Kuala Lumpur, Malaysia: CERT Publications Sdn. Bhd, 2011). 77-106.

must play their roles and advise Majlis regarding policies, measures, and actions to be taken for waqf properties and product development in respective states.

Any higher educational institution either college or university can only be formed by the head of the state the Yang-Pertuan Agong. Subsequently, HEIs has the power to generate funds and donations. As stated in the constitution that the power of the Board is to seek funds, and, accepts gifts, etc. Apart from donations and grants, waqf is considered under the jurisdiction of the state as discussed earlier. Therefore, any party that wants to deal with waqf, including establishing a waqf university or a waqf-based university, whether waqf forms part of the whole application or even part thereof, must be granted permission by the State Islamic Religious Council (SIRC) beforehand. In this context, the higher authority of a university/HEI has to follow the laws for the waqf development whereby the application to the relevant SIRC should be done before implementing waqf in their institutions.⁶¹⁰

To face the challenge of declining public funding for higher education, a number of strategies have been implemented including the establishment of the National Higher Education Fund Corporation (PTPTN) in 1997, as a constitutional Act 566, and the introduction of the private HEIs in 1996 as constitutional Act 555. In a similar manner, some other policy measures have been taken by the Malaysian government and Ministry of Higher Education to encourage universities and HEIs for an extra income through waqf institution.

The concept of waqf for higher education is recently highlighted and developed in the country. For this reason, the Ministry of Higher Education also

⁶¹⁰ Siti Mashitoh Mahamood, and Asmak Ab Rahman. "Waqf Financing for Higher Education: Contemporary Fundinng Application in Selected Countries." In *Pelestarian Institusi Wakaf, Memperkasa Pendidikan Tinggi Negara*, edited by Wan Kamal Mujani, (Bangi: Malaysia Faculty Pengajian Islam, Universiti Kebangsaan Malaysia, 2014), 263-78.

encourages them to use waqf as an alternative source of income as mentioned in the “Purple Book” and “Blueprint for higher education. The purple book includes all the vital structures that are currently operating in Malaysian public universities. It also offers practical approaches and frameworks in order to address an important challenge of diversification in fund management. Likewise, the book illustrates three possible waqf governance models to be adopted by public universities and higher educational institutions. Primarily, this book comprehends the set of guiding principles for the top management about how to go forward for waqf fund establishment in public universities. In the same way, the book also illustrated four practical waqf model universities from Malaysia as illustrated; USIM, UPM, UKM, and USM.

6.3.2 Financing

The study found that different methods of seeking waqf are essential to be adopted for potential donors such as individual persons, corporate personalities, businessmen, government personnel, showbiz celebrities, and kings. Likewise, receiving donations from various stakeholders including corporate agencies, government, and non-governmental organizations are also essential. To a great extent, the study found comprehensive strategies used by HEWIs for cash waqf donations internally and externally.

Internally, they have an online mechanism for monthly salary deduction, mileage claim, and an honorarium from the board of directors. In addition to that, a staff member can also waqf his/her book and journal royalty. Perhaps, the role of the king might be helpful for waqf development in HEIs. In this regard, Sultan of Selangor, the chancellor; Sultan Sharafuddin Idris Shah has endowed 300,000 RM to Dana Waqf Ilmu’s programme in UPM.

Externally, a mechanism is based on innovative techniques, traditional culture, and modern technologies. For that reason, the study discovered that e-waqf provides the e-banking facility to transfer online money as a cash waqf. In that concern, Malaysians' waqf universities are expanding their Information and Communication Technologies (ICT) through their websites and offering waqf accounts in numerous banks for cash waqf. For this reason, efficient marketing strategy is employed through new technologies and social sites, for instance; Facebook, Twitter, and, WhatsApp etc. In today's busy life, social media plays an integral role in the relationship with others, as well as, a way of marketing for waqf donations. The evidence proves that the HEIs of USIM, UKM, and UPM are using these similar innovative styles for marketing. Expressively, USIM has various projects under the waqf and they are using social sites for crowdfunding for general waqf fund and specific waqf projects and recently proposed to use JomPay. Further, in UPM a donor can visit waqf counter and drop money in save box. In precise, the study discovered that the cash waqf has been the main source in Malaysian waqf universities. The similar finding has been found by Alias 2017.⁶¹¹

The waqf is permanent and perpetual in nature while its yielding is a source of utilisation. A waqf institution may offer product and services to generate income. The recent development between MAINS and USIM where MAINS financed with 3.5 million RM for the Health Clinic and Haemodialysis Clinic and USIM provided human capital from the faculty of medicine and dentistry. The state government also helped by providing 650, 000 RM for a customised lorry which is used in providing

⁶¹¹ Mohammad Haji Alias. In *Waqf Financing Developments In Malaysian Public Universities: Understanding Recent Developments*, (Paper presented at YTI's Brown Bag Series FEM: Faculty of Economics and Muamalat USIM, Dean' Meeting Room, 2017).

health facilities to the common people, same it will most probably become a significant source of waqf's income. UPM and UKM owned land in form of agriculture and commercial properties. These real estate properties are the source of earnings, for example, one of the real estate property in Putra Jaya from where UPM is receiving the rent of 15000 RM per month.

In general, it is a common misperception that Public Universities (PUs) are financed by the government only. In this regard, the role of industries, cooperatives, business communities, and societies are not fully understood and utilised. In view of that, the findings demonstrated that Malaysian's waqf universities realised the importance of the whole society and business community; therefore, waqf universities are also targeting donations and grants for higher education development. In this regard, there are some examples where waqf universities received donations such as USIM received from Maybank 100,000 RM for the clinic, while UKM collaborating with telecom and cooperate holding companies. In the case of UPM, the study reveals that they are trying to capture CSR funding and organized a team for collaboration with corporate bodies.

6.3.3 Investment

The study found that through various solicitation and fundraising activities Malaysian waqf universities receive the waqf fund in the form of cash waqf and then this cash fund is being converted into real estate through the concept of *istibdāl*, in the same manner, using this concept of *istibdāl* UPM has developed real estate waqf properties in Putrajaya

The study finds that the Islamic financial products and instruments can be used for the waqf development, for instance, the concepts of "*Istisnā'*", "*Ijārah*", and *Shukūk* are introduced. The USIM has *ijārah* contract with the owner of the 3-slots

shops near the USIM's waqf clinic. Initially, the waqf USIM had planned to make a contract "*Diminishing Musharika*" with the owner of the slots, but the higher management of the USIM does not allow them to do so. The reason behind that the University was not sure that either waqf institution will receive the required amount of waqf funds or not within the specified time period. In March 2017, UKM again received permission for waqf collection after a long negotiation with PWS and MAIS and reinitiated waqf collection. However, the cash waqf and other donations those accumulated from the donors will still remain reserve in the financial sector in the form of savings or securities, and profits from these securities further will be directed to the beneficiaries.

Based on the above discussion, the study discovered that the financial reserves are not sufficient for waqfs. Therefore, raising cash waqf would take a long period of time. To develop large-scale productive, waqf's projects would require substantial capital outlays. Further, some good investment instruments can be implemented to develop waqf funds such as *Şukūk Musyarakah*, *Şukūk Ijārah*, *corporate waqf*, and Islamic Real Estate Investment Trust (IREIT)⁶¹².

6.3.4 Fund Utilisation

This study revealed that waqf universities are still focusing on soliciting and fundraising, the reserve waqf funds are still limited and not producing enough amount of income for any developmental expenditures. The waqf funds in the selected universities like UKM, USIM, and UPM are 1.5 million, 4.5 million and 9.2 million respectively. For that reason, PUs are still focusing on waqf's collection rather than

⁶¹² *ibid*

waqf fund management, and providing general schemes for revenue generating opportunities for the waqf institutions in future such as transportation, accommodation, projects funding, research material, health facilities, convention centre, and hotel tower. These developments will not only contribute to facilitating the staff and students. But, it will contribute to community services as well. In addition, with the pace of time, these waqf's projects will also have a perpetual source of income.

With other projects, they are also busy to find out new ventures for waqf income. Therefore, they are more focusing to make research collaboration with other universities and organise waqf conferences and seminars. Hence, these waqf institutions also organizing research projects and conference on waqf development for higher education. In some extent, they are also providing funding for final year graduates and masters students for their projects in various fields, and to some extent, they are also providing full scholarships for needy and talented students.

The study findings discovered that USIM is facilitating their staff and students to work in clinics. While other two waqf universities are willing to start waqf clinics. In addition to that, UPM utilised their funds in community development and helping needy and those who are unable to do well in the intact society. On the one side, they are creating human capital, while, on the other hand, they will succeed to create a positive image and good-will for these waqf universities. These developments are not even necessitated but also play a positive impact on the waqf institution. These developments directly change the human thoughts as well as it provides the awareness and well attitude with the intention that waqf institution could be developed with zeal.

6.3.5 Issues and Challenges

The study findings signify that waqf's implementation in PUs (Public Universities) requires the willingness of State Islam Religious Councils (SIRCs), mainly about university status as waqf administrator with the aim of managing their waqf assets independently. Since according to law, the concept of waqf is considered purely a religious concept that needs legal recognition and enforcement. In this regard, waqf affairs are the responsibility of the SIRCs of each state. As a result, any university that intends to implement waqf requires authorization and permission from the SIRCs. As a sole trustee, it depends on SIRC's discretion to determine what status to be delegated. At the present time, there are mainly three terms for waqf manager being practiced relating to waqf universities namely; *Nāzīr*, *Mutawallī*, and *Qayyim*. Accordingly, PUs are allowed to develop a waqf entity as well as establishing a waqf committee based on the suggested waqf governance models that are prescribed in the purple book. The study findings further revealed that the different PUs have acquired different status from their respective states. Moreover, there is no such provision and law regarding this matter. However, different titles attained by PUs reflect the power owned by them in managing waqf's fund. However, no specific framework is fixed by the SIRCs in delegating a status to the university. Hence, it may create some confusion, especially about stakeholders' involvement.

To make a stand, it is more challenging for the universities which are recently initiated waqf entity. Henceforth, top management should be ready to move forward to set up waqf entity for the said purposes. Subsequently, it requires willingness and understanding of waqf execution from top management as well as other stakeholders

in the universities. In this regard, Professor Siti Mashitoh⁶¹³ proposed that a waqf HEI has to have its own regulations or rules to govern the overall system of the institution. Moreover, without a shred of doubt, the waqf management and officials must understand clearly about the nature and doctrines of waqf, as waqf bears some unique attributes and characteristics and, to some degree, some strict *sharī'ah* and legal principles. Secondly, it involves the collaboration with SIRC in the respective state to appear with a strong and effective line of action to implement waqf in the university. Correspondingly, a university should not depend on waqf funds solely to survive, rather it should also accept other external non-waqf sources such as types of charitable donations, gifts, and bequests⁶¹⁴.

After the establishment of waqf, one major challenge faced by waqf HEIs was lack of human resources specialists. The study findings indicate that mostly PUs are still facing insufficient human capital and professionals concerning waqf management. Thus, waqf managers should learn about the process of managing waqf from the various angles. Otherwise, given situation will discourage donors to donate to the university and lots of waqfs and other charities do not get cause for sustainable development.

To create awareness regarding waqf for higher education in the society, there are some other serious issues. In this regard, there are some misperceptions about waqf such as it is believed that only a Muslim can do a waqf, whereas, Muslims believe waqf is related to the masjid, madrasah and religious purpose only. Subsequently, the society still could not realised the significance of waqf in subsidising public goods

⁶¹³ Mahamood, Siti Mashitoh, and Asmak Ab Rahman. "Financing Universities through Waqf, Pious Endowment: Is It Possible?" *Humanomics* 31, (2015): 430-53. doi:org/10.1108/H-02-2015-0010.

⁶¹⁴ *ibid*

including higher education. It is not realised, that waqf has potential which can cater to every aspect of human life. Even it can assist from birth to death. In due course, the eternal characteristics of waqf institutions such perpetuity, irrevocability, and inalienability are not recognised well. The perpetuity of waqf properties means that it may not be sold or disposed of in any form, i.e., waqf asset remains in the waqf domain perpetually and any new waqf will be added to that domain, implying that waqf properties are only liable to increase. It is not permitted to consume the waqf assets. Similarly, once the properties owned by waqf, the usage of waqf is only limited to the benefit of its usufruct based on the intention of *waqif*. In addition, whenever the management would like to seek any financial aid for a project such as the establishment of an academic department etc.; they cannot use the waqf properties as collateral to the bank. Using waqf properties as collateral is against the jurisprudence⁶¹⁵.

6.4 Comparison

Table 6.1: Legal Framework of Waqf in both Countries

Pakistan	Malaysia
<ul style="list-style-type: none"> Public and private both <i>awqāf</i> are existing Private <i>awqāf</i> have a greater role in HEIs funding Private <i>awqāf</i> are registered as a society, trust, and private company 	<ul style="list-style-type: none"> Private <i>awqāf</i> are not allowed SIRCs are the sole trustee of <i>awqāf</i> in respective states Only public <i>awqāf</i> have a greater role in HEIs

Sources: Compiled and edited by researcher

⁶¹⁵ Latiff Azha, Sayin Baharuddin, Sayurno, S.S Salahuddind, M. Rani Afandi, and Hamid Afifah Hf. "The Practice and Management of Waqf Education in Malaysia." *Procedia-Social and Behavioral Sciences* 90 (2013): 22-30.

Table 6.1 illustrates the comparison of the legal framework in both countries; Pakistan and Malaysia. In Pakistan, public and private both types of *awqāf* are existing. As discussed earlier in chapter 3. In the public sector, the ministry of religious affairs look after and manage *awqāf*. However, it has a lack of involvement with higher education institutions development. In this regard, the role of private *awqāf* is considerable. To a certain extent, private *awqāf* are considered being part of Non-for-profit sector. Therefore, private *awqāf* are incorporated in divergent using the present legal framework of the country. Hence, it might be seen that a waqf institution is registered as a society, foundation, trust or a private limited company. In contrast, Malaysian's *awqāf* are controlled and centralised by State Islamic Religious Councils (SIRCs) of respective state; therefore; SIRC is the sole trustee of *awqāf*. For that reason, private *awqāf* or trusteeship is forbidden. When it comes to the higher education intuitions, to large extent, public universities are successfully implemented their concept of waqf with help of respective SIRCs. It is SIRCs discretion to determine what status to be delegated to waqf universities.

Table 6.2: Fundraising Sources in both Countries

Case Studies	Internal Sources	External Sources
Pakistan		
Hamdard Waqf	<ul style="list-style-type: none"> • Hamdard Laboratories (Waqf) Pakistan's Income • Rental 	<ul style="list-style-type: none"> • NA
Aisha Bawany Waqf	<ul style="list-style-type: none"> • Bawany Family businesses' Income • Advertising services income • Rental 	<ul style="list-style-type: none"> • NA
Darul Tasnif Waqf	<ul style="list-style-type: none"> • Jaffer Group Limited • Annual fund from BoD • Rental 	<ul style="list-style-type: none"> • Government support 1984 4 Million PKR • Cooperatives : CSR funding
Malaysia		
Waqf Ilmu, USIM	<ul style="list-style-type: none"> • Salary Deduction • Honorarium BoD • Mileage Claim 	<ul style="list-style-type: none"> • MAINS (3.5 M RM) • State Government (650k) • Cimb bank (1M RM) • Cooperatives i.e. (BNP) • e-Banking • Crowdfunding
Dana Waqf Ilmu, UKM	<ul style="list-style-type: none"> • Salary Deduction • Alumni contribution • Waqf box • Individual donors 	<ul style="list-style-type: none"> • Cooperative : Telecom and CSR • e-banking • Society
Dana Waqf Ilmu, UPM	<ul style="list-style-type: none"> • King (300K MR) • Waqf Counter • Salary Deduction • Save box (campaign) • e-claim • e-journal (book & journal royalty) • Rental Income (15k MYR) monthly 	<ul style="list-style-type: none"> • Cooperate giving • NGO's CSR and other funding • Cooperate Holding friends • E-banking • Crowdfunding

Sources: Compiled and edited by researcher

Table 6.2 presents a comparison of waqf raising sources in both countries. To large extent, Pakistan's waqf for HEIs is fulfilling their need from waqf income. Since, waqf for HEIs in Pakistan are developed seven decades earlier and found (waqf) by individuals; leader, business tycoon or business family. Thus, their internal sources are large enough for operating and developmental expenses. For that reason, these waqf institutions are independent and contributing well. Further, waqf institutions are also generating income from various business ventures and health care services and contribute in higher education and well-being of society as discussed earlier in detail in chapter 3, in case of Hamdard Laboratories (waqf) Pakistan, Aisha Bawany Educational and Welfare Waqf and Darul Tasnif (private) Limited which is the only private waqf institution who got grant from government to build Nursing School. In contrast, to a large extent, Malaysian's waqf for higher education are soliciting cash waqf through various modern and traditional strategies as discussed in detail chapter 4. In traditional style, they use peti besi, waqf box, waqf counter and roadside collection. In modern style, they have an online mechanism through Information and Communication Technology (ICT). In this fashion, internally, they are deducting from salary, mileage claim, and e-claim. Externally, e-waqf, JomPay, and online banking facility are the sources of cash waqf collection. In this regard, social media are also used to generate crowdfunding. Malaysian's waqf for HEI is recent development and HEIs are lacking any stable and continues support from waqf industry, business tycoon or business community. Further, rather than the cash waqf, other forms of waqf assets and properties are also deficient.

Table 6.3 : Waqf Assets Management in both Countries

Case Studies	Real Estate Asset	Financial Assets	Business
Pakistan			
Hamdard Waqf	<ul style="list-style-type: none"> • 350-acre land • Commercial buildings • Herbal farms 	<ul style="list-style-type: none"> • Fixed Long-term deposits • Securities and stocks • <i>Shukūk</i> bonds • Royalty 	<ul style="list-style-type: none"> • 500 herbal products • Hamdard Hospitals
Aisha Bawany Waqf	<ul style="list-style-type: none"> • Multipurpose 12-storey building • Commercial buildings • Residential buildings 	<ul style="list-style-type: none"> • No 	<ul style="list-style-type: none"> • Advertising services • Publishing house
Darul Tasnif Waqf	<ul style="list-style-type: none"> • 34-acre land • Fuel station • Residential buildings • Commercial buildings 	<ul style="list-style-type: none"> • NIT investment fund • Fixed deposit in IFIs 	<ul style="list-style-type: none"> • Murshid Hospital • Publication house • Farming
Malaysia			
Waqf Ilmu, USIM	<ul style="list-style-type: none"> • NA 	<ul style="list-style-type: none"> • 4.5 million MR deposits 	<ul style="list-style-type: none"> • Specialist health • Dental clinic • Eye clinic (Mobile) • Haemodialysis clinic
Dana Waqf Ilmu, UKM	<ul style="list-style-type: none"> • Residential Plots 	<ul style="list-style-type: none"> • 1.5 million MR deposits 	<ul style="list-style-type: none"> • NA
Dana Waqf Ilmu, UPM	<ul style="list-style-type: none"> • Commercial slot • Agriculture land 	<ul style="list-style-type: none"> • 9.2 million RM deposits 	<ul style="list-style-type: none"> • Farming

Sources: Compiled and edited by researcher

Table 6.3 shows the comparison of waqf management for HEIs in both countries. In Pakistan, the selected waqf for HEIs have a wasteland of waqf; commercial, residential and real estate. In financial asset, they have prudent investment strategies to invest in securities, stocks, sukuk and long-term fixed deposits. To certain extent, they also develop hospitals and providing health care services. In a similar manner, they also have some business ventures in form of herbal products and advertising services. In contrast, to large extent, Malaysian's waqf for HEIs are in form of cash and deposit in banks. However, this cash waqf can be converted into real estate. In this regard, the University of Putra Malaysia created real estate properties in Putra Jaya through the concept of *Istibdāl*. It can be seen from table 6.3 waqf for HEIs in Malaysia initiated future projects for further income under the waqf.

Table 6.4: Waqf Income Utilisation in both Countries

Case Studies	Development Expenditure	Operational Expenses	Academia Support
Pakistan			
Hamdard Waqf	<ul style="list-style-type: none"> • Madinat al-Hikmah (City of Education, Science & Culture) • Hamdard University • Bait al-Hikmah library 	<ul style="list-style-type: none"> • Sufficient 	<ul style="list-style-type: none"> • Scholarships <ul style="list-style-type: none"> ✓ Merit base ✓ Need base • Journals publications • Research and Development on herbal products
Aisha Bawany Waqf	<ul style="list-style-type: none"> • Aisha Bawany Degree College • Aisha Bawany Academy 	<ul style="list-style-type: none"> • Sufficient 	<ul style="list-style-type: none"> • Local and International Scholarships <ul style="list-style-type: none"> ✓ Merit base ✓ Need base ✓ For other HEIs (IBA, SZIC) • Medical facilities <ul style="list-style-type: none"> ✓ Students ✓ Staff
Darul Tasnif Waqf	<ul style="list-style-type: none"> • Tablighi College • Murshid Hospital and Nursing School • Law College • Madrasah Taleem ul Islam 	<ul style="list-style-type: none"> • Sufficient 	<ul style="list-style-type: none"> • Full Scholarship program • Transportation • Accommodation • Daily Meal • Medical facilities <ul style="list-style-type: none"> ✓ Students ✓ Underprivileged people of the society.

Malaysia	• NA	• NA	<u>Smart partnership (MAINS & USIM)</u> <ul style="list-style-type: none"> • Specialist Health Clinic • General Clinic • Dental Clinic • Mobile Clinic (eye clinic) • Haemodialysis Clinic(1.50m) <u>Other Projects (Future)</u> <ul style="list-style-type: none"> ✓ Residential college (1-6) ✓ International Islamic School ✓ Hotel : ✓ Conventional Centre ✓ Academic Chair • Educational Fund • Scholarship
Waqf Ilmu, USIM			
Dana Waqf Ilmu, UKM	• NA	• NA	• NA
Dana Waqf Ilmu, UPM	• NA	<ul style="list-style-type: none"> • Only Waqf centre • Not University as whole 	<u>Full Scholarship</u> <ul style="list-style-type: none"> • <u>Need Base</u> <u>Partial Scholarship</u> <ul style="list-style-type: none"> • Undergrad • Graduate • Postgraduate • Diploma Research and development Academic activities Waqf ambulance & Clinic <u>Other Projects</u> <ul style="list-style-type: none"> • Mosque • Ambulance • Medical

Sources: Compiled and edited by researcher

Table 6.4 exhibits waqf income utilisation for higher education in both countries. In Pakistan, our selected case studies successfully catering their HEIs developmental and operating cost from waqf income including Madinah al-Hakmah (the city of education, science, and culture), Hamdard University, Bait al-Hikmah Library, Aisha Bawany Degree College and Academy, Tablighi College, Darul Tasnif Law college, Murshid hospital and Nursing School. Further, academic activities are also supported through waqf successfully. In this regard, they provide merit and need-based scholarships, grant for projects and other HEIs. Darul Tasnif also providing accommodation, transportation, and daily meal as well as Medical facility is also provided for the students and underprivileged people of society. In contrast, Malaysian waqf for HEIs are still trying to collect a mass amount of waqf fund to cater operating and developmental cost. However, the UPM center of WAZAN is successfully catering their operating cost as mentioned in chapter 4. To some extent, they are offering academia supporting activities through need-based and partial scholarships for student research projects at various levels of studies. It can be seen that the waqf intuitions; especially the USIM waqf established some health care services along with some other projects for a society which can be an income source in near future.

6.5 Conclusion

This chapter presented a brief summary of findings on the waqf for higher education institutions in both countries and made a comparison between them. The first section discussed the concept of waqf and its role in financing higher education. The second section discussed individual countries' Pakistan and Malaysia with respect to mentioned waqf cases' financing, investment, and development. In addition, the issues and challenges in waqf development for higher education are also mentioned. The last section presented a comparison of both countries.

CHAPTER 7: CONCLUSION AND POLICY RECOMMENDATION

7.1 Introduction

The study was conducted to comprehend the waqf financing, investment, and development for higher educational institutions of Pakistan and Malaysia. To further illustrate the phenomenon, this study also discussed the issues and challenges faced by waqf in financing, investment, and development of HEIs. To get the desired objective, the study was conducted with great in-depth (open-ended) interviews with key personnel of higher educational waqf institutions including waqf *mutawallis*, administrators, directors, and managers. In addition, the legal and *shari'ah* experts' opinions are also incorporated in the research. Moreover, the relevant archival recodes of the waqf institutions and secondary sources have been reviewed. To ensure the comprehensive results, the study converged multiple data source through the data triangulation method to study the waqf in both countries.

The findings of the study are highly significant for the top management, fundraisers, fund managers, waqf *mutawallis* of waqf HEIs. Likewise, the government officials, legislators, and policymakers can also get benefited from this research. To some extent, it is also helpful for the legal and regulatory bodies as it throws light on the research gap in the existing legal framework in both countries. The effective role of the government and regulatory authorities are also discussed in detail in order to overcome the issues and challenges faced in the development of waqf HEIs. As a final point, the study findings are important for academics as a qualitative research in that particular area. Therefore, the study also suggested a few future types of research that are not incorporated in the present study due to limited time and resources.

In the last chapter, the study discoursed conclusion, policy recommendation to Pakistan and Malaysia in three different perspectives including government, waqf higher educational institution and Islamic financial institution in both countries. In the last, the study discussed the limitation of the study and some future research recommendation.

7.2 Conclusion

The study confirmed that a waqf could be an alternative source for funding higher education institutions either the waqf is centralised under government or privately controlled. As the study findings show that in the case of Pakistan and Malaysia, waqf has distinct experiences. However, the study revealed that waqf has a considerable contribution to higher education institutions in both countries.

Based on the summary of findings, the present study concluded that in Pakistan, both public and private *awqāf* are working. The public *awqāf* have not played any significant contribution to the HEIs development while the role of private *awqāf* is greater. Since the creation of the country, there are some declared private *awqāf* which are functioning properly. However, due to lack of legal supervision in the country, there is no proper legislation and legal authority for private waqf institutions separately, As a result, waqf institution has to follow another legal framework to be recognised as a legal entity. For that reason, waqf is considered a part of the not-for-profit sector and legitimately registered as a society, trust, and a limited company. Initially, these waqf institutions are established by some of the humanitarian, educationist, revivalist, and religious leaders. Thereafter, the role of business tycoons and communities are very important and to some extent, they are less dependent on external sources and other forms of charities. Being legal entities, waqf institutions are more focusing on internal sources and waqf income, to a certain extent, they also depend on various types of charities and donations. In term of waqf management, they have firm guidelines for investing in real estates, financial sectors, and various businesses. Waqf's utilises the income for

developmental expenditure, operational expenditure and to support academic activities for students and staff. Perhaps, they are also supporting some other HEIs and research agencies.

Based on the summary of findings, the present study concluded that in the case of Malaysia, waqf comes under the state matter. The State Islamic Religious Councils (SIRCs) of every respective state is considered as the sole trustee of all sorts of *awqāf*. Therefore, private trusteeship would be treated as illegal and not according to the country's law. Subsequently, any HEI is willing to establish a waqf fund by obtaining prior permission to the SIRC. Conversely, it is SIRC's discretion to determine what status to be delegated. At the present time, there are mainly three terms used for the manager of waqf namely; *Nāzīr*, *Mutawallī*, and *Qayyim*. However, there are no specific requirements fixed by SIRCs in delegating status to a university. Moreover, there is no provision in the law regarding this matter. The USIM has been delegated the title of *Mutawalli*. Quite the reverse, UKM, and UPM received the title of *Qayyim* (an agent). Ministry of higher education has a strategic plan to meet new local and global challenges for higher education (HE) through the transformation of Malaysia's higher education institutions. Therefore, various public universities initiated waqf centers. In fundraising, internally and externally, they have a comprehensive online mechanism to collect fund in form of cash. In the same way, they are also using traditional and modern technologies in fund collection. Beside waqf fund, they are also targeting other donations such as grants, gift, alms, and CSR from corporate bodies. In management, they are not having a critical mass and size of the fund in order to meet the requirements. However, the Waqf's funds are reserved in the form of financial assets and real estate. To some extent, the cash waqf converted into real estate by using the concept of *istabdāl*. Despite all these *awqāf* still facing some shortage of fund. Therefore, they are focusing on supporting academic activities through student support programs. In somehow, they are facing the challenge

to meet the operating expense. However, they had a plan for sustainable income generation, for that reason, they initiated various income generating projects.

7.3 Policy Recommendations

Based on the findings, the study provides some recommendations to the stakeholders of waqf institutions in Pakistan and Malaysia.

7.3.1 Recommendation to Pakistan

In Pakistan, the recommendations are related to the government, the waqf HEIs, and Islamic financial institutions.

7.3.1.1 The Government

- Waqf as a social security institution requires proper regulations and management to avoid any kind of inefficiency and mismanagement. Therefore, the country's robust laws and regulatory framework are imperative for public and private waqf management separately. Legitimately, there is more need to define what the bindings in the waqf are. What should be the characteristics of waqf property? What should be the auxiliaries for the purpose of waqf? To whom can be assigned the responsibility of being *mutawallī*?
- In term of waqf HEI, a suitable waqf enactment is necessary which should bring all private waqf institutions under one legal authority. Further, reforms should be made to create a feasible and supporting environment in terms of legislation, and above all regulatory framework is very essential for the smooth running of the waqf organisation.
- The waqf institution as a source of public welfare institution, should be exempted from all form of taxes to ensure the expansion of waqf institution for socio-economic development. Currently, the tax rebate is given only on donations, it

should be given on overall income and expenses of waqf institution i.e. utilities, real assets, business activities.

- The public institutions and departments have to be integrated with new information technologies (IT). Usually, clients (waqf institutions) have to transfer information from one institution to another manually. Hence, IT can help to increase efficiency, reliability and to create managed and secured database.
- Public officers should aware about the concept of waqf and be supportive in terms of enforcing and regulating waqf institution for a noble cause.
- There is not any mechanism for waqf collection properly in public universities, therefore, the government has to make reforms and policy guidelines in the country for waqf HEI development.
- To create awareness in the society, there is a great need to take strong measure through print media and introducing waqf being a part of the third sector in the educational curriculum at primary and secondary levels of education.

7.3.1.2 Waqf HEIs

- It is essential that understanding and awareness regarding waqf should be created among people by personnel involvement in waqf management in order to ensure that the pillars of waqf are strictly followed under guidelines of *sharī'ah* and country's law.
- Good governance requires highly qualified and competent staff that should possess good managerial and interpersonal skills.
- Waqf HEI, needs to establish three different divisions for waqf Development including; 1) financing, 2) management and 3) income utilisation. These divisions should be specialised in fundraising, fund management, and its utilisation.

- In terms of fundraising, they need a clear policy and activities for fund collection from the common people. The waqf HEIs are mostly getting funds from waqf income or charities from the specific business communities. But still, there is a great need to motivate more people from society so they will donate open heartedly for this educational cause.
- In waqf management, most of the waqf properties are managed in real estate. In the modern era, a waqf institution may create diversification in waqf management and new modern techniques such as REIT and *Ṣukūk* Bonds are adopted for more income generation.
- In the case of cash waqf, the collected fund is easily converted into real estate. In this regard, the concept of *istabdāl* can be a useful instrument to increase the benefit of waqf properties.
- A well reputed and established waqf institution has required a proper system in order to audit and manage their accounts and sometimes have to present in front of their supporters to get confidence and an extra increase in donations. For this reason, highly professional accounting and reporting experts are needed and financial reports should be submitted to the regulatory bodies on a regular basis.
- The waqf HEI has to realise the need of setting efficient and effective policy to preserve and maintain their copyrights and patents, further, the efficient product marketing and commercialization policy are also needed.
- Academia-industry linkages may be helpful for waqf HEIs especially to generate the scholarships. For this reason, it is necessary that they must have a good team and liberty to work easily.

7.3.1.3 Islamic Financial Institutions

- In waqf development, the role of Islamic Financial Institutions (IFIs) is very important. Having a great potential, since IFIs still have not looked at the issue seriously which can help capital market and IFIs itself. In this regard, IFIs can play a great role by introducing products and services for waqf development.
- An efficient collaboration, between Islamic financial institutions and waqf HEI, is also essential for financing, investment, and development of waqf HEIs. In this regard, IFI may facilitate in waqf collection, waqf fund management and, waqf's income utilisation.

7.3.2 Recommendation to Malaysia

In Malaysia, the recommendations are related to the government, the waqf HEIs Islamic financial institutions.

7.3.2.1 The Government

- Legitimately, possible provisions are imperative to create a feasible environment for waqf institutions accompanied by rules and regulations governing system for higher education waqf institutions aligned with the legal and religious structure of Malaysia.
- Being welfare institutions, waqf should be exempted from all form of taxes to ensure the expansion of waqf institution. In the country laws, only contribution and donations are exempted from the tax. It should be applicable to the aggregate income and expenses of waqf institution such as utilities, real asset, and business activities.
- To become a successful waqf institution, it requires proper support and an efficient role from the ministry of higher education to implement rules and managing HEIs. In this regard, the ministry can ensure the cooperation and involvement of all

relevant authorities, and bring them to one platform to resolve the issues by proper legislation and tax reforms for waqf HEI development.

- Ministry of higher education, can establish a training institute to produce highly professional and competent waqf experts, these experts should acquire the following expertise;
 - 1) The correct understanding and awareness regarding waqf
 - 2) To ensure that the pillars of waqf are strictly followed
 - 3) Must be specialized in waqf financing, management, and income utilisation.
 - 4) Highly professional waqf accounting and reporting experts
 - 5) Highly qualified legal and *sharī'ah* expert in waqf management
- A national council for waqf institutions can be established for proposed policies and solutions and bring waqf into a national agenda for higher education development in Malaysia.

7.3.2.2 The Waqf HEIs

- Waqf HEI requires policy guidelines and framework to maintain transparency, reliability, and efficiency inside the waqf institution. Therefore, besides implementing waqf, a university has to create its own rules and regulations to govern the whole system of waqf in the University.
- Initially, for the development of Waqf HEI, a large amount of waqf fund should be collected and prudent investment strategies should be adopted by the management. In present situation, the biggest challenge for a waqf institution is “how to acquire operating and administrative cost with all these activities and limited staff”.
- To capture a large amount of waqf fund, HEIs should be led by highly professional and corporate PR personalities. Those are not only qualified waqf expert but also

have good business linkages. Therefore, under a central body, qualified and dedicated staff should be involved in fundraising and management.

- If waqf property becomes useless and has no more importance, for that reason, the property can be changed with a better one. Prior to that, a proper evaluation is required to measure the situation afterward, a formal permission from a relevant authority (Mufti) is essential afterward. In *sharī'ah*, the concept is called *istibdāl*.
- Waqf HEIs can adopt corporate governance rules for an excellent waqf management. Likewise, transparency and accountability are also required for donor satisfaction and future positive expectation transparency is necessary.
- A well reputed and established waqf institution has required open periodical audit system to show the donors as well. In the same manner, these reports should be submitted to the regulatory bodies.
- Under a waqf HEI, testing services can be provided for soil, water, chemicals, and blood etc. This will help to enhance the earning, and to increase the pragmatic knowledge of the students, in the same manner, the waqf HEI and industry relationship will generate various scholarships and other benefits.

7.3.2.3 Islamic Financial Institutions

- An efficient collaboration, between Islamic financial institutions and waqf HEI, is essential in waqf, fundraising, fund management for the development of HEIs. In this regard, IFI may facilitate in cash waqf, collection, management and, income utilisation.
- IFI has to fulfill *sharī'ah*, guidelines and compliance properly. Thereafter, selection of instrument should be in line with the *sharī'ah* as well i.e. *Hukr Mudharbah*, *Musharakah*, *Musharakah Mutanaqish* (MM) *Istisnā'*, and *Shukūk*.

- To a certain extent, for commercial and business reasons waqf is neglected by IFI; therefore, not enough products and services are available for the waqf institution development. Hence, IFI has to see the issue and create feasible products for waqf development.

7.4 Limitation of the Study

The study is primary in nature and to large extent, is based on interviews with high profile personnel of waqf HEIs, and its regulatory authorities in both countries; Pakistan and Malaysia. In addition, legal and *sharī'ah* experts' interviews are also incorporated to understand the legal status of the waqf in both countries. For that reason, the study confronted some issues and limitations such as:

- Due to time and financial constraints, the study selected three case studies from each country. For that reason, only those waqf institutions are selected having a declaration as waqf. Hence, the other endowment-based and charitable HEIs are not included in the study.
- To understand the problem in the perspective of both countries, the main focus of the study is waqf's financing, investment, and development. To a great degree, the study focused on the analysis of waqf for HEIs development. Legitimately, the study discussed the waqf as a legal entity for higher educational development. Further, it also discussed issues and challenges faced by waqf HEIs. At large, the study is not dealing with *sharī'ah* issues in depth. However, to some extent where necessary, it discussed *sharī'ah* issues precisely. Similarly, the legal framework of both countries is discussed to understand the concept of waqf development from the perspective of both countries.

- Being a legal entity, the institution of waqf can hold other forms of charities including non-waqf assets. Therefore, where necessary the study also mentioned some non-waqf charity instruments for HEIs development.
- In Pakistan, the study could not find any appropriate example from the public sector in waqf HEI. Therefore, the study selected three waqf cases from private waqf. To a certain extent, legally these waqf institutions are registered in divergent. In Malaysia, the waqf universities recently implemented their waqf fund, for that reason, the study faced some difficulties in data collection and available information.

There were also some constraints during the data collection.

- Firstly, few of the documents related to waqf institutions are confidential and out of reach for the general public.
- Secondly, some of the interviewees were quite reluctant to discuss any information regarding their financial assets and resource because of their confidential data policy. Especially, after 9/11 Pakistan is more concerned about national security and terrorism issues. Therefore, waqf institutions are quite reluctant to provide any information.
- Thirdly, some of the scholars did not give an interview because of their busy schedule or lack of response.
- Fourthly, in the case of Pakistan, mostly the interview response was in native language. Therefore, the researcher has to translate transcripts into the English language. In Malaysia, to some extent, the researcher faced some difficulties due to language barriers. Similarly, some participants assigned their substitutes for the interview.

However, a large and substantial amount of data and information have been achieved from multiple data sources including the interviewees, archives and secondary sources to meet the research objective.

7.5 Future Research Recommendations

Based on the discussed limitations, the study also proposed some future study recommendations as follows:

- A study can be conducted on endowment-based and charitable HEIs to know their role in higher education development.
- In *sharī'ah* perspective, it needs to explore the role of waqf institution as a legal entity and to understand what are *sharī'ah* guideline regarding these issues.
- In the society perspective, a study can be conducted to investigate and explore how to increase awareness in the society regarding waqf institution. What are the factors which may help to encourage society to contribute to waqf higher education?
- Unlike, Islamic banking and Takaful industry, many scholars consider waqf as a secondary issue, thus the research and development on waqf financing, investment and development have not received proper response. Therefore, accordingly, waqf financing, management, and development should be studied in other countries, and individual waqf prospective.
- In the case of Pakistan, the study findings supported that there is some research gap regarding waqf regulations in Pakistan. Therefore, there is a need to rectify these problems and decide how the legal framework can be developed to bring them on one platform in line with *sharī'ah* and legal requirement of the country.
- In the case of Malaysia, *sharī'ah* and legal perspective of waqf application in higher education are more important to be studied. Further, the concept of waqf

for higher education recently developed; therefore, waqf HEIs are facing many issues and challenges. A study can be conducted to explore them and produce some relevant policy recommendations to them. In addition, another study can be conducted to know the role of other forms of charities in higher education development.

7.6 Conclusion

In brief, the study has succeeded in examining the waqf financing, investment, and development for higher educational institutions of Pakistan and Malaysia. This study also discussed the issues and challenges faced by waqf in financing, investment, and development of HEIs. This chapter discussed conclusion, policy recommendation to Pakistan and Malaysia in three different perspectives including government, waqf higher educational institution and Islamic financial institution in both countries. In the last, the study discussed the limitation of the study and some future research recommendation.

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