

**THE ACCOUNTABILITY PRACTICES OF A  
CORPORATIST WAQF INSTITUTION IN  
MALAYSIA**

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CORPORATIST WAQF INSTITUTION IN  
MALAYSIA**

by

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## LIST OF ABBREVIATIONS

AAOIFI	Accounting and Auditing Organization for Islamic Financial Institutions
GDP	Gross Domestic Product
INCEIF	International Centre for Education in Islamic Finance
IRTI	Islamic Research and Training Institute
ISRA	International <i>Shari'ah</i> Research Academy for Islamic Finance
JAWHAR	Jabatan Wakaf, Zakat dan Haji
NGO	Non-Governmental Organisation
NPO	Non-Profit Organisation
SIRC	State Islamic Religious Council
YWM	Yayasan Wakaf Malaysia
R.A	<i>Radhi Allahu 'anhu</i>
S.A.W	<i>Sallallahu alayhi wa salaam</i>
S.W.T	<i>Subhanahu wa ta'ala</i>

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# **AMALAN AKAUNTABILITI DI INSTITUSI WAKAF KORPORAT DI MALAYSIA**

## **ABSTRAK**

Akauntabiliti dalam konteks organisasi berteraskan agama dan kebajikan merupakan isu kritikal yang masih diperdebatkan oleh para ilmunan dan juga pengamal industri. Namun, pengetahuan dan kefahaman tentang konsep akauntabiliti dalam konteks organisasi seperti ini masih kurang walaupun organisasi tersebut sering dikritik tidak mempamerkan tahap akauntabiliti yang baik. Institusi wakaf merupakan salah satu organisasi berteraskan agama dan kebajikan yang beroperasi dalam persekitaran yang unik dan kompleks dan kerap dikaitkan dengan pelbagai isu akauntabiliti. Selain itu, konfigurasi akauntabiliti institusi wakaf masa kini dilihat semakin kompleks iaitu perlu memenuhi akauntabiliti untuk mencapai misi dan objektif yang pelbagai dan juga memenuhi tuntutan akauntabiliti daripada pelbagai lapisan pihak berkepentingan. Justeru, kajian ini dilaksanakan bertujuan untuk meneliti amalan akauntabiliti dalaman dan luaran institusi wakaf korporat di Malaysia yang mewakili suatu ciri organisasi wakaf moden yang terdedah kepada persekitaran institusi yang rumit. Kajian ini merujuk istilah akauntabiliti dalaman kepada aspek akauntabiliti organisasi dalam mencapai misi dan objektif sosial dan pembangunan wakaf komersial, disamping memelihara identiti dan nilai organisasi. Manakala, akauntabiliti luaran adalah merujuk kepada akauntabiliti organisasi kepada pihak berkepentingan luaran (atasan dan bawahan). Kajian ini menggunakan reka bentuk kajian kes interpretasi – kajian kes tunggal di sebuah institusi wakaf korporat yang ditubuhkan oleh Majlis Agama Islam Negeri dan menggunakan lensa teori akauntabiliti dalam organisasi bukan bermotifkan keuntungan, akauntabiliti dalam

perspektif Islam, dan teori logik institusi. Dapatan kajian menunjukkan wujudnya pelbagai logik institusi (agama, kebajikan sosial, birokratik, korporat, dan komuniti) yang mencorakkan amalan akauntabiliti dalaman dan luaran bagi kes entiti yang dikaji. Terdapat konflik antara logik institusi yang memberi bukti bahawa kes entiti yang dikaji mengalami situasi kerumitan institusi. Misi dan objektif sosial tidak diancam oleh kemunculan objektif pembangunan wakaf komersial, malah objektif sosial terus diperkukuhkan untuk memelihara identiti dan legitimasi organisasi. Selain itu, kajian ini juga mendapati pihak berkepentingan atasan memberi pengaruh melalui pelbagai logik institusi yang menjadi cabaran dan juga peluang kepada kes entiti dalam memenuhi tuntutan akauntabiliti dalaman dan luaran. Manakala akauntabiliti kepada pihak berkepentingan bawahan dilaksanakan melalui pencapaian akauntabiliti dalaman dan akauntabiliti kepada pihak atasan. Situasi kerumitan institusi yang dialami oleh kes entiti memberikan implikasi kepada kepentingan peranan penzahiran akauntabiliti. Kajian ini memberikan sumbangan kepada pengetahuan dan kefahaman berhubung amalan akauntabiliti dalaman dan luaran dalam konteks institusi wakaf korporat yang unik dan kompleks.

# **THE ACCOUNTABILITY PRACTICES OF A CORPORATIST WAQF INSTITUTION IN MALAYSIA**

## **ABSTRACT**

Accountability in the context of religious and charitable or non-profit organisations is a contentious issue that concerns both scholars and practitioners. These types of organisations are often criticised for the lack of accountability practices, although the understanding of the concept of accountability in this unique setting remains fragmented. Waqf institutions are among the charitable and religious organisations accused of being affected by an acute crisis of accountability. Moreover, the waqf institution is subject to a complicated system of accountability, as it is accountable to multiple constituencies and multiple levels of stakeholders. Hence, this study aims to examine the internal and external accountability practices in a corporatist waqf institution in Malaysia in light of its complex institutional arrangement. Internal accountability is defined as the accountability to achieve the social and commercial development mission, while external accountability is defined as the accountability to the external stakeholders (the upward and downward stakeholders). The study used an interpretive case study design - a single case of a corporatist waqf institution established under a State Religious Council, and the theoretical lens of charity or non-profit organisation's (NPO) accountability, Islamic accountability, and institutional logic to guide and make sense of the case study. The findings revealed a constellation of multiple institutional logics (religious, social-welfare, bureaucratic, corporate, and community) that shaped the way internal and external accountability was fulfilled. Some of the logics were found to be in conflict, thereby leading to the embodiment of the notion of institutional complexity. The social mission was not threatened by the



emergence of the commercial development mission and was continuously reinforced to preserve the core identity and legitimacy of the organisation. Also, key upward stakeholders reinforced multiple institutional logics that created both conflict and opportunity for the case entity, while key downward stakeholders appeared to be embedded in the fulfilment of internal and upward accountability. The institutional complexity of the case entity engenders a central role on the manifestation of accountability. This study contributes to the understanding of the internal and external accountability of a corporatist waqf institution - a charitable and religious organisation - that represents itself as a unique study setting.

# CHAPTER 1

## INTRODUCTION

### 1.1 Introduction

This introductory chapter provides an overview of the study. It starts with the research background to familiarise the reader with the context and importance of the research topic. Subsequently, the research problem is discussed, followed by articulation of the research objectives and research questions to answer the research problem. Next, the significance of the study, key definitions, and scope of the study are discussed. The chapter ends with an explanation on the structure of the thesis, providing a snapshot of how the overall thesis is presented.

### 1.2 Research Background

Waqf (or *awqaf* for plural) is an Arabic term that applies to many closely related connotations, such as “Islamic charitable giving”, “Islamic or pious endowment”, “perpetual endowment”, and “charitable trust”, in which the key goal of waqf is to promote socio-economic growth and public good (Kahf, 2007). Waqf is recognised as one of the important pillars of the Islamic social finance sector (Islamic Research and Training Institute, 2017). It is a part of the voluntary sector alongside other Islamic philanthropic endeavours such as *zakah*, *sadaqah*, and Islamic microfinance. Waqf literally means “to keep”, and the concept of waqf has the unique qualities of perpetuity, irrevocability, and inalienability. These unique qualities make waqf a distinctive type of Islamic philanthropy that can function as a sustainable socio-economic instrument via its unique arrangement that preserves the corpus of the asset to generate perpetual usufruct to benefit the beneficiaries and general society (Cizakca, 2000; Sadeq, 2002).

Waqf has been recognised historically as a viable instrument to facilitate the religious and socio-economic development of the Muslim society, especially in the areas of education, infrastructure development, healthcare sector, and poverty alleviation (Habib, 2004). For example, the significant role of waqf in the lives of the Muslim society during the glory days of the Ottoman Empire was recounted by historians Boyar and Fleet (2010) as follows:

...a quintessential system of welfare, used both to develop the economy of the city and to guarantee the material conditions and well-being of many of the city's inhabitants. It contained elements of prestige and display, and of protection of family wealth. For many of the inhabitants of the city, it was a cradle-to-grave institution, for a man could be born into a waqf house, sleep in a waqf cradle, eat and drink from waqf provisions, read in waqf libraries, teach in a waqf school, take his wage from the waqf administration, and when he died, be put in a waqf coffin and be buried in a waqf graveyard. It was the waqf institution that fed, educated, housed, washed, and gave medical treatment to the population. It provided people with a livelihood and rescued them in times of natural disaster. They went shopping in the waqf shops, they prayed in the waqf mosques; and the physical features of their city were to a great extent shaped by the waqf. In short, life in Istanbul without the waqf institution was unthinkable. (p.130)

Throughout Islamic civilisations, waqf has experienced its own peaks and valleys (Abdur-Rashid, 2020). Since the 19th century, waqf has suffered a downturn era (Cizakca, 2000). It is now no longer an important part of the lives of the Muslim community as portrayed by the historians in the above quotation; except it is synonymous with only mosques and graveyards (Abdullah, 2020a). Consequently, over the last few decades, waqf has been undergoing a major revival globally due to the substantial efforts made to realise its immense potential as a tool for mobilizing resources to improve societal development; this is to bring back the important role of waqf in society as witnessed by its historical success story (Cajee, 2007).

The management of waqf funds or assets is based on the trustee concept. The appointed trustee (*mutawalli*) is responsible for managing, preserving, and developing the waqf asset and distributing its usufruct to the beneficiaries. The evolution of the waqf management in the majority of Muslim countries shows almost similar trends of shifting from an individual trustee to an institutional mode of management with predominant government involvement in monitoring and managing the waqf (Islamic Research and Training Institute, 2014). The important role of waqf in fulfilling various socio-economic needs lies within its enormous potential, as shown by the values of waqf assets around the world which were estimated as ranging from RM418 billion to RM4.18 trillion in 2014 (Abdul Aziz et al., 2019). Nonetheless, the role of waqf as a powerful socio-economic instrument that can be utilised to address various socio-economic needs of society can only be realised through an effective and efficient role of the waqf institution to unleash its real potential.

### **1.2.1 Waqf in Malaysian Context**

In Malaysia, waqf is placed under the state administration. In each state, waqf is managed by the State Islamic Religious Council (SIRC) — a public service type of institution. The value of waqf assets in Malaysia was estimated at around RM4 billion in 2017, and it is expected to appreciate over the years (Ali et al., 2018). However, the waqf development in Malaysia is still considerably low, with many waqf lands reported to remain idle without proper developments or projects. Kamarudin (2019), who quoted the statistical figure in a research report by Yayasan Wakaf Malaysia and Jabatan Wakaf, Zakat dan Haji (JAWHAR), reported that only 13% out of the 30,000 hectares of waqf land in Malaysia has been successfully developed, while the remaining 87% (26,100 hectares) is still not utilised properly for the benefit of society.

The same report mentioned several key factors that contributed to the high figure of untapped waqf assets, highlighting the factors of a lack of professionalism, credibility, and accountability among the waqf management.

Some argue that the underlying issue of a lack of accountability among the *mutawalli* in managing waqf is attributed to the structure of the waqf institution, which is a centralised public service organisation with a rigid management orientation and inadequate application of modern management techniques that hinder an efficient and effective waqf administration (Abdul Aziz et al., 2019; Cizakca, 2000). Consequently, several initiatives have been taken in response to the criticism. One of the significant reforms, especially in the context of Malaysia, is by forming the corporatist waqf. The main purpose is to replace the old public service orientation, which was claimed as the main reason that instigated the inefficiency, incompetency, and lack of accountability in waqf management (Nahar et al., 2018). The transformation was expected to instil professionalism and corporate values into the waqf administration to enable more efficient and effective management besides improving the accountability practices, eventually contributing towards positive waqf progression (Abdullah, 2015; Yusoff et al., 2021).

However, there is still scarce evidence regarding how the new management style — the adoption of a corporate orientation — leads to improvements in accountability practices. Moreover, the modern waqf management has morphed into a much-convoluted institutional sphere due to the introduction of numerous innovative waqf products with various arrangements against the backdrop of increasing accountability expectations and demands from various stakeholders that need to be fulfilled (Kamarubahrain et al., 2019). Thus, the modern waqf institution is operating in a complex institutional environment which reciprocally influences how its

accountability requirements evolve. Therefore, this study aims to uncover the intricacy of the multiple accountability demands that implicate the modern corporatist waqf institution which is linked to its heterogenous institutional environment by scrutinising its accountability practices.

### **1.3 Research Problem**

The accountability issues in the context of charity or non-profit organisations<sup>1</sup> have been constantly discussed by academic scholars and practitioners, resonating with the growing importance of the charity sector in advancing socio-economic development worldwide (Agyemang et al., 2019; Cordery et al., 2019; Paterson et al., 2023). Though the accountability notion is argued to be slippery and remains a conundrum (Sinclair, 1995; Bovens, 2007), it emerges as one of the important themes that seek to secure the legitimacy and sustainability of charity or non-profit organisations (Unerman & O'Dwyer, 2006). Accountability can serve as a mechanism or a process in which the organisation can be held responsible for actions or inactions that affected its mission and stakeholders (Ebrahim, 2003a). Without accountability, stakeholders cannot be expected to trust and support the charity or non-profit organisation, which can threaten the legitimacy of the organisation's existence and survival (Agyemang et al., 2017; Ebrahim, 2003a, 2009; Yasmin & Ghafran, 2019). Therefore, the waqf institution as a charity and religious-based organisation under the

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<sup>1</sup> The terms non-profit organisation (NPO), not-for-profit organisation (NFP), non-governmental organisation (NGO), and philanthropic organisation are used interchangeably in this study. These terms are considered to refer to the same type of organisations, as the organisations in the third sector are very similar to the waqf institutions, carrying out social and philanthropic missions and serving diverse stakeholders.

umbrella of the non-profit sector depends on the accountability concept as the foundation for its legitimacy claim and survival.

Since the late 1990s, extensive discourses on waqf have been held in both academic and non-academic spheres to rejuvenate the important role of waqf in society. However, amidst the avid interest to see the successful impacts of waqf on the socio-economic wellbeing of society, the management of waqf faces many fundamental problems that have become a major hindrance to the development of waqf. One of the key problems is related to the lack of accountability of the *mutawalli* or waqf administrator (Kuran, 2001). The waqf institution is claimed to be plagued with an acute accountability crisis, which is caused by inefficiency, a lack of professionalism, poor governance, a lack of trustworthiness, corruption and mismanagement, and incompetence to extract the best of the waqf potential (Abdul Aziz et al., 2019; Cizakca, 2000; Nahar & Yaacob, 2011).

Moreover, the extant literature on the accountability practices in waqf institutions has highlighted the failure of the majority of waqf institutions in meeting even the minimum level<sup>2</sup> of desired accountability standard (Siti Rokiyah, 2005; Yaacob & Nahar, 2017). Waqf institutions are also accused of being ineffective in meeting their organisational mission and goal to expand the waqf fund (Sulaiman & Zakari, 2019). The audit reports on waqf property management in Malaysia issued by the National Audit Department of Malaysia in 2014 and 2015 also reported<sup>3</sup> a number of alarming problems concerning poor accountability practices in waqf management

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<sup>2</sup> Accountability for compliance is argued to be the minimum form of accountability, such as filing annual accounts, as well as meeting legal and regulatory standards (Kearns, 1994).

<sup>3</sup> The audit reports on waqf property management in 2014 and 2015 by the National Audit Department (<https://agddashboard.audit.gov.my/public/lkan?tajuk=pengurusan%20hartanah%20wakaf>)

including issues of undeveloped and unutilised waqf, encroachment, and waqf not properly maintained and registered.

Thereupon, corporatist waqf institutions are established to improve the efficiency and accountability of waqf management similar to corporate business entities (Raja Adnan et al., 2022; Yusoff et al., 2021). However, the transformation of waqf management to embrace corporatist values and norms to improve accountability seems to entangle more complexity to its accountability configuration. Modern corporatist waqf institutions need to be accountable to multiple competing constituents to fulfil their social and commercial development missions and attain financial sustainability befitting their new status as social enterprise entities (Abdullah, 2015; Ali et al., 2019; Mohiuddin, 2017). Simultaneously, as Islamic-based organisations, waqf institutions are bounded by the *shariah* principles that add another important dimension of accountability that needs to be fulfilled. Therefore, corporatist waqf institutions are subject to fulfil multiple internal and external accountability requirements. Internally, they need to achieve diverse missions and goals, and externally, they need to serve and satisfy diverse groups of stakeholders. This conundrum makes the modern waqf institution akin to a hybrid organisation that operates within a dynamic and complex institutional pressure that influences its accountability practices (Maine et al., 2023; Rana & Hoque, 2020).

However, research on accountability in the waqf institutional setting is scarce, and the little research carried out had predominantly focused on the external accountability mechanism that is claimed to be limited in practice (e.g., Ihsan et al., 2017; Nahar et al., 2018; Nahar & Yaacob, 2011). Very few studies have scrutinised and explicated how the complexity of the institutional arrangement in the unique context of waqf institutions affects their accountability practice. Consequently, there



is a limited understanding of the accountability concept in the context of waqf institutions that can facilitate the improvement of practice and contribute towards the theoretical refinement. Indeed, as Paterson et al. (2023) pointed out, given the complex and challenging environment in which third sector organisations operate, accountability is presented as one of the critical issues. They note that “it is not always clear how accountability is demonstrated, what compliance mechanisms are in place, how it is enforced and where the power lies” (p. 1067). Thus, this study aims to investigate the complexity of accountability practices of the waqf institution arising from its intricate institutional spheres.

#### **1.4 Research Objectives and Research Questions**

The focus of the study is to understand and explain the accountability practices in the context of corporatist waqf institution. The objective of the study is to examine the manifold of accountability processes by tracing the influence of multiple institutional logics embedded in the field of the modern waqf institutional context. The study employs a case study of a single corporatist waqf institution in Malaysia, where it is represented as an archetype of a modern organisational structure that is said to replace the entrenched public service structure. The corporatist waqf institution chosen as the case study entity is purposefully selected because of its uniqueness and potential to be information rich case. Therefore, this study seeks to answer the following research questions:

**RQ1:** How does the corporatist waqf institution fulfil the internal accountability to achieve its diverse organisational mission and goals and preserve the organisation’s identity and values?

**1(i).** How does the corporatist waqf institution achieve its social mission?

**1(ii).** How does the corporatist waqf institution achieve its commercial development mission?

**1(iii).** How does the corporatist waqf institution achieve its financial sustainability mission?

**1(iv).** How does the corporatist waqf institution preserve its identity and values?

**RQ2:** Who are the key upward and downward external stakeholders for the corporatist waqf institution and how is the accountability manifested in them?

**RQ3:** How and to what extent the multiple institutional logics influence and shape the accountability practices in the corporatist waqf institution and how does it lead to the institutional complexity?

The above research questions were derived from the conceptual framework presented in Chapter 3. This study uses the conceptual framework derived from an array of concepts and theories to frame the case observations and interpret the findings, which include: the integrated perspective on accountability by Ebrahim (2003a), Islamic accountability conception based on the Islamic worldview by Al-Attas (1995) and Al-Faruqi (1992), the institutional logic perspective by Thornton et al. (2012), institutional complexity by Greenwood et al. (2011), and prevalence of Islamic religious logic by Gumusay (2020). The justification for using these frameworks is provided in Chapter 2 and Chapter 3.

## **1.5 Significance of Study**

The issue of accountability surrounding the waqf institution has been raised by many practitioners and academicians. Since then, the government and waqf institution itself have adopted several initiatives to respond to the intense pressure exerted by the stakeholders. The initiatives involved, among others; the establishment of new guidelines, rules and regulations to harmonise the management of waqf, and the implementation of the corporate-management style to inculcate the culture of efficient and effective management. This inevitably emits a new landscape of waqf management which gives a tremendous impact towards how the accountability is experienced and enacted in the waqf institutions' setting that warrants further investigation.

The debate in the current literature suggests that the understanding of the notion of accountability in the NPO organisational context is still fragmented, thus it called for a more empirical approach in an extreme and unique contextual setting (Cordery et al., 2019; Hall & O'Dwyer, 2017; Uddin & Belal, 2019). The accountability conception needs to be refined through a deep understanding of the practices in its context. However, the extant studies are relatively still limited, further hindering the theoretical building particularly in regard to the accountability in a religious-based institution that is argued to be complex and consisting of diverse dimensions. Conscious of the importance to appraise accountability, its conception remains a conundrum to scholars and practitioners alike (Hall et al., 2017). It is therefore extremely important to understand the accountability practices in the context of corporatist waqf institutions that exposed to the complex accountability arrangement. This is important not only to improve the theoretical concept but also to provide

practitioners and stakeholders with insights into the complexity of accountability in the face of conflicting institutional demands.

## **1.6 Key Definitions**

The following key terms are central for this study and thus they need to be defined to present the intended focus of the research. The definition and attribute of the key terms used are derived from the literature of accountability in the NPO setting (e.g., Christensen & Ebrahim, 2006; Ebrahim, 2003a; 2003b; 2016; Najam, 1996) and waqf-related studies. First of all, the “internal accountability” refers to the accountability of the organisation to achieve its mission and goals and preserve the organisational identity and values (Christensen & Ebrahim, 2006; Ebrahim, 2003a; 2016; Najam, 1996). Secondly, the “external accountability” refers to the accountability to the key external stakeholders that consist of upward and downward groups of stakeholders (Ebrahim, 2003a; 2016; Ospina et al., 2002). Thirdly, the term “upward stakeholder” refers to the group of stakeholders that presumably holds power to monitor and control the organisation’s actions or inactions (Ebrahim, 2003a; 2016; Najam, 1996; Ospina et al., 2002), for instance, the donor (waqif) and authorities (government/board/monitoring bodies). Fourth, the term “downward stakeholder” refers to the less powerful group of stakeholders served by the organisation and this group of stakeholders does not hold direct power to control and monitor the organisation’s actions or inactions (Ebrahim, 2003a; 2016; Najam, 1996; Ospina et al., 2002), for instance the beneficiaries and society. Fifth, the term “waqf institution” refers to the organisation that plays the administration role (*mutawalli*) for waqf.

## 1.7 Scope of Study

This study basically investigates the practice of accountability in a specific context of single corporatist waqf institution in Malaysia using the integrated view of accountability that consists of both internal and external accountability that need to be fulfilled. The internal accountability relates to examining how the case entity achieves its social, commercial development, and financial sustainability missions, and preserves the organisational identity and values (especially related to the commitment in preserving the *shari'ah* principles and values). On the other hand, the external accountability relates to examining the practice of the case entity to manifest accountability to the key upward and downward stakeholders. The corporatist waqf institution chosen as the case study entity is purposefully selected because of its uniqueness and potential to be information rich case. Hence, this study uses the case of one corporatist waqf institution in one state in Malaysia, that plays the role as the waqf administrator (*mutawalli*) on behalf of its parent entity – the SIRC (as the sole trustee for all waqf in the state). In Malaysia, there are currently three SIRC that have already established their own corporate entity as a separate entity to manage waqf on their behalf. The study carefully and purposefully selects one corporatist waqf institution out of the three corporatist waqf institutions that relatively have more autonomy in managing the waqf. This criterion is important due to the fact that the autonomy owned by the corporatist waqf (existing as a separate entity from the SIRC) potentially gives a salient effect on diverse institutional logics (particularly the corporate logic) in their accountability practices. The unit of analysis for the study is the corporatist waqf institution (organisation).

## **1.8 Structure of Thesis**

This thesis is organised into seven (7) chapters as follows:

Chapter 1 – Introduction: This chapter provides the research background, research problem, research objectives and research questions, significance of the study, key definitions, and scope of study.

Chapter 2 – Literature Review: This chapter explains the review of key conceptions being the subject matter of the study, which includes the concept of waqf and waqf management and the accountability in the organisational context. In addition, the review of related past studies is also presented in this chapter to determine the research gaps.

Chapter 3 – Theoretical Framework: This chapter discusses the key concepts and theories referred by the study. In the end of this chapter, the conceptual framework derived from the key concepts and theories chosen for the study are presented.

Chapter 4 – Research Methodology: This chapter provides the explanation on the underlying research philosophical position adopted by the study, research methodology that includes the discussion and justification on the strategy, design (case study), and research methods that had been used. Also, in the latter part of the chapter, the issue of rigor and trustworthiness and ethical considerations for the study are presented.

Chapter 5 – Case Findings: This chapter elaborates on the finding of the case study. It starts with the detailed background of the corporatist waqf institution and followed by descriptions on the internal and external accountability practices of the case entity.

Chapter 6 – Discussion: This chapter provides the discussion of the case findings in which the findings provided in the Chapter 5 are analysed and discussed

using the theoretical and conceptual framework of the study and connected to the relevant prior studies.

Chapter 7 – Conclusion: This chapter provides the conclusion for the study that highlights a brief recap of the research, also the theoretical and practical contributions. Finally, the chapter ends with the discussion on the limitations of study and suggestions for future research.

## **CHAPTER 2**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter presents the critical appraisal of the previous literature related to the phenomenon under inquiry, consisting of the review of literature on the topic of waqf and waqf management, and the topic of accountability in the organisational context. The first part of the chapter discusses the concept of waqf and waqf administration, as the understanding of these conceptions is fundamental to highlight the uniqueness and complexity of the waqf institutional setting – as an intriguing arena for studying accountability. Subsequently, the second part of the chapter presents the discussion on the accountability in the organisational context that include the synthesis of literature concerning the accountability in non-profit organisations, Islamic-based organisations, and specifically in the context of waqf institutions. Then, the research gaps that aim to be filled by the present study are presented and the chapter ends with a brief chapter summary.

#### **2.2 Understanding Waqf and Waqf Administration**

Waqf as one of the key instruments in the Islamic social finance has been subjected to tremendous development since the beginning of the 20<sup>th</sup> century. An enormous scholarly and non-scholarly discussions exist to revitalise the so-called “sleeping giant” that once thrived in Muslim society civilisations in the past (Cizakca, 2000). The revitalisation of waqf as witness in practice also reciprocates with the vast number of studies on waqf in diverse topics of interest among scholars, such as history and development of waqf, the legal and *shari’ah* aspect, and contribution of waqf to the socio-economic of society (Uluyol et al., 2021; Sukmana, 2020). Reviewing the



burgeoning literature on waqf over these key topics is almost impossible, hence, this section intends to provide a basic conception of waqf and its administration as the understanding on these two subject matters is the most relevant and central for the present study. Hence, this section is divided into two parts: the next subsection discusses the basic concept of waqf, and this is followed by the discussion on the concept of waqf administration.

### **2.2.1 Concept of Waqf**

The concept of waqf is a unique concept of charity proliferated by the Islamic teaching, although some argued that the origin contains some influence from the pre-Islamic civilisations (Cizacka, 2000; Kuran, 2001). The literal translation of the term waqf means “to hold” or “to keep”. Waqf is deemed a unique instrument of Islamic social finance due to its essential characteristics that form as a sustainable charity (Sadeq, 2002). The word of “waqf” is not specifically mentioned in Al-Quran and Al-Hadith, but the conception, recommendation, and practices - as interpreted by Islamic jurists - can be referred based on the following verse revealed in the Al- Quran:

Never will you attain the good (reward) until you spend (in the way of Allah) from that which you love. And whatever you spend - indeed, Allah is Knowing of it. (Ali –Imran: verse 92)<sup>4</sup>

According to the Tafsir ibn Kathir, the revelation of the *ayat* has motivated the companions of Prophet Muhammad (s.a.w) to spend on charity, including Umar Al-Khattab (r.a) who sought the Prophet’s (s.a.w) opinion regarding the charity he

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<sup>4</sup> All English translation of Quranic verses quoted in this thesis is following the Saheeh International (translation).

intended for his property in Khaibar. The hadith of Umar (r.a) and his property in Khaibar (in Madinah, Saudi Arabia) is among the prominent hadith to which reference has been made regarding the basic principles of waqf, recorded in the Sahih Muslim as follows:

Ibn Umar reported: Umar acquired a land at Khaibar. He came to Allah's Apostle (may peace be upon him) and sought his advice in regard to it. He said: Allah's Messenger, I have acquired land in Khaibar. I have never acquired property more valuable for me than this, so what do you command me to do with it? Thereupon he (Allah's Apostle) said: If you like, you may keep the corpus intact and give its produce as *Sadaqah*. So Umar gave it as Sadaqah declaring that property must not be sold or inherited or given away as gift. And Umar devoted it to the poor, to the nearest kin, and to the emancipation of slaves, aired in the way of Allah and guests. There is no sin for one, who administers it if he eats something from it in a reasonable manner, or if he feeds his friends and does not hoard up goods (for himself). He (the narrator) said: I narrated this hadith to Muhammad, but as I reached the (words) "without hoarding (for himself) out of it." he (Muhammad) said: "without storing the property with a view to becoming rich." Ibn 'Aun said: He who read this book (pertaining to Waqf) informed me that in it (the words are) "without storing the property with a view to becoming rich. (Translation of Sahih Muslim, Book 13 The Book of Bequests, Number 4006)

From the hadith, the core principles of waqf were gleaned, including the principle of inalienability, irrevocability, perpetuity, and the use of usufruct. Furthermore, another hadith that is also related to the concept of waqf refers to the following hadith recorded in Sahih Muslim:

When the human being dies, his deeds end except for three: on-going charity (waqf), beneficial knowledge, or a righteous child who prays for him. (Sahih Muslim, No.1631).

In the above hadith, there is the term of "*sadaqatul jaariah*" which means "on-going charity" that is understood by the Islamic scholars as waqf (Abdullah, 2020b). Hence, waqf differs from the normal charity known as *sadaqah* or *infaq* which does

not necessarily embody the continuity concept as obliged in the waqf concept. While the concept of *sadaqah* or *infaq* can be intended for consumption purpose, the concept of waqf concerns with the sustainability of the endowed asset to ensure that the continuity of the usufruct can be preserved. Thus, the purpose of waqf transcends that of normal charity as the key purpose of waqf is to attain closeness to Allah S.W. T by letting go of beloved property for continuous charity, and through pious deeds that endure long after the endower (founder) dies as mentioned from the verse of 92 surah Ali-Imran and the hadiths stated above.

The concept of waqf is a distinguished concept within the corpus of Islamic social finance that includes *zakah* and *sadaqah* or *infaq*, which can sometime create confusion especially pertaining to the superficial understanding of the word “*sadaqah* or *infaq*” that can also be referred to those three elements (Abdur-Rashid, 2020). *Zakah*, being one of the five Islamic pillars, is an obligatory charity upon Muslims who have met the necessary criteria of surplus wealth. On the other hand, waqf and *sadaqah* or *infaq*<sup>5</sup> are both voluntary charities. In terms the Islamic rulings (*fiqh*) that governs the entireties of these three Islamic charities, the ruling on *zakah* governed by a relatively clear ruling<sup>6</sup> especially in terms of the collection of *zakah* (*zakah* types and the criteria of those whom *zakah* is obligatory upon) and the distribution of *zakah* collection (must be received by only eight types of *zakah* receivers). The ordinary *sadaqah* or *infaq* on the other hand is not governed by a specific ruling as compared to *zakah*, which means the *sadaqah* or *infaq* is generally flexible in terms of the

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<sup>5</sup> Sadaqah or infaq that is voluntary in nature referred in this context excludes the specific category of *sadaqah* or *infaq* that is obligatory such as *mahr* (a gift or contribution paid by the husband-to-be to his wife-to-be).

<sup>6</sup> Clear ruling means having relative clear and direct guidelines based on the main source of Islamic traditions (e.g., Al-Quran and As-Sunnah).

collection and distribution as long as it is intended for good cause and not contradictory to the Islamic principles. Waqf, as compared to *zakah* and *sadaqah* or *infaq* sits in the middle, as the conception of waqf does not stand on a clear Islamic ruling like *zakah* but may be subjected to certain conditions that need to be fulfilled to enable a valid establishment of waqf (Abdullah, 2020b). These conditions (which will be explained further in the subsequent paragraphs) are unique to the waqf concept that makes it less flexible as compared to the ordinary *sadaqah* or *infaq*.

Furthermore, the modus operandi between these three Islamic social finance tools is generally different. *Zakah* mainly concerns the collection and disbursement of the collection within the year, which is specifically intended for the prescribed groups of receivers (known as *asnaf*) as stated in the Al-Quran. *Sadaqah* or *infaq* is generally flexible in terms of its function, unspecified receivers, which can also be intended for short term or long-term social welfare, and the assets donated can be directly distributed or even resold and disposed. Waqf, on the other hand, functions differently whereby the principle of endowed assets needs to be preserved and allowed for development to gain proceeds. Only the proceeds can be distributed to the intended beneficiaries and some portions need to be used to further reinvest to maintain and expand the assets as prescribed based on the Hadith of Umar (r.a) and the land of Khaibar as mentioned before. Figure 2.1 presents a conceptualisation of the general differences between the *zakah*, waqf, and ordinary *sadaqah* or *infaq* in the corpus of Islamic social finance. As shown in Figure 2.1, waqf has indeed contains some special characteristics that inadvertently tangle the management of waqf as not that relatively straightforward with clear ruling as in *zakah* management or flexible ruling in managing the *sadaqah* or *infaq*.

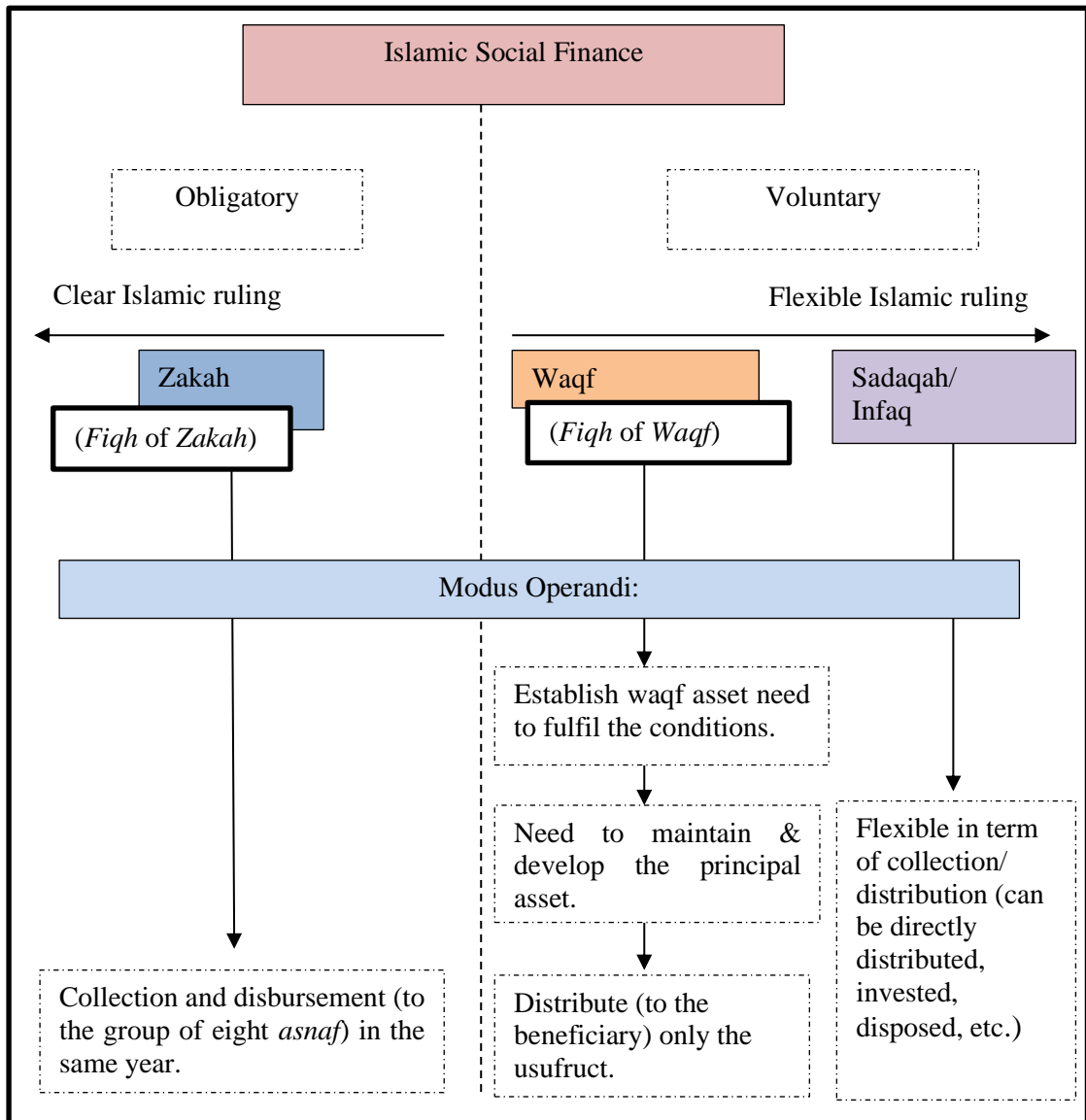


Figure 2.1 Differences Between *Zakah*, *Waqf*, and *Sadakah/Infaq*  
(Source: Author's elaboration)

Establishing waqf involves the fulfilment of four conditions or pillars, including the (1) endower (founder or *waqif*), (2) property (*mauquf*), (3) beneficiaries (*mauquf 'alaih*), and (4) waqf deeds (*sighah* or *waqfiyah*) (Al-Shirbini, 2015). Each condition or pillar consists of some technicalities discussed by Islamic jurists, such as the endower must be of those with valid legal capacity (hence, children or the insane cannot make a valid waqf), the property must be owned by the waqif, waqf deeds must

be established upon witnesses. In the waqf deeds, the waqif can state his or her intention and appoint administrator, hence, waqf administrator (known as *mutawalli*) needs to comply to the waqif intention stated in the deeds. The *mutawalli* can be the waqif himself<sup>7</sup> or herself or someone else. Further, according to Al-Shirbini (2015), if the waqif did not stipulate the administrator, the administration of waqf will be borne by the judge (*al-qadi*). Figure 2.2 depicts the arrangement of waqf as in general sense, which consists of four pillars and the *mutawalli* is bound to fulfil the waqf deed.

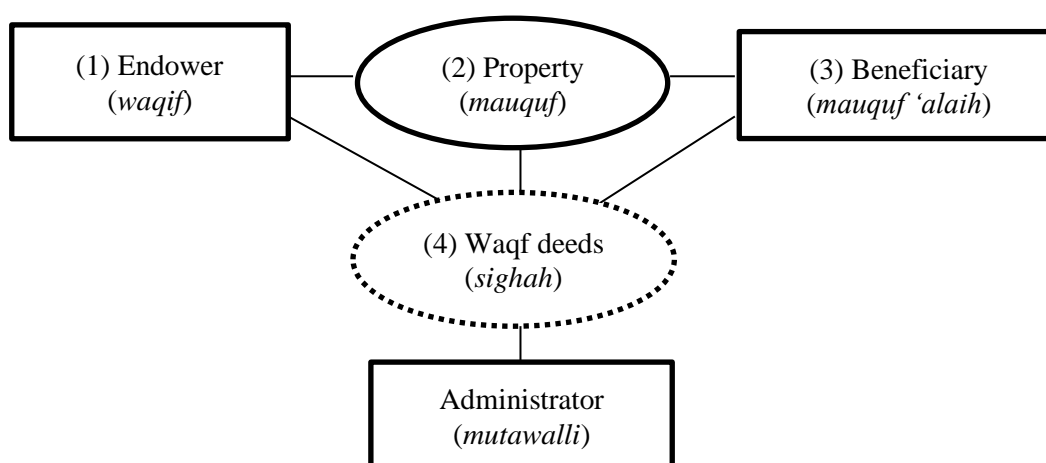


Figure 2.2 Waqf Arrangement  
(Source: Author's elaboration)

Since the origin and validity of waqf conception are not definitively derived from the main source of Islamic law (Al-Quran and As-Sunnah), the waqf principles essentially depend on the *ijtihad*<sup>8</sup> of Islamic jurists which can cause some disparity on

<sup>7</sup> For example, the waqf of Umar r.a in Khaibar (Madinah) was managed by himself and he subsequently appointed his daughter, Hafsa r.a as the administrator of the waqf (Al-Shirbini, 2015).

<sup>8</sup> *Ijtihad* is referring to the use of reason to derive legal ruling perform by qualified Islamic jurist (*fuqaha*).

the conditions that concern with instituting a valid waqf (Ghazali et al., 2019; Abdullah, 2020b). Some key contentious issues include:

- First, there are some debates concerning the ownership status of a waqf, which can generally be classified into three opinions (Abbasi, 2012; Al-Shirbini, 2015); (1) the ownership of waqf belongs to Allah S.W.T (the opinion of the majority), (2) the ownership of waqf is retained by the waqif, (3) the ownership of waqf belongs to the beneficiary as charity. The ownership status of a waqf then entails some implications on the principle of irrevocability, whereby, in the case of ownership of waqf said to belong to Allah S.W.T (*Shafi'e mazhab*), the waqif cannot revoke the waqf as the ownership of the waqf asset already fully surrendered by the waqif. Similarly for the third opinion, the waqf cannot be revoked as the ownership is transferred to the beneficiary (*Hanbali mazhab*). However, in the case of the ownership of waqf is still retained by the waqif (*Maliki* and *Hanafi mazhab*), waqif then can revoke the waqf at any time except for mosque (Abbasi, 2012; Azrai Azaimi Ambrose & Abdullah Asuhaimi, 2021).
- Second, debates are still ongoing regarding the perpetuity of waqf asset (Mohamad et al., 2006). Some jurists are of the opinion that waqf is only for the means of perpetuity (remains forever), hence no temporary waqf is recognized (*Shafi'e mazhab* and the majority of jurists of *Hanafi mazhab*). Hence, waqf is mainly attributed to the fixed assets that can have the characteristic of being perpetual. However, some other jurists opined that temporary waqf is permissible and assets other than fixed asset type (e.g., cash) can be made as waqf (*Maliki* and some jurists of *Hanafi mazhab*) (Azrai Azaimi Ambrose & Abdullah Asuhaimi, 2021).

Thus, the waqf can function differently depending on which *ijtihad* is applied and used by the ruler in each of its local settings. This represents to be among the reasons for practice variations concerning waqf that differ across the locality and the needs of the time (Dallal, 2004). For example, in the Malaysian context, the waqf falls under the state jurisdiction, hence, each state in Malaysia can have their own set of ruling applied for waqf (the aspect of waqf management in the Malaysian context will be detailed out in later subsections). Generally, all states in Malaysia hold on to the opinion of the majority of jurists regarding the principle of waqf ownership (i.e., waqf belong to Allah S.W.T), while other principles (like the recognition of temporary waqf and cash waqf) remain different across states in Malaysia (Azrai Azaimi Ambrose & Abdullah Asuhaimi, 2021; Sulaiman et al., 2019).

In terms of waqf classification, waqf can be generally divided into two types: (1) waqf *ahli* (sometimes termed as waqf *zurri*), which refers to the waqf property held for the benefit of the family of its owner until it is differentiated from its descendants; (2) waqf *khayri*, which refers to the dedication of waqf property for charitable purposes (Gaudiosi, 1988). In the Malaysian context, waqf *ahli or zurri* is assumed to be no longer involved in public practice (although still operated by some waqf institutions for old waqf *ahli or zurri*), as the regulatory framework of waqf currently encourages the establishment of waqf *khayri*, which brings greater benefit to the society at large (Ahmad Sanusi et al., 2023). Nonetheless, in some Muslim countries, the third type of waqf - a hybrid waqf which is the combination of waqf *ahli* and waqf *khayri* known as waqf *mushtarak* is also commonly practised (Mohamad, 2018). The arrangement of waqf *mushtarak* allows the waqf created to benefit the family of its owner and some other portions are dedicated to the public's charitable purposes.



Further, in regard to the waqf classification, waqf *khayri* can further be divided into two purposes: (1) religious purposes (e.g., mosques, graveyards, school for *huffaz*); (2) philanthropic or social purposes (enhancing general socio-economic welfare, including assistance to the poor and needy, education, health care, infrastructure). The classification of waqf *khayri* then can further be divided into two types that distinguish its nature of purposes, either as general purpose (known as waqf *am*) or specific purpose (known as waqf *khas*). The general purpose waqf is a category of waqf that can be developed into any type of project (permissible in Islam). Hence, the trustee has the discretion to determine the kind of suitable project that can be developed for waqf *am*. For instance, a piece of land created as waqf *am* can be developed into a religious school or mosques or business premises that will be rented out to generate economic income, as decided by the trustee who manages the waqf. On the other hand, the specific-purpose waqf is a category of waqf that can only be developed according to the intended purpose as stated by the waqif. Therefore, the trustee is obliged to fulfil the development of waqf *khas* strictly according to its intended purpose. For example, a piece of land created as waqf *khas* for mosques, can only be developed for mosques, as intended by the waqif.

The current development of the waqf sphere is witnessing the revitalisation of waqf to realign its potential to spur socio-economic growth in the society, following a degenerate period of mismanagement and the misconception of waqf as being solely for religious purposes, with many waqf assets remaining undeveloped (Abdullah, 2020a).