

## Financing Higher Education through Waqf in Pakistan: Issues and Challenges

*(Pembiayaan Institusi Pengajian Tinggi Menerusi Wakaf di Pakistan: Isu dan Cabaran)*

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### ABSTRACT

*This paper aims to study various issues waqf faces in general in Pakistan and probes in particular impediments and challenges to waqf funding in higher education. The paper formulates its arguments and results on the basis of information gleaned from twelve interviewees, archival records, documents and library sources. It looks at the subject matter from three different perspectives; government, waqf for higher educational institutions and general society. Waqf practice for higher education in Pakistan is largely restricted to private sector and is marred by various issues and challenges, including lack of legal framework and government support. Equally, lack of transparency and fears of centralisation have stifled its integrity and prospects for growth. Since society does not fully grasp waqf assets' eternal nature characterised by perpetuity, irrevocability and inalienability, most of the waqf assets fail to receive sustained support. These challenges can be overcome through proper planning, understanding, and awareness of waqf. Hence, it is the responsibility of the government to make laws and provide a feasible environment for waqf practice in higher education funding as a third sector.*

*Keywords: Waqf; higher education; third sector; issues and challenges; Pakistan*

### ABSTRAK

*Artikel ini bertujuan mengkaji isu-isu wakaf yang dihadapi secara umumnya di Pakistan dan seterusnya memfokuskan kepada halangan dan cabaran dalam pembiayaan wakaf di institusi pengajian tinggi. Artikel ini merumuskan hujah dan dapatan kajian berdasarkan maklumat yang diperolehi daripada dua belas informan, arkib, dokumen dan sumber perpustakaan. Kajian ini menumpukan kepada tiga perspektif yang berbeza; pihak kerajaan, peranan wakaf sebagai sumber pembiayaan untuk institusi pengajian tinggi dan masyarakat awam. Sebahagian besar amalan wakaf untuk institusi pengajian tinggi di Pakistan terhad kepada sektor swasta dan dibelenggu dengan pelbagai isu dan cabaran, termasuklah ketiadaan kerangka perundangan dan sokongan kerajaan. Malahan, ketiadaan ketelusan dan kebimbangan tentang pemusatan (sentralisasi) telah menyekat integriti dan prospek pembangunan wakaf. Memandangkan masyarakat masih tidak memahami sepenuhnya konsep harta wakaf yang bersifat kekal, tidak boleh ditarik balik atau dibatalkan serta tidak boleh dipindah milik maka kebanyakan aset wakaf gagal mendapat sokongan secara berterusan. Cabaran ini boleh diatasi melalui strategi perancangan yang tepat, pemahaman serta kesedaran tentang konsep wakaf. Oleh itu, ia menjadi tanggungjawab pihak kerajaan untuk menggubal undang-undang dan menyediakan persekitaran yang kondusif untuk amalan wakaf dalam pembiayaan institusi pengajian tinggi sebagai sektor ketiga.*

*Kata kunci: Wakaf; pengajian tinggi; sektor ketiga; isu dan cabaran; Pakistan*

### INTRODUCTION

Worldwide demand for higher education is on a steady rise, with the result that in many countries, the rate of expansion of higher education has exceeded the rate of expansion of their national economies (Lebeau 2012). The expansion in turn has put pressure on human resource facilities and infrastructure because the rise in enrolment does not necessarily mean a matching hike in educational budgets (Ahmad 2012). There are, hence, fears financial constraints and fiscal deficit faced by many least developed nations may hamper educational development (Marshall 2018, Michael 1996, Wangenge-Ouma 2010), which may further be scuttled by exponential growth in youth population and resultant gap between demand

and supply for higher education. The governments and institutions mostly respond to the problem by adopting a policy of simple cuts in institutional budgets (Marshall 2018, Ahmad 2012, Johnstone 2018) apart from calling upon students and parents to share costs. However, a considerable number of Higher Educational Institutions (HEIs) around the world have turned to waqf or endowments to sustain their services (Mahamood et al. 2018, Mahamood & Rahman 2015).

Waqf (plural: awqaf) is an inalienable endowment for an indefinite period destined for enabling welfare activities in Muslim communities, extending economic support to individuals and institutions (Islām 2018). For this reason, waqf has defrayed public expenses and assisted societies through funding mosques, homes,

orphanages, bakeries, mills, graveyards, warehouses, hospitals, schools and educational institutions (Monzer Kahf 1999, Mahamood & Kahf 2011, Kahf 2004, Mahamood 2006). The awqaf endowed by their founders, regardless of whether they were laymen or highly-placed functionaries, largely benefited educational institutions. Subsequently, a considerable number of waqf and endowment-based universities have been established and have been continuously maintaining academic activities (Mahamood et al. 2018, Mahamood & Rahman 2015). Endowing waqf has been a common practice in Muslim communities. Initially, waqf funded religious schools and educational centers established within the vicinity of the mosques. Over time, libraries and students' lodging facilities were also added to the schools. Some of the waqf institutions later evolved into HEIs like colleges and universities (Kamali 2011). The University of al-Qarawiyyin 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 HEIs (Raissouni 2001). Similarly, in Egypt, world renowned Al-Azhar University is one of the best examples which has been using waqf to finance educational activities since its inception (Çizakça 2000; Kamali 2011; Mahamood & Rahman 2015). The contribution of waqf to higher education is largely claimed to have influenced creation of some

of the greatest educational institutions, such as Merton College at Oxford University and Harvard University (Mahamood & Ab Rahman 2015; Usman & Ab Rahman 2020). At present, in many universities, a significant portion of their operating budget is funded through an endowment fund (See Table.1) (National Association of College and University Business Officers 2021).

As globalisation ushers in an era of unprecedented development, growth and revolution in higher education sector, it creates some new issues and challenges for waqf institutions worldwide. As a case study, this paper probes the challenges to waqf development in funding HEIs in Pakistan. Most of the awqaf for higher education are run and managed by private waqf entities in Pakistan in the absence of adequate government support and consistent policies with regard to waqf. On their part, most waqf institutions have not yet incorporated themselves nor society has realized yet the importance of waqf in social funding (Usman & Ab Rahman 2020). Therefore, the paper initially discusses relevant literature on funding higher education and waqf. Secondly, it describes methods and data collection in this research and thirdly, it discusses findings; issues and challenges within the purview of 1) government, 2) waqf for HEIs and 3) general society. The last section concludes the study with policy implications.

TABLE 1. The American and Canadian Institutions' endowment funds as stood in fiscal year 2020 (FY20) endowment market value and change\* in endowment market value from FY20 to FY21

Rank	Institution	FY20 Endowment Funds (\$000s)	FY19 Endowment Funds (\$000)
1	Harvard University	40,575,027	39,427,896
2	University of Texas System	31,958,313	30,958,239
3	Yale University	31,201,700	30,314,800
4	Stanford University	28,948,000	27,699,834
5	Trustees of Princeton University	26,558,643	26,116,022
6	Massachusetts Institute of Technology	18,495,905	17,569,328
7	Trustees of the University of Pennsylvania	14,877,363	14,649,762
8	The Texas A and M University System and Related Foundation	13,594,482	13,514,528
9	University of Michigan	12,476,874	12,448,817
10	Regents of the University of California	12,141,762	11,797,543
11	University of Notre Dame	11,962,820	11,268,365
12	The Trustees of Columbia University	11,257,021	10,950,738
13	Northwestern University	10,926,510	11,091,516
14	Duke University	8,474,071	8,609,004
15	Washington University	8,420,497	7,953,986
16	The University of Chicago	8,204,461	8,263,868
17	Emory University	7,936,988	7,872,381
18	University of Virginia	7,255,701	7,058,235
19	Cornell University	7,218,688	7,328,241
20	Vanderbilt University	6,917,371	6,270,877

Source: NACUBO<sup>1</sup> and TIAA<sup>2</sup>, 2021 NACUBO-TIAA Study of Endowments 2021.

\*1 NACUBO. \*2 Teachers Insurance and Annuity Association of America (TIAA)

## LITERATURE REVIEW

HEIs play a decisive role in a nation's political and material progress. It is, therefore, inevitable to ensure the HEIs continue to function in a smooth and efficient manner. There are various factors that contribute to HEIs development and perhaps the most important among them is constant flow of funds. It has become even more essential these days when most national economies face recession and budget deficits, ultimately leading to massive cuts in funds for HEIs (Usman & Ab Rahman 2020). The issue of financing higher education has always been associated with the question "who should pay for the higher education?" Its answer is provided variously by the Individual Benefit Theory (IBT) and the Societal Benefit Theory (SBT) in lengthy discourses (Leslie & Ramey 1988; Leslie 1972).

The IBT states that individual students are real beneficiaries of higher education. There are greater prospects for HEIs graduates compared to non-graduates in taking advantage of employment opportunities and achieving a better standard of living. Therefore, individual students should pay full cost of higher education under Milton Friedman's concept of free-market economy in which a consumer has to pay all the expenses of goods and services (Friedman 2009). The SBT postulates the entire society as the real beneficiary and as such enjoins upon the society to support financial burden of higher education. HEIs graduates are raised to become more liberal, critical, productive, and socially responsible individuals. Hence, they are believed to contribute immensely towards a developed and civilised society that embraces social mobility. Compared with non-graduates, HEIs graduates receive welfare aid and unemployment compensation less frequently. The SBT concludes that benefit for higher education is essentially a social benefit, thereby, the society should provide major support for higher education through public funding.

Apart from the IBT model that makes every individual responsible to bear cost of his/her higher education and the SBT that puts the onus on society, there is another model proposed by Johnstone (1986; 2018) that can be considered as a combination of both the benefit theories. His model makes both the individual and the society equally responsible for bearing cost of higher education. He suggests that the cost of higher education should be shared by all four participants; students, parents, endowment, and state. As individuals, students and parents can bear part of the burden in the form of fee for higher education, whereas as institutions, state and endowment will have to bear the rest through public exchequer and endowment fund, which is a great source of social funding in societies. An endowment is instituted as a waqf which has characteristics similar to an endowment (Mahamood et al. 2018; Mahamood & Rahman 2015; Borgolte & Lohse 2009).

Waqf as a religious commitment to free one's ownership of wealth and designate it to specific

beneficiaries and purposes, the waqf carries better value proposition as a source of funding to HEIs' financial development (Çizakça 1998, 2000). Waqf is an act of charity in Allah's name, which is highly encouraged in religion and its inherent quality of perpetuity promises a secure flow of rewards for the donor in the hereafter. A Quranic verse echoes this encouragement.

*"None of you [believers] will attain true [piety] unless you give out of what you cherish: whatever you give, Allah knows about it very well" (3:92)*

In the same manner, many a hadith also urge believers to spend generously while keeping within their resources in the name of Allah and practice waqf. A famous hadith narrated in Sahih Muslim exemplifies it thus. The Prophet Muhammad, peace be upon him, was reported to have said:

*"When the son of Adam dies, all his good deeds come to an end except three: ongoing charity, knowledge from which others may benefit after he is gone, and a righteous son who will pray for him".*

Another well-known authentic hadith as narrated by Muslim depicts a clearer picture of waqf's position in Islamic culture. Ibn Umar reported that Umar (Radhi Allahu 'anhu (RA)) acquired land in Khybar. He came to the Prophet (may peace be upon him) and sought his advice in regard to it. He said: "O! Allah's Prophet, I have acquired land in Khyber. I have never had property more valuable than this. So what do you advise me to do with it? Thereupon, He (Allah's Apostle) said: "If you like, you may keep the corpus intact and give away its produce as sadaqah. So Umar gave it as sadaqa declaring that the property must not be sold or inherited or given away as a gift. And Umar devoted it to the poor, to the nearest of kin, and to the emancipation of slaves, to wayfarers, in the way of Allah and guests. There is no sin for one who administers the waqf if he eats something from its proceeds in a fair and reasonable manner or if he feeds his friends and does not hoard up goods.

This tradition lays down broad principles for waqf and links it with holding properties and distributing income among preordained beneficiaries. This income is not restricted to charitable or specific beneficiaries like those of zakat as a waqf donor (waqif) may also be a beneficiary himself unlike the giver of a typical sadaqah (Sadeq 2002). Waqf itself may have different forms, such as waqf *aaili* (familial), waqf *khas* (specific) and waqf *aam* (general). In the family waqf, income is reserved for specifically defined individuals, usually relatives and family members of the donor. Waqf *khas*, as the name suggests is restricted to specific purposes while waqf *aam* may be designated for general purposes (Sabit 2009; Rahman 2009; Mahamood & Rahman 2015). The waqf has thus an extremely important role in Muslim society's development. Throughout history, innumerable enduring

awqaf have been able to satisfy spiritual and temporal aspirations of the Muslim community by directing resources to helping religious institutions function in a sustained manner (Mahamood & Ab Rahman 2014). Waqifs (donors) have always preferred their awqaf to be used for the construction of mosques and educational institutions as they represent more explicit symbols of *ibadah* and make one feel spiritually closer to Allah. In fact, it is only this element of *qurbah* with which a waqf founder can hope for an enduring reward from Allah (Gaudiosi 1988). Hence, a considerable number of waqf and endowment-based universities have been established which have been continuously providing academic and professional programmes and activities, particularly their welfare services (Mahamood & Rahman 2015; Hasbullah & Rahman 2021). Al-Azhar University, which serves as the most vibrant and successful example of a waqf educational institution, continues to function to this day since its establishment during the Mamluk Sultanate (1249-1260 CE). The university offers free education to all local and international students, besides accommodation, stipends, allowances and salaries for academic and non-academic staff. The university went a step further when it gave Malaysian students free air tickets to return to their country on completion of graduation. The tremendous role the waqf played in national economy was proven when Egyptian government became completely reliant on its awqaf as micro-credit support in times of need for the survival of the state in previous years (Mahamood 2006).

There are many other examples of the universities benefitting from waqf assets like the University of Al-Qurawiyyin in Fez, Morocco, the University of Al-Muntasiriyyah in Iraq and the University of Cordova in Spain. Some of the institutions are still in existence and disseminating higher Islamic education in the world. Turkey at present leads all countries with 68 waqf-funded universities, which continue to multiply (Asni et al. 2020), while Malaysia spearheads the world in diversifying waqf practice for HEIs. The country has numerous public universities (PUs), which have evolved through the years a comprehensive mechanism for waqf raising through traditional and modern technologies (Mahamood & Rahman 2015). The King Abdul Aziz University in UAE, the Islamic University of Indonesia and Hamdard University in Pakistan also afford unique examples of waqf-based universities (Usman & Ab Rahman 2020). There are few studies proposed waqf models for instance integrated waqf model, hybrid waqf model, cooperative waqf model and cash waqf model (Kachkar 2017; Pitchay et al. 2018; Duasa & Thaker 2017; Aziz et al. 2013, Bakar et al. 2019; Anuar et al. 2019). These models are purely waqf models or integrated with other types of charities. However, the strength of the waqf lies in religious motives, which inspire donors as well as managers of a waqf to safeguard and maintain the assets once declared as waqf (Makdisi 1981).

## RESEARCH METHODOLOGY

This paper bases its arguments and results on views of 12 interviewees, who are subdivided into three categories; 1) waqf mutawallis, 2) practitioners and legal experts (Shariah and legal experts) and 3) personnel of the Ministry of Awqaf and regulatory authorities). They have been coded as Key Informant (KI) and categorised as; KI1 to KI3 (Mutawallis), KI4 to KI10 (practitioners and legal expert), KI11 and KI12 (personnel of the Ministry of Awqaf and Securities and Exchange Commission of Pakistan) (See Appendix. A).

Open-ended interviews were conducted from July to October 2016 to acquire data and information on the question under review from the participants (See Appendix. B). All interviews were conducted face to face after having sought approval and consent from the participants and recorded on digital recorder Sony ICD-PX440 to ensure accuracy in transcription, coding, and data analysis. The accuracy of data and information was further ensured through member checking, archival records, documents, and library sources.

As the study found during field work that public waqf does not have any significant contribution to higher education in Pakistan; therefore this paper focusses on private awqaf only. Using purposive sampling, only those awqaf for HEIs have been selected which have been registered as a waqf institution, including Hamdard Laboratories Waqf Pakistan, Begum Aisha Bawany Educational and Welfare Waqf and Darul Tasnif (private) Limited (See Appendix. A).

Under the interpretive research paradigm, this paper uses thematic data analysis to point out occurrence and emergence of patterns in data sources (Creswell 2012). The entire methodology used in this paper has been adopted from a similar study by Mahamood and Ab Rahman (2015).

## FINDINGS AND DISCUSSION

The paper has come up with a number of findings about waqf vis-à-vis 1) government, 2) waqf for higher educational institutions, and 3) general society. The findings have mostly been gleaned from the views of 12 waqf experts (See Appendix. B), which are as follows:

### GOVERNMENT

*Lack of Incorporation and Legal Framework* The country's existing legal framework for waqf is not clear and comprehensive. The ministries of religious affairs at federal and provincial levels formed after independence in 1947 took over all old mosques, shrines, religious places and charitable organisations along with all such awqaf whose founders or nominated patrons had died, provided that they were not family awqaf. As mentioned by KI8;



*The miniseries were not only managing waqf's affairs but were also looking after their upkeep and maintenance.*

In addition to thousands of mosques and shrines, the awqaf department is also taking care of many charitable, religious and welfare organisations, which include ulama academy, hospices set up at several shrines and libraries but no HEI. In this regard, KI7 had this to say;

*To date, the ministry of awqaf has not involved itself in any university development program. However, it does support a few madaris (religious schools) since 2001 under Pakistan Madrassah Education Board.*

The department's annual budget runs into millions of Pakistani rupees but it fails to play any significant role in the provision and funding of higher education in the country. In private sector, non-profit organisations have many diverse forms. They include traditional waqf institutions, similar to non-governmental organisations (NGOs), and community-based organisations, which usually work as societies or voluntary welfare institutions, mostly outside the purview of the ministries of religious affairs. As a result, a large number of waqf or welfare institutions prefer to remain unregistered and are treated as non-profit organisation (NPO) by the government. KI8 says;

*According to shariah, it is not necessary to give a particular legal name to a waqf. What is more important is that it should have all the characteristics of a waqf regardless of the name given to a charity, help, trust, or society, etc.*

According to official statistics, 65.4 per cent of the waqf and charity institutions are registered under the Societies Registration Act, 14.6 per cent are registered as divergent whereas the remaining 20 per cent are unregistered (Vardag 2012). KI9 points out that apart from the Societies Act, there are a couple of other legal options for registration of waqf in Pakistan, such as Trust Act 1982, or Section 42 of Companies' Act 1984 of the Securities and Exchange Commission of Pakistan (SECP).

The SECP is a regulatory agency whose objective is to develop an efficient corporate sector. KI8 says that formally, the NPOs including awqaf, are also registered with the SECP. KI10 says there is no specific regulatory body dedicated to overseeing and regulating private waqf institutions in the country. Therefore, most of the private awqaf are not incorporated. He proposed that;

*In keeping with the spirit of an Islamic waqf, a suitable and comprehensive law should be enacted to provide for the registration of the awqaf.*

Under the obtaining laws, private waqf institutions are registered under Societies Act 1860, Trust Act

1862 and Section 42 of Companies Ordinance 1984. In Pakistan, waqf or trust institutions are considered to be akin to not-for-profit organisations that include traditional waqf institutions as well as NGOs. Research found that religious scholars have suggested a number of steps to resolve the many issues 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 proposed by KI10;

*I have made a humble attempt to compile waqf laws. The draft of my proposal is ready and now being reviewed by Mufti Taqi Usmani. We will present the 'draft' to the government if it wants to formulate a comprehensive law on waqf.*

The proposed draft comprises 15-20 pages with various 'clauses', 'acts', 'sections' etc. It addresses questions like:

*What are pre-conditions for a waqf? What should be characteristics of a waqf property? What should be auxiliaries of the purpose of waqf? Who can be assigned the responsibility of mutawalli for a waqf? etc.*

As the draft is still in its gestation and it may take fairly long time to turn into a law due to labyrinthine legislation process, waqf institutions continue to be registered as trust, company, foundation or society in Pakistan on the pattern of western countries. It is evident, the country's colonial-era model for endowments, like the rest of South Asian countries, does not support waqf (Jalil 2020; Ahmad & Karim 2019; Qasmi Mohd Owais 2019 ).

**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 concessions in the tax. In this regard, KI4 specify that 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 waqf property, capital gains, business activities and payment of bills for utilities.

In earlier days, waqf institutions enjoyed tax exemption on overall income and expenses but in 2001 and 2005 the government gradually cut down on exemptions. KI3 says that waqf institutions now pay all kinds of taxes on utilities at the same rate as commercial entities do. Hence, a tax rebate is offered only on donations, though it should cover overall income and expenses of a waqf institution i.e. utilities, real assets and business activities, etc. The findings of this study can be applied to all the muslims countries with situation vis-a-vis waqf identical to Pakistan's that lacked proper legislation and taxation policy for waqf institutions (Usman & Ab Rahman 2021; Jalil 2020,; Ahmad & Karim 2019; Qasmi Mohd Owais 2019; Mahamood et al. 2018).

*High Certification Fee* It is a prerequisite for a charity institution, including waqf to apply to the Pakistan Centre for Philanthropy (PCP) for the issuance of a certificate. It is the only body authorised by the Federal Board of Revenue (FBR) to certify NPOs, including all charity and private waqf institutions. 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 Rs10 million annual budget, was asked to pay Rs0.5 million as certification fee, which was indeed a huge amount for a waqf to pay. KI3 remarks:

*“Our managing director Hamid Jaffer said in response to PCP’s demand for fee that donors want their donations to be spent on welfare and humanitarian causes and not to be squandered away on cosmetic measures like payment of fees. So, we prefer not to register with PCP.”*

The exorbitant fee has become an impediment to the registration of waqf institutions with the PCP as it discourages the awqaf which are already facing financial constraints. The government, therefore, needs to introduce reforms and put in place a legal framework to help create a conducive environment for the development of waqf institutions (Usman & Ab Rahman 2021; Jalil 2020; Ahmad & Karim 2019).

#### *Lack of Mutual Cooperation among Public Institutions*

Proactive mutual cooperation among government institutions is extremely important for the development of waqf. The world moved from the Industrial Age to the Information Age several decades ago but the country’s public institutions are still struggling to keep pace with ever-changing information technologies and lag far behind many countries in the third world in this respect. Information has to be transferred from one institution to the other manually while public officers are traditionally uncooperative towards waqf institutions. According to laid down procedure, as KI6 describes, if a private waqf institution is to be created it has to first get registered with the 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 the SECP a waqf institution or charity foundation will not be able to get certification from PCP without which the FBR will not allow tax exemption to the institution (Usman & Ab Rahman 2021).

*Inconsistent Policies* So far the government has failed to formulate effective laws for awqaf protection and management. A proper waqf regulatory framework is a prerequisite for the promotion of awqaf (Hamdard Foundation Pakistan 1988). KI8 contends;

*There is vast government waqf property around shrines, which has been left solely at the disposal of private*

*custodians. The awqaf department has no program to use the shrines for public welfare works because of lack of relevant legislation. Pakistan, therefore, needs to revamp outdated waqf law. For example, if one wants to get his or her property declared as a waqf, there is no legal procedure to get done. We follow an informal route to help prospective philanthropists establish awqaf.*

Public institutions in Pakistan are not generally seen as viable. Sometimes, a government takes action against private awqaf properties and take them into custody as had happened in 1970s when the government nationalised all private institutions, including the waqf ones. It created mistrust in the government and since then awqaf institutions avoid possessing huge properties and those which possessed large properties have to live in fear of occupation by any government at any moment.

KI8 reveals that several cases for reclaiming waqf property are still in courts and have not been settled yet. The nationalisation policy proved self-destructive as it discouraged private sector’s contribution to the country’s development. KI4 believed it was part of a programme to lay the foundation for socialist economics in the country in 1972.

KI11 informed that some waqf institutions are still in government’s control. The United Nations (UN) and International Monetary Fund (IMF) had strongly opposed the nationalisation policy and recommended openness and liberalisation (Banya & Elu 2001) in the economy. However, KI11 states, later the government revised the policy and returned some awqaf 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. As a result, apparently, most awqaf entities avoid using the terms “Awqaf” or “waqf” for their institutions and try to get registered as a private company, foundation, trust or society as pointed out earlier.

Being a legal entity, a waqf institution has to work within the legal framework of the country and abide by all relevant rules and regulations. So, when a waqf institution has to collaborate with public institutions where corruption is rife, it impacts their transparency, impedes sustainable development activities and encourages favouritism, patronage of delinquent workers, etc. KI2 says;

*‘Backdoor policy’ (bribe culture) is rife in government hierarchy. Government departments take bribes to get any legal or illegal job done and you have to pay it to keep the ball rolling.*

The corruption culture has become so entrenched in the country, says KI2, that if one refuses to pay the bribe his file will be consigned to dustbin and will never find its way back to its owner until he is compelled to pay the price (Usman & Ab Rahman 2021; Mohammad 2018).

## HIGHER EDUCATIONAL WAQF INSTITUTIONS

*Lack of Proper Audit* Waqf institutions have a loose system with little documentation. The practice of record keeping and maintenance of accounts is not very common. A reputable 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 (Keating 2017). Likewise, performance reports are submitted to regulatory bodies to maintain financial integrity. KI3 says;

*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 27<sup>th</sup> of Ramadan each year, which helps promote our causes.*

However, the practice of maintaining financial integrity is not very common because most of the waqf institutions function in a traditional and informal manner (Kader & Mohamad 2019).

*Lack of Transparency and Credibility* When it comes to attracting local and international donors, institutional credibility and transparency becomes a crucial factor. Normally, donors prefer to see the performance of the waqf institution concerned rather than listening to their fundraiser (Nerg & Stuckenschneider 2014). When a donor observes institutional transparency and credibility he/she will be convinced to lend a helping hand to the waqf institution in its noble cause (Sarea 2020).

A waqf institution can augment its credibility and transparency by registering itself with regulatory bodies and submitting periodic reports. However, regrettably this practice is not common in Pakistan where most waqf institutions are not registered. KI10 says since a waqf requires perpetuity, irrevocability and permanency, it should register itself under Section 42 of the Companies Ordinance, 1984, which ensures financial and administrative autonomy, sustainability and perpetuity. Hence, waqf as an institution of Islamic social finance needs specific regulations and management to avoid risks of inefficiency and management (Kader & Mohamad 2019).

*Misperceptions about IFIs* The Islamic financial institutions (IFIs) can perform a highly important role in waqf management as they have requisite potential to help capital market and the IFIs themselves. Unfortunately, only 10 per cent people in Pakistan use banks for financial transactions and only 1 per cent of the population is taxpayer, hence, KI10 says, a large portion of the economy remains informal. The IFIs, therefore, are not able to make enough contribution to financial sector. Especially, since the Islamic capital

market has not yet garnered people's confidence as *shariah* compliant and IFI mostly invests in T-bill (Government's Treasury bill), some people believe it has no real productivity. Misperceptions abound about IFIs not being fully *shariah* compliant. Most people see IFIs as similar to conventional financial systems. Therefore, they try to avoid investing in them. One stark example of this trend is Aisha Bawany waqf. During an interview with KI4, the study found that the board of trustees of the waqf did not consider IFIs to be completely *shariah* compliant banks. Despite all this, IFIs are still steadily growing and there is hope they will have a greater role to play in waqf management in near future (Bulut & Korkut 2017).

*Lack of Diversity in Waqf Management* Waqf institutions invest in real estate as their boards of trustees/mutawallies/governors approve of putting money only in safe and risk-free sectors. Some waqf institutions use the most conservative form of investment and avoid diversification to assets management. KI9 proposes that IFIs should play a major 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. Besides, awqaf sources and donations are so limited that sometimes the waqf institutions do not have enough funds to even meet operating expenses. Faced with funds shortage, HEIs need to be armed with prudent fund management and fundraising strategies to attract maximum donor contribution (Usman & Ab Rahman 2021).

*Lack of Infrastructural Development* Infrastructural development is a basic requirement for innovation but waqf institutions enjoy little room to do that as they can barely meet their operational expenses due to lack of a delivery arm of waqf fund. KI10 contends;

*Traditionally, it is observed that waqf provides for infrastructural development of welfare sector, and thereby zakat is used for operating expenses.*

This phenomenon is highly instructive for the development of a waqf institution. In addition, viable infrastructure and conducive environment are essential for research and development, the two main objectives of higher education. The waqf institutions have to adopt new and innovative techniques and technologies to attract maximum number of donors and increase 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 alternate income sources (Zavale & Macamo 2016).

1. *Develop Academia-Industry linkages:* In addition to teaching and research, awqaf for HEIs are increasingly seen getting involved with society and engaging in business and industry through



- their contribution to science and technology. These days, universities are also supposed to be engaging in activities and attaining achievements as their “third mission” through academia-industry linkages (Tijssen et al. 2016). The phenomenon accounted significantly for higher education renaissance thanks to trends of expansion, privatisation and emergence of new funding channels (Zavale & Macamo 2016).
2. *Capturing Corporate Social Responsibility Fund:* In today’s world, corporate social responsibility (CSR) funds of businesses and industries can be one of the major sources of donations for waqf institutions (Farhat, F and Danish A). Likewise, charity by business tycoons can be tapped into. Business owners’ individual zakat can be an additional source for HEIs income (Kumari 2016).
  3. *Charitable Co-Branding or Cause Marketing:* A waqf institution is considered to be an NPO for mutual social benefits. Normally, the term ‘cause marketing’ is used for marketing effort for social and other charitable causes. It tends to display a charitable side of a company through donation and fundraising (Kumari 2016). Therefore, managers face increasing pressure to engage their firms in socially responsible behaviours such as; cause marketing (Peasley et al. 2017).
  4. *Public-Private Partnership:* It is a modern mantra in the development strategies in many developed and developing countries. In education, it can help overcome shortage of funds for infrastructural development. It is a form of collaboration between government and private sector in which the private sector’s skill and management expertise is employed in actualising infrastructural development projects. Many governments across the globe are now seeking to tap the private sector’s expertise and capital to minimize their infrastructural deficit. Higher Education Commission (HEC) of Pakistan also supports the public-private partnership through Rs20 million funding (Waseem 2017).
  5. *ORIC, Business Incubation, Product Commercialisation Centre:* The Office of Research, Innovation and Commercialisation (ORIC) is a relatively new concept based on innovative entrepreneurship and commercialisation. Nowadays, universities try to commercialise their innovations in technology in order to help raise funds for higher learning institutions. Hamdard University affords an appropriate example where waqf laboratories’ research, innovation and commercialisation contribute to the university’s funds. At present, the contribution of technology innovation is small but with passage of time, it is bound to increase. KI12 states;

*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 and 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 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.*

Moreover, the university can provide testing services for soil, water, chemicals and blood etc. to help it earn much-needed income and enrich students’ pragmatic knowledge. The university-industry liaison can generate various scholarships as well but it requires a dedicated team with liberty to work to make it possible (Waseem 2017).

#### *Lack of Research and Development (Rand D)*

The research and development “activities throughout the world have long been recognised as one of the critical components to improve a country’s productivity and competitiveness as well as people’s wellbeing (Albert et al. 2016). Hence, waqf institutions should focus on sustainable development which is dependent on infrastructural development and conducive environment to help in research and development. KI11 argues that 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 (Albert et al. 2016).

*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 government to an originator or an assignee. Most of the HEIs have no pre-set solid guidelines in this regard. Copyright and patent are rarely registered by universities. Sometimes copyrights and patents are registered but not effectively followed by the scientist concerned because he often does not obey relevant laws and sell his innovation for personal income or gain without involving the university.

During the interview, KI2 discloses that sometimes a university registers a project or patent after paying a huge amount as fee but the scientist concerned does not honour copyrights. Subsequently, product marketing and commercialisation is also not very efficient and the scientist sells his product and innovation without giving any benefits to the university concerned which provides him a platform to work on his research project.

In this regard, Hamdard has a very effective policy for patents and copyrights. KI4 says the university allows 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 significance of an effective policy to preserve and maintain their copyrights and patents and efficient product marketing and commercialisation. The universities have started concentrating on these issues by specialising and creating divisions for instant waqf-raising and management (Usman & Ab Rahman 2020; Mahamood et al. 2018; Mahamood & Rahman 2015).

*Lack of Specialisation in Human Resources* Lack of specialisation and limited staff pose another challenge to waqf institutions. The study found that in terms of waqf-raising, management and development, they did not have required human capital to perform a given job in an efficient manner. KI9 admits that lack of human resource goes against waqf institutions because people tend to help and donate well-organised and credible institutions. Further, the study discovered lack of liaison between society and waqf for HEIs (Azami 2010). KI12 proposes that universities need to have specialised divisions for waqf-raising, management and income utilisation. The waqf-raising division should be responsible for collecting donations from individuals and organisations and local and international donor agencies with the help of various modern fund-raising methods and strategies. In this regard, personal and cordial relationship with a donor is essential. The management division should make the best possible prudent investment strategies for future income and the utilisation division should be specialised in the distribution of waqf income and other non-waqf collected fund, which should be allocated for feasible areas of development or deserving student's scholarships as discussed by (Usman & Ab Rahman 2020).

#### SOCIETY

*Lack of Awareness in Society* Although waqf in Pakistan is as old as Islam itself in South Asia (Zubair 2019; Jalil 2018; Mahamood et al. 2018) Muslims at large have little awareness about its significance in society and less still about its role in subsidising public goods, including higher education (Mahamood et al. 2018). On the other hand, there is a common misperception that waqf is the responsibility of Muslims only. Though, waqf may also be donated by non-Muslims. KI9 contends it is commonly believed that waqf is or should be confined to a masjid or madrassah and there is little if any realisation about its potential for bringing about positive change in society and catering to every aspect of our life. KI9 further says that people believe that zakat is the only best tool to help the needy and reduce gap between the poor and the rich. Since they fail to grasp eternal nature of a waqf institution characterised by perpetuity, irrevocability, and inalienability, most waqf assets fail to get the sustained support they deserve from general public as well as potential donors (Mahamood et al. 2018).

*Lack of Public Trust in Government* Though it is one of the fundamental responsibilities of a government to engage in public welfare works and the rich citizens are supposed to augment its efforts with their donations but rampant corruption in government departments has badly eroded government's credibility in public's eyes and they avoid donating waqf, zakat and other kinds of donations to the government (Masood & Lodhi 2015).

*Misunderstandings about Shariah* Misunderstandings about waqf institutions abound in society. Among these, the concept of perpetuity in waqf is generally misunderstood. The perpetuity of a property 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*. It follows from the above discussion that 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 as a collateral as it is against Islamic laws. It means whenever the management likes to seek any financing for a project such as the establishment of an academic department etc.; it cannot use the waqf properties as a collateral to obtain loan from banks. Majority of Muslim jurists agree that waqf must be perpetual once it is created (Mahamood et al. 2018).

#### POLICY IMPLICATIONS AND CONCLUSION

This paper discussed issues and challenges confronting waqf for HEIs in Pakistan within the purview of 1) government, 2) waqf for HEIs and 3) general society. Awqaf are not incorporated due to lack of relevant legal framework and, therefore, waqf institutions are registered in divergent forms and get minimal tax exemptions. Transparency, accountability and diversity in waqf management are cornerstones of a viable waqf but myths abound in society about the concept of waqf, which needs to be cleared. In this regard, following policy implications require to be addressed on priority.

Since the concept of waqf has some unique characteristics, there should be guiding and binding shariah principles and instructions for waqf HEIs. Hence, robust laws and regulatory framework are imperative for efficient working of public and private waqf. In addition, the government should introduce reforms, where necessary, to create a feasible environment for waqf organisations. There is greater need to address following questions. What should be the characteristics of a waqf property? What should be the auxiliaries for

waqf? To whom can the responsibility of being *mutawalli* assigned?. Waqf should be exempted from all forms of taxes to ensure its expansion for socio-economic development. At present, the waqf enjoys tax rebate only on donations, which should be extended to overall income and expenses i.e. utilities, real assets, business activities etc. On part of the government, officers concerned should be well versed in the concept of waqf and be supportive of waqf institutions's noble cause while on its part a waqf institution should have highly qualified and competent staff equipped with excellent managerial and interpersonal skills to ensure good governance. A waqf HEI needs to establish three divisions for waqf development; 1) financing, 2) management and 3) income utilisation to be run by highly professional accounting and reporting experts who ensure submission of sound financial reports to regulatory bodies on a regular basis and thereby help boost confidence of donors. There is greater need to tap into potential of IFIs, which can introduce products and services for waqf development and create awareness in society about the waqf being a major contributor to HEIs funding.

The study confronted some limitations as follows: the study chose three case studies as private waqf as the study could not find any appropriate example in the public sector. The study does not delve deeply into shariah aspect of the waqf but refers to shariah edicts where necessary. A waqf institution can have other forms of charities as well, including non-waqf assets, which are pointed out as non-waqf charity instruments for HEIs development. The study also faced some constraints during data collection. 1) a few documents related to waqf institutions were confidential and out of reach for general public. 2) some of the interviewees were highly reluctant to discuss their financial assets and resources because of confidential data policy adopted in the wake of 9/11, when many charity organisations in Pakistan received much negative publicity due to changed perceptions about national security and terrorism issues. 3) some of the scholars did not respond to permission for interview probably because of their busy schedules while some assigned their substitutes for the interview. 4) responses to the interviews were mostly in native language. Therefore, the researcher had to have the transcripts translated into English. However, a large and substantial amount of data and information have been obtained from multiple data sources including interviewees, archives and secondary sources to meet the research objective.

The study proposes some future research recommendations as follows: a study can be carried out to explore how to increase awareness in society regarding waqf. What are the factors which may help society to contribute to waqf higher education? A study can be conducted on endowment-based and charitable HEIs to gauge their role in HEI development. There is need to explore the role of waqf as a legal entity from shariah perspective and understand shariah guidelines on these issues. In Pakistan, there is need to rectify problems and

how a legal framework can be developed in line with shariah and legal requirements of the country. Unlike, Islamic banking and Takaful industry, many scholars consider waqf as a secondary issue, thus research and development on waqf have not received the response it deserved. Therefore, it is advised that waqf development and individual waqf perspectives should be studied in other countries as well.

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## APPENDIX A. List of participants

Categories	Pakistani Participants
Waqf Institutions for HEIs	<p>Sadia Rashid Chancellor of Hamdard University, Chief Mutawallia of Hamdard Laboratories (Waqf), Pakistan</p> <p>Ismail Bawany Director of Begum Aisha Ibrahim Bawany Educational and Welfare Waqf</p> <p>Abdul Baqi Director of Darul Tasnif (Waqf) Private, Limited</p>
Waqf Practitioners and Legal Experts	<p>Fareed Ahmed Entuley Administrator of Begum Aisha Ibrahim Bawany Educational and Welfare Waqf</p> <p>Farrukh Imdad Acting Vice Chancellor, Hamdard University Karachi, Hamdard Laboratories (Waqf), Pakistan</p> <p>Abdul Bari Legal Waqf Expert, son of Waqif and Present Director of Darul Tasnif (Waqf) Private Limited</p> <p>Zahir Ahmed Zahir Executive Director of Endowment Fund Secretariat (EFS), University of Agriculture, Faisalabad, Pakistan</p>
Regulatory Bodies and States Authorities	<p>Khalil Ahmed Azami Chairperson, Shariah Board Bank Al-falah Islamic, Karachi, Pakistan</p> <p>Irshad Ahmed Aijaz Mufti Irshad Ahmed Aijaz “Chairman, Shariah Advisory Committee, State Bank of Pakistan, Karachi Pakistan</p> <p>Mufti Muhammad Shakir Siddiqui Shariah Advisor and Shariah Advisory Board Member Pak-Qatar General Takaful Ltd.</p> <p>Tahir Raza Bukhari Director General Awqaf, Ministry of Religious Affairs Punjab, Pakistan</p> <p>Pervaiz Ahmed Executive Director, Communication and Resource Development at the Indus Hospital, Former Committee Member of the Securities and Exchange Commission of Pakistan (SECP)</p>

## APPENDIX B. Interview Protocol: Issues and Challenges

1. What are the issues and challenges faced by waqf institutions in HEIs development?
2. What are legal constraints for waqf institutions under the given law of the state/government?
3. What are privileges for waqf institution granted by the law of the state/government?
4. What are legal aspects involving waqf financing (fund-raising), investment (fund management), and development (fund utilisation)?
5. How Islamic financial institutions can support waqf financing (fund-raising), investment (fund management), and development (fund utilisation)?