

Waqf Fund Management In Kuwait And Egypt: Can Malaysia Learns From Their Experiences

Ibrahim Ahmed Khalil,* Dr.Yunus Ali, and Dr. Mohammad Shaiban
Halal Ecosystem Multidisciplinary Research Platform
Monash University Malaysia campus
Ibrahim.khalil@monash.edu

ABSTRACT

While the waqf fund management throughout Muslims countries varies it has not been explored in a manner that can contribute to benchmarking best practices and learn from that experience to deliver better outcomes to the stakeholders. As the Egyptian and Kuwaiti experience in managing waqf funds are considered impressive in the middle east and GCC countries in terms of the long history of the Egyptian experience and the modernity of the Kuwaiti experience (Omer, 2004, Al-Osman, 1997), a critical review of their practices may help improve waqf fund management for better social benefits in other Muslim countries like Malaysia. A critical comparison of these experiences with Malaysia model is highly required for the improvement of performance of waqf institutions in Malaysia. This paper is concerned with examining the current situation of waqf fund management practices in Egypt and Kuwait to pinpoint areas of best practices. This paper initially provides an overview on the waqf fund management in Egypt, Kuwait and Malaysia followed by a critical comparison to identify benchmark and experiences that can be integrated to revitalize waqf fund management in Malaysia. The investigation is based on secondary and archival information (including books, archival manuscripts, articles published in refereed journals and magazines, government reports and other documents of interest). This paper recommends further research for improvement of the waqf fund management in Malaysia.

Keywords :Waqf Funds Management, Waqf Fund In Egypt, Waqf In Fund Kuwait, Waqf Fund In Malaysia, Comparative Studies Of Waqf Fund

Introduction

Waqf funds play a significant role in the socio-economic development across the Muslim countries. However, the issue of managing waqf funds efficiently remains one of the major challenges faced by waqf institution in most Muslim societies. Since its inception in the Islamic State by Prophet Mohammad (SAW), waqf institutions proved successful in providing social services and equitable distribution of wealth in Muslim societies. However, improving waqf practices in terms of management of resources, enhancing the flow of revenues including through investment of its liquid assets and efficient distribution are the key issues to achieve its objectives for the community development. While demand for waqf services has been increasing in most Muslim societies, the supply of fund falls short to support high demand. The traditional waqf institution governance systems in most Muslim societies have failed to introduce innovative marketing of the waqf institution and efficient management of waqf assets to increase inflow of funds to keep pace with the growing demand for waqf services. Nevertheless, some Muslim societies have adopted new model of efficient waqf governance system and set precedence for others as best practices.

The main purpose of this paper is to evaluate the experiences of those Muslim countries in managing waqf fund as a mechanism that are used to ease the financial burden of the state. In this respect the paper focuses on Egyptian and Kuwaiti experience in managing waqf fund. For its pioneering experiences in waqf fund management, Kuwait has been chosen by the Organization of Islamic Cooperation (OIC) as a general coordinator of waqf institutions of OIC countries. The Egyptian experience deserves evaluation for its prestigious long term waqf experiences in the Islamic world. The study reviews Malaysian experience in managing waqf funds to identify any room for improvement of its waqf practices and benefit from others best practices. Finally, this study concludes recommendations for waqf fund management.

Waqf fund management in Kuwait

Historically, waqf in Kuwait dated back to 1695, but notable development started in the 1930s and reached a significant stage in 1993 with the enactment of Awqaf institution laws for efficient governance of the sector. These laws provided the necessary platform for all matters relating to the waqf affairs including transparent management of funds and investment of funds as per terms and conditions specified by the founders. In essence, the strategic direction of Waqf institutions in Kuwait has been set since 1993 with the establishment of **Kuwait Awqaf Public Foundation (KAPF)**. KAPF has played an essential role in consolidating values and purposes of waqf in Kuwait (Al- Osman, 1997), which contributed in Kuwait being chosen by the OIC as coordinator of waqf institutions in the Muslim world (Abdulmohsin, 2011).

Waqf Fund Management in Kuwait: Prior to the governmental involvement in waqf management, Kuwait's waqf sector was administered by founders (waqfi) or their representatives (Nathir or Mutawally) where the appointments of representatives were endorsed by judges of the court of law. However, significant changes in the economic, social and cultural aspects in Kuwait contributed to the establishment of the Department of Waqf in late 1930s followed by the establishment of Waqf Affairs Boards in 1940s. After the independence of Kuwait in 1962, the Ministry of Awqaf and Islamic Affairs was established to perform several tasks including the responsibility of managing waqf properties (Al- Osmani, 1997). Currently the waqf sector in Kuwait is administrated by Kuwait Awqaf Public Foundation (KAPF) established by the Emirie Decree issued on November 13, 1993. The Decree provided KAPF the status of a governmental body with relative autonomy in decision-making to regulate and manage the system to take care of waqf affairs internally and externally. The main missions of the KAPF are to consolidate the concept of waqf as a developmental mechanism in the community and activate its role in achieving the objectives of the founders in addition to reinforce the tendency of contemporary Islamic civilization (*Dahi, 1998*). While major responsibility of KAPF is

to encourage people to establish new Awqaf, managing them to allocate funds for activities and investment of the assets are its major tasks. In addition, KAPF coordinates with the governmental and non-governmental bodies for the establishment of Shariah compliant waqf projects to achieve waqf objectives. This coordination includes specifically managing specialised funds in waqf sector, regional institutions for the waqf development and the management of family waqf. Article 10 of the Decree required the Awqaf Affairs Board of the KAPF to include members from different committees, namely Shariah Committee, Waqf Projects Committee and Executive Committee (Al-Busharah, 2012). Figure 1 shows the organizational chart of KAPF where four departments (Shariah and legal department, Audit and inspection department, Planning and technical consultant department, and Training and development department) and three Deputy Secretary Generals under the Secretary General control the activities of ten functional departments for investment, waqf assets, and information and financial affairs.

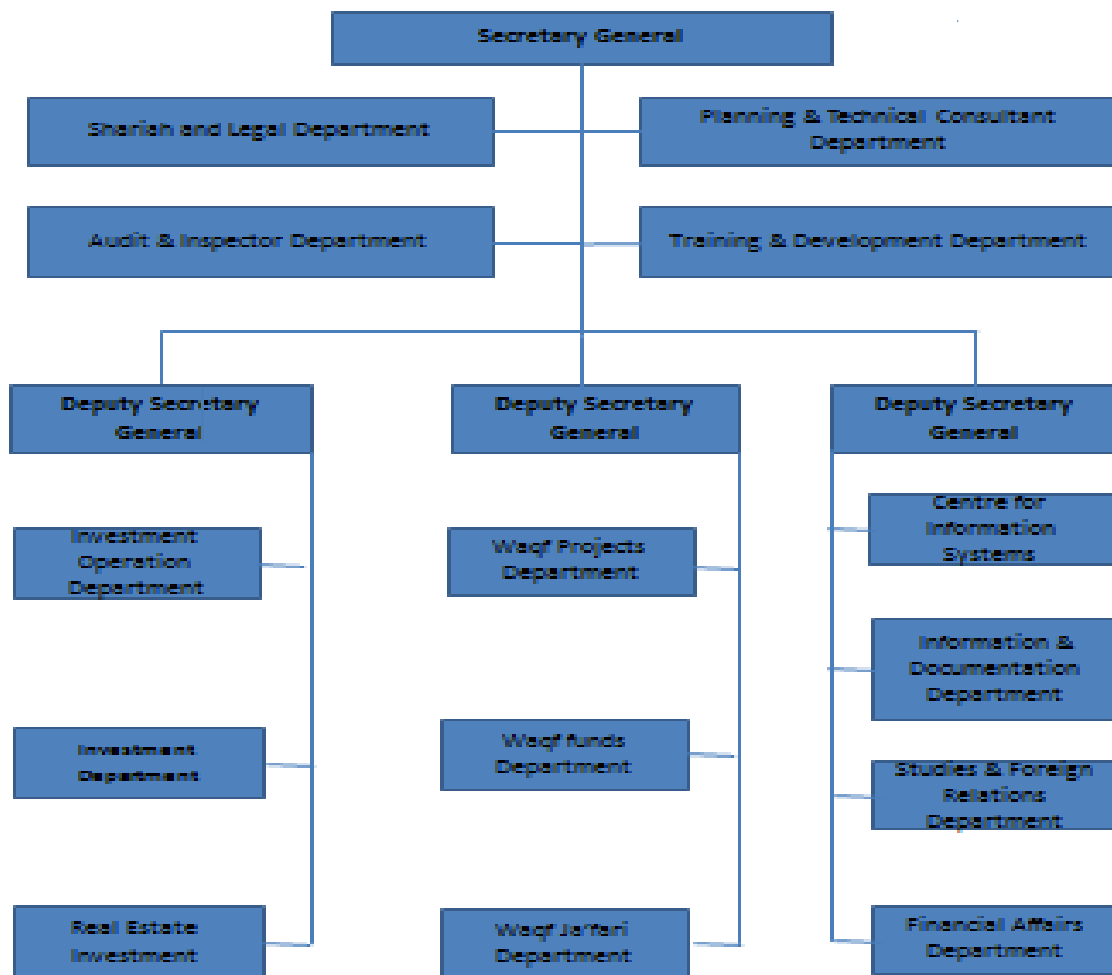


Figure 1: Kuwait Awqaf Public Foundation Organization Structure

Investment of Waqf Funds in Kuwait

The KAPF resources development department is responsible for development of waqf resources and to open new horizons to work on diversifying the ways and areas to ensure growth of the waqf assets. Its investment department manages investment of waqf assets to expand the revenue base by employing the available waqf resources in revenue-generating investments on a continuous and uninterrupted basis¹. This contributed to the rapid increase in waqf revenues in Kuwait during the period from USD30.13 million in 1994 to USD110.82 million in 2010. Similarly, the development of capital assets has jumped from USD373.1 million in 1994 to USD759.2 million in 2010. In addition, there was a notable increase in the market value of the investment in securities from USD46.58 million in 1994 to USD975.93 million in 2010 representing an average increase of around 21% annually (Al-Amr, 2012). In order to make a qualitative change in the investment and development of waqf funds in Kuwait, a special investment unit has been established to carry out the role of development and investment of waqf funds in different areas (Dahi, 1998).

Investment in real estate: A real estate company is responsible for the development and management of waqf real estate properties which include feasibility study, planning and necessary funding to execute real estate investment operations.

Direct long-term investment: This is an asset class KPAF introduced to invest in non-governmental educational institutions as well as providing consulting services in the areas of administrative and training programs.

Financial investment: KPAF runs a very active investment strategy and follows a various mechanisms to develop its resources through the investments in Shariah compliant investment such as investing in medium and long-term mutual funds. In addition KPAF is actively engaged in securities investments locally, regionally as well as in the global markets especially in the Real Estate, Financial and service sectors.

Waqf Funds in Kuwait

Waqf funds in Kuwait are deemed to be one of the best models, which aimed at participating in the efforts of revival and the consolidation of the values and principles of waqf. This model represents a practical framework to achieve the objectives of waqf through the cooperation of the civil society organizations and official bodies (Al-Mehideep, 1426H). Waqf funds in Kuwait has independent management that contribute to the development of waqf practices by the integrated vision that aims to achieve the community's needs and priorities in coordination with the competent organs in implementing the waqf projects. In doing so, KAPF has initiated and established ten operational waqf funds broadly in three areas (Al Zuheli Mohammad, nd). Social welfare related funds such as care of disabled and special categories, family care, community health development, and general community development; religious development funds such as study of the Holy Quran and its sciences, care of mosques, and Islamic cooperation; and education and general funds for scientific development, culture and thought, and environment preservation provide support to community development.

Financial sources of waqf in Kuwait

One of the main factors in the preservation of waqf assets is to ensure that there is continued development of its resources and allocation of waqf resources for investment to generate its own revenue base to maximize economic and social benefit for the stakeholders. That means, the multiple sources of revenue (waqf contributions and investment income) made the Kuwaiti experience as one of the pioneering waqf system in the Muslim world. The following noteworthy policies helped Kuwaiti Waqf experience to prosper:

1. Allocation of a portion of waqf revenues to be added to the waqf assets;

¹(<https://jobs.undp.org> retrieved 29/7/2014).

2. The revenues generated from the investments activities to provide services by the funds;
3. KAPF Planning Committee approval for all bequests, gifts and donations to comply with the principles and policies of waqf; and
4. KAPF Projects Committee's assignment of the General Charitable income for investment (as determined by the Chairman of the Board of Waqfs Affairs (The Minister)

In addition, KAPF's efforts in encouraging public to donate in waqf institutions contributed to the growth of registered waqf institutions from around 90 waqf properties during the 1970 – 1993. Hence more than 540 new waqf properties were registered during the 1994 – 2005 after the establishment of the KAPE and the same status were observed until 2010.

Distribution of waqf revenues in Kuwait

KAPF in coordination with government institutions and charitable associations plays a significant role in the development of the society through distributing revenues of awqaf for the benefit of the people to achieve objectives of waqf as per founder's conditions. Al-Fadli (1998) identified KAPF's rules and criteria for the distribution of waqf revenues that include:

- Involvement of relevant civil society institutions in the process of distribution of waqf revenues to make it a collective process;
- Involvement of families and residents as stakeholders in the process of distribution to promote waqf essentially as a family waqf;
- Distribution of waqf revenues assures the fulfillment of purposes and terms of the founders and achievement of objectives of waqf in community development.
- Create and follow suitable mechanisms for distributing waqf revenues to ensure proper distribution.

These rules and criteria contributed to the establishment of various projects for the benefit of the Kuwaiti through waqf-based community-based services. These include:

Waqf project for health development: This project was established to provide support to the health services by supporting projects and programs to improve the standard of health services to community members². Over the 16 year this type project funding support increased significantly from KD104.9 million in 1995 to KD1,926 million in 2011.

Student sponsorship projects: This project is specialized in sponsoring needy students to cover tuition fees and other educational expenses to pursue their education. Since 1997 waqf fund allocation for this project increased substantially from KD92.8 thousands in 1997 to KD450.9 thousands in 2011.

Social development and scientific projects: This charity projects set up by KPAF to support and enhance government and private efforts to upgrade scientific services, cultural and social development through a combination of waqf activities and government funded projects³. Since the establishment of this project, waqf fund allocation for this project increased substantially from KD160.9 million in 1995 to KD3, 912.5 million in 2011 (Check the figures).

Waqf Fund Management in Egypt

Egypt is the country that recognized waqf system since the advent of Islam. Over time, waqf practice in Egypt has grown substantially. Around 40% of the total agriculture lands in Egypt is an endowment assets in addition to a substantial size of moveable and immoveable assets owned by different waqf institutions in Egypt (Kholosi, 2002). The law that governed waqf in Egypt during the early days was based on the principles of Islamic jurisprudence where there was no separate codification for waqf law, because the Islamic heritage at that time was the primary reference upon which Muslims relied on establishing and managing waqf institutions. The first enactment of waqf law in Egypt was in

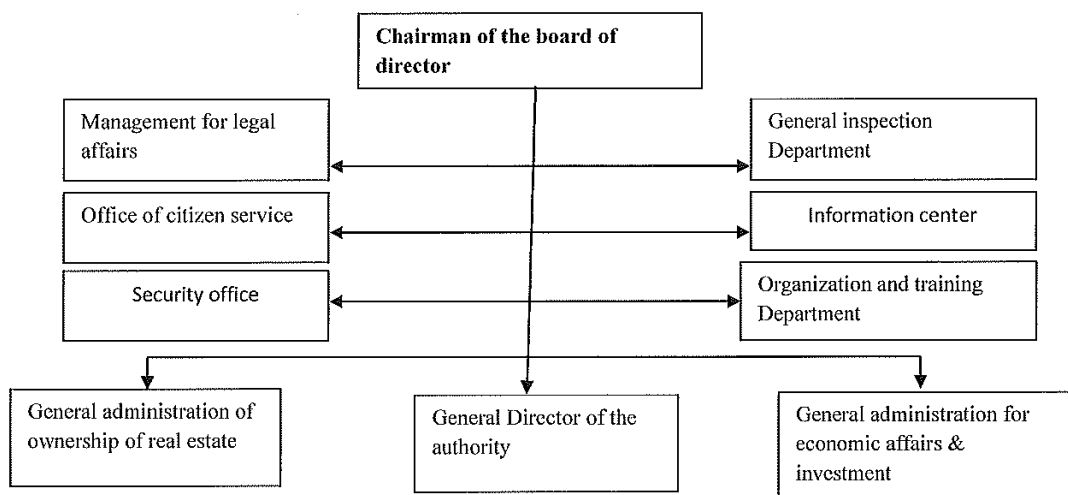
² www.awqaf.org.kw/Arabic

³ (KPAF website).

1525M(Ateyah, 2002). Since then waqf in Egypt are administrated by the founders or their representatives (Mutawally). However, during the reign of *Hushim Ibn Abdul Malik* (743 - 691), the first administration of waqf was established under the supervision of the judge of at that time, Toba Ibn Nimer (Abu Zahra, 1959). Waqf institutions in Egypt steadily developed over the centuries and it took various forms since 1832 when *Mohammad Ali Bashah*, ruler of Egypt established the first government body for waqf administration (Kholosi, 2002).

At the turn of the century there were several attempts to develop waqf law in Egypt. The first attempt was initiated by scholars and members of the legislative assembly in early 20th century. The second attempt was in 1926 and resulted in the approval of a memorandum of the Ministry of Justice as recommended by the committee of senior scholars and jurists. In 1946, the Egyptian law of waqf (No 48 of 1946) was issued to regulate waqf institutions in Egypt (Omer, 2004). Subsequently some other laws were issued to regulate waqf institutions in Egypt (Law No. 247 of 1953 and, Law No. 44 of 1962). Finally Egyptian President promulgated Act No. 80 of 1971 for the establishment of a Waqf Authority in Egypt. This Act provided for the establishment of the Egyptian Waqf Authority as an independent legal body under the Ministry of Awqaf to be governed by a Board of Directors (Ahmed, nd). Figure 2 shows organizational structure of the Egyptian Awaqf Authority.

Figure 2: Organizational structure of Awqf authority in Egypt



Areas of investment of waqf in Egypt

There are variety areas for the investment of waqf funds in Egypt, but the most important areas can be summarized as following:

Investment in Industries: Waqf authority in Egypt invests a significant portion of its resources in the country's industrial sector in the form of shares and stocks in some of the major industrial facilities such as Delta Sugar Company, Zues Cement Company, Egyptian Dairy Company, Kemah Chemical Industry and the Egyptian Telecommunication Company (Al-Jenadi, 2013). For example, the Egyptian Awqaf Authority owns approximately 98% of the share of *Al-Mahmudiyah* Contracting Company valued at 300 million Egyptian pounds. Also, the authority has a securities portfolio valued at amount of 400 million Egyptian pounds.⁴ Thus, the Egyptian waqf authority contributing significantly to the revenues of the investment of waqf funds for delivering welfare as well as provide much

⁴Al-Mansi, A. (2014), Al- akhbar al- hurrah, <https://www.arabfinance.com/news/newsdetails.aspx>. Retrieved on Aug 27, 2014.

needed capital for industrial development to generate employment, and supply goods and services to the community.

Agricultural investment: As mentioned earlier, around 40% of the total agricultural lands in Egypt are endowment assets owned by different waqf institutions in Egypt (Kholosi, 2002). Naturally, contributions made by the Egyptian Waqf Authority for the development of the agriculture sector are highly significant. In addition to leasing 100,000 acres of agricultural lands to public and planting fruit trees in 2,200 acres of orchards in eastern provinces, Waqf Authority invest in land rehabilitation and land reclamation projects. For example, during the 2004 – 2012 periods the investment in this sector exceeded 200 million Egyptian pound for the re-habitation of 20,000 acres of agricultural lands.⁵Dr.Saleh Al- Junidi, head of the Awqaf Authority in Egypt indicated that the authority is actively engaged in agricultural investment to provide healthy competition in the agriculture sector to enhance supply of locally produced crops to the local market. The waqf authority also channel its resources in collaboration with provincial governments for the reclamation of agricultural lands and lead the development of the agriculture sector in Egypt (Islam, 2013).

Financial Investment: Financial investment is one of the most recent financial instruments that are used for the investment of waqf resources in most of the Muslims countries. Egyptian Awaqf Authority owns moveable and immovable assets that facilitate its engagement in financial investment. After a feasibility study the waqf authority took-over Al-Mahmodiah Company, a general contracting and real estate Investment Company for active involvement in the sector. In addition the authority invests in several financial institutions such as Faisal Islamic Bank, Escan Insurance Company, and a housing and development bank (Egyptian authority).

Distribution of Waqf in Egypt:

From the Islamic jurisprudence perspective, waqf is a property owned by the God Almighty and its revenues are used for the benefit of others. However, article No 7 of Waqf Act (Act No 80 of 1971) stipulates the distribution of waqf revenues for specific areas as shown in Table 1 (Tamam, Nd).

Table 1: Distribution of Waqf Revenues in Egypt

Heads for the Distribution of Waqf Revenue	% of the Total Revenue
Waqf Authority for maintenance of waqf assets	15%
Reserve for the investment and development of waqf resources	10%
Technical matters as determined by the board of directors	5%
Waqf authority to be distributed to the beneficiaries and other aspects of righteousness and goodness such as health care, education, dissemination and the revival of Islamic civilization landmarks	70%

As presented above, 70% of the revenues from investment of waqf funds in Egypt are allocated to the Ministry of Awqaf and Islamic affairs to distribute to the beneficiaries. While the allocation to the investment and development of waqf assets is only 10% of its earning from the investment of waqf funds, one may consider it too little and negatively affects the future returns of the investment of waqf assets. This is one of the criticisms against the waqf management in Egypt.

Sources of waqf fund in Egypt

Egyptian Awqaf Authority derives its resources from various sources such as agricultural lands and real estate owned by the authority. Moreover, a significant proportion of its revenue is generated from returns of investments in industrial and agricultural projects as well as dividends from investment in shares in other industrial, housing and development bank projects (Tamam, nd).

⁵*ibide.*

The Egyptian model is considered as one of the prestigious models in the Islamic countries and widely followed by most Muslims countries. However, this model has been criticized by some researchers and academics when compared and contrasted with others models such as Kuwaiti and Sudanese models for some of their innovative mechanisms of self-financing of waqf activities. Amongst the academic studies on this area, a recent study by Omer (2014) critically reviewed the Egyptian model and highlighted its major problems relating to the efficient implementation of legal provisions of the Act, instable governance system, inefficient uses and misuses of funds and more importantly mechanism of investing waqf funds. Most notable observations made by this study are summarized below:

- The frequent amendment and subsequent enactment of laws followed by executive regulations hindered the implementation of legal provisions of the laws that govern waqf authority in Egypt.
- Waqf administrations had been unstable over the ages, sometimes managed by judiciary and occasionally managed by the supreme council of waqf or other authorities until the law was enacted (Act No 80 of 1971) for the establishment of the Awaqf Authority.
- The waqf model in Egypt passed through the critical eras which resulted in the loss and misuse of waqf properties over the years that may have affected peoples' perception on waqf.
- Inefficient financial planning and management of investment that contribute to the poor performance of the waqf funds even compared to the rate of return on deposit in banks or profit on deposit in Islamic banks.

Amongst the recommended courses action, the study proposed (a) clear separation of the waqf authority from government control, (b) establishment of waqf agency with qualified fund management skills for efficient waqf fund management, and (c) expanding areas of waqf activities for wider community services beyond the traditional concentration on religious institutions (Omer, 2014). However, despite the criticisms against the waqf authority in Egypt, some initiatives and efforts carried out by the waqf authority contributed to the development and modernization of the waqf practice in Egypt.

Waqffund management in Malaysia

There is no consensus as to when waqaf first started in Malaysia, but many sources refer that waqaf in Malaysia has started since the advent of Islam in this country and it became the general practice among Muslim in Malaysia. Although it was not so widespread as in the Ottoman Empire, Egypt and South Africa but several Mosque based waqf practices was apparent. For example, K.G Hulu Mosque in Malacca and Sultan Abu Bakar Mosque in Johor was establishment of waqaf in Malaysia (Alawiah, 2012). However, the institution of waqf in Malaysia is believed to have been in existence for more than eight hundred years (Othman, 1986) when Arab traders brought Islam to Malaysia in the tenth century.

Governance and Organization set up of Waqf in Malaysia

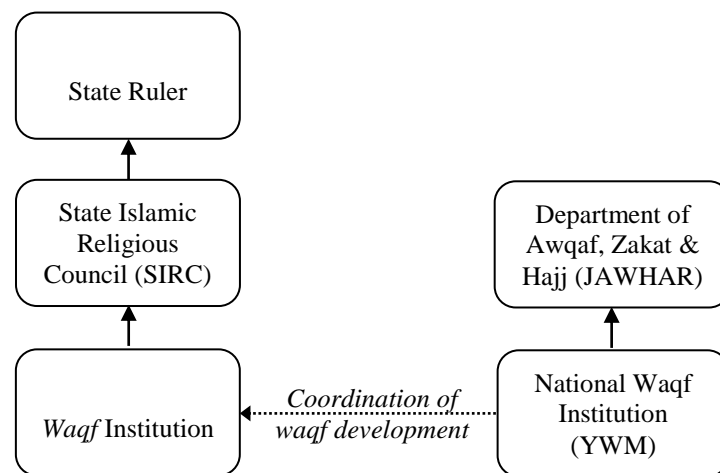
Malaysian Federal Constitution acknowledges Malaysian State's jurisdiction over waqf properties that can enact laws relating to waqf and its management within the state.⁶ State laws on administration of Islamic religious affairs have provisions to establish governance mechanism for management of waqf properties in the State. The State Islamic Religion Council (SIRC) in each of the thirteen States and the Federal Territories require every waqf to be registered with the IRC (Yusuf, nd). A Majlis under the SIRC has authority to register, regulate, monitor and manage consumptive waqf properties within the state. The Majlis have an advisory board and a waqf properties management committee. The advisory board is consist of individuals, legal and Shariah experts appointed by the Majlis along with

⁶See Federal Constitution, Ninth Schedule, State List (1).

the Mufti, Secretary of the Majlis, state legal adviser and State Director of Land as permanent members. Members normally include state financial officer, scholars and practitioners in profession relating to Shariah, property management and financial management (Tahir, nd).

Lack of uniform rules and practices of waqf property management affect its efficient planning and distribution across states. Nonetheless, waqf in Malaysia, particularly its financial management appeared still much neglected by the relevant authorities and therefore after more than half a century under the trusteeship of the SIRCs waqf is yet to significantly contribute to deliver social and economic welfare of the community (Alawiah&Kharbhari, 2007). The need for a central waqf institution is felt by people for efficient management, organization and development of waqf properties in Malaysia. Realizing such a need, the former prime minister, Tun Abdullah Haji Badawi announced the establishment of the Department of Waqf, Zakat and Haj (JAWHAR) (Hasan&Najib, 2008). JAWHAR was expected to make progress on waqf properties in an organized, systematic and effective way. However, JAWHAR has no jurisdiction in practicing its power and rights on the management of waqf properties because the states are the sole trustee of waqf properties in Malaysia (Ibrahim&Nor& Mohammad 2013). Therefore, JAWHAR mainly play a role of coordinating waqf development of the SIRCs through the National Waqf Institution and shown in the following chart.

Figure 3: Waqf Administrative Structure in SIRCs



Constraints of Waqf Management in Malaysia

Waqf system in Malaysia has massive potential and significant role to play. However, it faces many problems and obstacles that hamper its development (Ibrahim, 2012). Some of the constraints are highlighted below:

Legal constraints: Hassan (nd) has identified the loopholes in the legal framework of waqf administration in Malaysia because waqf in Malaysia is regulated through various state laws or enactment. He argued that there is no specific statute on management and administration of waqf except the enactment of waqf laws in Selangor in 1999 and in Malacca in 2005. Also, the state jurisdiction creates various problems of understanding and interpretation waqf practices that leads to different types of waqf related fatwas across the states (Ibrahim, 2012). These situations resulted in incoherent implementation of some aspects of Islamic laws including waqf practices (Alawiah, 2012).

Financial constraints: Tahir and colleagues (Tahir, et al., 2005) argue that waqf properties in Malaysia have significant economic potentials, especially the waqf lands located in urban areas. However, the main problem in developing waqf lands is lack of financial resources. SIRCs are the sole

trustee of waqf but does not have sufficient fund to finance development of waqf because its revenues from waqf assets are limited for low properties rentals compared to the cost of planning and project prepared. In addition the SIRC's do not have financial planning mechanism to run and manage the waqf properties in an efficient manner. SIRC's relies mainly on Shariah complied investment or loans recently introduced by the financial institutions.

Administrative and Management constraints: Scholars expect that the institution of waqf in Malaysia should be managed and administered professionally, with the best standard of practice and contemporary management (Shaleh, 2011).⁷ However, most of the SIRC's in Malaysia except Johor, Malacca and Selangor do not appoint specific officers to be responsible for managing waqf assets. Some scholars observed that most of the waqf officers in Malaysian states do not have training or competency in investment analysis, project management, property valuation or any experiences that related to the development and management of waqf assets (Ibrahim, 2012).

Legal aspect of waqf in Malaysia: The waqf system in Malaysia is governed by several laws, namely, the Federal Constitution 1957, the National Land Code 1965 (NLC), Administration of Islamic Law (Federal Territories) (Act 505 of 1993), Selangor Wakaf Enactment (No. 7 of 1999), Trustee Act 1949 (Act 208), Malacca Wakaf Enactment 2005, Negeri Sembilan Wakaf Enactment 2005 and the respective Administration of Islamic Law Enactments of different states. In addition, other laws having impact on the administration of waqf such the trustee Act 1949, Specific Relief Act 1950, Contracts Act 1950 (Zubaidah & Hilal, 2009). However, from the practical point of view, waqf system in Malaysia is still subject to laws that are passed by the parliament. Currently the waqf system is based on the legal stipulation in section 3.4.1, article 3 of the Malaysian constitution, and the provisions pertaining waqf have been codified in the administrative law of the State Islamic Religion (Afendi & Abdul Azis 2010). The other issue that connected to the legal aspect of waqf system in Malaysia is the jurisdiction of courts on issues related to waqf. In regard to jurisdiction, although waqf system in Malaysia is under the state jurisdiction, many of the waqf disputes from practical perspective heard by the civil court. The judicial organization structure in the Federal Constitution of Malaysia states that the civil court has higher authority than the *shari'ah* court. This creates many differences between the Islamic matters that should only be dealt with by the *shari'ah* court, being brought to the civil court where judges have little competency in Islamic *shari'ah* because they are trained in common law.

The Investment of Waqf Lands in Malaysia

According to Alina (2011), there are limited types of waqf in Malaysia. The Real Estate is the only popular type of waqf that is known to the community. Although, there are many other types of assets and properties that can be endowed such as company shares or stocks and intellectual property rights. However, investment of waqf assets in Malaysia is mainly focused on the Real Estate sectors as part of waqf lands in Malaysia by using various instruments of investing waqf properties (lands) for example. Major forms of such arrangements are:

- (1) Joint ventures-based Instruments:** This instrument can be in form of joint ventures. The need for joint ventures arises when there is lack of expertise and financial resources at the institution of waqf. The waqf institution plays an important role as landowner and enters into a venture with a financial institution without capital contribution. Usually, joint venture model between the waqf institution and the financier or developer takes the form of *Mudabah* or *Musharakah*. The most popular example in this regard is the joint venture scheme between JKP Sdn.Bhd., one of the government companies as developer with the Islamic Religious Council of *Pulau Pinang* as capital provider to construct 36 units of house

⁷perpustakaanwakaf.blogspot.com

where profits generated from the sale of these units are shared between the council as a land provider and the developer as a financier (Hasan&Najib, 2008).

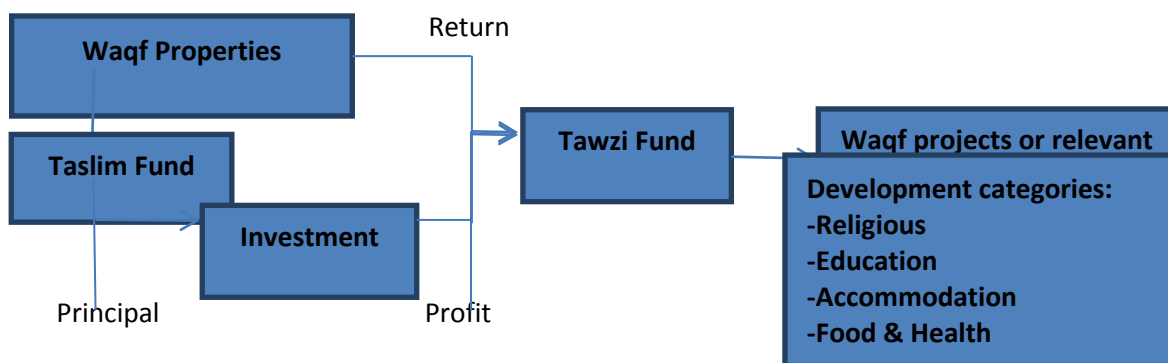
- (2) **Istibdal of Waqf Land (substitution):** *Istibdal* is the sale of all or part of waqf land and use the sales proceeds to purchase another piece of land dedicated as waqf for similar purpose. This practice is acceptable by majority of Muslims jurists. The practice of *Istibdal* in Malaysia is regulated under the state laws where the SIRC has authority to deal with this matter. The concept of *Istibdal* already has been practiced in many states in Malaysia such as Pulau Pinang, Federal Territory, Selangor, Perak and Melaka. The waqf of *Noecahaya Majid* in the Federal territory is one of the best examples of *Istibdal* where *Norchaya* dedicated a piece of vacant land which is less economical. The Islamic religious council agreed to substitute this land with two units of terrace house at *Taman Pelangi Jaya, Sentul, Kuala Lumpur* where the rental payment of these properties will be used for maintenance of these properties and its surplus may be exploited for other purposes (Hasan&Najib, 2008).
- (3) **Lease (al-Ijarah):** Leasing (*al-Ijarah*) is one of the most flexible Islamic financial tools that can be used for the investment of waqf properties. This mode of financing is practiced by the Islamic religious council in most Malaysian states in which the Waqf management keeps full control over the management of the project (Hasan,&Najib, 2008). Lease can be classified into two forms:
- (a) The waqf institution leases waqf land to another party at a certain rate of rental agreed upon for the institution of waqf to generate the revenue from the rental payment and use it for the benefit of waqf activities for the benefit of recipients.
 - (b) The waqf institution leases the land for long period on the basis of *al-hikr* where the developer has an exclusive right over the land for a long period while at the end of lease the waqf land will be returned to the waqf institution, for example the practice of Pulau Pinang and Federal Territory.
- (4) **Self-finance:** Self-finance means the cash or land contributed as the costs of development by the institution of waqf. There are several methods whereby the institution of waqf can reduce the costs of financing. These are the use of land, its securitization, and obtaining advanced rentals under the concept of *hikr*. In addition, the institution can also resort to substitution of one land with value to be used for the development of another land resulting in amalgamation of different waqf properties. The institution of waqf can also use cash waqf, saham waqf or usufruct waqf as a mechanism of self-finance (Tahir, nd).
- (5) **Cash waqaf :** Cash waqf is defined as a mobilization funds from donors based on perpetuity and investing them in productive assets that provide either usufruct or revenues for future consumption by individuals or groups by taking into account the policy and guideline provided by the donors and receivers. The cash waqf is another method for the Islamic religious council in Malaysia to generate financial resources and is more productive for the benefit of waqf institution in particular, and for the society in general at macroeconomic level. In Malaysia more tax incentives have been given to the people to encourage them to dedicate property including cash waqf for charitable purpose which contributed to cash waqaf becoming a popular mode of contribution in waqaf funds (Ibrahim, Nor&Mohammad, 2013). In the view of the available potential of waqf assets in Malaysia, the Federal Government of Malaysia takes a significant step to enhance SIRC in administering and developing waqf assets through allocation of funds for developing a number of waqf assets. In this respect the Federal Government takes initiative to implement projects with the cooperation of SIRCS (Mohd&Jalil, nd).

Distribution of Waqf Fund in Malaysia

The main objective of waqfis is to assist and promote social justice, community development, educational institutions and poverty alleviation. It is a suitable mechanism in addition to Zakat in

contributing to enhance social development, thus waqf authorities in Muslim countries using waqf funds as an effective way of promoting social development and achieving prosperity. In Malaysia waqf funds is distributed on the religious, social, educational and healthcare aspects in order to achieve the goal of Waqf in community development. For example, in the health area there are various healthcare facilities that rely on waqf revenues. Among them the An-Nur clinics and hospital provide healthcare to lower income groups from all level of community regardless of their religion and race (Mustafa, Hanefah, Abdulaah, Ramli, Hashim, Sabri & Norhaziah, 2010). In education area waqf proceed utilized for financing and development of education, especially cash waqf for students accommodation (waqf for education, nd). The following Figure 4 shows the model for distribution of the Waqf, Zakat and Haj Department (JAWHAR).

Figure 4: Waqf Distribution in Malaysia



Sources of Waqf Fund in Malaysia

Waqf institutions in Malaysia derive its resources from multiple sources. However, waqf land represents the main supplier of waqf institutions in most of the Malaysian states which is aimed at generating more income to waqf institution for the benefit of the beneficiaries (Hasan & Najib, 2008). For example, the waqf lands in the state of Johor have been identified as the biggest in term of size and are supervised by the Johor State Religious Council (MAIJ) that have significant potentials to contribute in waqf sources of the state (Mustafa, Hanefah, Abdulaah, Ramli, Hashim, Sabri & Norhaziah, 2010). A study found that cash waqf and waqf shares issued by SIRCs in Selangor, Johor and Melaka have become a popular mechanism generate financial resources for investment of waqf properties (Norhaliza & Mustafa, nd). Recently, there are new trends to increase the waqf resources in Malaysia through the partnerships between waqf institutions and corporate bodies. For example, Tubung Haji (TH) and Majlis Agama Islam Wilayah Persekutuan agreed to collaborate in developing and managing Menara Bank Islam located in Jalan Perak, Kuala Lumpur. This partnership contributes to the development of the assets and creating new sources for waqf fund in Malaysia (Mohd & Jalil, nd).

With reference to the above table we note that the management of Waqf fund in Malaysia differs from that in Kuwait and Egypt. There are similarities in terms of organizational structure in managing waqf fund between Egypt and Kuwait where central public bodies under the Ministry of Awqaf and Islamic Affairs manage the funds. That means the waqf management both in Kuwait and Egypt is the responsibility of the central government. In contrast, the Federal Constitution of Malaysia left the management of waqf in Malaysia as a responsibility of the states' Islamic Affairs department. Some scholars criticize the system for its negative impact on the efficient mechanism of waqf management each state has its own law and approach in managing waqf fund that affect uniformity and innovation. The Federal Department of Zakat, Haj and Waqf (JAWHAR) established only recently to overcome some of those issues have only coordinating role rather than any executive power to manage the waqf funds uniformly across state. To avoid inconsistency, Malaysian waqf management can benefit from the Kuwaiti and Egyptian experience in terms of finding an effective role for the

central government in managing the Waqf fund and exploit its high potential by improving technical, financial and administrative capabilities for an innovative waqf system.

In terms of waqf sources, the real estate and agricultural lands represent the most important resource of waqf fund in most of the Muslim countries. However, there is a similarity between the Kuwaiti and Egyptian practices in terms of the innovative additional sources of generating resources for the waqf institutions. For example, there are huge investments of waqf resources in Kuwait through waqf funds which are one of the modern methods for the development of waqf resources. Also in Egypt, the Public Authority of Awqaf derives its resources from some of their contributions to the agricultural and industrial projects in addition to its shares in some banks. In Malaysia, the main source of funds for waqf institutions is the return from the investments of waqf lands, while waqf cash and waqf shares as introduced recently in some states has little impact in increasing the waqf resources. A centralized process of introducing waqf shares for waqf projects, and adoption of large-scale investment in industrial, commercial and financial institutional projects of Egypt and Kuwait may contribute significantly to the funding bases of waqf institutions in Malaysia.

In respect to the distribution of waqf revenues, we note that waqf revenues in Muslim countries are mostly allocated to be spent on religious and educational institutions as well as health facilities. However, distributions of Waqf revenues vary from one country to another according to the standards set by each country. In Kuwait, the distribution of waqf revenues is the responsibility of the Kuwait public Awqaf foundation in coordination with the organizations of the civil society. While in Egypt, the revenues of waqf are distributed according to the article 7 of the law No. 80 of 1971. In Malaysia waqf revenues are distributed to the mosques, Islamic schools and health facilities. This is a very narrow approach of distributing waqf facilities in a multi-ethnic country like Malaysia where harmony amongst the whole community could be achieved through developing wider facilities available for community development.

Conclusion and Recommendations

It can safely be said that, waqf institutions in Kuwait, Egypt and Malaysia have relatively played a positive role in contributing to the socio-economic development in these countries. Therefore, understanding the similarities and differences in the management of waqf funds would result in the development of better Waqf institutions in these and other Muslim countries. In this respect, we can propose that though there are similarities between the administration of waqf in Kuwait and Egypt in terms of the responsibility of the management of waqf funds, which is managed by a subsidiary body under the Ministry of Awqaf and Islamic Affairs, there are rooms for further development there. In Malaysia the management of waqf funds is the responsibility of the states where the management of waqf funds varies from one state to another. To improve the situation, the recently established Department of Zakat, Waqf and Haj (JAWHAR) which is expected to make progression on waqf management in an organized, systematic and effective way. The Egyptian and Kuwait experience of central government management may help improve the situation. Also, there are similarities and differences between Kuwait and Egypt in regard to the investment of waqf funds but Malaysian waqf institutions may benefit significantly by adopting of the Shariah compliant best investment tools used in these countries. The core objectives of waqf institutions in Kuwait, Egypt and Malaysia are to benefit from their revenues to achieve the goals of waqf institutions in satisfying needs of the target stakeholders. Though there are some differences in the practical applications among these countries, these countries can effectively contribute to the development of waqf practices across the Muslim world by sharing experiences and expertise to introduce a better model for waqf management.

This paper highlighted the waqf fund management in Kuwait, Egypt and Malaysia and how these countries can learn from each other for the development of waqf funds management. This paper also conducted a comparative study in regard to the practical applications of waqf fund management

across these countries in terms of organizational structure in investment of waqf fund and distribution of waqf fund. Therefore, this paper recommends the following steps to make waqf institutions more efficient to play its role in the modern Islamic societies.

- Conducting periodic studies about the experiences of these countries to overcome the emerging obstacles that may hinder the role of waqf institutions in achieving the desired goals.
- More attentions must be given by the government in Kuwait, Egypt and Malaysian to waqf institutions to play its role effectively.
- Coordination between waqf institutions in these countries through the exchange of information to take advantage of the accumulated experiences of waqf management in these countries to enhance the role played by waqf institutions in economic and social development.
- Organizing sophisticated and intensive training courses in the various aspects of waqf to increase the knowledge and the culture of waqf among the waqf officers in these countries.

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