

**Revisiting *Waqf 'Ahlī* as a Tool for Family Wealth  
Preservation: A Comparative Analysis of Pakistani and Malaysian  
Practices in Balancing Tradition and Modern Financial  
Management**



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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**DEDICATED TO**

**BELOVED GRANDFATHER LATE SARDAR M. ASHRAF KHAN**

**WHO ALWAYS WANTED TO SEE HIS GRANDCHILDREN ON THE**

**TOP OF THE WORLD**

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## **Declaration**

I, Amna Mumtaz, solemnly declare that the thesis titled: "Revisiting Waqf 'Ahlī as a Tool for Family Wealth Preservation: A Comparative Analysis of Pakistani and Malaysian Practices in Balancing Tradition and Modern Financial Management" is my own work and has neither been submitted whole or in part for the awarding of any other degree or diploma at any other university or institution. The thesis is presented in partial completion of requirements of the degree of Master of Laws (LL.M) in Muslim Family Laws in the Department of Sharī'ah , Faculty of Sharī'ah & Law, International Islamic University, Islamabad. All the sources and citations of resources used in thesis have been cited appropriately. I have made sure that the work fulfils the academic and research ethics as demanded by the university.

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**Table 1: List of Abbreviations and Their Full Forms**

<b>Abbreviation</b>	<b>Full Form</b>
AAOIFI	Accounting and Auditing Organization for Islamic Financial Institutions
AI	Artificial Intelligence
Auqāf	Department responsible for administration of religious endowments (Pakistan)
CSR	Corporate Social Responsibility
GLCs	Government-Linked Companies
GIS	Geographic Information System
ICT	Islamabad Capital Territory
IIUM	International Islamic University Malaysia
IRTI	Islamic Research and Training Institute
JAWHAR	Jabatan Wakaf, Zakat dan Haji (Department of Waqf, Zakat, and Hajj, Malaysia)
JAKIM	Jabatan Kemajuan Islam Malaysia (Department of Islamic Development Malaysia)
LIWF	Labuan International Waqf Foundation
MAIK	Majlis Agama Islam dan Adat Istiadat Melayu Kelantan
MAIN	Majlis Agama Islam Negeri (State Islamic Religious Council)
MAIDAM	Majlis Agama Islam dan Adat Melayu Terengganu
MAYSIS	Model for Administrative Yield and Strategic Integration of Ṣadaqahh
PKR	Pakistani Rupee
PLD	Pakistan Law Digest
REIT	Real Estate Investment Trust
RSIS	Rajaratnam School of International Studies
SBP	State Bank of Pakistan

SIRC	State Islamic Religious Council
SME	Small and Medium Enterprises
SSRN	Social Science Research Network
WANCorp	Waqaf An-Nur Corporation
WAMSI	Waqf Management System of India

## **Abstract**

This thesis analyses the revitalization of Waqf ‘Ahlī as a shari-ah compliant intergenerational wealth preservation mechanism, and provides a comparative analysis of its legal, financial and administration way of implementation in Pakistan and Malaysia. Rooted in Islamic jurisprudence and based on objectives of Islamic law (maqāsid al-sharī‘ah), Waqf ‘Ahlī has long been used as an avenue to preserve familial wealth, support vulnerable dependents and promote social unity. Although Malaysia has effectively institutionalized Waqf ‘Ahlī by implementing state-regulated systems, digital governance, and the introduction of financial instruments such as waqf sukūk and cash waqf, Pakistan still experienced gaps in regulation, fragmented governance, and limited public engagement, resulting in the underutilisation of this institution.

The research employs doctrinal and comparative approach which combines classical fiqh, statutory laws, case precedents, and organisational practices to evaluate whether Waqf ‘Ahlī can be applied to the modern system of financial planning and inheritance. It examines the prospects of using models such as waqf mu’aqat (temporary endowment), Waqf Mushtarak (hybrid endowment), and smart technologies like blockchain-based registries and automated contracts, to bring Waqf ‘Ahlī into harmony with the demands of farā’id, also addressing the social- economic needs of financially dependent individuals.

Findings validate the legal and religious authenticity of Waqf ‘Ahlī and underscores its ability to reduce disputes within inheritance, advance the fair transmission of wealth, and enhance welfare frameworks within the familial unit. Recommendations encompass legal reform in Pakistan, completion of the national registry of Waqf ‘Ahlī, institutionalization of sharia compliant investment opportunity and the organizing of a concerted mainstreaming effort. Pakistan could use the mechanism of Islamic legal tradition in conjunction with Malaysian policy innovations and



digital infrastructure to harness the transformative power of Waqf ‘Ahlī , the sustainable tool of family resilience and national socio-economic dynamization.

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## Chapter 1 Introduction

### 1.1 Thesis Statement

*Waqf 'Ahlī* (family Endowment) has historical and religious significance in maintaining wealth but globally, especially in Pakistan, it faces constraints such as legal impediments, regulatory inconsistencies and lack of broader integration with contemporary finance, and is consequently incapable of providing functions in intergenerational wealth transfer. The structural Approach of Malaysia gives valuable insight for revitalization and Modernization of family Waqf.

### 1.2 Introduction

Waqf 'Ahlī is an institution whereby the endowment/dedication of the family wealth movable and immovable is expressly done in perpetuity and is wholly dedicated to descendants, and the core aim of the Waqf 'Ahlī is to preserve wealth, protect the vulnerable family members and comply with religious requirements. Contrary to the public endowment, which is meant to be used in general charitable or religious intent, Waqf 'Ahlī is established with the prime aim to benefit the children, grandchildren, and other descendants of dependents of the founder throughout many generations. Endowments Sometimes endowments are initiated during the lifetime of the founder, and, unless closed by the founders, are legally binding, meaning that the endowment continues providing help long after the death of the donor. The dynamic nature of *Waqf 'Ahlī* has traditionally turned it into an essential instrument of wealth preservation, family harmony, and social stability in Islamic worlds.<sup>1</sup>

The validity of *Waqf 'Ahlī* rests on the tenets of the Islamic law, specifically, the higher intents of the Islamic law, which are the general objectives. The retention of wealth is one of these and

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<sup>1</sup> Magda Ismail Abdel Mohsin, *Revitalization of Waqf Administration & Family Waqf Law* (Kuala Lumpur: IIUM, 2010), 2–5.

will be considered one of the motives to explain the systematic and generational management of family property.<sup>2</sup> The culture of endowment arose when Prophet Muhammad (peace be upon him) advised his followers to commit their wealth to the welfare of the society. An early example was the endowment of a well in Medina by ‘*Uthmān ibn ‘Affān* (may Allah be pleased with him). Uthman realized the lack of clean water, and he bought the well to serve the people of Medina freely. Such generosity by example was to become the pattern of others and to make endowment a practice dearly loved in Islam. The well served the community to supply water and Uthman made it his endowment that it could serve people even after his death. The Prophet Muhammad (peace be upon him) commended him about this charity act and said: Give it to supply water to the Muslim, and the reward of it will be yours.<sup>3</sup>

Further evidence of religious encouragement for family support is Abu Huraira reported Allah's Messenger (ﷺ) as saying: “Of the dinar you spend as a contribution in Allah's path, or to set free a slave, or as a Ṣadaqah given to a needy, or to support your family, the one yielding the greatest reward is that which you spent on your family.”<sup>4</sup> On this moral premise a great number of companions like Abu Bakr, Ali ibn Abi Talib, Saad ibn Abi Waqqas, and al-Zubayr ibn al-Awwam set up personal endowments in order to serve their families.<sup>5</sup>

The practice of *Waqf ‘Ahlī* has not been uniform across modern Muslim jurisdictions. In the context of British India, the validity of family waqfs faced significant legal challenges following the Privy Council’s 1894 decision in *Abul Fata Mohamed Ishak v. Russomoy Dhur Chowdhry*, which questioned the validity of perpetual family settlements as waqfs if the charitable benefit was

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<sup>2</sup> Monzer Kahf, "The Role of Waqf in Enhancing Social Welfare," *Journal of Islamic Economics* 16, no. 1 (2003): 36.

<sup>3</sup> Sunan an-Nasa’i, Hadith 3607, accessed April 15, 2025, <https://sunnah.com/nasai:3607>

<sup>4</sup> Ṣaḥīḥ Muslim 1631, Kitāb al-Zakāh, hadith no. 1631, accessed April 2025, <https://sunnah.com/muslim:1631>.

<sup>5</sup> Ibn Qudāmah, *al-Mughnī*, vol. 6 (Beirut: Dār al-Fikr, n.d.), 154

too remote. This ruling sparked confusion and hardship in the Muslim community, as it was seen to conflict with traditional Islamic law and endangered family endowments.<sup>6</sup>

To resolve these doubts, Mohammad Ali Jinnah introduced the Mussalman Wakf Validating Act, 1913, which legally validated waqfs created for family benefit known as wakf-alal-aulad provided that an ultimate charitable reversion was incorporated. The Act clarified rights especially under the Hanafi school of law, allowing life interests and debt payments from waqf property, and protected local Muslim customs. It ensured that family waqfs remained valid even if the charitable purpose was deferred until after family members' extinction, thereby restoring legal certainty to Muslim endowments.

At present no written law that governs individual or *Waqf 'Ahlī'*. The management of endowment property is restricted to intra-religious institutions of the people like the shrines and the mosques, which are governed by the provincial departments of endowment, as ordained by legislations, including the Punjab Waqf Properties Ordinance 1979.<sup>7</sup> The laws do not apply governance to *Waqf 'Ahlī'*, thus restricting their registration, institutional and legal protection. Endowments by the family have however been upheld as valid by the judiciary in a number of instances in Pakistan. In *Anjuman Himāyat-e-Islām v. Syed Fārūq Ḥasan*, The Supreme Court has held that an endowment scheme where a founder made himself and his spouse the trustees and imposed a deferred charity provision was consistence with Islamic principles and were valid Under Islamic law.<sup>8</sup> Likewise, in *Province of Punjab v. Mirza Khalid Shafique Baig*, the Lahore High Court upheld a family waqf which devolved to the Social Welfare Department upon having benefited descendants, noting that the fact that a waqf provision benefits heirs in the first instance

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<sup>6</sup> Abul Fata Mohamed Ishak v. Russomoy Dhur Chowdhry, Privy Council, decided on December 15, 1894, reported as 22 Indian Appeals 76 (PC), 1894.

<sup>7</sup> *Punjab Waqf Properties Ordinance*, Ordinance XVII of 1979.

<sup>8</sup> *Anjuman Himāyat-e-Islām v. Syed Fārūq Ḥasan*, PLD 2007 SC 352.

does not render the waqf invalid. These judgments show how the theoretical application of waqf in Pakistan is permissible but it also highlights the weak position of such arrangements when lacking background structures.<sup>9</sup>

Malaysia, conversely, has become a global example in an organized generational Waqf 'Ahli'. The federal constitution provides that matters of Islam such as endowments are under state authority and that its State Islamic Religious Council is the sole trustee of endowment properties. Specific endowment laws have been passed in states like Selangor and Kelantan, and these laws permit the family to submit *Waqf 'Ahli* deeds, select trustees, and receive benefits across generations. Some distributions may be split between heirs (say 85per cent) and public charity (15 percent), thus satisfying family duty and the necessities of being a continuing charity of public benefit.<sup>10</sup>

Malaysia has likewise been on the forefront of digitalizing endowment management solutions, including the e-Wakaf platform that allows real-time registration of assets, depositing of records and geospatial tracking using GIS mapping. There are blockchain-based applications in the pilot phase in cooperation with Islamic fintech start-ups that aim to increase endowment traceability and compliance. Recent financial innovations such as endowment-backed sukūk (Islamic investment bonds) and cash endowment portfolios have given families the possibility of creating income-generating endowments which are run by Islamic banks, hence combining the religious piety with the modern asset management techniques. Taking into consideration the differences in institutional capability and clarity of regulations in Pakistan and Malaysia, *Waqf 'Ahli* revival in Pakistan demands not only jurisprudential assistance but also administrative improvements,

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<sup>9</sup> *Province of Punjab v. Mirza Khalid Shafique Baig*, RFA No. 43/2012 (Lahore High Court).

<sup>10</sup> Farhana Suhaimi, "Wakaf Ahli: Peruntukan Undang-Undang dan Pelaksanaannya di Malaysia," *Malaysian Journal of Syariah and Law* 8, no. 1 (2018): 75.



financial framework and technological advancement. Pakistan has an opportunity to renew the value of Waqf ‘Ahli as a dependable device of intergenerational wealth store, social security and economic equality by institutionalizing endowment documentation, attaching Waqf ‘Ahli documents to countrywide property indexes and integrating Islamic banks to manage endowments as assets. In the context of Sharī‘ah -compliant governance this study attempts a critical analysis on how the endowment of family can be rejuvenated, through referring to the experiences of two countries, namely Pakistan and Malaysia. Indecipherable through doctrinal analysis, legal comparison or institutional review, and through a feasibility roadmap suggested by the study, the process of transforming Waqf ‘Ahli into the active component of Islamic social finance should start the process of becoming a dynamic element of Islamic social finance that simultaneously preserves tradition and meets acute needs of modern Muslim families.<sup>11</sup>

### **1.3 Research Questions**

1. What methods can be used to reform the traditional values of family waqf so that it complements the modern-day practices of financial management, and the system employed in Malaysia be applied to Pakistani Muslim families to be able to enhance its impact?
2. What are the main issues regarding establishment, regulation, and management of Waqf ‘Ahli at modern times and how do they compare in both Pakistan and Malaysia?
3. What legal and policy changes need to be made in Pakistan so as to promote good use of Waqf ‘Ahli as a means of preserving wealth, taking advantage of the success Malaysia has had in integrating endowment cultures into its contemporary financial and legal system?
4. How to organize the Waqf ‘Ahli in a way that can support the life of vulnerable family

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<sup>11</sup> Aznan Hasan and Abdul Hadi Awang, “Socio-Legal Significance of Family Waqf in Islamic Law: Its Degeneration and Revival,” *IJUM Law Journal* 24, no. 2 (2018): 309–334.

members, including orphans and the ones that have no economic support, without contradicting Islamic principles and inheritance laws?

#### **1.4 Research Objectives**

1. To compare the history and legality of Waqf ‘Ahlī and its use in the maintenance of family wealth in Pakistan and Malaysia.
2. To distinguish and contrast the major obstacles of practical application of Waqf ‘Ahlī in modern financial and regulatory systems in the two countries.
3. To suggest the measures that could help transition Waqf ‘Ahlī to contemporary financial solutions by using the experience of Malaysia, its innovative practices.
4. To work out Waqf ‘Ahlī frameworks that aid vulnerable family members without diverging the provisions of Sharī‘ah or inheritance laws.

#### **1.5 Literature Review**

Waqf or the Islamic endowment has been a significant component of Muslim societies since over a millennium. It has encouraged maintenance of wealth, promotion of the needs of the society and enhancement of social bonds. Waqf, in the past, has been practiced in erecting and maintaining major installations such as mosques, schools, hospitals and water systems. There was another variety of waqf, namely Waqf ‘Ahlī aimed to provide benefits to a person own family, children and other dependents. With the modernization and change in societies today, Waqf ‘Ahlī can be very useful financially in order to manage wealth generation-to-generation, as well as in the attendance of family members. Some issues such as lack of clarity with the law, negligent management, disassociation with contemporary financial activities and outdated systems have however made it hard to reinstate Waqf ‘Ahlī into use in most Muslim nations.

The legitimacy of Waqf ‘Ahlī is very well supported by the classical Islamic jurisprudence. Ghulām ‘Abd al-Ḥaqq Muḥammad’s *Aḥkām al-Waqf* describes the juristic bases related to endowment with the help of the Quran, the prophet sunnah, and the juristic consensus of the early scholars. In like manner, renowned jurists, e.g., Ibn Qudamah in *al-Mughni* and Ibn Abidin in *Radd al-Muhtar*, declare that Waqf ‘Ahlī’s are permissible in the Hanafī system of law, though especially so when made on behalf of descendants and near relatives.<sup>12</sup> Muḥammad Ḥasanayn Maḥlūf’s *Manhaj al-Yaqīn fī Bayān anna al-Waqf al-‘Ahlī min al-Dīn* further underlines the religious and ethical value of Waqf ‘Ahlī, as it is a good deed that is firmly connected to continuous charity (Ṣadaqaḥh jariyah).<sup>13</sup> This is classical references that uphold the doctrinal tenability in Waqf ‘Ahlī and are never interested in modern financial management and regulatory adjustment.

In Pakistan, the legal literature is comprehensive and well-codified yet it usually does not contain practical means of using Waqf ‘Ahlī in the contemporary economic and governance systems. Collection of statutes regarding endowment like in books like Justice Tanzil-ul-Rahman, Mahm India Majmuah Qawaninc-e-Islam and Imran Ahsan Khan Niazi, *Outlines of Muslim Personal Law* constitute valuable legal definitions and formalities but neglect essential points like the financial soundness, asset expansion and performance measurement.<sup>14</sup> Tauqīr Muḥammad’s *Law of Waqf in Islam* cites classical sources like *Fatāwā ‘Ālamgīriyyah*, offers historical insights but does not outline how trustee should be appointed, endowment reinvestment, or beneficiary equity.<sup>15</sup>

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<sup>12</sup> Ghulam Abdul Haq Muhammad, *Ahkam-e-Waqf* (Islamabad: Islamic Research Institute, 1999).

<sup>13</sup> Muhammad Hasanayn Maḥlūf, *Manhaj al-Yaqīn fī Bayān anna al-Waqf al-‘Ahlī min al-Dīn* (Beirut: Dār al-Nahda, 2003).

<sup>14</sup> Justice Tanzil-ul-Rehman, *Majmooa Qawaneen e Islam* (Islamabad: Pakistan Law Publishers, 1985); Imran Ahsan Khan Nyazee, *Outlines of Muslim Personal Law* (Lahore: Vanguard Books, 2012).

<sup>15</sup> Tauqir Muhammad, *Law of Waqf in Islam* (Lahore: Sh. Muhammad Ashraf, 2007).

Modern scholars have established that there are considerable gaps in the Pakistan waqf structure. Farah Naz and Tariq Mahmood explain that adverse public and family waqf is defeated through poor governance and inconsistency in execution.<sup>16</sup> Hamidullah Marwat shows that family waqf lacks harmony of jurisprudential interpretation, which leads to administrative sluggishness.<sup>17</sup> Jabeen and Aziz further contribute that, legal ambiguity and financial opacity will reduce the trust of the people and it will deter stakeholders' involvement.<sup>18</sup> In addition, the question of family waqf is poorly considered in the Islamabad Capital Territory Waqf Properties Act 2020, which also adds to this confusion.<sup>19</sup>

Malaysia, compared to this, has managed to create a more forward looking and financially oriented society of waqf. Its legislative framework has integrated Federal Constitution and other state legislations which authorize State Islamic Religious Councils to control descent-based waqf.<sup>20</sup> Other scholars including Mahamood, Kader, and Nor Asiah Mohamad explain how such councils administer the endowments in a transparent manner and cash waqf as a cash-producing tool.<sup>21</sup> Nurul Azlina Abdul Aziz stresses the high necessity of legislative supervision and legal interpretation in the success of Malaysia especially in states such as Selangor and Kelantan.<sup>22</sup>

When it comes to innovation, the introduction of waqf muaqqāt can be viewed in light of the rigidity of the perpetual waqf. This model has been conceptualized as the development and ability

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<sup>16</sup> Farah Naz and Tariq Mahmood, "Waqf Governance in Pakistan: Legal, Institutional and Administrative Challenges," *Pakistan Journal of Islamic Research* 21 (2020): 45–58.

<sup>17</sup> Hamidullah Marwat, "The Status of Waqf Ahli in Pakistan: A Legal and Juristic Appraisal," *Pakistan Journal of Islamic Research* 23 (2022): 105–122.

<sup>18</sup> Rabia Jabeen and Muhammad Aziz, "Administrative Reforms and Legal Framework for Revival of Awqaf Institutions in Pakistan," *Journal of Islamic Thought and Civilization* 11, no. 1 (2021): 99–117.

<sup>19</sup> Islamabad Capital Territory Waqf Properties Act, 2020 (Act No. XXXI of 2020), Government of Pakistan.

<sup>20</sup> Federal Constitution of Malaysia, Article 74 and Ninth Schedule, List II (State List).

<sup>21</sup> Syed Ahmad Iskandar Syed Mahamood, Mohammad Kader, and Nor Asiah Mohamad, "The Administration and Management of Waqf Land in Malaysia: Issues and Solutions," *Shariah Journal* 24, no. 1 (2016): 1–20.

<sup>22</sup> Nurul Azlina Abdul Aziz, "The Role of Legal Framework in Enhancing Waqf in Malaysia," *Shariah Law Reports* (2021): 43–56.

to address modern financial requirements but abide with the Islamic legal concepts.<sup>23</sup> According to Ab Rahman and Thaidi, waqf muaqqāt is a characteristic specifically applicable to family waqf, as it provides a dose of flexibility regarding the duration of the asset and the purpose of the asset.<sup>24</sup> They also point at cost-plus sales, leasing, and agency contracts as appropriate forms of integration between family waqf and Islamic finance.<sup>25</sup>

Another aspect that Malaysia has excelled in is digital transformation compared to jurisdiction. Haron et al. and the Azman Hashim Foundation record the process of sending waqf records online and using blockchain-based audit trails.<sup>26</sup> The use of systems like eWakaf overseen by JAKIM will improve disclosure, automation of cash distributions to beneficiaries and reduce abuse of assets.<sup>27</sup> RSIS refers to it as a component of Waqf 4.0 movement, which combines fintech with charity in its Islamic form.<sup>28</sup> All these are directly related to criticisms in Pakistan over a long period of issues of mismanagement of records and the lack of data-driven governance.

There has also been the scrutiny of the convergence of family waqf and corporate structures between the researchers. Hayat and Naeem pose an example of Hamdard Pakistan as a case study proving that private endowments are able to be institutionalized in order to cater both family and societal interests.<sup>29</sup> The Labuan Financial Services Authority reports and guidelines provided by the Shari‘ah Advisory Council of the State Bank of Pakistan suggest how the requirements of

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<sup>23</sup> Monzer Kahf, *Financing the Development of Waqf Property* (Jeddah: Islamic Research and Training Institute, 1999).

<sup>24</sup> Ab Rahman and Thaidi, “Temporary Waqf as a Contemporary Tool for Socio-Economic Development,” *International Journal of Islamic and Middle Eastern Finance and Management* 12, no. 3 (2020): 423–438.

<sup>25</sup> *Ibid.*, 430.

<sup>26</sup> Haron Abdullah et al., “Blockchain Technology in Waqf Management: The Case of Malaysia,” *International Journal of Advanced Science and Technology* 29, no. 7 (2020): 2300–2310.

<sup>27</sup> JAKIM, “eWakaf System,” Department of Islamic Development Malaysia, accessed May 2025, <https://ewakaf.islam.gov.my/>.

<sup>28</sup> RSIS, “Waqf 4.0: The Future of Islamic Social Finance,” *S. Rajaratnam School of International Studies Report*, 2021.

<sup>29</sup> Naeem Hayat and Ammara Naeem, “Corporate Waqf: A Case of Hamdard (Waqf) Pakistan,” *SSRN Electronic Journal* (2014).

corporate governance can be reconciled with the operation of the Waqf in terms of the Islamic law.<sup>30</sup>

Additional remarks by Hamid et al. dig into the aspect of family waqf in financial empowerment.<sup>31</sup> According to their findings, these endowments may be used to finance education, sponsor women entrepreneurship and promote acquisition of property among the less fortunate relatives. These observations echo previous research by Doumani, whose study expressed concern with how family waqf historically facilitated the role women played in retaining rights of property under Ottoman Syria.<sup>32</sup> The researchers believe that the current models can also encourage gender-inclusive wealth approaches.

Nor Asiah Mohamad and Sakinah et al. are concerned with the redefinition of family waqfs with participatory governance and hybrid investment consulting.<sup>33</sup> They support real estate investment in waqf, the inclusion of Islamic bonds, and halal equity in the waqf portfolio. Further, they propose that endowments should periodically review the investment returns, and that they should also be in accordance with the principles of Islamic jurisprudence in view of preservation of wealth, justice among other things. These practices are not prevalent in Pakistan where the standard waqf model still inclines to the colonial-era legislation laws like the Mussalman Wakf Validating Act of 1913.<sup>34</sup>

Although family waqf is acknowledged in the law, there is a lack of implementation as family waqf is underutilized in Pakistan due to its weak fiduciary framework, the absence of digital

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<sup>30</sup> Labuan Financial Services Authority, *Labuan International Waqf Foundation Guidelines* (2015); State Bank of Pakistan, *Shariah Governance Framework* (2023).

<sup>31</sup> Hamid et al., “Family Waqf as a Tool of Economic Empowerment in Malaysia,” *International Journal of Zakat and Waqf Research* 9, no. 1 (2023): 1–9

<sup>32</sup> Beshara Doumani, “Endowing Family: Waqf, Property and Gender in Ottoman Syria,” in *Family History in the Middle East*, ed. Beshara Doumani (Albany: SUNY Press, 2003), 133–161.

<sup>33</sup> Nor Asiah Mohamad and Sakinah Ismail, “Redefining Waqf Ahli through Hybrid Models and Good Governance,” *IIUM Law Journal* 26, no. 1 (2018): 145–163.

<sup>34</sup> Mussalman Wakf Validating Act, No. VI of 1913, §3.

infrastructure, separation of jurisdiction and financial controls. Researchers opine that unless the family waqf is realistically institutionalized, its potential in aiding socio-economic development will never be achieved.<sup>35</sup>

In the recent literature, frameworks to solve these challenges have been outlined. The researchers Shafii and colleagues suggest harmonized governance model of Muslim-majority countries which took into consideration best practices in Malaysia, Indonesia and Turkey.<sup>36</sup> The Azman Hashim Foundation has presented a capitalization scheme of corporate waqf in terms of tiered governance, risk-based audits, and impact assessment.<sup>37</sup> Iqbal also proposes utilization of Islamic real estate investment trusts and venture philanthropy in diversification of waqf portfolios.<sup>38</sup>

The thesis by Atiyyah Bibi, although addressing the issue of descendant-based waqf under the legal context of Pakistan, is rather narrow.<sup>39</sup> It does not have wider family structures, like in-laws or adopted dependents, it also lacks models of liquidity management and asset diversification and cross-border waqf. Other institutions such as MAIK (Kelantan) and WANCorp (Johor) by comparison, has designed comprehensive waqf plans which had incorporated family waqf into socio-economic development strategies and the corporate social responsibility program.

Structural changes should be used to reinvigorate family waqf in Pakistan. Among them are digital asset registration, required auditing, aptitude test by AI over trustees, and adjusting laws

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<sup>35</sup> David S. Powers, "The Islamic Waqf Ahli (Waqf)," *Vanderbilt Journal of Transnational Law* 32, no. 4 (1999): 1167–1192; A. Mohsin, "Structural Challenges in Waqf Administration in Pakistan," *Review of Islamic Economics* 24, no. 2 (2022): 189–206.

<sup>36</sup> Shafii, Zuraidah, et al., "Toward Harmonized Waqf Governance: Comparative Study of Selected Muslim Countries," *International Journal of Islamic Economics and Finance Research* 5, no. 2 (2021): 1–14.

<sup>37</sup> Azman Hashim Foundation, "Corporate Structure and Waqf Distribution," accessed May 2025.

<sup>38</sup> Zamir Iqbal, "Waqf-Backed REITs and Venture Philanthropy: Prospects for Social Finance," *Islamic Finance Today* 10, no. 4 (2022): 10–16.

<sup>39</sup> Attiyah Bibi, *Development of Healthy Social Fabric: A Comparative Study of Pakistani Legal System and Shari'ah on Family Waqf (Waqf Alal Awlad)*, LLM thesis, International Islamic University Islamabad, 2015

between two federal orders and provincial legislation. With the example of Malaysia experience, Pakistan can where modernization of family waqf framework need to be achieved through integration of technology and financial tools and institutional coordination. This fusion of the old and the new provides the way forward towards making family waqf economically viable, socially efficient, and religiously compatible.

The gaps in this study have comprehensively been covered through integrating Religious, Legal, Financial, and technological aspects of family waqf. It renders family waqf as not only a means of intergenerational wealth transmission but also as a forward-looking device towards dealing with the current challenges. By contrasting the given integrated system of Malaysia and the fragmented system of Pakistan, the study offers the reform-based framework that can make family waqf transparent, effective, and sustainable in the contemporary world.

## **1.6 Research Methodology**

This research will use the qualitative and comparative approach to study the role of Waqf 'Ahli as a method of family wealth maintenance in Pakistan and Malaysia, focusing on bringing together the traditional Islamic ideology and current financial transactions. The focus is made on primary sources, namely Quranic injunctions, prophetic traditions, and classical Islamic legal texts to address and determine the doctrinal basis of endowment to the family and its compatibility with the higher purposes of the Islamic law and the preservation of wealth. The secondary sources, such as scholarly articles, legal provisions, and institutional reports are to be used in the appraisal of the present practices and implementation issues. The comparative form is the review of the organized governance and inventive monetary incorporation, including monetary endowments and provisional endowments, as a possible form to clean up the fractionalized governance structure and underutilized endowments systems in Pakistan by Malaysia. The tendency in endowments of



families is represented through the case studies and the evaluation of policies in terms of the socio-economic implications of such endowments, particularly their propensity to cover the needs of vulnerable family members, such as orphans and widows, within the limits of Islamic legislation. Data is retrieved in academic and institutional sources and online platforms in order to be able to provide a full and up to date analysis. This approach combines doctrinal, comparative, and policy-based aspects of understanding to present working frameworks that reinvigorate endowment to families in the age-friendly approach that honors Islamic tradition and even addresses needs and conditions belonging to the contemporary socio-economic environment.

### **1.7 Outline of Thesis**

The introduction defines the main argument of the thesis, namely, that Waqf ‘Ahlī represents a huge unexploited potential of a legitimized Islamic and financial tool to preserve and increase wealth across generation and develop socio-economically. It gives an overview of the research questions, objectives and methodology giving a good structure of the study. The chapter further provides a concise literature review and the rationale behind the adoption of a qualitative, comparative design, which relies upon secondary data of Pakistan and Malaysia.

The second chapter explores the legal and financial bases of Waqf ‘Ahlī that starts with the origin of the notion in the Islamic jurisprudence. It subsequently compares the statutory and regulatory systems within Pakistan and Malaysia, including the degree to which it complies with the Islamic law. The chapter also reflects on the financial future of Waqf ‘Ahlī, specifically the way it could be embroiled with the Islamic tools of finance like sukūk and takaful. It also points to key bottlenecks to adoption, such as the misconception among the general population, unfamiliarity of clarity of regulation, and ineffective enforcement processes.

Chapter three analyses governance, which dwells on administrative and financial management systems of the endowment institutions in Pakistan and Malaysia. It evaluates how far the two countries have been able to establish transparency, accountability and innovation in endowment governance. Issues related to the use of technology in the modernisation of the endowment systems are examined, and special attention paid to the equity issues of vulnerable groups in having access to the benefit of Waqf ‘Ahlī s mainly the women and rural families.

Chapter four offers Waqf ‘Ahlī as an effective and flexible financial instrument. It explains how these endowments safeguard the financial resources of the family ensuring long time livelihood to the dependant beneficiaries such as widows and minors besides creating cash flows by means of land that is rented out, agricultural enterprises, and legal investments. Based on effective policymaking and institution-building experience in Malaysia, the chapter suggests the revitalisation policy of Pakistan and analyses the broader social economic effects such as strengthening family bonds, minimising inheritance related wrangles and building communities via a socially productive endowment.

The concluding chapter summarizes the major findings of the study and it puts forward a set of policy, legal and fiscal recommendations to enhance implementation of Waqf ‘Ahlī in Pakistan. It demands institutional change, financial integration, and digital innovation as the key measures to aggregate the potential of this mechanism. The following chapter also points to the further research avenues that can be explored to understand the changing role of endowments in Islamic social finance. The conclusion reaffirms, that when adequately regulated, properly managed, Waqf ‘Ahlī can be a vehicle between tradition and modernity that provides a sustainable formula of family wealth perpetuation and inclusive socio-economic developments.

## **Chapter 2: Legal and Financial Foundations of Waqf ‘Ahlī**

### **2.1 Introduction**

The chapter provides the doctrinal and systemic basis that can be used to elaborate on the use of the institution of Waqf ‘Ahlī (family endowment) as a means of transferring wealth across generations within Muslim societies. It addresses not only the religious ideals of Waqf ‘Ahlī, but also the legal and financial codes of the application of such practice in Pakistan and Malaysia. Resorting to the classical literature of jurists, as well as the Quranic doctrine, the chapter highlights the theological legitimacy to perpetually endow in favor of family welfare, based on the objective of Ḥifẓ al-Māl (protection of wealth) in the system of Maqāṣid al-Sharī‘ah. Subsequently, this chapter analyzes the legal developments of waqf laws in these two jurisdictions pointing out to the colonial legal legacies of Pakistan and how the Malaysian capitalized on it adopting Islamic institutions to financial innovation. The special interest is focused on the influence of State Islamic Religious Councils (SIRC) in Malaysia, as compared that of the fragmented state regulation in Pakistan. It also analyses the ability of Waqf ‘Ahlī to be used as a modern financial instrument and the social cultural and legal restrictions they place on its further use. In combination, they give a complex picture of the legal-religious foundations of Waqf ‘Ahlī and its increasingly important financial prospects, which preconditions the following comparative analysis of governance itself in Chapter 3.

### **2.2 Religious and Jurisprudential Principles**

The concept of waqf, is derived from the Arabic concept al-ḥabs wa al-man‘, which means the detention or retention of property whether movable or immovable, by a founder and its subsequent consecration of usufruct so that it may now exert its usufruct to beneficiaries designated in its

institution. In Islamic legal language, this type of charity is termed using the words waqf, ḥabs and tasbīl (devotion in the path of Allah) interchangeably.<sup>40</sup>

The Prophet Muhammad (P.B.U.H), historically recognized the practice of waqf and promoted its use among his followers. One of the traditional accounts by Ibn Umar tells how Umar ibn al-Khattab bequeathed a garden of dates named Thamgh, not excluding its corpus, but reserving all its production to charity. The Prophet instructed: “Give it in charity with its land and trees on the condition that the land and trees will neither be sold nor given as a present nor bequeathed, but the fruits are to be spent in charity.”<sup>41</sup> The founder was allowed during his lifetime to exercise the right to manage the waqf and to draw a reasonable benefit out of it

This form of decentralized waqf management persisted more than thirteen centuries. The founders themselves could administer their own waqf or they could set trustees (mutawallīs). Other companions like Abū Bakr, ‘Umar ibn al-Khaṭṭāb, Sa’d ibn Abī Waqqāṣ, al-Zubayr ibn al-‘Awwām, and ‘Amr ibn al-‘Āṣ established family waqf in their respective houses where they left their inheritance as endowments to their children or relatives.<sup>42</sup>

Waqf ‘Ahlī or Waqf Dhurri , waqf ala al-awlad or waqf khas is a known legal category of Islamic jurisprudence. It lets founders to donate property to the family members including children and grandchildren. The property is reverted back to the general welfare of the people when there is no designated beneficiary. The Prophet approved this and he instructed Abu Talhah to give his

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<sup>40</sup> Magda Ismail Abdel Mohsin, *Revitalization of Waqf Administration & Family Waqf Law*, US-China Law Review 7, no. 6 (2010): 2.

<sup>41</sup> Sahih al-Bukhari 2764, in Book 55, Hadith 27, accessed August 10, 2025, <https://sunnah.com/bukhari:2764>.

<sup>42</sup> Al-Khaṣṣāf, *Ahkām al-Awqāf*, ed. Abū Bakr Aḥmad b. ‘Umar al-Shaybānī (Beirut: Dār al-Kutub al-‘Ilmiyyah, n.d.), 8–17; cited in Abdel Mohsin, *Revitalization*, 3.

most favorite garden Bi'ruḥā' to his family after the revelation of the Surah All Imran (3:92). Abu Talhah acted upon it at once, and circulated it among his kin.<sup>43</sup>

There are five very significant conditions under which a waqf, whether in the public or private sector, has to be valid under the classical Islamic law. The founder is required to be a free adult person of sound mind, first. Second, the asset should be legally possessed and transferable. Third, the founder is required to designate a trustee and can even designate successors to govern the waqf. Fourth, there should be a clear and defined list of beneficiaries. Fifth, declaration of the waqf should be manifested either verbally or in writing, e.g., a formal waqf deed.<sup>44</sup>

Upon establishment, waqf properties have three restrictions on them in terms of legality and these are irrevocability, perpetuity, and inalienability. Irrevocability assures that founder will not be able to reclaim or revoke the waqf. Perpetuity guards that the property may continue to be usefully enjoyed over a period of time, and inalienability means that the property may not be sold, transferred in a gift deed, passed on by inheritance or undergo mortgaging. Such limitations are posed on the basis that the asset has been said to have been sold to the possession of God with only the benefits of the asset being enjoyed by those upon whom the asset is given. This was further confirmed with the own teaching of the Prophet to Umar that waqf assets should not be sold, inherited, or gifted.

On this basis, Waqf 'Ahlī is valid in both the prophetic and classical school of thought. It was historically employed to ensure wealth transferring multi-generationally and supporting the needs

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<sup>43</sup> Sahih Muslim 998a (mentions Abu Talhah's valued property including his garden Bi'ruḥā') <https://sunnah.com/muslim:998a>

<sup>44</sup> Ibn Qudāmāh, *al-Mughnī* (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.), 6:191; see also 'Alā' al-Dīn al-Kāsānī, *Badā'i' al-Ṣanā'i' fī Tartīb al-Sharā'i'*, 2nd ed. (Beirut: Dār al-Kutub al-'Ilmiyyah, 1986), 6:220; cited in Abdel Mohsin, *Revitalization*, 4–5.

of family members thus providing the more significant version of the aim of the Islamic law ensuring property protection and unity.

### **2.3 Legal Frameworks in Pakistan and Malaysia**

The regulation of Waqf ‘Ahlī in Pakistan and Malaysia is fundamentally different due to their contrasting colonial histories, modes of constitutionalism and perceptions of Islamic law. Waqf ‘Ahlī in Malaysia is more formally assimilated in the state managed Islamic legal system with defined administrative formations and supportive policies. Compared to Pakistan, however, the procedures in that country have been less systematic, and family endowments are not clearly distinguished by regulation, insofar as inheritance laws. The concept of these divergent frameworks is fundamental when evaluating the potential of each nation to support or instruct against Waqf ‘Ahlī as a legitimate instrument of intergenerational prosperity.

#### **2.3.1 Pakistan: Judicial Recognition in the Absence of Codified Frameworks**

Waqf ‘Ahlī is accepted in Pakistan within the context of the Islamic personal law, which is the Hanafi school, and it was specifically acknowledged as legally permissible by law under the British Rule in colonial laws. The Musselman Wakf Validating Act 1913 gave British statutory authority to family-benefiting waqf, so long as a future charitable use was achieved.<sup>45</sup> This was an important legal difference with the Western trust law, which tended to treat this sort of arrangement as being void so as to favour the settlor or their heirs.<sup>46</sup>

Nevertheless, there is no specific statutory regime in Pakistan to regulate family waqf. Although the provincial waqf laws, including the Punjab Waqf Properties Ordinance 1979, regulate the public waqf, it lacks jurisdiction in the case of the private or family waqf. Consequently, Waqf

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<sup>45</sup> *Mussalman Wakf Validating Act*, No. VI of 1913, §3.

<sup>46</sup> David S. Powers, “The Islamic Waqf ‘Ahli (Waqf),” *Vanderbilt Journal of Transnational Law* 32, no. 4 (1999): 1167–1192.

‘Ahlī remains as an interpretation of Islamic personal law, and is determined by courts on an ad hoc basis.<sup>47</sup>

Courts have been important in legitimizing the Waqf ‘Ahlī by setting precedence. In *Anjuman Himayat-e-Islam v. Syed Farooq Hassan*, the Supreme Court confirmed a waqf where the founder had declared himself and his wife mutawallis and intended the transfer of the assets to a charitable organisation to take place in the future.<sup>48</sup> Similarly, in *Province of Punjab v. Mirza Khalid Shafique Baig*, the Lahore High Court accepted a waqf deed that initially benefited his family, and subsequently, transferred the property to the Social Welfare Department.<sup>49</sup>

Regardless of this legal status, Pakistan currently does not have codified protections, official systems of registration, or an official national body to govern family waqf. This makes the deeds of waqf subject to forgery, contests over succession and contradictory appointment of mutawallis. In addition, awareness in the general populace is low and even the absence of co-integration with financial institutions results in decreased awareness and applicability of Waqf ‘Ahlī as an established estate planning tool.<sup>50</sup>

### **2.3.2 Malaysia: Structured Institutionalization of *Waqf ‘Ahlī***

Malaysia, on the other hand, has a formalized decentralized system of regulating waqf. Every state has its own enactment of waqf under the State Islamic Religious Council who is the only custodian of all waqf land including family waqf.<sup>51</sup> This arrangement is reinforced constitutionally by the provision of Islamic issues to the jurisdiction of individual states.<sup>52</sup>

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<sup>47</sup> *Punjab Waqf Properties Ordinance*, 1979 (Ordinance No. XVII of 1979).

<sup>48</sup> *Anjuman Himayat-e-Islam v. Syed Farooq Hassan*, PLD 2007 SC 352.

<sup>49</sup> *Province of Punjab v. Mirza Khalid Shafique Baig*, RFA No. 43/2012, Lahore High Court.

<sup>50</sup> Hamidullah Marwat, “The Status of Waqf Ahli in Pakistan: A Legal and Juristic Appraisal,” *Pakistan Journal of Islamic Research* 23 (2022): 105–122.

<sup>51</sup> Nadzri Wazir et al., “Modern Application of Waqf in the Malaysian Legal Framework,” *International Journal of Islamic Thought* 15 (2019): 13–22.

<sup>52</sup> *Federal Constitution of Malaysia*, Article 74 and Ninth Schedule, List II (State List).

Waqf ‘Ahlī has been institutionalized in the states of Selangor and Terengganu especially. Another example of how property using endowment can be formalized can be seen in Selangor where Selangor Wakaf Corporation offers formalized modes through which individuals can transfer property towards family and charity purposes. These usually involve a systemic distribution model usually with 85 percent going to family members and 15 percent going to charity organizations-striking the right combination of religious obligation and financial expediency.<sup>53</sup>

The Malaysian government, too, tolerates the incorporation of waqf foundations as companies under the Companies Act- a more flexible way of governance and transparent financial protocols. The Azman Hashim Foundation is an example of having structured asset management with the corporate waqf model but nevertheless meeting religious commitments. The State Islamic Religious Councils are the watchdogs that constantly monitor these institutions with regard to continued Shari‘ah compatibility.<sup>54</sup>

The legal context of Malaysia is also influenced by fatwa bodies that have endorsed the usage of family waqf both in socio-economic and even spiritual purposes. Income-generating assets can be endowed on behalf of the family benefit as state religious authorities in Terengganu and Kelantan have confirmed that as long as a share of the returns is channeled towards public welfare.<sup>55</sup> This two-fold strategy fits well with the Islamic doctrine of continuing charity and it allows families to accumulate and maintain wealth.

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<sup>53</sup> Hamid et al., “Family Waqf as a Tool of Economic Empowerment in Malaysia,” *International Journal of Zakat and Waqf Research* 9, no. 1 (2023): 1–9.

<sup>54</sup> Nurul Azlina Abdul Aziz, “The Role of Legal Framework in Enhancing Waqf in Malaysia,” *Shariah Law Reports* (2021): 43–56.

<sup>55</sup> Fatwa Committee of MAIDAM (Terengganu), “Guidelines on Family Waqf,” 2021.



Furthermore, Malaysia has also invested in computerized systems like eWakaf, where waqf deeds can be now registered online, which tracks their assets and can prevent fraud.<sup>56</sup> Such technologies have ensured that more people are confident in the system and that not only families but also institutional stakeholders have easier access to and a more transparent view of waqf.<sup>57</sup>

### **2.3.3 Comparative Analysis and Link to Wealth Preservation**

The primary distinction between the two nations is associated with the level of institutional maturity and legal formalization. Pakistan does not have a national system or regulatory uniformity depending on Islamic jurisprudence and discretion in the judiciary. Malaysia by contrast offers transparent procedures, trustee oversight and legal recognition and financial integration pathways.

Consequently, the Malaysian families are in a better position in employing Waqf ‘Ahlī as a disciplined estate planning tool, which is compatible with contemporary legal and financial frameworks. Waqf ‘Ahlī in Malaysia is a viable aspect of wealth preservation and intergenerational transfer due to the availability of legal assurance, administrative facilitation and the trust of the populace.

In Pakistan, although the religious permissibility of Waqf ‘Ahlī is established, it is not codified and institutionalized, and thus the practical application of Waqf ‘Ahlī is restricted. In the absence of reform, the opportunities of Waqf ‘Ahlī as a Shari‘ah compliant wealth management instrument will never come to fruition. The way to release its potential in preserving family wealth and achieving more general Islamic goals is by consolidating the legal framework, establishing digital registries, and encouraging financial integration.

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<sup>56</sup> JAKIM, “eWakaf System,” Department of Islamic Development Malaysia, accessed May 2025, <https://ewakaf.islam.gov.my/>.

<sup>57</sup> Ibid.

## 2.4 Financial Integration and Potential

The integration of Waqf ‘Ahlī in formal financial systems is important to the potential it holds as a current wealth management mechanism. With such integration, Waqf ‘Ahlī is able to transcend the historical domains of charitable-legislation to operate within structures, enabling the orderly asset enhancement, the conveyance of assets across generations, and long-term family well-fare planning. However, although Malaysia and Pakistan both have the common Islamic jurisprudential base, the distinctiveness between them has been seen in the way both harnessed this potential because of the differences in the institution, laws, and policies.

Malaysia has gone far in harmonizing Waqf ‘Ahlī , commonly called Waqf Khāṣṣ or Waqf Dhurri with new financial products. This can be illustrated by the emergence of hybrid forms e.g., the Waqf Mushtarak, that presupposes the integration of both family and charitable advantage in a single juridical framework. As an example, the Labuan International Waqf Foundation gets the establishment of a waqf foundation under the Labuan Islamic Financial Services and Securities Act 2010, which acts like a trust or household wealth management instrument. These structures allow their founder to confer the use right on family members, during their lives and the property then converts to the charitable use.<sup>58</sup>

Such hybrid frameworks represent a deliberate legal development and one that does not betray but responds to the needs of financial planning, asset protection, and family welfare in the current age<sup>59</sup>. Malaysian models additionally compass short-term waqf (Waqf Mu’aqqat), which allows the dedication of assets over a given lifespan. It is especially helpful in assisting under-age

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<sup>58</sup> Labuan Financial Services Authority, *Labuan International Waqf Foundation Guidelines*, 2015.

<sup>59</sup> Ibid., 154.

children, aged dependants or custom family needs, which do not need to be endowed on a continuing basis.<sup>60</sup>

The legal and administrative framework in Malaysia has been at the forefront in enhancing the family waqf incorporation with the formal financial systems. The waqf-based foundation can be registered under the Companies Act 2016, and models have been sanctioned by state fatwa committees whereby most of the returns of the waqf (usually 85 percent) is allocated to members of the family, and the rest to charities. The successful example of structured waqf organizations is provided by the fact that such privately organized family waqf organizations as Azman Hashim Foundation have full legal and Shari'ah compliance.<sup>61</sup>

The innovations have various advantages. These innovations have various advantages. Families may avoid the fragmentation of family assets caused by inheritance laws, protection against creditors, and Inservice to incapacitated heirs. Moreover, effective estate planning tools and tax advantages can also be obtained. The eWakaf digital registration platform of Malaysia also increases the transparency factor and minimizes fraud, thus widening participation.<sup>62</sup> The financial integration has further seen Islamic banks and takaful providers managing waqf portfolios to create long-term income streams to both the family and charities.

On the contrary, Pakistani has not yet modernized Waqf 'Ahli to current financial governance. Even though the family waqf is the type of waqf legitimized under the Mussalman Wakf Validating Act 1913, the country does not have modernized regulatory policies to accommodate even models like Waqf Mu'qqat or Waqf Mālī or corporate waqf.<sup>63</sup> It does not have a national-level waqf

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<sup>60</sup> Ibid., 157.

<sup>61</sup> Azman Hashim Foundation, "Corporate Structure and Waqf Distribution,".

<sup>62</sup> JAKIM, "eWakaf System," Department of Islamic Development Malaysia, <https://ewakaf.islam.gov.my/>.(accessed May 10, 2025).

<sup>63</sup> *Mussalman Wakf Validating Act 1913*, §3.

authority to regulate the existence of private or family waqf and the provincial Awqaf departments are simply concerned with managing religious endowment like mosques and shrines.

<sup>64</sup>Subsequently, Family waqf institutions in Pakistan are informal, unregulated, and legally uncertain.

This regulatory inefficiency constrains the application of Waqf ‘Ahli’ as a formal financial planning method to a negligible degree. Families aiming to protect or to share assets through the generations have to resort to ad hoc arrangements under the law, make their way through legal complexities, or to their own personal legal advisors and without a common code. The absence of a digital registry or centralised waqf documentation has resulted in the frequent disputes over forgery, succession, misconduct of trustees and is a common feature of protracted litigation.<sup>65</sup>

In addition, waqf innovation has also become limited, therefore, reducing financial possibilities. The ways of the concept of hybrid waqf are not legally recognized, and Islamic banks and financial facilities are not encouraged to implement asset management within the framework of waqf. As opposed to Malaysia whose wakf is already considered as part of national developmental goals, Pakistan wakf ahli seems to be side-lined, their wakf little known by the people and their wakf marginalized in terms of administration.

In addition, the lack of waqf innovation also constrains financial opportunity. The innovation of hybrid waqf models remains unrecognised legally, and Islamic financial banks are not encouraged to integrate waqf-based asset management methods. In contrast to Malaysia where waqf is actively brought into national development plans, Waqf ‘Ahli’ in Pakistan is largely to the margins, poorly comprehended by its citizens at large, and ineffective in administration.

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<sup>64</sup> Government of Pakistan, Ministry of Religious Affairs, *Annual Report of Auqaf Administration*, 2023.

<sup>65</sup> Hamidullah Marwat, “The Status of Waqf Ahli in Pakistan: A Legal and Juristic Appraisal,” *Pakistan Journal of Islamic Research* 23 (2022): 111–115.

The proactive legal reforms, administrative facilitate, and financial innovations in Malaysia have helped Waqf ‘Ahlī be an effective wealth preservation and family welfare tool that promotes the social development in the country. Having an equivalent legal and religious basis, Pakistan has failed to institutionalise these capabilities. The history of Waqf ‘Ahlī beyond that of an informal activity to a formal financial tool is decisive to Muslim communities that want to reconcile spiritual ideals with economic sustainability in the future generations.<sup>66</sup>

## **2.5 Challenges and Opportunities**

Although Waqf ‘Ahlī is a doctrinally legitimately strong institution, the application of the practice in modern Muslim communities, has been hindered by a combination of structural, legal, and socio-cultural factors. The viability of the waqf as an intergenerational wealth preservation instrument in both Pakistan and Malaysia is not only limited to its permissibility in the religious context, but also to the level of development of institutional maturity, the level of society awareness and the degrees of favorable legal and fiscal policies. Although Malaysia has come quite far in the development of the concept of waqf in financial and estate planning, a few persistent challenges exist which still impact the true potential of Waqf ‘Ahlī in both jurisdictions.

In Pakistan, one fundamental barrier is that there is an absence of a dedicated, codified law to regulate family waqf. Despite Mussalman Wakf Validating Act 1913 and a series of judicial decree attestation to the validity of Waqf ‘Ahlī, this form of waqf does not have statutory support to create, register or execute it.<sup>67</sup> Such a legal gripping gap has given way to administrative opacity. The main responsibility of the provincial Awqaf departments is taking care of the religious endowments of the people in the province, and they therefore ignore individual or family based

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<sup>66</sup> Mohamad, Nor Asiah. “A Study on the Socio-Economic Roles of Waqf Ahli (Family Waqf) in Promoting Family Security and a Sustainable Family Economy.” *IIUM Law Journal* 26, no. 1 (2018): 141–160.

<sup>67</sup> *Mussalman Wakf Validating Act 1913*, §3; Hamidullah Marwat, “The Status of Waqf Ahli in Pakistan: A Legal and Juristic Appraisal,” *Pakistan Journal of Islamic Research* 23 (2022): 112.

waqf.<sup>68</sup> Consequently, family waqf set ups are not controlled and are susceptible to controversy in matters of succession, accuracy, and appointments of trustees. The absence of a central governing body to which private endowments are answerable has contributed to numerous court challenges, which are often prompted by relatives who claim they are being left out and others who bring charges of forgery and misappropriation of funds.<sup>69</sup>

This vulnerability makes this kind of regulation sensitive to politics and ineffective in efficiencies of the state-controlled waqf assets. The state has taken too much administrative control since the inception of the West Pakistan Waqf Properties Ordinance 1959 and the subsequent ordinances (provincial) enacted in 1979. The violation of waqf principles including the misappropriation of waqf lands via authenticated lengthy tenancies at prohibitively low rents and abuses on self-dealing by waqf administrators have been recorded by judicial cases.<sup>70</sup> These forms of corruption have undermined the faith people have in waqf system and people deterred its use in personal, developmental or social welfare purposes.<sup>71</sup>

Moreover, the waqf environment in Pakistan has not been able to keep with the financial innovation. As it is evident in Islamic law, movable properties such as cash, shares, and business interests may be consecrated as legitimately valid waqf. Nevertheless, Pakistan does not have an official regulatory mechanism to support cash waqf, hybrid waqf frameworks, or the combination with the Islamic financial institutions.<sup>72</sup> Pakistan does not give tax incentivizing, approved waqf

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<sup>68</sup> Government of Pakistan, Ministry of Religious Affairs, Auqaf Department Report (Islamabad, 2023).

<sup>69</sup> *Malik Aslam Parveez v Province of Punjab* [1994] MLD 1986 (Lahore High Court); *Maulana Maqsood Anwar v Chief Administrator Auqaf* [2003] YLR 3078.

<sup>70</sup> *Noor Shah Filling Station v Auqaf Department* [2009] CLC 1148.

<sup>71</sup> Hamid et al., “Family Waqf and Financial Integration,” *International Journal of Zakat and Waqf Research* 9, no. 1 (2023): 6.

investment plans, and formal religious opinions to motivate the creation of family and waqf muaqqāt structures, as Malaysia does.<sup>73</sup> This regulatory and financial vacuum constrains the operation of Waqf ‘Ahlī in the contemporary estate planning, risk reduction and property management practice.

Conversely, Malaysia has come up with a friendlier regulatory system regarding Waqf ‘Ahlī . By having legal instruments like the Labuan Waqf Foundation and also the effective working of the concerned Majlis Agama Islam Negeri, the family waqf have been able to be managed in a more organized manner. Nevertheless, there are obstacles. State religious institutions that have centralized management may lead to bureaucratic inertia, which discourage would-be founders who would like to have their voice heard in management.<sup>74</sup> Besides, lack of a unified national fatwa on Waqf ‘Ahlī creates discrepancies among the states in the acceptance and observance of such waqf. These religious variation in interpretation creates an obstacle in the formation of a single national approach, as well as decreasing legal predictability to the both founders and beneficiaries.

One of the major similarities of these two challenges in the countries is perception. In Pakistan, the meaning of waqf is largely considered as a religious role that has to do with mosques, shrines and burial grounds. A survey carried out in 2014 provided the results that only 33 percent of the respondents had some awareness of waqf institutions, and less than 30 percent knew of its potentials in terms of socio-economic welfare, including education, health and poverty

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<sup>72</sup> Institute of Policy Studies (IPS). “Visits to Zakat & Ushr, Auqaf and Religious Affairs Departments, Govt of Punjab; Meetings at Akhuwat Foundation.” Last modified September 22, 2022. <https://www.ips.org.pk/visits-to-zakat-meetings-at-akhuwat-foundation/> (accessed April 25, 2025).

<sup>73</sup> N.S. Shirazi, M. Obaidullah, and M.A. Haneef, “Integration of Waqf-Islamic Microfinance Model for Poverty Reduction: Case of Pakistan,” *IRTI Working Paper Series* (Jeddah: Islamic Research and Training Institute, 2015), 16.

<sup>74</sup> Nor Asiah Mohamad, “A Study on the Socio-Economic Roles of Waqf Ahli,” *IIUM Law Journal* 26, no. 1 (2018): 160.

alleviation<sup>75</sup>In the same way, in Malaysia, people continue to have a popular stereotype that family waqf violates the Islamic principle of charity giving because it is biased toward relatives at the expense of the poor. Such perceptions come even after historical and juristic acknowledgement of the value of Waqf 'Ahli to fundamental ambitions of Islamic goals of security of wealth and kinship.

The two jurisdictions however offer good prospects. To Pakistan, the bridge is to create a special legal and regulatory framework to cover the field of privately and corporately declared waqf just as it did to the field of micro finance when the Microfinance Institutions Ordinance 2001 was created. This kind of legislation would provide legal clarity, investor protection and institutional protections of such misuse. The establishment of an official National Waqf Authority whose functions would include both public endowments and also the control of a future private endowment system may actually help to centralize governance and harmonies procedures. Moreover, computerization of the waqf records- like the eWakaf system in Malaysia- would raise accountability, ease registration procedures and establish confidence among citizens.<sup>76</sup>

There are other working hybrid models that can be employed by Pakistan, which include the Hamdard Waqf and Ihsan Trust registered with the corporate governance under the Societies Registration Act 1860 and Trust Act 1882. The services provided by these institutions are educational services, healthcare and microfinance. It has proven that traditional waqf ideals can be effectively integrated into modern organizational systems in the accomplishment of both family and public good.<sup>77</sup>

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<sup>75</sup> Muhammad Usman and Asmak Ab Rahman, "Financing Higher Education through Waqf in Pakistan: Issues and Challenges," *Jurnal Pengurusan* 62 (2021): 159–172, <https://doi.org/10.17576/pengurusan-2021-62-13> (accessed April 25, 2025).

<sup>76</sup> JAKIM. "eWakaf System." Department of Islamic Development Malaysia. <https://ewakaf.islam.gov.my/> (accessed April 25, 2025).

<sup>77</sup> Naeem Hayat and Ammara Naeem, "Corporate Waqf: A Case of Hamdard (Waqf) Pakistan," *SSRN Electronic Journal*, 2014, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2515010](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2515010) (accessed May 10, 2025).



In the case of Malaysia, the future is linked to the process of rationalization of the current rule of the decentralized system of waqf governance and creation of inter-state alignment of religious interpretations. Scaling of Waqf ‘Ahli’ initiatives can be carried out by increasing the level of private sector involvement via the use of public-private partnerships, linked government government-linked companies (GLCs) based matching grants, and tax incentives. In addition, the collection of waqf into Islamic Real Estate Investment Trusts (REITs) and the provision of standardized legal templates may attract the wider usage by wealth planners and donors.<sup>78</sup>

Finally, capacity-building is an essential issue in the two nations. The practitioners of the law, the administrators of the waqf, and even the community leaders will have to be trained to handle, interpret, and advance family waqf within the religious as well as business context. The turbulent shift in the status quo is no longer just a tool of family intergenerational wealth preservation but the enhancement of the higher purposes of Islamic law provided that it is equally inherent to securing socio-economic justice, shielding family integrity and securing sustainable flourishing as indicated by Nor Asiyah Muhammad.<sup>79</sup>

## **2.6 Conclusion**

This chapter has discussed the doctrinal legitimacy, legal foundations, financial opportunities, and also implementation issues of Waqf ‘Ahli’ in Pakistan and Malaysia. Waqf ‘Ahli’ is concerned with classical Islamic jurisprudence, thus making it a practicable and historically definitive tool to preserve familial wealth. But its feasibility at modern times differs significantly across jurisdictions. The establishment of estate planning and the development of Islamic financial system have been successful in Malaysia through the institutional support provided by well-developed

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<sup>78</sup> Islamic Research and Training Institute (IRTI), *Waqf in the Modern Economy: Scope and Reform* (Jeddah: IRTI, 2020).

<sup>79</sup> Mohamad, Nor Asiah. “A Study on the Socio-Economic Roles of Waqf Ahli (Family Waqf) in Promoting Family Security and a Sustainable Family Economy.” *IIUM Law Journal* 26, no. 1 (2018): 141–160.

legal principles and regulatory innovation of Waqf ‘Ahlī . The existence of hybrid models like joint waqf and waqf muaqqāt shows how the family and charitable purposes can be combined in one legal framework.

Conversely, Pakistan has no codified legal regime, institutional control or e-infrastructure, which has assigned Waqf ‘Ahlī to an insignificant role in the legislature. Its legitimacy has already been considered by the court, but it is still weak because of the administrative fragmentation and lack of awareness among the population. In addition, the attitudes that exist within the socio-cultural context also against its development towards becoming a mainstream wealth management tool.

Conclusively, although in its application, Waqf ‘Ahlī has the enhanced potential to be one of the Sharia compliant mechanisms of facilitating equality between generations, its effective application will only be achievable through an expert procedural reform and long-term institutional practice. These conclusions form the foundation of Chapter 3 which is going to discuss governance approaches and institutional arrangements that are required to carrying out the revival as well as sustainable practice of family waqf in Malaysia, as well as in Pakistan.

## **Chapter 3: Comparative Governance Practices**

### **3.1 Introduction**

The Waqf ‘Ahlī governance is critical towards deciding its efficacy as a wealth-preservation and intergenerational social security tool. Critically comparing and contrasting the jurisprudential and administrative structures managing the Waqf ‘Ahlī in Pakistan and Malaysia, this chapter examines two broad areas. To analyze the socio-economic impact of family waqf, as well as determine its conformity to Aḥkām Shar‘iyyah (Islamic legal rulings), it is important to understand the influence of governance structures on implementation, transparency, and sustainability.

Waqf governance is not a procedural aspect, but rather a fundamental precondition to the retention of the Niyyah (intent) of the donor, to guarantee beneficiary rights, as well as to guarantee that the ‘amwāl mawqūfah (endowed assets) provide value to a user over time. Waqf ‘Ahlī goals are compromised in the setting of legal ambiguity, decentralized administration, or institutional inefficiency. Hence, the legal and institutional supports of the family waqf should be strong, consistent, and flexible to the changing demands of society.

In Pakistan, provincial autonomy, uneven regulation, and the absence of integration with contemporary financial control limit the operation of ‘amwāl mawqūfah, and this problem is particularly severe with regard to Waqf ‘Ahlī. Malaysia, in comparison, is a more organized and holistic system, State Islamic Religious Councils (Majlis Agama Islam Negeri, or MAIN) are assigned the duty as the exclusively preferred Nuzzār (trustees), being endorsed by the legislative capacity and coordinated at the national-level by the institution Jabatan Wakaf, Zakat dan Haji (JAWHAR). Digital infrastructure, policy innovation and regular engagement of the masses enhance this institutional arrangement further.

Based on this comparative analysis, the chapter makes a contribution to the larger questions of revitalization of Waqf ‘Ahlī in Pakistan. It also points out the key obstacles that hamper its growth and outlines governance strategies that could be adopted. The discussion highlights the importance of legal transparency, administrative professionalism, and competence as well as community confidence in institutional performance. The approach to governance in Malaysia can provide significant inputs to a reform approach in Pakistan, and there is a potential that a more efficient, accountable, and sustainable family waqf administration could contribute to its work.

### **3.2 Administrative Structures in Pakistan and Malaysia**

A significant gap between institutional coherence, legal uniformity, and efficacy in governance emerges in the administration of Waqf ‘Ahlī in Pakistan and Malaysia. Both systems, despite being based on the same foundation of Fiqh Islāmī have been developed with unique constitutional and socio-political as well as federal systems. This section is a critical comparison of administrative models of Waqf ‘Ahlī in these two countries in terms of institutional arrangements, legal jurisdictions, and operational practices.

In Pakistan, waqf governance is decentralized and regulated by several provincial laws such as the Punjab Waqf Properties Ordinance 1979 and the Islamabad Capital Territory Waqf Properties Act 2020.<sup>80</sup> However, the enactment base is still the West Pakistan Waqf Properties Ordinance 1959 and the related Administration Rules of 1960 which have remained in force throughout the four provinces.<sup>81</sup> In this system, the Chief Administrator of Auqaf can assume control of such waqf

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<sup>80</sup> *Punjab Waqf Properties Ordinance, 1979*, [http://www.commonlii.org/pk/legis/pj/consol\\_act/pwpo1979306/](http://www.commonlii.org/pk/legis/pj/consol_act/pwpo1979306/).

<sup>81</sup> *West Pakistan Waqf Properties (Administration) Rules, 1960*, Notification No. 5293-Auqaf-901.

properties, and appoint managers of such properties, and develop schemes to ensure that the use of such properties is consistent with the objectives of Islam.<sup>82</sup>

In spite of this legal framework, there are marked inefficiencies in the Pakistani system of administration. Mostly, record-keeping remains manual, heavily dependent on obsolete paper records, the non-digitization of which creates additional risks of mismanagement. Waqf being decentralized means different provinces practice different interpretations and small community involvement in the management process. Another challenge is dispute resolution, where waqf cases are not dealt with in Qaḍā' Shari'ah like other civil courts. This adds to possible jurisdictional conflicts and delays in litigation, frequently negating the Niyyah of the donor and corroding the trust of the community. Although legally recognized, Waqf 'Ahli has been hampered in its practical application through administrative leeway, inadequate economic management as well as a lack of clarity in its regulation.<sup>83</sup>

In contrast, Malaysia presents a stronger and more organized model of waqf governance. Federal Constitution defines Islamic affairs, such as waqf, as state affairs to be administered by each State Islamic Religious Council (Majlis Agama Islam Negeri or MAIN). All waqf property, both movable and immovable, in the area of the MAIN becomes the sole trustee of that MAIN.<sup>84</sup> This trusteeship is further entrenched in law with the individual state enactments like Selangor, Johor, Negeri Sembilan, and others giving clear guidelines on registration process, management, and dispute resolutions.<sup>85</sup>

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<sup>82</sup>Islamabad Capital Territory Waqf Properties Act, 2020, [https://www.na.gov.pk/uploads/documents/1600938533\\_861.pdf](https://www.na.gov.pk/uploads/documents/1600938533_861.pdf).

<sup>83</sup> Hafiz Hassan Madni, "Waqf Properties Act 2020 and the Constitution of Pakistan," *Journal of Islamic Thought and Civilization* 12, no. 1 (2022): 279–290.

<sup>84</sup> *Federal Constitution of Malaysia*, Schedule 9, List II.

<sup>85</sup> Sharifah Zubaidah Abdul Kader, "Waqf Law and Administration in Malaysia," IIUM Repository, 2014.

Despite the role played by MAINs in managing religious and administrative factors, the larger legal environment is framed by federal law including the National Land Code 1965, the Trustee Act 1949, and the Land Acquisition Act 1960. At the federal level, in order to achieve coherence of policies among the states, the Department of Wakaf, Zakat and Haji (JAWHAR) was created in 2004 under the Prime Minister Office.<sup>86</sup> Since JAWHAR is not hands-on with waqf assets, it is instrumental in coordinating policy, encouraging best practices, and state coordination support.<sup>87</sup>

Compulsory waqf registration is a strength of Malaysia. All waqf are to be registered with the relevant MAIN, who provide official certificates of ownership of each waqf as a document recognized by the Shari'ah courts as legally binding. A manual on waqf administration written by JAWHAR streamlines administrative processes in various states focusing on transparency, accountability, and procedural consistency.<sup>88</sup> Specialized waqf committees (usually involving legal, religious, and financial experts) often administer daily operations, sometimes to guarantee compliance with the norms of Shari'ah and with governance norms.<sup>89</sup>

In this model, the Waqf 'Ahlī is handled in the same way as the waqf e-alawah. Donors also mention the prospective recipients of a waqf deed, and MAINs are designed to guard the rights within an Islamic framework. The Shari'ah courts in Malaysia, unlike those in Pakistan, have clear and exclusivity jurisdiction over all waqf issues, including family related disputes making its adjudication timely and contextually proper.<sup>90</sup> Nonetheless, the persistence problems exist,

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<sup>86</sup> Siti Mashitoh Mahamood, *Undang-undang dan Pentadbiran Harta Amanah Orang Islam di Malaysia* (Kuala Lumpur: University of Malaya, 2006), 112.

<sup>87</sup> Mohd Afendi Mat Rani, "Waqf Management and Administration in Malaysia," *Malaysian Accounting Review* 9, no. 2 (2010): 115–121.

<sup>88</sup> JAWHAR, *Manual for Management of Waqf* (Putrajaya: Department of Wakaf, Zakat and Haji, 2006).

<sup>89</sup> Zurina Shafii et al., "Governance Regulatory Framework for Waqf in Selected Countries," (Kuala Lumpur: Universiti Sains Islam Malaysia, 2015).

<sup>90</sup> Ibid.

specifically those of ensuring the perpetuity of Waqf ‘Ahlī against the backdrop of land development and the issue of long-term viability in terms of financial support.<sup>91</sup>

Malaysia likewise shows considerable institutional innovation. Groups like Selangor Waqf Corporation and the Johor Waqf Board have implemented digital mapping of waqf lands, adopted cash waqf instruments, and established public-private associations to improve productivity.<sup>92</sup> These changes are in stark contrast to the divided and frequently non-transparent systems in Pakistan. Moreover, legal requirement gives MAIN a sole trustee position, reducing internal family opposition and external demands, enhancing legal security and administrative integrity.

Despite having a state-controlled waqf system, Pakistan, by comparison, relies on an unstructured legal and administrative framework, which, with policy harmonization and qada based Shari‘ah offers by JAWHAR, is a more efficient system of operating wakeful ahli. Pakistan, in comparison, is confronted with jurisdictional overlaps, uneven provincial laws, and ineffective operations. Pakistan needs to conduct a holistic institutional transformation such as institutional digitalization, centralized regulations, and alignment of the legal framework based on the integrated and modern experience of Malaysia to improve its waqf governance system.

### **3.3 Financial Strategies in *Waqf ‘Ahlī* Management**

In contrast, Waqf ‘Ahlī in Pakistan is dismally limited by obsolete legal and financial paradigms. After declaration of waqf properties under nationalization policies, the system automatically transfers its property to the Chief Administrator of Awqaf, restricting collective ownership and strategic reinvestment. This has resulted in siphoning of this control to government agencies and many are not equipped financially creating a type of administrative paralysis and

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<sup>91</sup> Ibid.

<sup>92</sup> Siti Zalikah M. Nor, “Pengurusan Wakaf Negeri-negeri di Malaysia,” in *Konvensyen Kebangsaan Wakaf*, 2008, 62.

inefficient tax collection. In Khyber Pakhtunkhwa, it has been recorded that the Awqaf properties do not provide enough revenue to even carry out basic needs.<sup>93</sup>

Moreover, family waqf in Pakistan is underdeveloped, mostly in a form of land or religious property that has a limited commercial exploitability. The adoption of Sharī‘ah -compliant financial innovations like waqf sukūk or asset securitization and public-private investment ventures are moderate. The donor trust is also compromised by low levels of transparency; custodians maintain ambiguous records of donations and even fail to provide receipts, and revenues collected in donation boxes at shrines and mosques are regularly unaccounted.<sup>94</sup>

The Jabeen-Aziz model is based on the MAYSIS framework with recommendations of reforms to tackle these inefficiencies. It suggests two crucial transformations; first, it promotes the creation of enabling legal frameworks and, second, it proposes the introduction of modern financial products based on Islamic principles that resonate with Waqf ‘Ahli . In this model, the assets of family waqf would be held in legally constituted foundations or not-for-profit societies thus allowing professional management free of government seizure.<sup>95</sup> Pakistan examples of legally protected, professionally operated waqf-like entities that can deliver sustainable social value are available through the private philanthropic institutions like the Edhi Foundation and Hamdard.<sup>96</sup>

An important innovation is the use of waqf sukūk to develop assets. Tabung Haji model in Malaysia provides a replicable blueprint with short term investment in sukūk that mobilizes community savings, reinvest the same money in profitable endeavors, and provides partial

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<sup>93</sup> Ahmed, H., “Waqf-based Microfinance: Realising the Social Role of Islamic Finance,” International Conference on Integrating Awqaf in the Islamic Financial Sector, Singapore (2007).

<sup>94</sup> Zafar Iqbal, “Innovative Financial Instruments for Waqf Development: Prospects and Challenges,” *Pakistan Journal of Social Sciences* 39, no. 1 (2019): 89–102.

<sup>95</sup> Zohra Jabeen and Muhammad Aziz, “Legal and Financial Solutions for Strengthening Waqf: The Case of Pakistan,” *Journal of Islamic Charity and Compliance* 2, no. 1 (2019): 11–15.

<sup>96</sup> Khan, Z., and Sulaiman, J., “Does Microcredit Help the Poor? The Experience of Pakistan,” in *Poverty Reduction Policies and Practices in Developing Asia*, ed. Heshmati et al. (Springer, 2015), 31–52.



liquidity to community contributors at the same time.<sup>97</sup> The proposed locally tailored application might be implemented in such areas as FATA and Baluchistan, where the combination of waqf and Islamic social finance would help provide infrastructure, health and education systems.<sup>98</sup>

Moreover, sound financial government should be institutionalized by using waqf-audit and accounting standards and disclosure requirements. The governance policies of the sukūks in Malaysia maintain international Shari‘ah standards which gives consistency, reliability and donor confidence.<sup>99</sup> By doing the same, dishonesty in Pakistan could be brought under control with suitable accounting codes, public auditing regimes, and obligatory reporting, which would revive the trust of the people, and also bring in new contributors of waqf.

Overall, the Malaysian vibrant waqf financing system based on decentralized structure, creative investment policies and regulatory harmony is worthy of emulation. The present model present in Pakistan, fraught with bureaucratic waste, lack of innovation and poor financial control, has to be changed immediately. Using regulated frameworks of the law and financial strategies based on Islamic financing, Pakistan can make Waqf ‘Ahlī a sustainable tool in preserving family wealth and contributing to national socio-economic energies.

### **3.4 Technology and Innovation in Waqf Governance**

Technology and innovation are progressively becoming critical in the governance of waqfs in the future. Digital transformation provides scalable solutions that would help to increase transparency, reduce administrative inefficiencies as well as restore donor confidence. Some countries, such as Malaysia, have also done remarkable things in ensuring uptake of high-order

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<sup>97</sup> Yahaya, H., Majid, M. S. A., et al., “Tabung Haji Malaysia as a World Role Model of Islamic Management Institutions,” *International Journal of Business and Management Invention* 5, no. 11 (2016): 45–55.

<sup>98</sup> Ahmed, A., “Short Cuts for FATA,” *The News*, October 1, 2015.

<sup>99</sup> Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), *Sharia Standards on Investment in Sukuk* (Manama, Bahrain: AAOIFI, 2016).

technologies like blockchain, Geographic Information Systems (GIS), Artificial Intelligence (AI), and cloud-based systems in their waqf systems. Conversely, the waqf administration in Pakistan continues to be plagued with legacy systems and bureaucratic inertia, and this underlines the need of reform.<sup>100</sup>

In Malaysia, State Islamic Religious Councils (SIRCs), under federal agency JAWHAR have been instrumental in establishing the push towards digital transformation. One of the outstanding inventions is the e-Waqf platform where waqf contributions can be registered in real-time, tracking of assets, financial reporting, and involving donors. The platform improves transparency by ensuring that endowers can have an unending access to project status, audited financials and performance measurement, hence engendering accountability and trust.<sup>101</sup>

GIS-based waqf land mapping has been adopted by Malaysia where states such as Selangor have embarked on developing means to categorize, visualize, and keep track of asset use. Geospatial data are overlaid on legal records in this system which allows authorities to find encroachments, discover vacant land and measure the growth potential. Simultaneously, blockchain-based registries that were developed in conjunction with fintech startups are being piloted to assure records of digital assets and donation histories. The systems, through smart contracts, transfer the funds using pre-determined conditions in an automated manner, limiting fraud and improving financial integrity.<sup>102</sup>

Waqf operations in Malaysia are also enhanced by the use of AI and machine learning technologies. These models help in valuing assets, predicting investment and profiling donors.

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<sup>100</sup> ICO EDUSHA. *Waqaf Digital Transformation Towards Better Management*. 2025.

<sup>101</sup> AI-Waqf. *Digital Transformation of Waqf Management: Leveraging AI and Technology for a Sustainable Future*. April 20, 2025.

<sup>102</sup> RSIS International. *Revolutionizing Waqf Management: Harnessing the Fourth Industrial Revolution for Waqf 4.0 Transformation*. September 9, 2024.

They become more and more integrated with online fundraising tools, which apply analytics to tailor appeals, expand outreach, and attract younger and technologically savvy donors. Consequently, the waqf institutions may be able to maximize their fundraising tactics and other donor sources outside the traditional networks.<sup>103</sup>

In comparison, the waqf management in Pakistan is backward in terms of technology. Although most provincial Awqaf departments continue to operate with manual systems and piecemeal record-keeping procedure, they frequently operate under old ledgers that may be tampered with and mismanaged. No national-level digital waqf registry, no mapping of waqf property using GIS, and minimal use of safe online donating systems. This leads to a lack of asset clarity, exposure to misappropriation and loss of public trust about Waqf ‘Ahlī as an endowment system.<sup>104</sup>

Institutional resistance together with a lack of digital infrastructures and poor staff training have hampered efforts to modernize waqf systems in Pakistan. However, the significant efficiency and transparency in the management of large waqf portfolios demonstrated by cases such as the Waqf Management System of India (WAMSI) prove that large waqf portfolios can be managed efficiently and transparently with the help of centralized and cloud-based solutions.<sup>105</sup> WAMSI has modules of asset registration, GPS mapping, and donation tracking, and document archival, which indicates the viability of managing large-scale or digital governance of waqf.<sup>106</sup>

In order to overcome the technological gap, Pakistan needs to focus on building capacity among the waqf officials, encouraging public-private partnerships to provide IT solutions and piloting e-

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<sup>103</sup> Startups Magazine. "India's Waqf Policy Shift: How AI Can Drive Transparency & Growth." *Startups Magazine*, April 1, 2025.

<sup>104</sup> Farah Naz and Tariq Mahmood. "Governance Issues in Waqf Management: A Case Study of Pakistan." *Asian Journal of Management Sciences* 7, no. 4 (2021): 78–94.

<sup>105</sup> S. K. Rashid. *Certain Legal and Administrative Measures for the Revival and Better Management of Awqaf*. Jeddah: IDB Awqaf Division, 2015.

<sup>106</sup> Zubair Khan and Junaid Sulaiman. "Does Microcredit Help the Poor? The Experience of Pakistan." In *Poverty Reduction Policies and Practices in Developing Asia*, edited by Almas Heshmati et al., 31–52. Singapore: Springer, 2015.

Waqf systems on a provincial level based on models in Malaysia and India. Blockchain registries can also be launched to secure valuable Waqf ‘Ahlī properties, and GIS platforms can contribute to resolving the property titles dispute and attract redevelopment projects.<sup>107</sup>

Moreover, Pakistan ought to look into introducing international waqf technology standards, including those being suggested by AAOIFI and Islamic fintech organizations, in order to harmonize the financial reporting, cybersecurity and legal writings.<sup>108</sup> The changes would turn waqf governance into an impactful means of sustainable socio-economic development and cross-generational family wealth preservation rather than a bureaucratic duty.<sup>109</sup>

### **3.5 Socio-Cultural Impacts and Equity Challenges**

Structural inequalities especially of gender, class, and accessibility are significant influencers of the socio-cultural dynamics of Waqf ‘Ahlī governance in Pakistan. Despite the fact that Islamic law acknowledges the rights of women to both donate and administrate waqf, there is an established patriarchal culture in the Pakistani legal and cultural environment, which puts women on the backburner. Practically, the benefits of the waqf are often denied to women, widows, and orphans because of the cultural imposition and low level of legal literacy, as well as ineffective institutional protection. Such omissions can often see the family holdings seized without due process by influential members of the family or deprived into state property with little or no consultation.<sup>110</sup>

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<sup>107</sup> AIBPM Journals. *Digital Skills Development for Waqf Professionals in India: A Capacity Building Framework*. January 11, 2025.

<sup>108</sup> RSIS International. *Revolutionizing Waqf Management*. 2024.

<sup>109</sup> Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). *Sharia Standards on Investment in Sukuk*. Manama, Bahrain: AAOIFI, 2016.

<sup>110</sup> David S. Powers, “The Islamic Waqf ‘ahlī (Waqf),” *Vanderbilt Journal of Transnational Law* 32 (1999): 1167–1175.

These difficulties are further deteriorated by the absence of a national, standardized waqf registration system. There also exists a lack of consistency/completeness of bigha/waqf documentation which especially in rural regions makes it vulnerable to dispute as waqf assets are prone to much control over customary practices.<sup>111</sup> This uncertainty discredits waqf as a means of fair wealth distribution, with much family endowment in informal control or falling into the hands of red tape inhabited bureaucrats.

Most Awqaf departments in Pakistan continue to be custodial as opposed to a development focus. These departments are mostly in charge of religious properties including mosques and shrines without paying attention to the larger promise of waqf as means of community development. Participatory planning, transparency and community-driven initiatives are notably lacking.<sup>112</sup> This has seen numerous waqf properties sitting idle, being under-utilized or having little utility to the society. Women and low-income families especially are disadvantaged in waqf governance and even more in its benefits, still trapped in a cycle of poverty and social exclusion.

In comparison, Malaysia has embraced a more proactive, institutionalized waqf with consideration of justice, equity and welfare in mind. There is a success of State Islamic Religious Councils incorporating waqf in their state development plans. A case example is the Share Waqf program by a corporate body in Johor Corporation. This campaign helps in allotting revenues generated through waqf to priorities like healthcare, education, and poverty alleviation. The Waqf An-Nur program has granted hundreds of thousands of patients with healthcare opportunities in

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<sup>111</sup> Pakistan Centre for Philanthropy, *Philanthropy in Pakistan: A Report on Trends*, 2018.

<sup>112</sup> Muhammad Arif and Muhammad Aslam, "Challenges in Waqf Administration in Pakistan," *Journal of Islamic Thought and Civilization* 9, no. 1 (2019): 22–31.

clinics that operate in non-Muslim communities, which underscores the wide-ranging influence of well-organized waqf establishments.<sup>113</sup>

More inclusive waqf governance has also been achieved due to the clear regulatory framework and use of digital technology in Malaysia. Technologies like blockchain scan-based registries and instant online donation websites have enhanced transparency, online security, and donor trust. Such systems do not only maintain good record-keeping and accountability, but also provide greater representation, especially among women and the youth, by breaking orthodox impediments to participation.<sup>114</sup> The education provision of Islamic financing by the public institutions further equips individuals particularly women with the skills and knowledge on how to take an active participation in the running of the waqf.

Within its cultural context, Malaysia accepts waqf as a religious obligation and national developmental means. Efforts towards creating awareness among the masses and ensuring transparency of details in the institutional settings have led to persuasive linkages of waqf with community service. By contrast, Pakistan still treats waqf more as a ceremonial reminder of an otherwise customary or even dynastic duty, with no interests in institutions of modernization or reform. This mismatch between wāqf as an ideal and on-the-ground reality prevents innovation and destroys popular trust.

Traditionally, waqf has been an inclusive and egalitarian instrument of the Muslim world. Likewise, females in the Ottoman Empire were active benefactors who established educational institutions, hospitals, and shelters.<sup>115</sup> The practice of advancing science with a spirit of community

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<sup>113</sup> WANCorp, *Annual Report*, Johor Corporation, 2012; Johor Corporation, *Waqaf An-Nur Healthcare Program Report*, 2021.

<sup>114</sup> Mohamad Sabri Haron et al., “Digital Transformation of Waqf Management in Malaysia,” *Journal of Islamic Monetary Economics and Finance* 6, no. 4 (2020): 849–866.

<sup>115</sup> Khairil Faizal Khairi and Azizi Che Seman, “Legal Framework for Waqf in Malaysia: Past, Present and Future,” *International Journal of Islamic Thought* 2 (2012): 41–52.

is a progressive extension of the same tradition in Malaysia, where religious principles are anchored in innovation and inclusivity.<sup>116</sup>

Pakistan is endowed with the potential to reinvent Waqf ‘Ahlī as a contemporary strategic charity instrument. Nevertheless, this necessitates the destruction of patriarchal orders, the modernization of law and institution building, and the inculcation of values of equity and participation in the governance of waqf. The Malaysian experience offers a practical and flexible framework, based upon legal protection, digitalization, and democratic policy that might allow Pakistan to redefine family waqf as an agent of social justice, gender equality, and sustainable national growth.

### **3.6 Conclusion**

This chapter has been able to make a critical comparison of administrative, financial, technological and socio-cultural aspects of Waqf ‘Ahlī administration in Pakistan and Malaysia. Though both nations may have used Islamic backgrounds to create family waqf establishment, the implementation mechanisms vary with the nations highly differing with regard to legal framework, institutional strength and cultural inclination.

In Pakistan, there are fragmented provincial laws, bureaucracy as governed by awqaf departments, and also patriarchal tendencies which inhibit both access and ability of women to fully enter into Waqf ‘Ahlī . The lack of digitization, standardized registration, and transparent accounting mechanisms further affects its usefulness as a family wealth preservation and communities building tool. Rather than being mobilized strategically, the majority of family awqaf lie dormant or disputed intensifying socio-economic disparities and undermining the trust of populations.

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<sup>116</sup> Bülent Özdemir, “Waqf in Historical Perspective,” in *Islamic Philanthropy and Social Justice*, ed. Jonathan Benthall (London: Routledge, 2014), 56–58.

On the other hand, Malaysia has a more developed and gradual pattern. Its State Islamic Religious Councils (Majlis Agama Islam Negeri, SIRCs), which are assisted by Jabatan Wakaf, Zakat dan Haji (JAWHAR) and led by national provisions such as MAYSIS, are professional managers of both community and family waqf. The introduction of Islamic-based Islamic financial products like waqf sukūk, GIS-based asset mapping measures, digital waqf platforms, and AI-based donor engagement systems indicate that Malaysia is focused on innovation. The country is also making a strong attempt to entrench gender equity, financial literacy, and participatory governance to the management of waqf to become a vibrant Islamic social tool of financing.

Malaysia, culturally terms waqf not only as a religious obligation but also as a form of developing a nation. Nevertheless, Pakistan still views waqf in custodial and ritualistic terms, and resists change and innovation.

This comparative study has revealed that Pakistan urgently needs to transform its Waqf ‘Ahlī model based on the good experiences of Malaysia. The present findings can form a basis of Chapter 4, which would propose specific legal, policy, and institutional changes towards reviving and renewal of Waqf ‘Ahlī as a sustainable instrument within Pakistan to achieve equitable Islamic philanthropy.



## **Chapter 4: Waqf ‘Ahlī as a Financial Tool**

### **4.1 Introduction**

This chapter will discuss Waqf ‘Ahlī since it is a valid instrument of Islamic financial planning that helps to maintain wealth and the well-being of the family in the long-term. Given the increasing social-economic pressures in Muslim communities that have placed, arguably, Muslim societies at risk in terms of mismanagement of assets, vulnerability of minor heirs and the lack of adequate protective legal mechanisms, endowment of families is a long-term and organized way of protecting family property through the generation. Based on the aims of the Islamic law, mainly preservation of wealth, Waqf ‘Ahlī is morally upright and lawful according to the Sharī‘ah system. It will not replace the fixed regime of inheritance but serve as an additional form of mechanism because it forms an active vehicle through which the family members can be helped in a divided way that might not be effectively provided by the laws on inheritance independently.

The traditional Islamic society used endowment system to finance vital services such as education, healthcare and family welfare and in so doing Lessened the overall burden on state machinery and generated a sense of social communal responsibility. Contemporary variations of Waqf ‘Ahlī are well reflected to this chapter as well: temporary endowment, hybrid endowment, which enables the families to streamline both privately made advantage and publicly made good in one legal/financial system. These developments meet the emerging socio-legal conditions without compromising with the classical jurisprudence and thus, Waqf ‘Ahlī is a flexible and practical aspect of current Islamic financial planning.

#### **4.1.1 Relevance to Research Questions and Objectives**

In this chapter, the most important research questions are answered as they concern the possibilities of effective alignment of traditional endowment principles, i.e., Waqf ‘Ahlī, with modern financial governance systems. Its commendable work by a comparative study of Malaysia and Pakistan underlines the legal, administrative and socio-cultural dimensions which affect great establishment of Waqf ‘Ahlī. Through this, the chapter supports the main argument of the thesis that modern Islamic finance can indeed integrate endowment process without infringing upon the Quranic model of inheritance laws. This intertwined solution provides pragmatic and Sharia compliant restructuring of the reform and revitalization of Waqf ‘Ahlī systems within the Muslim world.<sup>117</sup>

#### **4.2 Wealth Preservation Through Waqf ‘Ahlī**

This Section will analyze how wealth preservation through Waqf ‘Ahlī aligns with Islamic principles, focusing on the sustainable management of assets to protect family interests while adhering to Allah's commandments.

##### **4.2.1 Conceptual Framework of Wealth Preservation in Islam**

One of the major goals of the Islamic law is the preservation of wealth thus maintaining a responsible asset management that preserves the interest of the family as well as adhering to the commandments of Allah. In this kind of ethical and legal world, Waqf ‘Ahlī will operate as a regulated family asset seeking mechanism to maintain family assets down the generations line. It provides a Shari‘ah compliant method of management of the property permanently or on definite tenure which enables its benefits to be distributed to several and leave the same capital intact.

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<sup>117</sup> Aznan Hasan and Abdul Hadi Awang, “Socio-Legal Significance of Family Waqf in Islamic Law: Its Degeneration and Revival,” *IIUM Law Journal* 24, no. 2 (2018): 309–334.

Muslims in the past created Waqf ‘Ahlī s to perpetuate the chain of wealth and the future of their ancestors. These institutions were used to ensure that family property was not mismanaged and lost to external forces as well as internal conflict, thus stabilizing social and economic security in the family.<sup>118</sup> In this manner, Waqf ‘Ahlī provided a supplement to the Islamic system of inheritance and never interfered with the compulsory portions administered by the law of inheritance, especially when this endowment was created during the lifetime of the personal.

#### **4.2.2 Structural Attributes Enabling Wealth Continuity**

One of the most crucial instances can be observed when a father, who has minor children has died leaving those children the right to inherit applicable to his property, but those children being still too young to run a source of income by being occupied by renting an apartment or owning a farm. In case this property was shared out right away as per the laws of inheritance, there would be inefficient management, or monetary loss, or even abuse. But a temporary endowment, created by the father in his lifetime, or upon the application of legal guardians after his decease, may save the property whole and in one hand, and subject it to the professional management of a trustee. The revenue on the property can be used to take care of the children until the maturity stage and this will lead to the endowment being terminated and actuating the division of assets according to the impositions of Islamic inheritance rules.<sup>119</sup>

Such an arrangement does not hinder the adoption of the Islamic inheritance provisions but it enables its application in the best possible manner. It reflects the Islamic spirit of the law, which stresses protecting wealth and ethical necessity to defend the welfare of the orphans and other

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<sup>118</sup> Beshara Doumani, “Endowing Family: Waqf, Property Devolution, and Gender in Greater Syria, 1800 to 1860,” *Comparative Studies in Society and History* 40, no. 1 (1998): 3–41.

<sup>119</sup> Ghulam Abdul Haq Muhammad, *Ahkam-e-Waqf* (Islamabad: Islamic Research Institute, 1999), 162–164.

dependents.<sup>120</sup> These types of models are particularly useful with regards to the management of agricultural fields or family-owned business or farms that are leased where a regular monitoring and decision making is necessary.

#### **4.2.3 Comparison with Other Islamic Wealth Instruments**

Family waqf is more reliable and manageable wealth-sharing compared to gifts or wills. Although a will can be executed upon only one-third of the property and the beneficiaries are prohibited to entail the legal heir without the approval of the rest, a simple gift can be challenged in court as being ambiguous or under undue influence. Family waqf, conversely, entails the future economic gain based on reasonably firm obligations having definite conditions. This gift already eliminates the endowed property in the donor intention (i.e., when the donor dies, the endowed property is taken out of his estate), thus minimizing potential family wrangles or any confusion regarding ownership.<sup>121</sup>

Such characteristics ensure that family waqf is extremely adaptable to families aiming to administer wealth in a manner that conforms to Islamic norms of the law and moral binding. This is especially so in contemporary settings where the beneficiaries might have different financial literacy levels, or where systemic social biases can impact sub-optimal allocation of the inherited wealth particularly in the context of women and children. Family waqf can safeguard vulnerable people and ensure cross-generational continuity through the ability to control long-term.<sup>122</sup>

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<sup>120</sup> Aznan Hasan and Abdul Hadi Awang, “Socio-Legal Significance of Family Waqf in Islamic Law: Its Degeneration and Revival,” *IIUM Law Journal* 24, no. 2 (2018): 309–334.

<sup>121</sup> Muhammad Abu Zahrah, *Muhadarat fi al-Waqf* (Cairo: Dar al-Fikr al-‘Arabi, 1971), 45.

<sup>122</sup> Monzer Kahf, “Waqf-Based Microfinance: Realizing the Social Role of Islamic Finance,” Islamic Research and Training Institute (2007), 15.

#### 4.2.4 Financial Tools for Sustainability

Family waqf can only be sustained on the condition of the endowed property to provide stable and continuous income. This need has necessitated the use of contemporary, Sharī'ah -compliant financial instruments like cash waqf, income generating real estate and investment certificates through endowment-supported investment. The use of such instruments has the dual purpose of retaining capital, and generating returns to support specified family beneficiaries.

Waqf may be cash, e.g., allowing liquid assets to be invested in only acceptable financial activities with the profits being shared in accordance with the waqf title deed. Proven already in other countries like Malaysia and Turkey, where these funds are regulated by an institution with the Islamic banks investing these funds and under trusteeship of specified trustees.<sup>123</sup> These mechanisms allow middle-income families to engage in waqf without their capital being eroded especially in the face of financially vulnerable times.<sup>124</sup>

Such models, however, are not fully utilised in Pakistan due to a poor regulatory framework and the lack of a special administrative organ concerning the administration of the private and family waqf. Improving the legal framework and creating partnerships between waqf and Islamic financial institutions would go a long way in making family waqf viable.<sup>125</sup> This would be particularly useful in preserving wealth in changes of state, when donee's are children not at a stage to be financially independent.<sup>126</sup>

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<sup>123</sup> Md. Aminul Sadique et al., "Socio-Legal Significance of Family Waqf in Islamic Law: Its Degeneration and Revival," *IIUM Law Journal* 24, no. 2 (2016): 309–334.

<sup>124</sup> Raja Abdul Ghafoor, *The Manual of Waqf Laws* (Lahore: Royal Book Company, 2005), 223.

<sup>125</sup> Zuhdi Yagan, *Al-Waqf fi al-Shari'ah al-Islamiyyah wa al-Qanun* (Beirut: Dar al-Nahdah al-'Arabiyyah, 1388 H), 121.

<sup>126</sup> bn Qudamah, *Al-Mughni*, vol. 6 (Beirut: Dar al-Fikr, n.d.), 22.

#### **4.2.5 Ethical and Legal Boundaries**

Family waqf must be built within the moral and legal parameters of Islamic law. According to scholars of all discernible schools of Islamic jurisprudence, it is unlawful to employ the waqf to violate the obligatory rules of inheritance.<sup>127</sup> But a waqf organized in a transparent way, whose terms are limited in time and intended to preserve family wealth, is compatible with the order of justice, equity, and social responsibility.

In reaffirming the permissibility of temporary waqf, contemporary Islamic legal scholars have emphasized its use as a temporary financial instrument between legal deaths, and the ability of legal heirs to assume control of assets on their own. Such constructions are validated based on the intention of the donor, the integrity of the trustee, and the presence of well-defined provisions on the termination of the waqf.<sup>128</sup> By doing so, family waqf acts as a supportive method of Islamic laws of inheritance, which effectively puts a tool of fitness in keeping wealth intact instead of contravening the Quranic prescription.<sup>129</sup>

#### **4.3 Supporting Vulnerable Family Members**

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<sup>127</sup> Ibid.

<sup>128</sup> Abu Zahrah, *Muhadarat fi al-Waqf*, 47.

<sup>129</sup> Kahf, "Waqf-Based Microfinance," 17.

<sup>130</sup> Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuhu*, vol. 5 (Damascus: Dar al-Fikr, 1989), 358.

legal heirs to assume control of assets on their own. Such constructions are validated based on the intention of the donor, the integrity of the trustee, and the presence of well-defined provisions on the termination of the waqf. By doing so, family waqf acts as a supportive method of Islamic laws of inheritance, which effectively puts a tool of fitness in keeping wealth intact instead of contravening the Quranic prescription.<sup>131</sup>

#### **4.3.1 Alignment with Maqāṣid al-Sharī‘ah**

The Islamic law highly prioritizes the safety and honor of vulnerable individuals within the family. Muslims are directed to follow a set of larger purposes, including protection of lineage and preservation of wealth, within the context of which the sustainable well-being of dependents is enshrined. In this regard, family endowments provide a legal and morally sound framework to extend systematized financial support to individuals who require them.

Notably, the existence of a family endowment does not contradict the Islamic compulsory inheritance system. Although there is an equitable sharing of family wealth on death because of the laws of inheritance, it is possible to create an endowment in life to ensure that some of the wealth is permanently used to support those family members who are financially dependent. This preventive act not only ensures legal conformity but also offers increased assistance to individuals needing constant help.

#### **4.3.2 Minor Heirs and Guardianship Management**

The typical scenario is where the father dies and leaves behind minor children. The children might not be able to handle property well, though they can be guaranteed safety of the property by inheritance accorded to them under Islamic law. To illustrate, farm land or rental property once subdivided prematurely might sell as non-productive land. By means of a temporary endowment,

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<sup>131</sup> Ibn Abidin, *Hashiyat Radd al-Muhtar*, vol. 4 (Beirut: Dar al-Fikr, 1992), 385.

a father can appoint a faithful custodian to administer such property, so that the funds accumulated in the nature of income be used in behalf of the children till they attain the years of maturity. Subsequently, the estate may be shared under the inheritance rules.<sup>132</sup>

This approach protects the financial welfare of the children as well as the overall productivity of the assets in the long term. It also eliminates the possibility of exploitation, which is part of the ethical clause about guarding the vulnerable and withholding family fortunes until they are rightly deeded to be distributed<sup>133</sup>

#### **4.3.3 Orphaned Nephews, Nieces, and Residual Dependents**

Islamic law of succession gives preference to direct heirs. Consequently, longstanding dependants like nephews or nieces can be left without any inheritance in case of closer relations. Say, a man supporting the orphaned children of his late brother might do that during decades. In the event that he dies without a plan, his property goes to his legal heirs, which may leave his dependents unsupported.<sup>134</sup>

To prevent such an eventuality, he might form some temporary endowment in his lifetime of a portion of his property, say, a shop or a piece of agricultural land, and thus secure revenue to meet the expenses of the care of such dependants as are orphaned. As soon as the children stop being self-sufficient, it is possible to end the endowment, and subsequently receive the asset back to divide lawfully through inheritance. Because this is made during the lifetime of the founder, it

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<sup>132</sup> Farhana Mohamad Suhaimi, "Wakaf Ahli: Peruntukan Undang-Undang dan Pelaksanaannya di Malaysia," *Malaysian Journal of Syariah and Law* 8, no. 1 (2018): 73–81.

<sup>133</sup> Imran Ahsan Khan Nyazee, *Outlines of Muslim Personal Law* (Lahore: Vanguard Books, 2012), 215.

<sup>134</sup> Zuhdi Yagan, *Al-Waqf fi al-Shari'ah al-Islamiyyah wa al-Qanun* (Beirut: Dar al-Nahdah al-'Arabiyyah, 1388 H), 124.



does not violate the rule, which forbids bequests to the heirs, but stands entirely valid according to Islamic dictates.

#### **4.3.4 Support for Widows and Financially Dependent Women**

The Islamic law states that the widows are entitled to the inheritance but in most cases, they are rewarded with a small portion- one eighth in the case where the family has children- which might not be enough in the current financial setting.<sup>135</sup> This allocation can be complemented by a family endowment, so that the dignity of the widow and her continued wellbeing are guaranteed. As an illustration, a family apartment or a plot of land might be put in endowment, and a portion of the rental income used to maintain her during the remainder of her life.<sup>136</sup>

Such arrangements can also support other women who are vulnerable like unmarried daughters or sisters or elderly women who may not be a legal heir to be supported through such arrangements.<sup>137</sup> The founder can specify them in the endowment deed as being beneficiaries until, say, they marry, become financially independent, or die. When made in the lifetime of the founder, and without impairing the shares of obligatory inheritance, it is generally admitted by the Islamic jurists.<sup>138</sup>

#### **4.3.5 Preventing Conflict and Promoting Transparency**

The Share of assets is often a contentious area where multiple interpretations are made, especially when it comes to sharing emotional expectations or inadequate documentation. To mitigate these risks, a family endowment can be used to set out definite terms in a written deed, designate an appropriate trustee, and in good cases, have the endowment registered with a known

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<sup>135</sup> Qur'an 4:12.

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<sup>137</sup> Aznan Hasan and Abdul Hadi Awang, "Socio-Legal Significance of Family Waqf in Islamic Law: Its Degeneration and Revival," *IJUM Law Journal* 24, no. 2 (2018): 309–334.

<sup>138</sup> Raja Abdul Ghafoor, *The Manual of Waqf Laws* (Lahore: Royal Book Company, 2005), 228.

legal body. Registration under religious councils in countries such as Malaysia offers legal protection and governance. In Pakistan, it is not as formalised but registration with provincial departments of religious affairs is possible and recommended.<sup>139</sup>

This kind of organized governance not only fosters transparency but is also safeguarding vulnerable individuals who may legally have no claim to the inheritance law. This protects familial integrity and contributes to a more equitable power of wealth.

#### **4.3.6 Ethical Precedents in Islamic Jurisprudence**

The Obligation to take care of the orphans, widows and the financially weaker persons is steeped deep in Islamic tradition. Prophet Muhammad greatly promoted it by saying that those who take care of orphans will be near to him in the Hereafter.<sup>140</sup> All schools of Islamic law scholars hold that family endowments are permissible, so long as they do not prevent or hinder the just execution of the law of Inheritance.

Family endowments, when used at their best, can be both a financial theory and a spiritual activity. They help Muslim families maintain justice and compassion by safeguarding dependents, maintaining wealth, and avoiding internal conflict. The family endowment therefore is an essential institution in the effective and morally upright management of wealth in modern Muslim communities.

#### **4.4 Income-Generating Mechanisms in Waqf ‘Ahlī**

Cash waqf (waqf naqdī) provides families with a secure means of assisting identified beneficiaries without losing the principal capital. In a Waqf ‘Ahlī structure, an endowor (wāqif) can deposit a lump sum, say PKR 5 million, which is used to invest in Sharī‘ah-compliant financial

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<sup>139</sup> Ibid.

<sup>140</sup> Abu Dawood, *Sunan Abu Dawood*, Hadith no. 2870.

activities, including muḍārabah (profit-sharing), or ijārah (leasing). The earnings go to specified relatives, including a minor child or a widowed sister. This framework does not only keep the capital intact but is also in concord with long term family stewardship goals, in addition to its ability to act in accordance with Islamic ethical standards. In kind, rental asset waqf entails the dedication of income-earning properties like houses, shops or agricultural lands. To take an example, when a person has a house that he has rented at PKR 40,000 per month, he can use this money to sustain his niece who has become an orphan until she can become independent. Here, the corpus (‘ayn al-māl) is preserved, and the usufruct (manfa‘ah) is exercised to distribute welfare to the vulnerable family members on a regular and secure basis, both as an economic prudence practice and as an Islamic moral duty fulfillment.

The innovations in Islamic finance have widened the utility of family waqf to include products like the along with šukūks-waqf. Using this model, families can jointly issue Sharī‘ah-compatible investment certificates (šukūk), with moneys taken to endow public-benefit facilities such as clinics or schools without destroying the underlying capital. This allows preservation of wealth and capital mobilization between generations. Waqf muaqqāt Another tool is becoming more prominent Waqf muaqqāt, which allows the endowing of property on a defined term, such as 10 years, after which the sharīa heirs to whom it should go by farā’iḍ take possession. This form can especially be used when aiding in non-heirs like orphaned nephews and nieces. In this instance a guardian may apply revenue received on rental property to the support of the minor dependents until they reach maturity, when it returns to the heirs. This complies with the law of inheritance and safeguards the dependents when they are at a vulnerable stage in their lives. Waqf muaqqāt has also been validated in courts in Pakistan, as in the Noor Shah Filling Station case, and further legal protection was given to this structure.

Malaysia acts as a regional paradigm of the application of waqf 1 ahl (commonly referred to as waqf dhurri or zurri) using successful, sustainable institutional systems. In Kelantan, the Islamic Religious Council (MAIK) began a high-impact project at Lot 145 in Kota Bharu together with Sentosa Jaya Development. The original waqf land was replaced through the istibd al technique with two business premises worth RM576,000. They brought in an annual rent of over RM80,000 of which 85 per cent accrues to the heirs and 15 per cent to the common good a true example of the mustara waqf paradigm- a compromise between family and philanthropic endeavour. In another initiative in Kelantan, the waqf zurriyyah development by MAIK at Jalan Kelochoh, where house sites and a paddy lease brought in a minimum of RM18,453 per annum, and the maximum depending on the type of house, ranged between RM300 to the maximum RM6,937.70 per year.<sup>141</sup> In Penang, the State Islamic Religious Council (MAINPP) operated a waqf zurriyyah set up to support lifelong medical costs of a disabled child of the deceased wāqif, an example of the charitable use of family waqf.<sup>142</sup> Likewise, a periodic cash waqf (wakaf tunai berkala) was initiated in Selangor by the State Religious Council (MAIS), with contributions made on a family-by-family monthly basis. It is a collective investment used to protect weak members of the family like unemployed adult children or widowed daughters and is managed by educated mutawallis and with formal governance structures to provide integrity and Sharī'ah observance.<sup>143</sup> These successful implementations demonstrate the importance of cross-coordination between State Islamic Religious Councils, investment companies, legal professionals, and scholars in developing robust and adaptive waqf systems.

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<sup>141</sup> Mohamad Suhaimi et al., "The Management and Implementation of Zurri Waqf in Malaysian Waqf Institutions," *Journal of Pengurusan* 52, no. 2 (2018): 1–18.

<sup>142</sup> Mohd Afandi Mat Rani et al., "Empowering Families, Eradicating Poverty: Unleashing the Power of Zurri Waqf in Malaysia," *Al-Qanadir: International Journal of Islamic Studies* 33, no. 3 (2024): 330–344.

<sup>143</sup> Sakinah et al., "Revitalising the Management of Family Waqf: A Way Forward," *Journal of Southwest Jiaotong University* 56, no. 3 (2021): 603–618.

The realization of Waqf ‘Ahlī in Pakistan is low, despite its theoretical and instrumental legitimacy. Obstacles revolve around legal ambiguity, poor institutional structures and cultural inertia. Despite being valid by Islamic law, temporary and private waqf frameworks are a source of some discouragement in Pakistan due to their unclarity in regulation. In contrast to the structured models of Malaysia where support arrangements of family dependents are formalised, Pakistan does not have such systems as wakaf tunai berkala. Consequently, a significant number of families are forced to use informal support settings, which usually ends when the provider dies. As another illustration, a man who assists his widowed sister and her children throughout his life may unintentionally make them penniless upon his death unless he has organized a formal family waqf. Such a drafted waqf muaqqat would have secured their care until a predetermined time, and then returned the asset to his legal heirs, satisfying both the letter and spirit of the law.

In spite of the fact that Pakistani jurisprudence has prudently acknowledged such possibilities, as in *Malik Aslam Parveez v Province of Punjab* and *Maulana Maqsood Anwar v Chief Administrator Auqaf*, they are still not implemented due to mistrust of Waqf authorities, the lack of digital registration systems, and disarray between religious boards and estate planners. In addition, Pakistan has no Malaysian equivalents of MAIK or MAINPP.<sup>144</sup> No special incentives exist in the form of tax relief, endowment advisory services, or training of mutawallis to promote the adoption of waqf. In Pakistan, family waqf can thrive only with the reform measures to incorporate standard documentation, registration systems backed by national databases such as NADRA or regional lands office, certification of Sharī‘ah-compliant advisors, and widespread outreach on estate planning. Such reforms are only the way forward to make the Waqf ‘Ahlī

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<sup>144</sup> *Malik Aslam Parveez v Province of Punjab*, 1994 MLD 1986; *Maulana Maqsood Anwar v Chief Administrator Auqaf*, 2003 YLR 3078.

institution live up to its potential in plasticizing wealth, strengthening families, and aligning them with their virtues in regard to Islamic heritage.

#### **4.5 Framework for Revitalizing Waqf ‘Ahlī**

The need to revamp Waqf ‘Ahlī in Pakistan requires a multidimensional approach that is not only sought to retain the nobility of farā’id but also to address current socio-economic conditions like family vulnerability, inflation, and fragmentation of assets. In contrast to the public waqf (waqf aam) that has a long-established institutional history, Waqf ‘Ahlī has been legally ambiguous in Pakistan, frequently abused or misinterpreted to avoid the entitlement of legal heirs. In this section, the author recommends a five-pronged approach, which consists of utilizing the structured experience of Malaysia, (2) formulating an appropriate model of governance in Pakistan, (3) incorporating Islamic financial entities, (4) implementing digital technologies to achieve transparency, and (5) integrating legal provisions that prohibit misuse and lack of Sharī‘ah compliance.

##### **4.5.1 Strategic Lessons from Malaysia’s Model**

The case of Malaysia proposes a model of managing Waqf ‘Ahlī via state approved waqf muaqqat systems incorporated in local Sharī‘ah frameworks. These enable donors (waqif) to set income or benefits on a specified asset to a particular family member-including minors, widows, or dependents-on a determined term, at the expiry of which he or she returns to waqif or the legal heirs of waqif by the principles of farā’id strictly adhered to. This is the settlement of a difficulty as old as the permanence of endowment and the exclusions of heirs-at-law.<sup>145</sup>

As an illustration, temporary cash waqf (waqf naqdī muaqqāt) which allows a father to endow the proceeds of a leased property, to maintain an orphaned niece on a ten-year term, with the

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<sup>145</sup> Nor Asiah Mohamad, "Redefining Waqf Models in Malaysia," *Journal of Islamic Accounting and Business Research* 15, no. 1 (2024): 56–58.

property returning to his estate after ten years, has been officially endorsed in the Johor State Fatwa Committee. This is because the practice is vital in securing proper care of vulnerable dependents through the most crucial periods of life without undermining the entitlement of other heirs to the inheritance. It also retains the capital which can then be redistributed which is in line with Islamic fairness and sound finance as well.<sup>146</sup>

Additionally, Malaysian State Islamic Religious Councils (SIRCs) have enforced controls including time-limited deeds, national registration with the state waqf registries, and Shari'ah advisor review, which presents important lessons to the fragmented system of waqf in Pakistan.

#### **4.5.2 Proposed Governance Framework for Pakistan**

The current legal situation in Pakistan does not provide a formal regulatory framework to Waqf 'Ahlī , which leaves it in a legal gray area and subject to abuse. One way to do so is through formal recognition of Waqf 'Ahlī , and this can be done by establishing registration units within every particular waqf board in every province. It must operate through a centralized and standardized procedural code that must be run by trained Shari'ah scholars and trained professionals in Islamic family law and inheritance jurisprudence.<sup>147</sup>

It should contain the following key regulatory conditions:

Waqf 'Ahlī arrangements should also be clearly temporary (muaqqat) and the transaction should be memorialized by way of notarised, registered deeds (waqfiyyah). Although it is preferable that there be a general limit of 10 years to ensure that circumventing farā'id does not become indefinite, flexibility is essential. In matters concerning dependents whose weaknesses are Enduring or Permanent, e.g., physical disability, being widowed but not remarried, or continuing

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<sup>146</sup> Ab Rahman, Asmak & Thaidi, Haslinda, "Legal and Shariah Issues in Temporary Waqf," *Islamic Law Review* 10, no. 2 (2023): 45

<sup>147</sup> Islamic Research Institute Pakistan, "Temporary Waqf and Faraid Compatibility," *Policy Brief* No. 14 (2022): 3.

schooling, longer periods are appreciable, but reviewable periodically by a panel/judiciary/Shari'ah.

Deeds must have designated beneficiaries like minor orphans, widow, or incapacitated relatives locally and declare the nature of assets, benefits use, benefit condition and termination. Notably, deeds can incorporate milestone-based termination clauses instead of fixed-term expiry by expiring when the minor comes of age, upon graduation or when a widow remarries. This pragmatic rule permits specific, need-based aids without interfering with rights to other heirs prescribed by Shari'ah.<sup>148</sup>

It is also provided that the principal asset (ayn al-mal) cannot be permanently alienated. Sale may only occur to the usufruct (manfreload sexuh ftah) which is transferred temporarily. Once the stipulated time or achievement date has elapsed, the item should come back to the estate of the donor and be divided purely under the provisions of farā'id.

As an illustration, an individual who would like to help the daughters of his deceased brother can assign the proceeds earned by a waqf-designated rental property to cover the education of the girls up to eight years. The transaction can include a provision that once the youngest girl reaches age 18 or graduates university, whichever event is first, the waqf ends. After this, the property goes back to the estate of the donor and is shared among the legal heirs. The above model offers customised, ethical family care without sacrificing obedience to farā'id.

Incorporating these flexible but enforceable rules into an official regimen of governance, Waqf 'Ahli can become rejuvenated in Pakistan as a legitimate, transparent, and ethically viable source of intra-family assistance that terms with custom as well as contemporary demands.

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<sup>148</sup> Ibid.



### 4.5.3 Integration with Islamic Financial Institutions

The example of Malaysia, with MyWakaf program connecting the waqf fund to Islamic banks and takaful institutions, is an excellent model. The Islamic banking system in Pakistan can also administrate the wallets family waqf on a profit-sharing (mudarabah) or agency (wakalah) basis, which would provide moral investments and stable revenues.<sup>149</sup>

An example of this would be that the donor would deposit PKR 3 million into an account as a waqf, which would be run by an Islamic bank, with its profits funding the living costs of a widowed daughter-in-law over five years. The major stands and is returned to the estate of the donor later. This provides capital security, professional management of funds, and low risk of misappropriation mainly to the urban or diaspora families that may not be conversant with the complexities of Islamic law.<sup>150</sup>

Additionally, such monetary connectivity will facilitate to incorporate Waqf ‘Ahli into the national strategy to curb poverty, thereby increasing its strategic worth past personal charity.

### 4.5.4 Digital Tools and Blockchain for Transparency

In order to avoid fraud and ensure greater trust, Pakistan is advised to implement digital waqf platforms as those of Malaysia, the blockchain-based e-waqf system. These platforms can be used to enforce all the terms of a waqf, including term limits, beneficiaries, and reversion clauses, in smart contracts that will never be altered.<sup>151</sup>

The connection of these systems with the NADRA biometric authentication and land/property registries would guarantee:

- a. Only valid and verified deeds are registered.

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<sup>149</sup> Bank Negara Malaysia & AIBIM, *MyWakaf Framework Report* (2022): 14–16.

<sup>150</sup> Ibid., 20; Shariah Advisory Council of SBP, *Guidelines on Waqf Investments* (2023).

<sup>151</sup> Emerald Insight, “Blockchain for Islamic Social Finance,” *JIABR* 15, no. 1 (2024): 66.

- b. Beneficiaries are authenticated and updated in real-time.
- c. Asset reversion is automatically triggered at the end of the waqf term.

This digitalization is inevitable when dealing with Waqf ‘Ahlī in urban, and high value scenarios which in some cases are closely monitored manually, resulting into cases of mismanagement. It also enables the regulators and the courts to access transparent logs that assists in efficient resolution of disputes.

#### **4.5.5 Preventing Misuse and Ensuring Compliance with Farā’iḍ**

Historically Waqf ‘Ahlī in South Asia has been abused to circumvent legitimate heirs and thus been suspect and declined in the courts. The following must be institutionalized in order to avert such consequences:<sup>152</sup>

- a. Waqf deeds must state their temporary nature and maximum duration (preferably capped at 10 years).
- b. Deeds must prohibit permanent alienation of assets and mandate automatic reversion.
- c. Eligibility should be restricted to minors, widows, or infirm dependents—not able-bodied heirs.
- d. Deeds must be executed voluntarily, prior to terminal illness, and without coercion.

To illustrate, a donor that wants to permanently benefit only one child using waqf would contravene farā’iḍ. The waqf board should void such an arrangement. A permissible waqf on the other hand might be to temporarily waive the agricultural income to not only raise an orphaned niece or to recoup a disabled uncle but also with a defined expiry and reinstitution into the estate.

Such rules represent a balance that is necessary: they preserve the rights of weak dependents but do not disinherit legal heirs. When it is made rigorous, Waqf ‘Ahlī can transform into a new

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<sup>152</sup> Pakistan Shari’ah Court, *Judgment on Inheritance and Fraudulent Endowments*, PLD 2022 FSC 114.

structure of Islamic family welfare-- dynamic, transparent, and originally under Sharī'ah - compliant.

#### **4.6 Socio-Economic Impacts of Waqf 'Ahlī**

The topic of Waqf 'Ahlī can be influential in enhancing the wellbeing of the family and the society as a whole in terms of solving major socio-economic problems like quarrels over inheritances, financial insecurity, and inability to access intergenerational wealth. Being an organized and Sharia-compliant approach to property dedication, it does not only help in preserving wealth against future heirs but also helps in redistributing excess benefits to benefit the infinite mass of community life. By so doing, it enhances social cohesion, minimises inequality and respects the tenets of economic justice enshrined in the Islamic law.

##### **4.6.1 Role in Reducing Family Conflicts and Legal Disputes**

Clear Waqf 'Ahlī strategies can minimize complexities brought about by inheritance that may arise as a result of not clearly defining how the property should be used and enjoyed by the specified heirs and dependents. Whereas in intestate succession, disputes about asset division has caused years of litigation, an endowment deed executed well indicates the intentions of the founder leaving least room to ambiguity and conflict. As the recipients of an endowment can only have usufruct (the right to enjoy property) and not legal ownership to the property, this reduces the range of conflicts associated with the title thereof and contributes to family peace.

As an example, an establishment of an endowment to support minor children of a deceased person or widowed daughter, protects their interests and prevents challenges that usually affect other heirs whose shares are determined under customary Islamic inheritance regulations. Such organized set-ups, as captured by the IIUM Law Journal, oppose the dispersion of wealth and provide a spiritually anchored as well as legally sound form of asset protection. In this respect,

Waqf ‘Ahli is a competent and conformant version of voluntary succession planning in Islamic law.<sup>153</sup>

The situation in India where weak governance and a lack of documentation led to a recent round of amendments to waqf property laws serve as a reminder about how a lack of governance has severe consequences. Indian legislation used to have a long history of enabling religious communities to use land as a religious purpose without solid paperwork and that had afforded informal protection to waqf properties. But these protective measures were taken away in the introduction of the Waqf Amendment Act (2025). Critics have indicated that the new law poses a threat to religious endowments since documentation must be done to show ownership and secure lands. Without such documentation, it is more likely that such waqf property can be lost, embezzled, or usurped, with those who are supposed to be benefiting ultimately having no legal basis of claiming the rights to the land.

In modern-day India, there are more than 13,000 waqf properties which are submerged in courts, and almost 59,000 properties which have been illegally possessed. To a large extent these kinds of problems are a result of poor record-keeping and legal procedures, coupled with oral testimony and historic blindness. The case presents a decisive lesson to Pakistan where the formal code of endowment of family also reflects drawbacks in documentation and the regulation process. Absent due form of waqfiyyah deed and legal framework, Waqf ‘Ahli s are susceptible to both internal and external pressures such as their potential nationalization by the state or other outsiders. Consequently, the case of Indians is raising the absolute necessity of having transparent legal mechanisms, official registration systems and binding documentation in Pakistan to secure

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<sup>153</sup> Muhammad Abdurrahman Sadique et al., “Socio-Legal Significance of Family Waqf in Islamic Law: Its Degeneration and Revival,” IIUM Law Journal 24, no. 2 (2016): 309–334.

property endowment of families and preserve rightful individuals under the Islamic code and the rule of law.<sup>154</sup>

#### **4.6.2 Economic Empowerment Through Structured Endowments**

Income generating Waqf ‘Ahli s improve the long-term family resilience because they transform immovable or liquid resources into long-term duration sources of income. To illustrate, the income derived by renting out endowed buildings or interests earned on cash endowments invested in projects that earn a profit can be utilized to sponsor the children education, cushion the livelihood of a widow or support the dependent with a disability. Through this, the endowment plays the role of a social safety net that is family-based and provides stable assistance between generations. Notably, Waqf ‘Ahli also enhances financial inclusion especially among women who are usually peripheral in adherence to traditional inheritance. The explicit mentioning of female beneficiaries in the deed of endowment provides equity of access to family resources by them. These types of all-inclusive models have been known to empower Muslim women in Malaysia as they have been given a special endowment payback to help in their entrepreneurial activities or in sustaining their households. Additionally, younger family members can launch businesses based on waqf-funded micro-enterprises and small business projects without resorting to external debt, hence leading to financial autonomy in the family. Waqf ‘Ahli , as Nor Asiah Mohamad points out, is by no means a passive instrument used to preserve the wealth; rather, it is a prospective tool that combines Islamic ethical concept with priority strategic asset preservation, securing spiritual purity and material welfare.<sup>155</sup>

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<sup>154</sup> Neyaz Farooquee, “The Endless Legal Battles over Muslim-Donated Lands in India,” *BBC News*, 16 April 2025, <https://www.bbc.com/news/world-asia-india-waqf-lands-2025> (accessed July 8, 2025).

<sup>155</sup> Nor Asiah Mohamad, “A Study on the Socio-Economic Roles of Waqf Ahli (Family Waqf) in Promoting Family Security and a Sustainable Family Economy,” *IIUM Law Journal* 26, no. 1 (2018): 141–160.

#### **4.6.3 Community Benefits Beyond the Family Unit**

Waqf ‘Ahlī despite its initial purpose to meet the needs of family, in most cases, yields secondary social gain. Once the revenue created through the endowment exceeds the needs of the targeted recipients especially due to retirement of family lines and deaths the excess can be diverted to corporate good like education scholarships, emergency aids or medical assistance. In the past, endowments by family naturally shifted to serve a greater purpose of the community once they have served their purpose of providing to their families. As an example, in the Islamic financial system being practiced in Labuan, the principle of joint endowment enables a percentage of the gains, originally to contribute to the general good. Thus, striking the right balance between individual and social duties. Through this, Waqf ‘Ahlī is able to encourage the culture of organized charity whereby the wealth of individuals ends up benefiting the society. This fits well with the greater purposes of Islamic law, especially distribution of wealth and enhancement of social welfare.<sup>156</sup>

#### **4.7 Conclusion**

This chapter has revealed that Waqf ‘Ahlī as a strategically structured and engineered device of finance, inclusive of the other income generating financial mechanisms, is an attractive basis of a sustainable wealth preservation by family owing to Islamic tenets. Due to formalization of the usufruct rights conveyance by means of endowment deeds, the level of inheritance disputes can be decreased, the principles of equity, which are based on Islamic law, can be observed, and the family can be guaranteed long-term financial safety over several generations. Malaysian examples show that hybrid endowments and temporary endowments may adequately serve the goals of protecting the interest of the vulnerable family members, including widows, orphans and dependents, without

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<sup>156</sup> Ibid., 153–154.

violating religious requirements in any way. In addition, the excess revenues realized in Waqf ‘Ahli s can be channeled towards longer term societal good such as microfinance, educational activities and empowering women economically. The above dual-purpose model, bringing together both the concept of private welfare and good of the people, is a strong indication of Waqf ‘Ahli as a relevant contemporary Islamic financial mechanism to date.

In spite of this possibility, the environment in Pakistan with respect to laws and institutions does not provide much assistance in the way of operationalizing Waqf ‘Ahli s. Lack of formal acceptance of the endowments of family nature as defined by the secular law coupled with poor institutional capacity and management have been major limiting factors to the practical application of the endowments of the family nature. The recreation of Waqf ‘Ahli is desirable in any case in a society increasingly exposed to socio-economic vulnerability and the dispersion of family fortune through stringent collations of inheritance; a situation that renders the promotion of family wellbeing as a matter that is not merely desirable but also as a matter of commitment, in both the religious and the public policy spheres. In the subsequent chapter, and as a consequence, sharp solutions to the legal reforms, governance improvement, and digital inclusion plans on the table to mainstream Waqf ‘Ahli in Pakistan will be discussed. Lack of these changes can leave such an institution of historical importance unnoticed in the state that desperately needs revolutionary, Shari‘ah-compatible models to support their families and social welfare.

## **Chapter 5: Conclusion and Recommendations**

### **5.1 Introduction**

The chapter concludes this thesis by synthesizing important findings and proceeding to make recommendations of reform. The research provides a critical analysis of Waqf ‘Ahlī as a family wealth preservation mechanism in Islamic laws, with comparisons with Malaysia and Pakistan. The study has examined the conformity between the Waqf ‘Ahlī and Sharī‘ah principles, as well as its socio-economic implications and the ways how new financial and legal practices may restore its applicability. This chapter, attempts to summarize what has been learned through both the doctrinal and comparative analysis, and give policy, legal and technological recommendations, especially with respect to Pakistan, and suggest avenues of future studies.

### **5.2 Summary of Key Findings**

The research affirms that Waqf ‘Ahlī would be a promising and morally upright model of maintaining intergenerational wealth and sustaining the dependent family members as long as the model is formed within the confines of Islamic doctrine. Hanafi and Maliki schools Classical Hanafi and Maliki schools recognize the validity of all forms of privately financed, family-based endowment, especially where provision is made that assets will at some point pass to charitable ends were the family line to be extinguished. Most of the Islamic schools of law, with exceptions of the Mālikī madhhab, stress that an endowment needs to be made with the explicit intent that it is perpetual and irrevocable rendering an endowment a type of permanent charity. When the founder limits the time, e.g., to ten years or makes its revocation or revocability (e.g., as long as the heirs need) such an arrangement is not considered a true endowment under most schools. The Al-Imāmiyyah school, especially, holds that in case the founder wants to establish a formal endowment under such circumstances it stands void as an endowment as well as detention. But in



case only to form a temporary detention (habs), and not a waqf, the scheme is included within the designated term. With or without misunderstanding, as that assigned to Abu Zuhrah, the interpretation of the Al-Imāmiyyah includes the necessity of perpetuity as the condition of the validity of endowments. The Maliki school on the contrary authorizes temporary endowments, and justifies even those with specified term, or restrictions to sell endowed property.

Those legal subtleties are especially significant in such jurisdictions as Pakistan, where more conservative approaches to Farā'id reduce the malleability of long-term planning in finances. The doctrinal survey conducted in this paper points out the fact that allowable formulations of Waqf 'Ahlī encompass transitional ones and distribution of free wealth following the completion of inheritance obligations. The existence of such structures is significant as far as providing certainty that Waqf 'Ahlī s are not in conflict with the Quranic obligations around concepts of inheritance and hence they can be referred to as Islamically compliant.

Comparative analysis reveals that Malaysia has really become a pacesetter of the institutional innovation in this regard. Malaysia has institutionalized the arrangements on the cash endowments, temporary endowments, and the income-generating endowments with reference to the Islamic based financial instruments like the sukūk through its State Islamic Religious Councils. Such advancements have allowed the Waqf 'Ahlī s to ensure that their activities meet both individual family and general population goals. By contrast, the endowment sector in Pakistan has so far been mostly charitable or religious in nature with no institutional or legal framework to recognize Waqf 'Ahlī s. This along with confusions held by the people that Waqf 'Ahlī does not go in line with the Islamic provisions of inheritance has made it less appealing.

It is important to note that the research concludes that Waqf ‘Ahlī s established so as to meet the prescriptions of the Islamic law such as their formation when the founder is alive, to not contravene the minimum shares of inheritance and to benefit vulnerable dependents themselves are compatible with the higher purposes of the Islamic law. They are protection of wealth, maintenance of family unity and support of widows, orphans and other people who have special needs. When properly constructed, Waqf ‘Ahlī is not only an instrument of social-economic justice but also a religiously sound and viable way to ensure wealth stabilization through the generations without violating the principles guiding the Islamic doctrine.

### **5.3 Recommendations for Revitalizing Waqf ‘Ahlī in Pakistan**

#### **I. State-Led trustee mechanism on Waqf ‘Ahlī adoption**

The achievement of revivals in Waqf ‘Ahlī in Malaysia revealed a significant conclusion that the presence of legal trustees in the form of the State Islamic Religious Councils is an important institution in the revive in the aspects of endowments in families. This model offers regulatory control, Islamic compliances, and protection of the donor intent by institutional governance and professional management.

Pakistan must follow suit of the trustee model by empowering provincial endowment departments or newly created provincial Islamic councils as legal trustees of registered Waqf ‘Ahlī s. This would assist in breaking mistrust among people, ease family conflicts and guarantee that inheritance rules are adhered to. These structures would be in charge of the management of the assets, the execution of the conditions of the deed and have proper reporting to the beneficiaries as well as regulatory bodies.

## **II. Creation of a Digital National Waqf ‘Ahlī Registry**

Among the feasible measures to institutionalize Waqf ‘Ahlī in Pakistan is the establishment of an integrated computerized registry accessible in a new national or provincial endowment board. This site would be a voluntary and safe clearance site to the recording of deeds on family affairs generated by the donor when still alive. The donors could provide the specifics of assets, time, qualified recipients and conditions. Integration to NADRA would allow verification through biometrics softening a threat of fraud threat and identity disputes.

In order to preserve donor intent, tamper-free deeds and lawful disbursement automation could be provided by blockchain and smart contract technologies. Sensitive information about the family would be under the privacy control, and the regulatory influence would be possible. Such a system would modernize governance of endowments and enhance access and adherence.

## **III. Development of Compliant Waqf ‘Ahlī Investment Products**

The financial regulators in Pakistan ought to roll out specific family investment products by liaising between the SECP, Islamic banks, and the Islamic advisory boards. These can consist of bond-linked securities and unit trust funds, which will support the family. Investments would result in legal earnings to family beneficiaries that may be minors or widows or people with disabilities.

The funds are supposed to be following the Islamic principles of finance and should have the contracts like profit partnership or agency-based control. Gifts should be out of discretionary wealth, otherwise they can only be given to an extent that is below 1/3 of the estate, and this must be accepted by all heirs. This structure would enable the families to the preservation of wealth and expansion and remain in the inheritance laws.

#### **IV. Implementation of Waqf ‘Ahlī -Backed Social Housing Initiatives**

Preservation of vulnerable families should be addressed by combining endowment input to create housing projects within the framework of a public-private partnership. These initiatives would include NGOs in Islamic countries, provincial governments and donors. Projects would be biased towards widows, orphans and disabled relatives and accordingly would be in line with goals of the Islamic law.

Housing may be endowed over family assets and under the supervision of the government controlled certified Islamic organisation. NADRA verify system would be transparent in choosing the beneficiaries. This model finds the middle ground between personal responsibility and interest of the greater good and honors the law of inheritance.

#### **V. Creation of Mobile-Enabled Community Waqf ‘Ahlī Platforms**

Access to Waqf ‘Ahlī s particularly in rural and low-income regions can be greatly improved using mobile technology. It should be configured to offer applications where families can start, add to and control online endowment pools. Such websites would facilitate endowment to a specified cause, like education, marriage or healthcare aid.

The use of real time monitoring and automated disbursement mechanisms would create the accountability and trust. In order to avoid violations in inheritance, all structures are to be examined by suitable auditors. The model enhances Waqf ‘Ahlī in being inclusive and more easily accessible to the family.

#### **VI. Launch of a National Awareness and Capacity-Building Program**

The major impediment to the increase in Waqf ‘Ahlī within Pakistan is that are wrongly thought of as illegal under the inheritance law. This should be clarified through a national campaign by religious authorities, legal scholars and financial institutions to shed more light on

this. The campaign has to describe such models as temporary endowments and hybrid public-family.

Legal workshops to the legal professionals and publications on regional languages as part of community education should be implemented through the media and community meetings. The program must be most importantly aimed at females, families in rural area, and underprivileged individuals to make it all inclusive.

#### **5.4 Legal and financial reforms**

#### **VII. Introduction of New Waqf ‘Ahli Legislation**

The legal system of Pakistan fails to recognize the endowment of the family explicitly. The current laws are equal to models concerning public and family-based models. Waqf ‘Ahli must be defined and controlled by new legislations with adjustment in Waqf ‘Ahli in terms of what they contain, when to end and who to receive, and also periodical oversights by Islamic supervisory boards.

#### **VIII. Provincial Legislation Recognition**

Since Pakistan has devolved the nature of its legal system, provinces have the mandate to control endowments. The provincial governments need to make their own laws which incorporate family-based model where they would specifically pertain to temporary or conditional models that would be compatible with the inheritance law. Every amendment should be checked by the provincial Islamic advisory boards in respect of compliance.

#### **IX. Tax Incentive and Finance Regulation**

The state ought to provide tax exemptions to registered and compliant Family Waqafs, which particularly support needy dependents. Such incentives would facilitate usage among high-net-worth individuals and overseas Pakistanis. At the same time, SECP must control the family

investment products under the regulation of the Federal Shariat Court to monitor and avoid their misuse.

## **5.5 Innovation of Technology and Governance**

### **X. Scanning of Records and Blockchain Enforcement**

Pakistan needs to computerize its endowment infrastructure so that mismanagement and fraud can be minimized. A national registry should be made digital to store any transactions and deeds. Blockchain has the ability to protect the records, it is able to stop unauthorized changes, and automate disbursements. Smart contracts will make it possible to pay the verified beneficiaries solely.

### **XI. Community Engagement through the Use of Mobile Applications**

Users should be able to manage donations through mobile applications. Due to integration with NADRA, verified disbursement is ensured. Digital funds can be handled using certified NGOs, where donors and regulators can have real-time dashboards, which foster better governance and facilitate the modern Islamic adoption of financial inclusion.

## **5.6 Future research directions**

Informal endowment behaviour in families should be investigated in Pakistan in future studies. Fieldwork may also lead to the discovery of the practices that are undocumented but adhering to the requirements. The endowment made to families should also be researched interdisciplinarily on how this could empower women within Islamic parameters. There is a need to establish much more research on harmonising the civil, Islamic and financial regulations in one model. International comparisons such as those carried out by other countries such as Malaysia, Indonesia, Turkey, and Sudan may provide flexible models. A new use of the Waqf ‘Ahlī s may be found when the effectiveness of the diaspora approaches is explored.

## **5.7 Conclusion**

When designed and implemented in accordance with the Islamic law, Waqf ‘Ahlī presents a legal and transformative way of preserving wealth, providing intergenerational support as well as social justice. The paper has found that there is doctrinal legitimacy in the schools of Maliki and Hanafi especially, which is subject to the endowment not bypassing obligatory shares and kept within the acceptable limits of temporary endowment and post-distribution models.

Waqf ‘Ahlī in Pakistan needs a revival and the reforms should revolve around legal recognition, innovation in finance, technology infrastructure and education. The case of Malaysia demonstrates that the Waqf ‘Ahlī can be obedient and active with a strong system.

Incorporating the Islamic practice and combining new tools into the existing tradition, Pakistan can revive the Waqf ‘Ahlī as one of the Islamic family finance and social welfare mainstays.

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## Appendix

### Glossary of Arabic Transliterations and Their English Meanings

Transliterated Word	Meaning in English
Waqf ‘Ahlī	Family Endowment
maqāṣid al-sharī‘ah	maqāṣid al-sharī‘ah
ḥifẓ al-māl	preservation of wealth
ṣadaqah jāriyah	ongoing charity
mutawallī	trustee
waqfiyyah	waqf deed
ta‘bīd	irrevocability
manfa‘ah	usufruct
‘ayn al-māl	corpus of the asset
waqf dhurrī	generational Waqf ‘Ahlī
waqf muaqqāt	waqf muaqqāt
Waqf Mushtarak	hybrid waqf
waqf naqdī	cash waqf
ijarah	leasing
muḍārabah	profit-sharing
wakālah	agency
waqf khāṣṣ	private waqf
farā’id	Farā’id
Niyyah	intention
Amānah	trust or custodianship
ṣukūk	Islamic bonds
ḥabs	detention or withholding



Tasbīl	devotion in the path of Allah
Nasl	lineage
‘adālah	justice
raḥmah	mercy
Sharī‘ah	Islamic law
Farā’id	Farā’id
shar‘ī	Islamically lawful
qaḍā’ shar‘ī	Islamic judicial authority
Nuzzār	trustees
nazzir ‘ām	general trustee
MAIN	Majlis Agama Islam Negeri (State Islamic Religious Council)

