

UNIVERSITI TEKNOLOGI MARA

**LAW AND GOVERNANCE OF WAQF
IN SELECTED HIGHER
EDUCATION INSTITUTIONS (HEIS)
IN MALAYSIA: LESSONS LEARNT
FROM TURKEY**

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of the requirements for the degree of
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AUTHOR'S DECLARATION

I declare that the work in this thesis was carried out in accordance with the regulations of Universiti Teknologi MARA. It is original and is the results of my own work unless otherwise indicated or acknowledged as referenced work. This thesis has not been submitted to any other academic institution or non-academic institution for any degree or qualification.

I, hereby, acknowledge that I have been supplied with the Academic Rules and Regulations for Post Graduate, Universiti Teknologi MARA, regulating the conduct of my study and research.

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ABSTRACT

Waqf implementation in higher education institutions (HEIs) must be with the approval of the State Islamic Religious Council (SIRC) as the sole trustee of waqf. With the permission of SIRC, HEIs can manage their waqf in complying with the Shari'ah legal framework in addition to state and federal laws. However, at present, the power to implement waqf depends on what term of appointment is given as waqf manager, which is not comprehensively dealt with in state and waqf laws. Therefore, reference needs to be made to the Mutawalliship Theory. Also, there is no specific comprehensive law concerning the establishment, and the governance of waqf in HEIs and existing state laws and other related laws are not in tandem with the current need for implementing sustainable waqf in HEIs. Therefore, given the above issues, this study aimed to examine the existing laws and governance for waqf implementation in selected HEIs in the context of Malaysia and to learn from the experience of Foundation Universities in Turkey. In achieving this aim, this study analysed the comprehensiveness of the laws in governing waqf in HEIs in Malaysia in addition to the related issues in proposing recommendations for the improvement to existing laws, including the governance of waqf in HEIs in Malaysia by learning from the experiences of foundations in Turkey. A qualitative research approach was adopted by applying the doctrinal legal research approach and triangulating this approach via empirical research. The doctrinal analysis focused on the specific waqf enactments introduced between 2015 and 2016, in Selangor, Perak, and Terengganu, related to waqf implementation in the selected HEIs in addition to other legal frameworks. This research further extends the Turkish's jurisdiction to comparatively analyse the legal structures and their foundation's governance in HEIs and reports on the collected evidence based on a series of interviews undertaken with four different categories of respondents. The results of this study found that the existing laws and the governance of waqf in HEIs in Malaysia require improvement to ensure the sustainability of waqf implementation in HEIs by considering the lessons learnt from Turkey in term of its legal framework and governance of HEIs. As such, further research is recommended to include more public and private HEIs to investigate the impact of waqf implementation in HEIs. In addition, comparative studies should be undertaken with other jurisdictions on the same issues such as Indonesia, Cairo, Pakistan, Kuwait, etc.

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TABLE OF CONTENTS

	Page
CONFIRMATION BY PANEL OF EXAMINERS	ii
AUTHOR’S DECLARATION	iii
ABSTRACT	iv
ACKNOWLEDGEMENT	v
TABLE OF CONTENTS	vi
LIST OF TABLES	xiii
LIST OF FIGURES	xiv
LIST OF ABBREVIATIONS	xv
CHAPTER ONE: INTRODUCTION	1
1.1 Introduction	1
1.2 Research Background	1
1.3 Problem Statement	6
1.4 Previous Studies	8
1.4.1 Waqf as a Financial Instrument for HEIs	10
1.4.2 Waqf Implementation in HEIs from the Legal Perspectives	13
1.4.3 The Governance of Waqf in HEIs	15
1.5 The Justification for Selecting Turkey as a Preferred Country for the Present Study	17
1.6 Research Questions	20
1.7 Research Objectives	20
1.8 Operational Definitions	21
1.8.1 Law	21
1.8.2 Governance	24
1.8.3 Higher Education Institutions (HEIs)	25
1.9 Research Scope	27
1.10 Research Limitation	28
1.11 Thesis Structure	28