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IMPLEMENTATION OF HEALTHCARE WAQF: A CASE STUDY OF UNIVERSITI SAINS ISLAM MALAYSIA'S HEALTH SPECIALIST CLINIC

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Abstract

Waqf is a very important economic instrument in Islam. History has shown that waqf has assisted Muslims tremendously since the era of the Prophet Muhammad (ﷺ) until the next splendid era of Islam. Various rewards await those who have implemented waqf for the sole purpose of encouraging this practice among Muslims. This noble practice then spreads, not only within the traditional boundaries such as the construction of mosques, religious schools and cemeteries, but continues to develop in various forms including in "health waqf". Increasing healthcare costs do not take into consideration the factor of affordability, that is whether patients can afford to bear the cost or otherwise. For the asnāf, the current cost of treatment by specialists is beyond their means and so an alternative route for them would be through health waqf. Similarly, the problem applies to the non-asnāf for whom the cost would be considered lower. With the establishment of Universiti Sains Islam Malaysia (USIM) Health Specialist Clinic (HSC), the waqf agenda prospers in different forms be it in health, expertise or education thus realizing its objective of assisting the poor and needy, and indirectly implementing the agenda of global peace.

Keywords: Healthcare waqf, Waqf, Positive Peace, Health Specialist Clinic (HSC).

Introduction

Waqf practice is a *sunnah* that is highly encouraged in Islam. It is based on the practice of Prophet Muhammad (ﷺ) and companions who were always striving to donate their properties to promote good faith. The companions strived to contribute to *waqf* when they learned about the advantages to donors based on the following Hadith:

*“When a son of Adam dies, his good deeds will be cut off from him except for these three things: donations, knowledge that benefits others, and children who always cite prayers for him.”*¹

History unfolds stories to show that the *waqf* activity was never neglected by the companions. In the book *Aḥkām al-Awqaf*, it was narrated by Jabir that not a single person from the Muhajirin and Ansar who passed away, had not donated something permanent that can be sold throughout their lives.²

Some of the companions expressed their sadness and complained to Rasulullah (ﷺ) that they were not able to perform *waqf* due to their hardship. In the narration of Abu Dzar (رضي الله عنه): “Some of the companions of Muhammad had asked him: (How fortunate) for benefactors for being able to obtain good deeds, they perform *solah* and fast the way we do and they donate their assets. Rasulullah (ﷺ) then answered:

Does not Allah create so many ways for you to donate? Every verse of tasbiḥ is a donation; every takbīr is a donation; every tahmid is a donation; every tahlil is a donation; amr ma’ruf and nahy munkar (calling upon people to do good and prohibiting them to do bad things) is also a form of donation”.³

¹ Muslim al-Hajjāj, *Al-Musnad Al-Ṣaḥīḥ Al-Mukhtaṣar Min Al-Sunan bi Naqlī ‘an Al-‘adlī Ilā Rasullillahi Ṣallahu ‘Alayhi Wasallam*, 2nd ed. (Riyadh: Dār al-Salam, 2000), 716.

² Abū Bakar Aḥmad Muhair Al-Khassaf, *Al-Aḥkām Al-Awqaf* (Cairo: Maktabah al-Thaqāfah al-Dīniyyah, n.d.), 4.

³ Muhammad Ismail al-Bukhārī, *Al-Jāmi’ Al-Ṣaḥīḥ Al-Musnad Al-Mukhtaṣar Min Umūri Rasūlillahi Ṣallallahu ‘alayhi Wasallam Wa Sunanihi Wa Ayyāmihi*, 1st ed., vol. 2 (Cairo: Dār Tawq An-Najah, 2001), 115.

Waqf is not only restricted to building mosques, reserving lands for burial grounds or graves, building schools but broader which includes education, financing, corporate work and health. This understanding of the concept *waqf* in a society is very important. Among the areas of *waqf* that should be prioritised is healthcare *waqf*. Healthcare *waqf* consists of building of hospitals, purchase of medical equipment and facilities that can benefit those who are sick and infirmed. Today, treatment cost is a serious concern as it is expansive. We cannot fully depend on the government's assistance and subsidy⁴. We also need to alleviate the burden of treatment cost with the practice of *waqf*. One of healthcare *waqf* that should be highlighted is the haemodialysis.

The number of Malaysians experiencing kidney problems is on the rise, where 6,000 new cases are recorded annually. It is currently estimated that kidney patients from stage 1 to stage 5 have reached 400,000 patients⁵, of which 40,000 are those suffering stage 5 who are in need of dialysis treatment. Every year, the government allocates not less than RM1.6 billion to fund the costs of treating stage 5 kidney patients in Malaysia. This is proof that there is a large number of patients who need haemodialysis treatment.

Whether rich, middle class or from poor backgrounds we are not exempted from diseases. Today the higher charges of medical treatment are alarming and will have a profound impact on the *asnāf*. For dialysis every patient requires four hourly treatments per session, thrice weekly and the monthly cost is from RM2,000 to RM3,000. The amount is escalating to RM40,000 per year per patient.⁶ At this

⁴ Nur Atikah, Fuadah and Zurina. Contribution and Sustainability of Waqf and Social-Based Healthcare Institutions in Malaysia: A time for Reflection. In *Extending the Boundaries of Islamic Finance* edited by Mohd Daud Bakar et. al. (Nilai: USIM Press, 2018). Refer also, Market Research.com "Malaysia Pharmaceuticals & Healthcare Q3 2019. (2019). Malaysia Pharmaceuticals & Healthcare Q3 2019". Market Research.com. <https://www.marketresearch.com/Business-Monitor-International-v304/Malaysia-Pharmaceuticals-Healthcare-Q4-125-95822/>. Accessed on June 19, 2019.

⁵ BERNAMA. "More Malaysian having Kidney Problems, about 7,000 cases recorded Each Year." NST Nation. May 10, 2017. <https://www.nst.com.my/news/nation/2017/05/238007/more-malaysians-having-kidney-problems-about-7000-cases-recorded-each>. Accessed June 19, 2019.

⁶ Ibid.

rate, it will definitely be hard for the *asnāf*. One of the alternatives to help the *asnāf* is to set up a haemodialysis centre as *waqf*. Although it is a costly exercise where the value of a dialysis machine ranges from RM40,000 to RM60,000 per unit, the establishment of a haemodialysis centre as *waqf* will relieve the financial burden of *asnāf* patients seeking treatment. In *waqf* financing capital finance is not included in the operating cost, thus reducing it to price and treatment cost.

Helping others in need is a shared responsibility and a very noble practice. Every *waqf* contribution we give to reduce the burden of our brothers and sisters in Islam would be seen as an ongoing good deed that will be carried through in the Hereafter. In life the assets granted to us by Allah (ﷻ) is impermanent; our real destination is to help our brothers and sisters who are in need. We thus need to actively practice *waqf* and make it part of our way of life.

The main objective of this paper is to explore the experience of establishing Universiti Sains Islam Malaysia (USIM) Health Specialist Clinic (HSC), focusing on the issues and challenges of healthcare services through *waqf* financing in USIM as participating in the Global Peace Agenda. This paper contains six sections including the conclusions derived from the study. The study starts with the introduction, theoretical background and literature survey, methodology, discussion on the *waqf* health specialist clinic in USIM, an analysis towards global peace agenda and an articulation of the issues and challenges faced by the healthcare *waqf* in USIM.

Theoretical Background and Survey of Literature

Waqf is an Islamic instrument for the economic development of Muslims. It is one of the *tabarru'āt* contracts in the Islamic *mu'alamat* system. The goal is to provide the space and opportunity for Muslims to donate their assets towards charity, in the pursuit of Allah's mercy. That said, *waqf* is also capable of helping particular groups to upgrade their lives while at the same time enhancing the wealth of the Muslims.⁷

⁷ Mohamad Zaim Ismail, Muhammad Ikhlas Rosele, and Mohd Anuar Ramli,

Waqf originates from the Arabic word *waqafa* which means stop (السكن), prevent (المنع) and refrain from (الحبس).⁸ *Waqf* as a term, has not been specifically mentioned in the Qur'ān or Hadīth but follows interpretations made by the *fuqahā'* on *sadaqat al-jāriyah*.⁹ A *waqf* is an act of holding certain properties and preserving them for the confined benefit of certain philanthropic purposes that disallows any use or disposition of them outside the specific objective.¹⁰ According to Imam Mohammad al-Khatib Syarbiniy *waqf* is holding something that could be used to perpetuate the form ('*ain*). Therefore, all transactions are subject to the Islamic law.¹¹ However, any returns from the *waqf* can be disbursed according to the wishes of the donors (*wāqif*).

The meaning of *waqf* is defined in the the state enactment, for example according to Section 2, Part 1, 2005 Negeri Sembilan *Waqf* Enactment, "*waqf*" means—

- a) granting the ownership of any assets that have benefit, interest or profit;
- b) granting the benefit, interest or profit from any asset; or
- c) giving expertise and service that can give benefit, interest or profit,

In general *waqf* or a specific *waqf* is governed by *Sharī'ah* principles and is not included in the trust defined under the Trustee Act 1949 [Act 208].

Waqf is an instrument in the Islamic economy that is characteristically *ijtihādī*. If we look closely, there is no direct evidence regarding *waqf* because the word itself is a new term used

"Pemeriksaan Waqf Di Malaysia: Satu Sorotan," *Labuan E-Journal of Muamalat and Society* 9 (2015): 1-13.

⁸ Muhammad Mukarram Ibnu Manzur, *Lisān Al-'Arab*, vol. 6 (Beirut: Dār Ṣādir, 1994), 44.

⁹ Abdul Shakor Borhan, "Pelaksanaan Pembangunan Wakaf Korporat Johor Corporation Berhad Jcorp: Satu Tinjauan." In *International Conference on Humanities*, organised by School of Humanities, Universiti Sains Malaysia, June 13-16, 2011.

¹⁰ Monzer Kahf, "The role of waqf in improving the ummah welfare." In *International Seminar on Waqf as a Private Legal Body*, organised by the Islamic University of North Sumatra, Medan, Indonesia 2013, 6-7.

¹¹ Al-Sharbiniyy, Mohammad Khatīb. *Mughnī Al-Muhtāj*, (Cairo: Maktabah Al-Ḥalabī, 1933), 2, 376.

after the time of Rasulullah (ﷺ). However, conceptually *waqf* has long been practised but a different term was used before. The most frequently used terms for *waqf* in the Qur'ān and Hadīth is *infāq* which refers to alms and charity. An evidenced in the Qur'ān¹² and Hadīth the purpose of *waqf* as decreed by Allah (ﷻ) is as follows:

Rasulullah (ﷺ) said:

*When a man dies, all the good deeds will be cut off from his good practice, other than three things-charity (here it refers to waqf) or knowledge that can benefit him or the prayers of good children who are always citing prayers for him.*¹³

Based on the evidence above, *waqf* is instrumental in Islam. History shows that *waqf* has helped Muslims from the Prophet's time to other Islamic eras. The deeds and actions of Rasulullah (ﷺ) have become exemplary and the practice of *waqf* was fundamental. The first *waqf* in Islam was the construction of Quba' Mosque which is narrated in the Qur'ān.¹⁴

Next was the construction of An-Nabawi Mosque. It was narrated that Rasulullah (ﷺ) had purchased land from two orphaned brothers named Sahl and Suhail at 10 Dirham, and he then donated it as *waqf* for the construction of the mosque.¹⁵

Abū Ṭalḥah, an Anṣār (native residents of Medina), was a renowned companion of Prophet Muhammad (ﷺ) who generously donated his many prized assets and possessions, one of which was Bairuha, a date farm in the vicinity of the An-Nabawi Mosque. After *Sūrah Āli 'Imrān*, verse 92 was revealed, Abū Ṭalḥah immediately presented himself to the Prophet (ﷺ) and said:

Bairuha is my most treasured possession. Now, I am

¹² Al-Qur'ān, *Sūrah Āli 'Imrān* 3:92.

¹³ Muhammad Isa al-Tirmizi, *Sunan Al-Tirmizi*, vol. 3 (Cairo: Musatafa al-Bābi al-Ḥalabi, 1975), 652.

¹⁴ Al-Qur'ān, *Sūrah Al-Tawbah*, 9:108.

¹⁵ Muhammad Ismail al-Bukhārī, *Al-Jāmi' Al-Ṣaḥīḥ Al-Musnad Al-Mukhtaṣar Min Umūri Rasūlillahi Ṣallallahu 'alaihi Wasallam Wa Sunanihi Wa Ayyāmihi*, 1st ed., vol. 5 (Cairo: Dār Tawq An-Najah, 2001), 60.

*turning it into a donation for the sake of Allah. I hope for goodness and the rewards of Allah. Use it the way you like, dear Rasulallah.*¹⁶

The same was true of Khalid bin al-Walid (رضي الله عنه) who also donated his war suits and equipment as waqf in the path of Allah (ﷻ).¹⁷ A popular hadith associated with the implementation of waqf relates to the incident involving Saidina Umar (رضي الله عنه) who had sacrificed his most fertile land in Khaybar for waqf:

*A hadith from Ibn Umar (رضي الله عنه) was narrated where he said: Umar (رضي الله عنه) had obtained a piece of land in Khaibar so he went to see Muḥāmmād (ﷺ) to ask for his opinion about the land, so he said: "Dear Rasulallah I have gotten a piece of land in Khaibar where there's nothing more precious to me than that (while I have the ambition to get closer to Allah). What would you command me to do with it?" Then Rasulallah (ﷺ) spoke to Umar: "If you want, then stop the land (waqf it), and donate the profit". Umar then donated the profit of the yield on condition that the land cannot be sold and bought, not to be given away and not to be inherited. The land must be donated to the poor, to family, to free the slaves, for people fighting for the cause of Allah and also for the supply of travellers and as food for guests. The person who manages it (who is in charge of it called nazir) is allowed to take his wage from part of the yield in the right way without assuming that the land is his.*¹⁸

Based on the above, there is a waqf law that needs to be observed as the basis for waqf implementation.¹⁹

¹⁶ Muslim al-Hajjāj, *Al-Musnad Al-Ṣaḥīḥ Al-Mukhtaṣar Min Al-Sunan bi Naqlī 'an Al-'adlī Ilā Rasullillahi Ṣallahu 'Alayhi Wasallam*, 2nd ed. (Riyadh: Dār al-Salam, 2000), 2, 404.

¹⁷ *Ibid*, 2, 122.

¹⁸ *Ibid*, 3, 1255.

¹⁹ S. M. Zarqā', *Aḥkām al-Waqf* (Damascus: University of Damascus Press, 1947).

Waqf is built upon several pillars comprising the donor (*al-wāqif*), the asset donated (*al-mawquf*), the beneficiary of *waqf* (*al-mawquf 'alayh*) and the seal of agreement (*al-sīghah*). The donor must be from someone independent, that is an adult in the right mind who is qualified to donate. The endowment must be made voluntarily, that is the person must not be forced to give *waqf*. Furthermore, the asset donated (*al-mawquf*) must be an asset of value, transferable, has permanent benefit and must be wholly owned by the donor. The beneficiary of *waqf* (*al-mawquf 'alayh*) must be specific recipients whether it is one person or more, or non-specific recipients where the *waqf* recipients are not determined. Finally the verbal agreement can be done through comprehensible words or writing.²⁰ When setting up *waqf* the verbal agreement must be understood either in writing or verbally, and this is compulsory for the necessary validation of its implementation.

Despite the intrinsic and extrinsic benefits derived from creating a *waqf* instrument, the healthcare *waqf* is still found to be scarce in Malaysia.²¹ The health facility providers be it private, government, non-profitable agency including *waqf*-oriented healthcare services aim to provide the best healthcare services to the general public.²² Past studies have shown that the Malaysian healthcare services need to provide good facilities that are accessible to the public and *waqf* instrument is highly suggested to be one of the foundations of this provision.²³ Therefore, this theory should be

²⁰ al-Zuhaylī, *Al-Fiqh Al-Islāmī Wa Adillatuhu*, 10, 7601.

²¹ Norizah Mohamed@Daud and Asmak Ab Rahman, "Waqf Penjagaan Kesihatan: Kajian Kes di Hospital Waqaf An-Nur," *Jurnal Syariah* 23, no. 3 (2015): 401-34.

²² Farhat Nazirul Mubin Bohari, "The Potential of Healthcare *Waqf* in Malaysia," in *9th ISDEV International Islamic Development Management Conference (IDMAC2015)* (Penang 2015), 282-305.

²³ Yaacob, H., & Hisham Yaacob. "Waqf History and Legislation in Malaysia: a Contemporary Perspective." *Journal of Islamic and Human Advanced Research*, 3, 6, (2013), 387-402; Yaacob, H., Petra, S., Sumardi, A., & Nahar, H. S. "Accountability through accounting and reporting lenses lessons from an *awqaf* institution in a Southeast Asia country." *Humanomics*, 31, 3, (2015): 299-313. <http://doi.org/10.1108/H-07-2013-0049>; Nur Atikah Atan and Fuadah Johari, "A Review on Literature of *Waqf* for Poverty Alleviation between 2006-2016," *Library Philosophy and Practice (e-journal)* 1486 (2017): 1-31.

translated into a practical way in order to achieve the visions and objectives.²⁴

Methodology

This study employs qualitative method based on content analysis especially of the reference texts in the Qur'ān and al-Sunnah to explain the theoretical basis of *waqf* and its application. The following discussion focuses on actual experiences, chronology of establishment and the eclectic methods applied to realise USIM HSC based on *waqf*. The data collected were the actual experiences of two directors of the Waqf Center, previously known as the Pusat Pembangunan Pembiayaan Waqf (PPW) which was later renamed Pusat Waqf dan Zakat (PWZ) based on the needs and responsibility of *zakat* in USIM. The chronological scope of this case study began around the year 2013 until 2018 which highlights the main issues that can be learned and analysed as a distinctive study or case of its own in Malaysia.

USIM's Health Specialist Clinic: *Waqf* for Global Peace Agenda

The USIM's Health Specialist Clinic based on *waqf* was mooted by the former USIM Vice Chancellor. In her New Year mandate dated 6 February 2013, Prof. Datuk Dr. Asma Ismail, the Vice Chancellor of USIM, expressed the intention to initiate *waqf* funding. USIM then founded its Health Specialist Clinic (HSC) partly funded by the USIM's *Waqf* Al-Abrar fund which was set up in March 2013. USIM was the first public higher learning institution (HLI) to establish healthcare *waqf* in Malaysia. It can be said that all HLI in Malaysia have developed *waqf* and endowment fund as public universities are required to raise their own funds to complement the financial allocations from the government.²⁵

²⁴ Baqutayan, Shadiya Mohamed, and Akbariah Mohd Mahdzir. "The Importance of Waqf in Supporting Healthcare Services." *Journal of Science, Technology and Innovation Policy* 4, 1, (2018).

²⁵ Mohammad Haji Alias, Fuadah Johari, and Hisham Sabri, "Islamic Perspective on Management: Contemporary Issues." In *Waqf Development Financing in Higher Education: Challenges and the Way Forward*, edited by Nor Azzah Kamri, Azizan Madun, and Suhaili Sarif (Kuala Lumpur: YaPIEM Management Academy, 2013).

To ensure that the vision behind the USIM's HSC can be implemented and sustained, the USIM Board of Directors endorsed this at their meeting in May 2013. A series of discussions were held with Majlis Agama Islam Negeri Sembilan (MAINS) before the establishment of USIM's Al-Abrar *Waqf* Fund under the Centre for *Awqaf* Financing Development USIM which oversees the USIM HSC. In a meeting in July 2013 MAINS had approved USIM's application to be the *mutawalli* or manager of the fund. This appointment was based on Section 33(a) and (b), Negeri Sembilan *Waqf* Enactment 2005. The mandate from the appointment will be used to fund *da'wah* activities, education, research, publication, development of education facilities and health.²⁶ One of the earliest projects proposed that required *waqf* funding was the establishment of the USIM HSC and Haemodialysis Center (HC). There are many specialists in various fields in the Faculty of Medicine and Health Science and Faculty of Dentistry at USIM who are the main enablers in running the project.

USIM and MAINS also signed a Memorandum of Agreement on 21 January 2014 to develop several projects that adopt the *waqf* culture especially through the establishment of USIM HSC and the HC.²⁷ The clinic began its operation on 1 April 2015 after obtaining the license from the Private Medical Practice Control Branch or Cawangan Kawalan Amalan Perubatan Swasta (CKAP) under the Malaysian Ministry of Health. The application for the licence operation from the Ministry is held under USIM Tijarah Holdings (UTH), a fully-owned company of USIM. USIM HSC is regarded as a business branch of UTH²⁸.

How is USIM HSC funded? MAINS had allocated RM2 million to USIM, RM1 million as a *waqf* grant and another RM1 million as *qard al-hasan* to fund the renovation works and the

²⁶ Centre for the Awqaf Financing Development USIM. Management Report. 2015. Unpublished.

²⁷ Syazlyna Jamil, "USIM Meterai MOU Bersama MAINS Untuk Bangunkan Klinik Pakar Dan Pusat Hemodialisis," USIM News Portal, January 21, 2014. <https://www.usim.edu.my/ms/berita/usim-meterai-mou-bersama-mains-untuk-bangunkan-klinik-pakar-dan-pusat-hemodialisis/>. Accessed March 23, 2019.

²⁸ Centre for Awqaf and Zakat / Pusat Wakaf dan Zakat (PWZ), USIM. Formerly known as Centre for Awqaf Financing Development, USIM.

purchase of medical equipment. The monthly rental of the premises and the allowance or emoluments for medical staff are also funded by USIM through seed-money allocation totalling RM450,000. To collect the *waqf* funds, the Pusat Wakaf dan Zakat (PWZ) had to double their efforts by collaborating with various parties. USIM had rented three units of double-storey shop lots from BBN Development Sdn. Bhd. which were Lots 193 (end-lot), 194 and 195, located in Nilai Square, Bandar Baru Nilai at a monthly rental of RM4,500. The three-year rental lease has the option of extension for another two years. Lots 193 and 194 were designated for USIM HSC and Lot 195 for the HC.²⁹

Additionally, MAINS had allocated RM1.5 million in *waqf* funds to set up the USIM-MAINS Haemodialysis Center (USIM-MAINS HC) at Lot 195. The renovation work and the acquisition of medical equipment including haemodialysis machines, were completed by MAINS Holdings after they had obtained the approval for ‘zoning’ and licensing. The state government had also agreed to support USIM HSC to have their own mobile specialist clinic. Under the State Blue Ocean Strategy or *Strategi Lautan Biru Negeri* (NBOS) health is chosen as the focus and USIM was selected to lead the Light Project. The state government allocation enabled the acquisition of vehicles that were modified and equipped with functional equipment for the mobile specialist clinic called the “KLIP Mobile”. Thus, USIM’s ophthalmologists are able to visit rural areas using the KLIP Mobile to screen those with eye health issues especially among the elderly who would then have access to specialist treatment. The follow-up treatments if necessary, would be able to improve the patients’ quality of life. The specialists are recruited and sent to remote areas to benefit patients who normally cannot afford to pay for treatment by specialists³⁰.

From the contribution of *waqf* funds totalling RM700,000 from Permodalan Nasional Berhad (PNB) and USIM Al-Abrar Waqf Fund

²⁹ Ibid.

³⁰ Fadzli Rosli, Mohammade Haji Alias & Suhaila Abd Hamid. “Socio-economic Impact of Selected Waqf Project: Terengganu Culinary Academy and USIM’s Specialist Medical Clinic.” *International Journal of Islamic Economics and Finance Research*. 1, 2, (2018): 69-88.

from contributions by USIM staff through salary deductions, USIM successfully purchased Lots 194 and 195 from its owner, Putra Nilai Development Sdn. Bhd. previously known as BBN Development Sdn. Bhd. This was very good progress indeed and efforts continued to build up *waqf* funds to acquire Lot 193 worth around RM930,000 as they were still short of RM600,000. The acquisition of the USIM HSC and USIM-MAINS HC as permanent assets using the *waqf* fund not only adds to the Muslim community's ownership of assets, but also retains the renovation expenses embedded in the asset.³¹

The USIM HSC and USIM-MAINS HC are not fully funded by the *waqf* funds. Components of the fund are derived from *waqf* funds (MAINS, PNB, cash *waqf* product), *qard al-ḥasan* (from MAINS), USIM seed money and USIM medical specialists. Thus the USIM's approach is named the business *waqf* eclectic model. 'Eclectic' here means there are various ways of funding including using *waqf* to fund project implementation. Spin-offs or the benefits from establishing the USIM HSC and USIM-MAINS HC are: Contribution from the Negeri Sembilan Government i.e. KLIP Mobile, Dana Waqf from PNB i.e. the purchase of premises, the opportunity for society to contribute to Tabarru' Fund and the receipt of *zakat* fund distribution to the *asnāf* from Maybank Islamic.³² USIM's approach is business-oriented and is based on an eclectic model implemented in parts and assumed to be the perfect eclectic model based on **Diagram 1** below:

³¹ Centre for the Awqaf Financing Development USIM. Management Report. 2015. Unpublished.

³² Ibid.

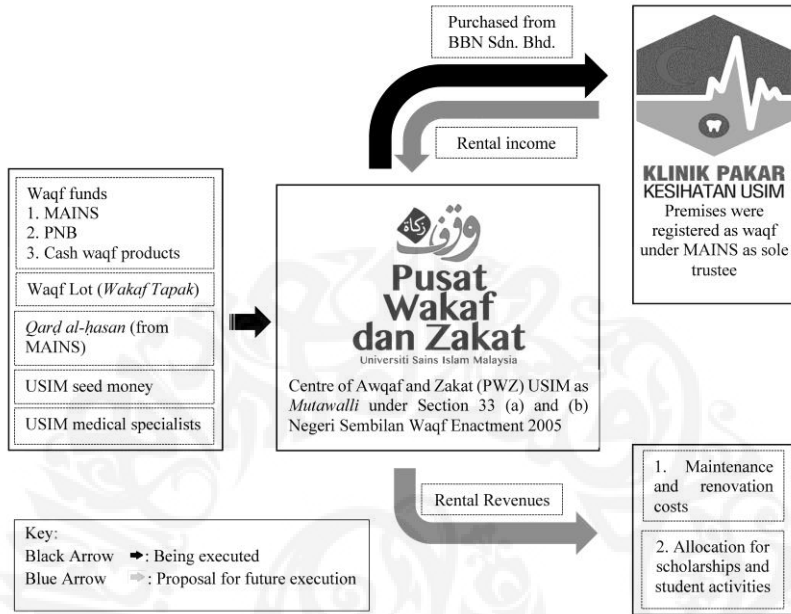


Diagram 1: The Eclectic *Waqf* Health Clinic Business Model

Diagram 1 outlines the asset purchased through the eclectic model in the first phase based on the four funding components explained earlier. For the second phase, if the USIM HSC becomes a perfect *waqf* asset, then a reasonable amount of rent must be allocated to the Waqf Center on the assumption that a part thereof is used for renovation or maintenance expenses through the Development and Facility Management Department, and the remaining rent will be used for charity or student scholarships through Student Affairs (HEP). In other words, part of it serves as a distribution (*tawzi'*) to the waqf beneficiaries (*mawquf 'alayh*) to complete the *waqf* cycle as determined.³³

³³ Wahbah Mustafa al-Zuḥaylī, *Al-Fiqh Al-Islāmī Wa Adillatuhu*, vol. 5 (Damascus: Dār Al-Fikr, 2007), 117.; Johari, Fuadah, Wan Abdul Fattah Wan Ismail, Muhammad Aunurrochim Mas'ad, Hanim Misbah, Ahmad Syukran Baharuddin, and Nurul Asikin Abdul Razak. 2019. "Penerokaan Konsep Al-Tawriq Dalam Pencairan Aset Wakaf". *Journal of Fatwa Management and Research* 13, no.

By purchasing the asset through this model, USIM HSC was successfully established. Even so, based on the aspiration of *waqf* at the initial stage of the clinic’s establishment, USIM was able to conduct social services and fulfil responsibilities to the local community. USIM’s KLiP Mobile has gone into villages around Negeri Sembilan to give free eye health screening examination service. In addition, USIM HSC does not discriminate those less fortunate like the *asnāf*. Among other activities in the program are health screening such as Body Mass Index (BMI) measurement and blood pressure examination. The *asnāf* group identified as requiring treatment from specialists are referred to USIM HSC for the next course of action. USIM HSC has also created a special fund called *Tabarru’ Fund* which gives value add to public contribution by giving cash donations to support the social activities carried out by USIM HSC. These activities will leave a positive impact as shown in **Diagram 2** below:

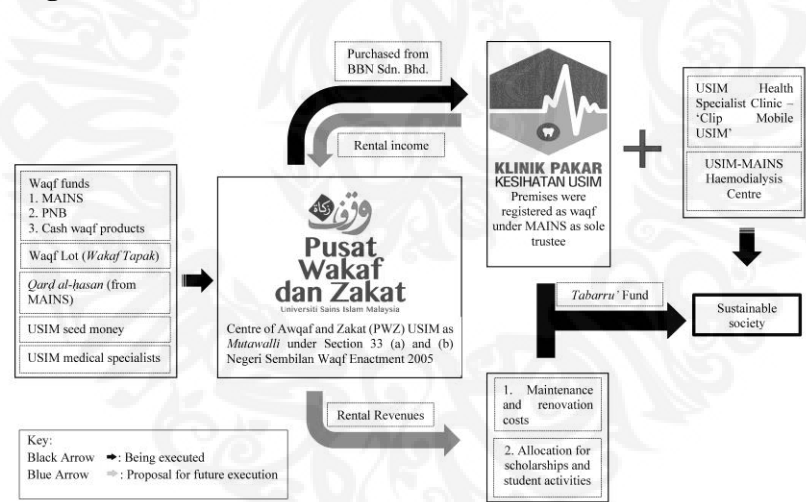


Diagram 2: USIM’s HSC Business Model and Its Impact on Society

The above diagram shows the eclectic model flow similar to the proposal to liquidise the *waqf* usufruct through rental income and

1, 198-214. <http://jfatwa.usim.edu.my/index.php/jfatwa/article/view/179>.

the benefit that can be gained by society and *mawquf 'alayh*. Based on the report of KLiP Mobile visits from January to August 2017, a total of 409 patients received treatment from the mobile clinic. The visits were in Kampung Pangkalan Nelayan Sungai Timun Rembau, Kampung Ulu Yoh Baru Ayer Mawang Tampin, Kampung Pelegong Labu, Felda Pasoh 2, Kampung Ulu Melaka, Kampung Palebar Pasir Panjang Port Dickson and Masjid Eusoff Teh Rembau. From the total 409 patients who received health services, 209 cases were further referred to hospitals. From these referred cases, 75 patients received cataract surgery treatment.³⁴

This means that the USIM HSC has made a positive impact on the people in need and the villagers through these ongoing visits by the KLiP Mobile led by a team of eye specialists from USIM. Their contribution of expertise is a priceless gift and if this initiative is implemented in the other states by medical specialists from other Public Higher Education Institutions, the impact nationwide will be tremendous. It is consistent with 11th Malaysia Plan Strategic Thrust 2,³⁵ in developing alternative health financing options and enhancing universal health coverage to improve social protection. This is through the implementation of Goal 3 of United Nation's Sustainable Development Goals (SDGs) that is to ensure healthy lives and promote well-being for all at all ages.³⁶ It is also contribute to the Malaysia National Strategic Plan for Non-Communicable Diseases by outreaching the society through the collaboration with local communities and organisations.³⁷

³⁴ USIM Health Specialist Clinic, USIM. KLiP Mobile Report 2017. Unpublished. Accessed September 5, 2018.

³⁵ Malaysia's Prime Minister Office. "Eleventh Malaysia Plan 2016-2020: Anchoring Growth On People." Speech By The Prime Minister In The Dewan Rakyat. May 21, 2015. https://www.pmo.gov.my/dokumenattached/speech/files/RMK11_Speech.pdf. Accessed March 23, 2019.

³⁶ United Nations Sustainable Development, "Transforming Our World: The 2030 Agenda for Sustainable Development," Outcomes and Frameworks. September 1, 2015, <https://sustainabledevelopment.un.org/post2015/transformingourworld>. Accessed December 18, 2018.

³⁷ Ministry of Health. "National Strategic Plan for Non-Communicable Disease (NSP-NCD) 2016-2025." 2016. http://www.moh.gov.my/moh/resources/Penerbitan/Rujukan/NCD/National%20Strategic%20Plan/FINAL_NSPNCD.pdf. Accessed March 23, 2019.

Issues and Challenges of the Implementation of Healthcare *Waqf* in Universiti Sains Islam Malaysia (USIM)

1. *Waqf* under the State Jurisdiction

As acknowledged, all religious and customary affairs including those related to *waqf* are placed under the jurisdiction of each respective state and the state Ruler. This is stated clearly in the Federal Constitution (FC), List II-State List (1) Ninth Table:

*“Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, Islamic law and personal and family law of persons professing the religion of Islam, including the Islamic law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, adoption, legitimacy, guardianship, gifts, partitions and non-charitable trusts; Wakafs and the definition and regulation of charitable and religious trusts, the appointment of trustees and the incorporation of persons in respect of Islamic religious and charitable endowments, institutions, trusts, charities and charitable institutions operating wholly within the State; Malay customs; Zakat, Fitrah and Baitulmal or similar Islamic religious revenue; mosques or any Islamic public place of worship, creation and punishment of offences by persons professing the religion of Islam against precepts of that religion, except in regard to matters included in the Federal List;...”*³⁸

At the same time, the MAIN has been given the responsibility of acting as the trustee for *waqf* assets in their respective states. MAIN is appointed as the trustee to ensure that *waqf* assets will be used in the right way as proposed in the *Sharī‘ah*. Other than that, MAIN can also ensure that the use of *waqf* assets will be realised as intended by its donor.

³⁸ Federal Constitution. "List II-State List, Ninth Schedule, Item 1." Laws of Malaysia. Reprint Federal Constitution Incorporating All Amendments Up To 1 (2006)."

Nevertheless, not all assets defined under the specific Act or Enactment related to *waqf* are placed under the state; some are placed under the State Islamic Administrative Enactment. The regulation on *waqf* is also found to lack uniformity because it exists at state level and is confined under the jurisdiction of the MAIN. This makes it difficult to expand the function of *waqf* asset in the best possible way. If the uniformity of the *waqf* law cannot be determined because it is under the state jurisdiction, at least a guideline or specific module needs to be created to serve as the standard reference for the courts of law, MAIN and the general public need to understand the *waqf* procedure, starting from the registration to the implementation and management of *waqf* assets.

2. Understanding of *Waqf* Among the Public

Public understanding about *waqf* is still at a low level. *Waqf* is implemented traditionally which means that it only involves the construction of mosques, schools or graveyards. This needs to be expanded so that the benefits from *waqf* assets can be further extended to help more people in need. *Waqf* assets can be expanded or invested when they fulfill the criteria allowed by *Shari'ah* such as renting out *waqf* lands, cash *waqf*, corporate *waqf* and others. The profit gained from the rent or investment can be distributed to the poor and at the same time used to expand the *waqf* assets.

3. No Tax Exemption

For those keen to donate under *waqf*, among the questions that frequently arise are related to tax exemption for donors. In Section 44(6) Income Tax Act 1967, *waqf* is excluded from the tax exemption categories. This has caused certain parties especially businessmen or corporate agencies to reverse their policy when they realise that *waqf* contributions do not get any privilege from tax exemption unlike *zakāt* and other contributions. *Wāqf* can proceed without tax exemption but with this modern advantage more people and corporate agencies will collaboratively develop the agenda of the *ummah* by practising *waqf*. Thus, Section 44(6), Income Tax Act 1967 needs to be revised to include *waqf* allocations as a step towards encouraging the *waqf* culture among Malaysian Muslims.

4. The Development of *Waqf* Assets on Federal Land

The land of newer public universities such as USIM is different from other universities that have full authority in managing their land be it for sale, development and so on. The land of newer public universities are under the jurisdiction of the Department of Director General of Land & Mines (JKPTG), Ministry of Natural Resources and Environment. *Waqf* assets including the land in Negeri Sembilan have to be registered with MAINS as the trustee. Here there is evidence of a clash of authority. All parties should adopt an open approach in this matter because it is a technicality that does not involve the laws. A more challenging issue to overcome is that *waqf* assets cannot be developed even if it is land under JKPTG but is monitored under MAIN as the joint Action Committee.

5. *Waqf* Assets (*Mawquf*) cannot be Registered under MAIN

Previously, the trustee appointed was assigned as a manager and comprised those who were trustworthy and respected by the local community such as an *'ulamā*, a teacher, *imām*, village leader or mosque community member as some of the assets were placed under a trustee's name. Some of these remained as unregistered *waqf* assets and stayed under the trustee's name. Some were recorded by the trustee as *waqf* assets but the name of the trustee remained on the ownership document. This is due to the absence of a proper law or system that makes it compulsory for all *waqf* assets to be registered as *waqf*.

Apart from that, some trustees were not sensitive enough to register or note down as a reminder the assets that have been put under *waqf*.³⁹ This situation continued until MAIN was established and be appointed as the sole trustee for all types of *waqf* assets according to the state enactment. A degree of awareness was raised among the public to report and register their *waqf* assets with MAIN. If this is not done, there is a risk of dispute about the *waqf* status among families especially when the donor is deceased. If it is

³⁹ Yaacob, Hisham. "Waqf history and legislation in Malaysia: A contemporary perspective." *Journal of Islamic and Human Advanced Research* 3, no. 6 (2013): 387-402.

registered, MAIN will play its role as trustee to ensure that the *waqf* donor's pure intention will materialise.⁴⁰

Section 6, Negeri Sembilan Waqf Enactment (EWNS 2005) allocates that: "*Anyone who wants to waqf his or her assets must register the waqf with the Council according to the means stipulated by the Council*". After this, the Council issued a *mawquf* declarative statement that it can serve as the *prima facie* at the *Shari'ah* Court and Civil Court as allocated in Section 8, EWNS 2005.

6. Waqf as a National Agenda

Without government's serious involvement and support, *waqf* cannot develop as a useful and dynamic instrument for Muslims. Although *waqf* has started to take a step ahead by introducing various forms of new age *waqf* such as cash *waqf*, corporate *waqf*, expertise *waqf*, healthcare *waqf* and others, it is still limited in its potential for doing good in the community. *Waqf* is still individual and state-based being managed by the state government.

Waqf must no longer be seen as a state-based religious enterprise but a federal government's or the Royal council's agenda to be initiated seriously by the ruling power. The involvement of the federal government does not mean that the government leaders alone are to be responsible for the *waqf* funds. The government can introduce various incentives to encourage people to practise *waqf* including providing exemption from income tax and so on. The government can encourage the relevant agencies and corporations who are directly involved to help in realising the *waqf* agenda at the national level.

Establishment of USIM Health Specialist Clinic and the Positive Peace Agenda

Positive peace implies more than the absence of war and strongly expresses the notion of building social relationships that contribute to

⁴⁰ Maznah Zakaria, Mohamat Sabri Hassan, and Radziah Abdul Latiff. "*Pelaporan Wakaf di Malaysia: Mengenalpasti Keperluan Maklumat Pemegang Kepentingan.*" Persidangan Kebangsaan Ekonomi Malaysia ke-9 (PERKEM ke-9), Terengganu (2014): 17-19.

mutual well-being and human flourishing.⁴¹ Referring to the earlier discussion, the establishment of USIM HSC was based on *waqf* healthcare through a number of contributions including those from MAINS, PNB, Dana Waqf Al-Abrar and various *waqf* products. The implementation of *waqf* healthcare and the establishment of USIM HSC had both directly and indirectly fulfilled numerous elements of Positive Peace, including fostering good relations with neighbours, equitable distribution of resources, a well-functioning government, acceptance of the rights of others and high levels of human capital.

1. Equitable Distribution of Resources

Equitable distribution here means equitable access to important resources such as education and health to everyone especially to the needy community regardless of age, class, rank, race and religion.⁴²

The implementation of *waqf* healthcare has been realised in the establishment of USIM HSC. In addition as stated earlier, from January until August 2017 this specialist clinic successfully distributed their resources to needy communities in many areas. These rural and village areas located in Negeri Sembilan comprise a few districts including Rembau, Tampin, Seremban and Port Dickson.

In these places a total of 409 patients benefited from health services through KLiP Mobile. From the 409 patients who received health services, 209 cases were referred to hospitals with a total of 75 patients receiving cataract surgery treatment. This would certainly have improved the quality of their lives.

USIM's eye specialists' visits to rural areas using the KLiP Mobile aimed to screen those with eye problems especially among the elderly and senior citizens. This program was carried out with the

⁴¹ Hugh Miall. "Positive Peace." In International Encyclopedia of Political Science, edited by Badie, Bertrand, Dirk Berg-Schlosser and Leonardo Morlino, *International Encyclopedia of Political Science*. Thousand Oaks, CA: SAGE Publications, Inc., 2011. doi: <http://dx.doi.org/10.4135/9781412959636.n472>

⁴² Institute for Economics & Peace, "Global Peace Index 2018: Measuring Peace in a Complex World," (Sydney: Institute for Economics & Peace, 2018), 63. <http://visionofhumanity.org/app/uploads/2018/06/Global-Peace-Index-2018-2.pdf>. Accessed June 20, 2018.

assurance that they would have access to specialist treatment. As a result, the follow-up treatment in hospital if necessary, is able to treat the patient's eye problem and improve the quality of life. Specialist services are brought to rural areas to benefit patients who cannot afford the cost of specialist treatment available in the town areas.

2. Well-Functioning Government

Among the characteristics of a government which functions well are that it delivers high-quality public and civil services, generates trust and participation, exhibits political stability and maintains the rule of law.⁴³

The establishment and development of USIM HSC and USIM-MAINS HC are funded by numerous sources from government and private institutions. The main contributor in this project is MAINS, a state government institution governed under section 4 of the Administration of the Religion of Islam (Negeri Sembilan) Enactment 2003. MAINS has made several significant contributions toward realising the idea of the USIM HSC and USIM-MAINS HC such as allocating RM2 million to USIM, RM1 million as a *waqf* grant and another RM1 million as *qard al-ḥasan* to finance the cost of renovation and procurement of medical equipment. MAINS allocated another RM1.5 million to *waqf* funds to set up a USIM-MAINS HC where the premises are next to USIM HSC.

Besides that, USIM also received another *waqf* funding from PNB, a Malaysian government-linked investment company as well as from USIM Al-Abrar Waqf Fund which contain contributions from USIM staff through salary deduction amounting to RM700,000. From the RM700,000, USIM managed to purchase Lots 194 and 195 from the developer, namely Putra Value Development Sdn. Bhd.

These developments show a well-functioning government in providing funding and allocation towards the establishment and development of USIM HSC.

⁴³Ibid.

3. High Levels of Human Capital

A skillful human capital base reflects the extent to which societies care for the young, educate its citizens and promote the development of knowledge.⁴⁴

The USIM HSC offers health services such as specialist, odontologist and outpatient treatment for the community around Nilai. This specialist clinic has an advantage in terms of the human capital of specialists from the Faculty of Medicine and Health Sciences (FPSK) and Faculty of Dentistry (FPg), Universiti Sains Islam Malaysia.⁴⁵

It is a fact that this human capital from multiple medical backgrounds are very concerned about the people's health irrespective of their age, class, rank, race and religion. As discussed earlier, the human capital from USIM HSC educate villagers and promotes knowledge about a healthy lifestyle. As for Malaysia, this is a kind of contributions towards completing The Eleventh Malaysia Plan 2016-2020 (11MP) is the last five-year national development plan before Malaysia winds up the journey to become a developed nation by 2020. Under the theme of "Anchoring Growth on People" this health services expedite human capital development for an advanced nation. This is to enhance growth and social initiaion, increase labour productivity, furnish a higher-skilled workforce, and create a virtuous cycle of job creation.⁴⁶

4. Good Relations with Neighbours

In Islam, the neighbourhood principle is clearly portrayed in the Qur'ān:

⁴⁴ Ibid.

⁴⁵ Klinik Pakar USIM, "Profil PPKU," Klinik Pakar USIM, January 1, 2016, <http://klinikpakar.usim.edu.my/profil-ppku/>. Accessed June 3, 2018.

⁴⁶ Malaysia's Prime Minister Office. "Eleventh Malaysia Plan 2016-2020: Anchoring Growth On People." Speech By The Prime Minister In The Dewan Rakyat. May 21, 2015. https://www.pmo.gov.my/dokumenattached/speech/files/RMK11_Speech.pdf. Accessed March 23, 2019.

“...do good, and to relatives, orphans, the needy, the near neighbour, the neighbour farther away...”⁴⁷

It is submitted that the word “*waljāri zi al-qurbā*” represents the neighbours nearby or those related by blood with us who are either Muslims or non-Muslims; while “*waljāri al-junubi*” represents the neighbours living farther away from us or blood-relations who are either Muslims or non-Muslims.⁴⁸

As mentioned earlier, USIM HSC has maintained good relations with neighbours around Negeri Sembilan by conducting health services through KLiP Mobile at rural and village areas located around Negeri Sembilan which comprise of several districts including Rembau, Tampin, Seremban and Port Dickson.

5. Acceptance of the Rights of Others

It is undeniable that with the establishment of USIM HSC, several human rights particularly rights to life, liberty and security of person⁴⁹ in Universal Declaration of Human Rights (UNDHR) as well as the right to a standard of living adequate for health and well-being⁵⁰ are sustained. These rights which are also provided for under Art. 5 of Malaysian Federal Constitution are shown to be well accepted and protected with the establishment of USIM HSC.

The implementation of *waqf* healthcare and the establishment of USIM HSC both contribute to positive peace as five out of its eight elements are successfully fulfilled. However, the implementation of a *waqf* in USIM and in other public higher learning institutes in Malaysia does not escape its own issues and challenges.

⁴⁷ Al-Qur’ān, Sūrah al-Nisā’ 4: 36.

⁴⁸ Muhammad bin Jarir al-Ṭabarī, *Jāmi’ Al-Bayān fī Ta’wīl Al-Qur’ān*, vol. 8 (Egypt: Muassasah al-Risālah, 2000), 335-40; Muhammad Ahmad al-Qurṭubī, *Al-Jāmi’ Li Ahkām Al-Qur’ān*, 2nd ed., vol. 5 (Kaherah: Dār al-Kutub al-Miṣriah, 1964), 183-84.

⁴⁹ United Nation. “Article 3.” Universal Declaration of Human Rights (UNDHR). https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf. Accessed June 4, 2018.

⁵⁰ *Ibid*, Article 25.

Conclusion

Waqf is a substantive economic instrument in Islam. History shows that *waqf* has helped Muslims a great deal since the grand era of Rasulullah (ﷺ) and in succeeding eras of Islam. Today various forms of modern-day *waqf* have been introduced including healthcare *waqf*. Healthcare *waqf* is of utmost importance today especially with the spread of critical diseases needing costly treatment that is beyond the financial means of the poor. The main aim of the establishment of the *waqf*-based USIM HSC is to help people who are financially challenged. At the same time, this clinic also delivers specialist services to patients at reasonable charges compared to other clinics or specialist hospitals. The implementation of the USIM HSC will broaden the *waqf* agenda in multiple ways, be it in health or medical expertise. Besides a tremendous contribution towards *mawquf 'alayh*, *waqf* is no longer seen in a narrow context, such as providing burial grounds, building mosques or schools and now has contributing to the world agenda of positive peace. The path to global peace starts with a nation. Therefore, in overcoming all challenges and issues, it cannot be carried out by selected parties only, but should be undertaken by the public, corporate agencies and the government who should all be involved and play their respective roles.

Acknowledgement

We would like to express our deepest gratitude and appreciation to the Ministry of Education, Malaysia for funding this research under FRGS research grant entitled “*Kaedah Mencairkan Tanah Wakaf Untuk Membiayai Projek Pembangunan Wakaf di Malaysia*, USIM/FRGS/FEM/055002/50817.”

TRANSLITERATION TABLE

CONSONANTS

Ar=Arabic, Pr=Persian, OT=Ottoman Turkish, Ur=Urdu

| Ar | Pr | OT | UR | Ar | Pr | OT | UR | Ar | Pr | OT | UR |
|----|----|----|----|----|----|-----|-----|--|-----------------|-----|-----------------|
| ء | ‘ | ‘ | ‘ | ز | z | z | z | گ | — | g | g |
| ب | b | b | b | ژ | — | — | ɾ | ل | l | l | l |
| پ | — | p | p | ژ | — | zh | j | م | m | m | m |
| ت | t | t | t | س | s | s | s | ن | n | n | n |
| ث | — | — | ṭ | ش | sh | sh | ʃ | ه | h | h | h ¹ |
| ث | th | th | th | ص | ṣ | ṣ | ʃ | و | w | v/u | v |
| ج | j | j | c | ض | ḍ | ḍ | ḍ | ی | y | y | y |
| چ | — | ch | çh | ط | ṭ | ṭ | ṭ | ة | -ah | — | -a ² |
| ح | ḥ | ḥ | ḥ | ظ | ẓ | ẓ | ẓ | ال | al ³ | — | — |
| خ | kh | kh | kh | ع | ‘ | ‘ | ‘ | ¹ – when not final ² – at in construct state ³ – (article) al - or l- | | | |
| د | d | d | d | غ | gh | gh | ğ | | | | |
| ڈ | — | — | — | ف | f | f | f | | | | |
| ذ | dh | dh | dh | ق | q | q | k | | | | |
| ر | r | r | r | ك | k | k/g | k/ñ | k | | | |

VOWELS

| | Arabic and Persian | Urdu | Ottoman Turkish |
|------------|--------------------|--------------------|--------------------|
| Long | ا | ā | ā |
| | آ | Ā | — |
| | و | ū | ū |
| | ي | ī | ī |
| Doubled | ي | iiy (final form ī) | iiy (final form ī) |
| | و | uww (final form ū) | uww |
| | و | uvv (for Persian) | uvv |
| Diphthongs | و | au | ev |
| | ی | ay | ey |
| Short | ا | a | a or e |
| | u | u | u or ū |
| | ی | i | o or ö |
| | ی | i | i |

URDU ASPIRATED SOUNDS

For aspirated sounds not used in Arabic, Persian, and Turkish add h after the letter and underline both the letters e.g. چھ jh گھ gh

For Ottoman Turkish, modern Turkish orthography may be used.

AL-SHAJARAH

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