CHAPTER 1

RESEARCH BACKGROUND

1.1. Introduction

Waqf can be defined as the binding or detention of the property and distribution of the property benefits as a charity (Ibn Qudamah, 1997). It is a form of charity that takes place by preserving the specific property and contributing to the beneficiaries. This definition was obtained from the prophetic tradition of *waqf* that was performed by Sayyidina ^{c}Umar R.A on his land in Khaybar, as per the sayings below:

> {عَنِ ابْنِ عُمَرَ ـ رضى الله عنهما ـ قَالَ أَصَابَ عُمَرُ بِخَيْبَرَ أَرْضًا فَأَتَى النَّبِيَّ صلى الله عليه وسلم فَقَالَ أَصَبْتُ أَرْضًا لَمْ أُصِبْ مَالاً قَطُّ أَنْفَسَ مِنْهُ، فَكَيْفَ تَأْمُرُنِي بِهِ قَالَ " إِنْ شِئْتَ حَبَّسْتَ أَصْلَهَا، وَتَصَدَّقْتَ بِهَا ". فَتَصَدَّقَ عُمَرُ أَنَّهُ لاَ يُبَاعُ أَصْلُهَا وَلاَ يُوهَبُ وَلاَ يُورَثُ، فِي الْفُقَرَاءِ وَالْقُرْبَى وَالرِّقَابِ وَفِي سَبِيلِ اللَّهِ وَالضَّيْفِ وَابْنِ السَّبِيلِ، وَلاَ جُنَاحَ عَلَى مَنْ وَلِيَهَا أَنْ يَأْكُلَ مِنْهَا بِالْمَعْرُوفِ، أَوْ يُطْعِمَ صَدِيقًا غَيْرَ مُتَمَوِّلٍ فِيهِ.}

> Translation: Narrated by Ibn ^{c}Umar R.A "When ^{c}Umar got a piece of land in Khaybar, he came to the Prophet S.A.W saying, ((I have got a piece of land, better than which I have never got. So what do you advise me regarding it?)) The Prophet S.A.W said, ((If you wish you can keep it as an endowment to be used for charitable purposes.)) So, ^{c}Umar gave the land in charity on the condition that the land would

neither be sold nor given as a present, nor bequeathed, (and its yield) would be used for the poor, the kinsmen, the emancipation of slaves, *Jihād*, and for guests and travellers; and its administrator could eat in a reasonably just manner, and he also could feed his friends without intending to be wealthy by its means." (Hadith. Al-Bukhāri. Kitab Al-Waṣāyā. Bab Al-Waqf Kayfa Yuktab. Jil 10: #2587)

All the Islamic scholars, especially the four prominent sects, Ḥanafi, Malikī, Shāfiᶜiy, and Ḥanbali, are unanimous in the statement that this hadith is the legality provision of *waqf* (Al-Zuhaili, 1984; Yaacob, 2013). However, Islamic scholars have a different opinion regarding the temporary *waqf* application (Ab Rahman & Amanullah, 2017a).

In Malaysia, the *waqf* administration is under the states jurisdiction. The diversity of *waqf* administration in Malaysia could be referred to as the Ninth Schedule of State List of the Federal Constitution. Most of the states in Malaysia except Perlis have imposed the accepted view (*qaul muᶜtamad*) of the Shāfiᶜiy school regarding Islamic law matters, including *waqf*. In the Shāfiᶜiy sect, *waqf* is only valid in perpetuity and not bound to a specific time. For example, the application could be seen through the gazette *fatwa* of *waqf* in Melaka on 2 February 1995, the property of *waqf* could not be sold or be given as a gift, and the ownership of the property cannot be transferred after the declaration was made (Buang, 2002). A gazette *fatwa* was published in Penang on 9 November 2000, which discussed Masjid Sheikh Eusoff. The Fatwa Committee of Penang's resolution stated that the *waqf* status remains in perpetuity, considering it becomes invalid if the *waqf* is bound to a specific period.

In the state of Terengganu, the temporary *waqf* has been mentioned in section 18 (1) of *Wakaf* (Terengganu) Enactment 2016. However, the provision on temporary *waqf* provided in *Wakaf* (Terengganu) Enactment 2016 is ambigious. While in Perak and Penang, there is no provision in their respectives regulation, which is *Wakaf* Enactment (Perak) 2015 and Administration of the Religion of Islam (State of Penang) Enactment 2004, that mentioned temporary *waqf*. However, both of these states applies part of the product of temporary *waqf* such as movable property and cash *waqf*, as mentioned in official portal of SIRC of the both states. In the matter of *waqf* Sheikh Eusoff's case, the donor has clearly stated that there is a portion of the *waqf* for the benefits of Mohamedan Mosque or known as Sheikh Eusoff Mosque for a period of 21 years. However, the gazette fatwa of state of Penang, published in 9 November 2000, stated that the condition of the *waqf* is revoked because the *waqf* is not permitted to be bound to any specific period according to the absolute opinion of Shāfiᶜiy sect. This situation has led to a conflict between the donor's heirs and the *Majlis Agama Islam Negeri Pulau Pinang* as a sole trustee of *waqf*. Based on this case, the researcher argued that it is compulsory for these states to have a reference or guideline in order to implement temporary *waqf* systematically and minimize the risk.

The traditional and modern Islamic scholars' view of temporary *waqf* implementation was investigated in this study. Analysis was conducted on the existing concept of temporary *waqf* in the selected states in Malaysia, followed by a suggestion of theoretical framework on the temporary *waqf* applications in these states.

1.2. Problem Statement

The four prominent Islamic scholars which is Ḥanafi, Malikī, Shāfiᶜiy, and Ḥanbali are unanimous in the statement on the legality of *waqf,* which is highly recommended (*mandūb*) to be practised by Muslims (Al-Nawawi, 2008; Al-Zuhaili, 1984). However, the modern and traditional Islamic scholars showed different opinions regarding the application of temporary *waqf* (Ab Rahman & Amanullah, 2017b). The first opinion stated that the *waqf* is valid either as temporary or in perpetuity. This view is an absolute opinion of the Mālikī sect. In contrast, the second opinion stated that the *waqf* is only valid in perpetuity, which is also the opinion of the majority of Islamic scholars from the Ḥanafi sect, the prominent opinion of the Shāfiᶜiy sect, and the Ḥanbali sect. The question of whether a temporary *waqf* application is permissible in the current contact has arisen, which demonstrates the importance of examining the modern and traditional Islamic scholars′ views on the implementation of temporary *waqf* in past and future.

In Malaysia, most of the states have applied *waqf* in perpetuity. This application is attributed to the state implementation of the Shāfiᶜiy school in matters related to Islamic law, which includes *waqf.* In Shāfiᶜiy schools, the accepted views (*qaul muᶜtamad*) state that *waqf is* only valid in perpetuity. The *waqf* in perpetuity has been applied in the majority of State Administration of Islamic Law Enactment and State *Waqf* Enactment and could also be referred to in section 2 of Administration of Islamic Law Enactment (Pahang) 1991 and section 2 of Council of Religion of Islam and Malay Custom, Kelantan Enactment 1994. It has been clearly highlighted that *waqf am* (*waqf* created for a general charitable purpose) and *waqf khas* (*waqf* created for a specified charitable purpose) are only available and valid in perpetuity.

Several states have mentioned temporary *waqf* in their respective regulation, such as Johor in section 17 of *Kaedah-Kaedah Wakaf* (Johor) 1983, Terengganu in section 18 (1) of *Waqf* Enactment (Terengganu) 2016, and Federal Territory in section 2 of the Administration of Islamic Law (Federal Territory) Act 1993. However, ambiguity is still present in terms of practicality. A *fatwa* was established in Selangor on 5 September 2006, which authorised the application of cash *waqf*. According to the Shāfiᶜiy sect, Imam Al-Ghazāli mentioned that *waqf* in cash form is not valid considering that the character of cash is temporary and perishable instead of perpetuity (Al-Maiman, 2009). The *fatwa* appears to contradict the view of the Shāfiᶜiy schools. Based on the statement, it was opined by the researcher that cash *waqf* is one of the temporary *waqf* products, given that perpetuity is not the characteristic. Qahf (2000) stated that the only property that fulfils the characteristic of perpetuity is immovable property, which includes the land. Subsequently, it was found that examining the current temporary *waqf* concept in the specific states in Malaysia is crucial.

Based on the State List of the Ninth Schedule of the Federal Constitution, Islamic law matters are determined under state jurisdiction, such as Islamic family matters, *zakat*, worship places, and *waqf*. Therefore, it is indicated that each state includes its provision and enactment that govern Islamic issues in general, such as the Administration of the Religion of Islam (Negeri Sembilan) Enactment 2003 and Administration of the Religion of Islam (State of Selangor) Enactment 2003. However, only several states have specific enactment for the management of *waqf*. To illustrate, *Kaedah-Kaedah Wakaf* (Johor) 1983, *Wakaf* (Terengganu) Enactment 2016, *Wakaf* Enactment (Perak) 2015, *Wakaf* (Selangor) Enactment 1999, *Wakaf* (Negeri Sembilan) Enactment 2005, *Wakaf* (State of Malacca) Enactment 2005, and *Wakaf* (State of Sabah)

Enactment 2018. Even though these states have a specific provision for *waqf*, no section described the temporary *waqf* except in *Kaedah-Kaedah Wakaf* (Johor) 1983. As a result, the researcher argued that a specific guideline or reference covers all aspects of the temporary *waqf* in Malaysia is compulsory to be constructed.

1.3. Research Questions

a. What are the classical and modern Islamic jurists' perspectives on temporary *waqf*?

b. What is the existing concept of temporary *waqf* and its perception in selected states in Malaysia?

c. What is the theoretical framework for the implementation of temporary *waqf* in the selected states in Malaysia?

1.4. Research Objectives

a. To critically examine the classic and modern Islamic jurists' perspectives on temporary *waqf*.

b. To analyse the existing concept of temporary *waqf* and its perception in selected states in Malaysia.

c. To propose a theoretical framework for the implementation of temporary *waqf* in selected states in Malaysia.

1.5. Methodology

The qualitative research method was employed in this study due to its nature. The qualitative methodology could be described as the broadest sense to research that produces descriptive data, which implies the data gained from people's written or spoken statements and observable nature and behavior (Taylor, Bogdan, and DeVault, 2016). Saldana (2011) mentioned that qualitative research could also be known as a term for various approaches to studying natural social life. This method was employed in the research to explore the previous and modern Islamic scholar perspectives and expert views on applying temporary *waqf* through the written document, speech, interview transcription, and audio recording.

A doctrinal research method was applied in conducting this research. The word doctrinal or doctrine originates from the Latin word *"doctrina"*, which means instruction, knowledge, or learning. Simultaneously, the term doctrine could be defined as a synthesis of various rules, principles, norms, interpretive guidelines, and values (Hutchinson and Duncan, 2012). Based on this definition, Kharel (2018) stated that legal doctrine is a principle that goes through a long development in history or a document consisting of a body of rules interrelated to a traditional concept. The doctrinal legal research method was adopted to analyse and collect the data from statutes, enactment, act, and legal document regarding *waqf*.

1.5.1. Research Design

Research design could be defined as the arrangement of conditions for the collection and analysis of data with an aim to combine the relevance to the research purpose with economy in a procedure (Selltiz, Jahoda, Deutsch, and Cook, 1967). Following this definition, Kothari (2004) highlighted that research design is the conceptual structure in which the research was conducted. The study constituted the blueprint for collecting, measuring, and analysing data. It was also argued that the research design was a structure of plan for completing the research.

According to Maxwell (2018), the qualitative research design should be an intuitive process operating through every project stage. In other words, the research design in qualitative methodology remains flexible before and throughout the actual research (Taylor et al., 2016). Creswell, Hanson, Clark Plano, and Morales (2007) stated that their research qualitative design is extensive. However, Creswell and Creswell (2018) recommended the selection of five popular methods that are commonly used by qualitative researchers, such as narrative, phenomenology, ethnography, case study, and grounded theory. In this research, the phenomenological design was applied.

Phenomenological design can be understood as the description of what all participants have in common following their experience of the phenomenon (Creswell et al., 2007). The essential purpose of phenomenology design is to understand the experience from the participant's perspective of a particular situation (William, 2007). Maghfirah (2022) has conducted a phenomenology approach in Islamic economy and finance in order to examine any individual experience on any particular things, phenomenon, or appearance. It shows that phenomenology approach is applicable in Shariah and Islamic research. A phenomenology design was employed in this research to record the point of view of the authorities including 1) State Mufti Department and 2) the State Islamic Religious Council regarding the implementation of temporary *waqf* in Terengganu, Perak, and Penang. The interview method was applied to interpret the participants' perception of temporary *waqf* implementation. Notably, the participants' opinion was essential for constructing guidelines for implementing temporary *waqf* in these selected states.

The historical design was also applied to conduct this research. This design could be described as investigating the past event systematically to consider previous events (Tan, 2015). The purpose of historical research design is to study any topics that denote an effort to recount some aspects of the previous event (Bhatt and Bhatt, 1994). The researcher adopted this design to analyse the concept of temporary *waqf* and its validity. This design was applied in this research to analyse the concept of temporary *waqf* and its validity. The past Islamic scholars' opinion is crucial as a fundamental principle to investigating the basic tenet of *waqf* and temporary *waqf* establishment. It is also essential to analyse the modern Islamic scholars' perspectives to understand the new temporary *waqf* application.

1.5.2. Data Collection

A qualitative design was adopted to conduct this research. To gain data and information for answering the research question, qualitative data collection was employed. Barbour et al. (2018) defined the qualitative data collection method as linguistic (or visual) selection and production for the analysis of phenomena, social fields, subjective and collective experiences, and the associated meaning-making process (personal or social meanings). Based on this definition, it was believed that the method of qualitative data collection is the way to collect data through experiences, phenomena, and linguistic materials.

Using the qualitative method approach, the documentary research method was applied to collect the research data. Bailey (2008) interpreted the documentary research method as a method that refers to the analysis of documents that contain information about the phenomenon to be studied. Neely and Ponshumugam (2019) asserted that this method is used to collect the data through the documents, previous research, and records that have been produced. This method was applied to evaluate the data from written documents, and primary and secondary sources. The primary document was appraised from the Quran and prophetic traditions (*Sunnah*). In addition, the researcher highlighted that Quran and prophetic traditions are the primary sources, given that they are not influenced by any individual view and reliability. Meanwhile, secondary sources include written documents, such as books, journals, articles, statutes, and classical and contemporary Islamic jurisprudence texts.

The interview session was arranged to collect data from the expertise and practitioner in *waqf* in Terengganu, Perak, and Penang. According to Daniel and Turner (2006), interviews could generate in-depth information on a particular research topic based on the participants' experiences and perspectives. It is a popular method for gathering data in qualitative research, given that an interview is perceived as "talking", which is one of the natural ways to receive information (Griffee, 2005). The semi-structured interview focused on the temporary *waqf* with the State Mufti Department and the State Islamic Religious Council (SIRC) officer in the *Waqf* Division of the selected states. Through the semi-structured interview, the researcher could view the legality of implementing the temporary *waqf* from the legal and Islamic law view.

1.5.3. Data Analysis

After the information is obtained from the written and verbal sources, the information should be analysed systematically while the critical data was highlighted. Therefore, the content analysis method was applied to examine the data. The content analysis could be defined as a method for classifying, evaluating, and studying recorded communications objectively and systematically (Lac, 2016; Stemler, 2001). By applying this method, the researcher could classify and evaluate the collected primary and secondary data. Notably, this method is significant for analysing and arranging the data systematically.

Given the qualitative study nature, the content analysis method was applied inductively and deductively. According to Creswell and Creswell (2018), the inductive analysis process illustrates working back and forth between the themes and the database until the broad theme set is established. The inductive method includes developing the recursive strategy of data collection and analysis related to the application of a rule, definition, or procedure toward the results (Hayes, Heit, and Swendsen, 2019). Meanwhile, the deductive analysis process denotes the process of revisiting the data from the established themes to determine whether more evidence is present to support each theme or if there is a need to gather additional information or data (Creswell and Creswell, 2018). Following the offered explanation, the inductive process took place to build this study theme. After the establishment of the theme in this research, a deductive approach was employed to create a new theme based on its established themes.

The hermeneutic analysis was also applied in this research. The hermeneutic term originates from the Greek verb *hermeneuein,* which is commonly translated as 'explain'. The noun form of this Greek word is *hermeneia,* which is known as 'translate'

(Batista, Mocrosky, and Mondini, 2019). According to Patterson and Williams (2002), hermeneutic could be described as a classification of interpretive approaches to science rather than a single, wholly unified scientific philosophy. Gerbaudo (2016) highlighted that hermeneutics traditions are approaches related to the analysis of various traditional texts, such as novels, films, political speeches, and news articles. However, Bhutto (2015) emphasized that it is mandatory to keep the fundamental principles of Islam and the result derived must not against any of the Islamic principles when it comes to any Islamic text. Based on the aforementioned statement, the researcher opined that hermeneutic analysis is the method of interpretation and translation of the classic manuscript. This method was applied to interpret the primary Islamic scripture and a few particular Arabic words by referring to several original Islamic jurisprudence books to obtain a significant interpretation.

1.5.4. Data Reporting and Presentation

In presenting the data after collecting and analysing the process gained through a qualitative method, an issue was present in the data credibility. As the researcher used the documentary method and interview to collect the data, convincing the reader and examiner of the data authenticity is important. In the case of the documentary method, Creswell and Creswell (2018) stated that the researcher must examine personal documents, analyse the organisational and public records, and examine autobiographies and biographies. The researchers opined retrieving written data such as journal articles and online documents from trusted sources is also important.

To ensure the data trustworthiness from the interview session, the recording is listened to, the interview is transcribed, and the transcript is reread while the interview is coded, which indicates that the transcript is read until a specific theme becomes apparent (Griffee, 2005). Another alternative to ensure the interview data is by sending the interview transcript to the interviewee to verify the data authenticity. By applying this method, the authenticity of the data can be convinced.

1.6. Literature Review

The researcher studied the previously written documents that comprised traditional and modern Islamic jurisprudence books, journal articles, and statutes related to the field of *waqf*, particularly on temporary *waqf* associated with this research.

1.6.1. The Concept of Temporary *Waqf* (*Al-Waqf Al-Muaqqat*)

The previous prominent Islamic scholars were unanimous in declaring the legality of *waqf* and its continued application. However, the Islamic jurists showed a difference in their temporary application of *waqf*. Hizaᶜ (2006) studied the temporary *waqf* application from Islamic perspectives, placing focus on the comparative discussion between the prominent Islamic jurists' opinions on the temporary *waqf* application permissibility. The author categorised the research into five main topics, namely 1) the concept of temporary *waqf*, 2) *waqf* declaration, 3) Islamic scholars' opinion on temporary *waqf*, 4) the scope of temporary *waqf* application, and 5) the permissible situation to apply *waqf* temporarily. The result of the study demonstrated that the temporary *waqf* application was admissible according to some Islamic scholars. The author also mentioned that the application of temporary *waqf* in this modern era could lead to the realisation of the community interest (*maṣlaḥah*) and necessity, help develop *waqf* properties, and broaden the beneficiaries*' waqf* benefits.

Al-Nujaimi (2006) conducted research focusing on temporary *waqf* law from the Islamic perspective and its limitation. The discussion of this matter was separated into four topics: 1) the *waqf* and its interest (*maṣlaḥah*), 2) the legality of temporary *waqf* in Islamic view, 3) the limitation of temporary *waqf*, and 4) the permissible situation to apply temporary *waqf*. In this research, the temporary *waqf* concept and its relation to *waqf* were discussed from the traditional Islamic jurist's perspectives. It was also highlighted that Islamic scholars had a different opinion on the validity of temporary *waqf*. The majority of the Islamic scholars claimed that *waqf* is only perpetual, while some of them allowed the *waqf* temporarily. The author preferred the opinion that allowed temporary *waqf*, which is the ultimate opinion of the Mālikī sect. It could be seen that the temporary *waqf* could be applied in a particular situation based on its necessity. As stated by the author, the donor (*al-wāqif*) can provide the specific building as a worship place for Muslims temporarily until the mosque is built in that area.

Al-Rifāᶜi (2006) studied the application of temporary *waqf* services and skills (*ᶜamal*) from an Islamic jurisprudence perspective. The author divided the discussion into three chapters. In the first chapter, the concept of *waqf* services and skills was explained, in which the author briefly analysed the idea of *waqf* from modern and traditional Islamic scholars' perspectives. In the second chapter, the author focused on the temporary physically service *waqf* (*waqf al-ᶜamal al-yadawiy al-mu´aqqat*), which denotes the contributions through human resources to a particular individual, company, or organisation voluntarily. The temporary physical service *waqf* is divided into individual (*al-infirādi*) and group (*al-jamāᶜi*). For instance, specific organisations, companies, or institutions offer some of their workforces to physically contribute to the essential sector according to their expertise and situation. In the third chapter, the research focused on the temporary psychological service *waqf* (*waqf al-ᶜamal al-ᶜaqliy al-muʹaqqat*), which indicates the intellectual form contribution. The author stated that intellectual *waqf* is vital in educating the community and exploring new knowledge. This was followed by the division of psychological *waqf* into two academic types, namely intellective (*al-fikriy*) and innovative (*al-ibtikāriy*), such as *waqf* education and *waqf* medical staff. At the end of the study, the author stated that temporary *waqf* application is permissible and parallel to Mālikī's ultimate opinion. Applying the temporary *waqf* in this modern era could broaden the waqf benefits and open community opportunities, especially for Muslims, to contribute their wealth, skills, and expertise. However, the author did not describe Ḥanafī and Mālikī sect's opinion regarding this issue and the argument from modern Islamic scholars except for the idea from Mundzir Qahf.

Qahf (2000) conducted research and included it in the book entitled *Al-Waqf Al-Islamiy: Taṭawwurihi wa Idāratihi wa Tanmiyyatihi* (Islamic Endowment: The Development, Management, and the Growth of *Waqf*). The author focused on developing *waqf* in the new community, with the book comprising four chapters and 23 sub-chapters. In this book, the author discusses previous Islamic scholars' opinions on the validity of temporary *waqf*. Some Islamic jurists opined that temporary *waqf* is valid, while some of them stated that *waqf* is only valid in perpetuity. The author illustrates the contemporary situation where the previous Islamic jurist does not discuss the *waqf* matter. For example, in Europe, there is a building endowed by an individual to perform Jumaᶜah prayer for a particular period until the mosque is built in that area for Muslims. Based on this situation, the author assumes that temporary *waqf* could positively impact and show the public interest (*maṣlaḥah*). It also encourages the community to make charity and help the individuals in need by providing temporary basic needs in particular circumstances, such as immediate shelter for the flood until the situation returns to normal. From the researcher's point of view, the author still lacks the emphasis on the concept and potential of temporary *waqf* in developing the *waqf* property and strengthening the *waqf* institutions.

Based on previous studies, the researcher opined that the research on the concept of temporary *waqf* is lacking, particularly from the modern and traditional Islamic scholar's perspectives. Given that Malaysia has imposed the definite opinion of the Shāfiᶜiy sect in Islamic jurisprudence matters, including *waqf*, the researcher opined that revising the concept of temporary *waqf* and its permission from all Islamic jurists' perspectives is crucial due to the current development and environment. In this research, precise analysis was conducted on the concept of temporary *waqf* and its implementation based on the previous and modern Islamic scholars' views.

1.6.2. Temporary *Waqf* Application in Malaysia

In Malaysia, the application of *waqf* is under the jurisdiction of the state. Ab Rahman and Amanullah (2016a) conducted a qualitative study regarding temporary and perpetual *waqf* applications based on the selected states in Malaysia. The research solely focused on establishing *waqf* in Johor, Melaka, Negeri Sembilan, and Selangor. Furthermore, the authors briefly described the temporary and perpetual *waqf* concept from the traditional and modern Islamic scholars′ perspectives. The majority of the previous Islamic scholars, such as Abū Ḥanīfah, Shāfiᶜiy sect, and Ḥanbalī sect, opined that the *waqf* is valid only if it is declared and applied in perpetuity. The authors also mentioned that temporary *waqf* is permissible and practical to the Mālikī sect. This opinion was agreed upon by a few modern Islamic scholars, such as Mundzir Qahf (2000), Mustafa Al-Zarqā (2006), Hasan Muhammad Al-Rifaᶜi (2006), and Hasan Al-Nujaimi (2006). Following that, the temporary and perpetual *waqf* concept was analysed and described based on the State *Waqf* Enactment, Rules of *Waqf*, and State Administration of Islamic Law Enactment. The study recorded that Johor was the only state that allowed and applied temporary *waqf* according to sections 17 and 18 of Rules of *Waqf* (Johor) 1983 (Ab Rahman & Amanullah, 2016a). It was recommended that other states revise and reconsider the temporary *waqf* implementation. Considering that Malaysia has imposed the Shāfiᶜiy sect in the Islamic law, Ab Rahman and Amanullah (2017a) examined and analysed the difficulties and issues of implementing the temporary *waqf* in Malaysia. A few selected states were the focus of this study, namely Johor, Melaka, Negeri Sembilan, and Selangor. This study demonstrated that the fatwas that are limited only to a specific sect, the existing implemented law in the enactment and act, and the current *waqf* asset condition are among the challenges in the implementation of temporary *waqf*.

Ab Rahman and Amanullah (2017a) critically examined the challenges in implementing temporary *waqf* in Malaysia. This study was conducted qualitatively, with a sole focus on the selected states including Johor, Melaka, Negeri Sembilan, and Selangor. Most of the data were collected through a semi-structured interview. The authors classified the discussion into three main topics; 1) the challenges that obstruct the implementation of temporary *waqf* in the selected states and the way to overcome them; 2) the types and forms of temporary *waqf* in the selected states in the future, and; 3) the guideline to implement temporary *waqf* in the selected states in Malaysia. Among the challenges in implementing temporary *waqf* highlighted by the authors are; 1) the chosen states only accept the absolute opinion of Shāfiᶜiy schools in Islamic law matters that include *waqf*; 2) the different jurisdictions in each state that govern *waqf* matters, and; 3) the current status of *waqf* properties. At the end of the research, the authors recommended that *waqf* corporation in each state in Malaysia reassesses the existing temporary *waqf* legal framework to achieve an effective solution for developing the *waqf* properties.

Ab Rahman and Amanullah (2017c) conducted qualitative research to analyse the concept of temporary *waqf* and briefly describe the opinion of the previous and modern Islamic scholars opinions on its application. The authors also presented and compared the Islamic scholars' argument that allows the temporary *waqf* application and the idea that only allows *waqf* in perpetuity. Based on the discussion, the authors agreed that it would enable the temporary *waqf* application. Few advantages of temporary *waqf* highlighted by the authors could fulfil the interest (*maṣlaḥah*) of many parties, especially the donor (*al-wāqif*), the beneficiaries (*al-mauqūf ᶜalaih*), and the property (*al-mauqūf*). At the end of the study, the authors emphasised that the temporary *waqf* could vary in terms of the types of property that can be endowed. Temporary *waqf* could open up community opportunities, especially among Muslims, to spend (*infaq*) their wealth as a charity (*waqf*) for the people in need. The research results demonstrated that temporary *waqf* should be established in the State *Waqf* Enactment and State Administration of Islamic Law Enactment to enhance *waqf* management. The authors also stated that the implied fatwa should not be limited to one opinion, especially in *waqf* and opined that the States Fatwa Committee must revise the fatwa to apply temporary *waqf*.

Given that temporary *waqf* is not applied widely in Malaysia, critically examined the established temporary *waqf* in Kuwait. In their study, an analysis was conducted on the Kuwait Law of *Waqf* and the current temporary waqf implementation in Kuwait. As a result, the authors found the applied Islamic law on *waqf* matters and listed the crucial provision related to the applied temporary *waqf* in Kuwait. The articles also mentioned some *waqf* that could not be used temporarily, such as *waqf* for a mosque (*waqf al-masjid*) and *waqf* cemetery (*waqf al-maqbarah*). The Kuwait Law of *Waqf* stated that the reasonable period of temporary *waqf* should not exceed 60 years or more than two generations. The donor is only able to claim the endowed property after the *waqf* period is expired. However, the donor can either claim the endowed property or change the *waqf* status to perpetuity (*al-waqf al-muabbad*). The results demonstrated that the temporary *waqf* was permissible to be applied in Kuwait according to the Kuwait Law of *Waqf*. The authors recommended that other Islamic countries implement the temporary *waqf* and acknowledge it as an alternative to channel the *waqf* benefits to the needy.

Rahman and Awang (2018) conducted a study to explore the dynamics of cash *waqf* implemented in Malaysia. The article discusses the *waqf* concept by stating the *waqf* definition from previous and modern Islamic scholars. In this article, the authors mention that Mundzir Qahf (2000) comprehensively defined the *waqf* in perpetuity and temporary and emphasised the *waqf* benefits that should be continuous and repeated. The principle of *waqf* is also briefly explained in the article to maintain the discussion on *waqf*. Given that the debate focuses on cash *waqf* implementation in Malaysia, the authors explored the concept and the rising cash *waqf* issues. The cash *waqf* is based on the characteristic of the cash that does not fulfil the perpetual conditions. However, some Islamic jurists allowed the cash *waqf* due to its liquidity that could generate endless benefits through permanent assets as per the current practices. The Islamic jurist also suggested other types of cash *waqf*, such as *Muḍārabah*, *Al-Ibdāᶜ*, and Interest-Free Loans (*Qard Al-Hasan*). Moreover, the authors mentioned the fatwa on cash *waqf* in Selangor and shared *waqf* in other states, which are permissible to be practised. The discussion shows an effort from the *waqf* institution in each state in Malaysia to expand the *waqf* activities by implementing the cash *waqf*. The *waqf* institution in Selangor and Johor are among the most active institutions in empowering the *waqf* to designate the Islamic economy. The authors suggested that all the states in Malaysia implement cash *waqf* and form an independent advisory board to curb any unreasonable activities that offend the legal aspect and Islamic law. From the researchers' point of view, this is an excellent observation and analysis of Malaysia's cash *waqf* application. However, the authors did not highlight the temporary *waqf* precisely although cash *waqf* is one of the temporary *waqf* products (Al-Zarqā, 2006).

In a nutshell, a study was conducted on temporary *waqf* implementation in Kuwait and particular states in Malaysia, namely Johor, Melaka, Negeri Sembilan, and Selangor. The research demonstrated that these countries and states have implemented a specific law and enactment that governs *waqf* matters. Based on the previous studies, the researcher realised that no research was conducted in Terengganu, Perak, and Penang in terms of the implementation of temporary *waqf*. It was argued that the research on these states on temporary *waqf* implementation is important, given that Terengganu and Perak have a specific enactment on *waqf*. Although Penang does not have any particular provision regulating *waqf* matters, it has allowed cash *waqf*. The *waqf* in a cash form is considered one of the temporary *waqf* types (Al-Maiman, 2009; Al-Zarqā, 2006). Thus, it is essential to revise the existing concept of temporary *waqf* in these three states.

1.6.3. Suggested *Waqf* Model in Malaysia

Temporary *waqf* is one of the flexible types of *waqf*, which could contribute to new progress in the *waqf* institution. Faliq and Azman (2019) conducted a study to propose the Islamic Private Retirement Scheme by integrating the temporary *waqf* concept. The authors briefly described the temporary *waqf* and Islamic scholars' opinion on its legality. The study demonstrated that the ultimate argument of the Mālikī sect allowed the application of temporary *waqf*. Following that, the article presents the fatwas on the application of temporary *waqf* in Malaysia. Based on the fatwas highlighted by the authors, it could be concluded that perpetuity is not considered a mandatory condition for *waqf* validity. The authors also suggested that the fatwa must be revised in five years to expand its potential, which channels the benefits to the beneficiaries. In the proposed model of the Private Retirement Scheme, the authors mentioned that there are a few ways to apply the temporary *waqf* in PRS; 1) *waqf* by a member in the form of a unit; 2) *waqf* by a member in the form of the value of the units, and; 3) dedication of *waqf* by PRS provider. The study results indicated that many benefits can be gained by integrating the concept of temporary *waqf* in the PRS model and the other financial instrument.

Anwar et al. (2018) conducted a study to develop the idle *waqf* land by offering an alternative financial mode through the concept of cooperative and *waqf*. In this study, the writers critically discussed the current cash *waqf* collection method, such as the cash *waqf* scheme and *waqf* share scheme. After the authors examined the current cash *waqf* form, it was suggested that the cooperative-*waqf* model develops the *waqf* land and assets. The significance of the cooperative-*waqf* model was also emphasised in this research. The authors stated that this model has a high potential in improving the relationship between the donor and *waqf* institutions. Besides, the cooperative *waqf* model could reduce the reliance on interest-based loans to develop the *waqf* properties, especially the land. However, the researcher's perspective expressed that this article still lacks the emphasis on the temporary *waqf* although the temporary *waqf* product, which is *waqf* in the cash form, as mentioned in the model.

Azniza Hartini, Mohamed Aslam, and Hanira (2018) suggested a model for *waqf* financing public goods and mixed goods in Malaysia. The study focused on the public and mixed goods, which constituted the country federal government expenditure. The authors examined the concept and Shariah laws that govern *waqf* matters and Islamic history on *waqf* application in financing public goods and mixed goods. The history recorded the *waqf* in the funding of the public, while mixed goods have taken place since the era of Prophet Muhammad S.A.W, are practised by the Companions, and continue in the Abbasid Caliphate area. Based on the recorded history, the authors stated that the structure of *waqf* is flexible as long as it is parallel with the supreme Shariah law, Quran, and *Sunnah*. The authors also described the Malaysian *waqf* system and the issues related to *waqf* in Malaysia to gather information related to the model construction. At the end of the study, the authors demonstrated the model to finance the public and mixed goods in Malaysia by applying the *waqf* concept. The study results demonstrated that *waqf* has the ability and potential to influence economic development. In addition, the authors highlighted that the *waqf* application should be flexible either temporarily or perpetually as long as it does not contradict the supreme Shariah law. This feature could positively affect the development of *waqf*.

Alani, Algodah, and Alshwaiyat (2016) suggested an alternative to financing the small project through Islamic endowment (*waqf*). In the study, the authors discussed and emphasised SMEs significance (Small and Medium-sized Enterprises), followed by the current and future challenges faced by SMEs. This article explores the concept of cash *waqf* and its rules based on Islamic scholars' perspectives. The application of cash *waqf* is allowed by some Ḥanafī sect scholars, the Mālikī sect, some scholars of the Shāfiᶜiy sect, and Ibn Taymiyyah from the Ḥanbalī sect. The authors also described the concept and pattern of the endowment fund. At the end of the research, the method in financing the small project was proposed, especially for SMEs through fund *waqf*; 1) maintaining the endowment fund, 2) establishing a new endowment fund, and 3) funding the small entrepreneur by the *al-wāqif*. The study results demonstrated the significant potential of cash *waqf* as an alternative to support the unemployed and small projects due to its flexibility and liquidity. The authors argued that educating the community, especially Muslims, on the importance and advantages of cash *waqf* is important. Based on the researchers' opinion, although cash *waqf* is a temporary *waqf* product that is well-acknowledged in Malaysia, the community still lacks knowledge about temporary *waqf* matters and their benefits. Thus, Malaysian states need to implement temporary *waqf* and educate their services to the community.

Ali Soleh, Abdullah, and Al-Din (2019) researched the mechanism to fund the practice and application of temporary *waqf*. This article highlights the role of temporary *waqf* in social development. In this research, it was argued that temporary *waqf* practice and application could be enhanced through three stages: individual stage, organisation stage, and community stage. The study results demonstrated that the temporary *waqf* could benefit many parties and have the advantage of developing the *waqf* property and broadening the type of *waqf* property that could assist people. Besides, Qahf (1999b) presented his paperwork at Harvard University in the Harvard Forum on Islamic Finance and Economics. In this paperwork, Qahf presents his idea to revive the *waqf* institution through *waqf's* social and economic development. Emphasis is also placed on a few critical issues in *waqfs*, such as the *waqf* principle in perpetuity and temporary, the *waqf* of benefits, and the *waqf* management. The writer's ideas clearly show several temporary *waqf* advantages that could be highlighted to provide new developments to the future *waqf* institution.

The researcher acknowledged the suggested *waqf* models, such as the cooperative *waqf* model, cash *waqf* model, and private retirement scheme. These proposed models are developed based on the concept of temporary *waqf*. However, it was also argued that no specific research suggests or develops a model or guideline for applying temporary *waqf* to use as a reference in Malaysia, especially in Terengganu, Perak, and Penang. Thus, the researcher opined that the guideline to implement and practise the temporary *waqf* is significant in Malaysia, given that it is permissible in a particular state, and the practice of the product of temporary *waqf* is permitted.

1.7. Significance of the Research

This study is significant in determining the potential of temporary *waqf* to be implemented in the selected states in Malaysia and the development of a model and theoretical framework that could be used as a reference for the authorities responsible for *waqf* development, such as the State Islamic Religious Council (SIRC), Mufti Department, and other *Waqf* Institutions, to improve temporary *waqf* application across Malaysia, particularly in Terengganu, Perak, and Penang.

1.8. Scope and Limitation

The focus of this study is on the temporary *waqf* implementation in the selected states in Malaysia, namely Terengganu, Perak, and Penang. To explain this focus, two of the states applied *Waqf* Enactments, namely Terengganu and Perak. For instance, section 18 of *Waqf* Enactment (Terengganu) 2016 demonstrates that donor-created temporary *waqf* is permitted and acceptable. While the *Waqf* Enactment (Perak) 2015 is uncertain, temporary *waqf* is valid to be applied or only valid in perpetuity. Although Terengganu stated the temporary *waqf* in its respected regulation, the method of implementation or how it operates was not specified.

The legal provision of *waqf* in Penang is governed by the Administration of the Religion of Islam (State of Penang) Enactment 2004, specifically in sections 89 to 95. In contrast to Terengganu and Perak, there is no special enactment for *waqf*. Although Penang only applied *waqf* in perpetuity according to the regulation, it has also permitted the practice of cash *waqf*. The researcher argued that cash is one of the temporary *waqf* products due to its temporary existence.

Considering that these states have implemented the special provision or enactment for *waqf*, this research aims to provide a guideline for implementing temporary *waqf*. However, the provided regulations do not specifically address the temporary *waqf*. Moreover, the enactments only discuss the perpetual *waqf* and the types of *waqf* applied in the states. As a result, this study focused on understanding the temporary *waqf* and proposing a guideline to implement temporary *waqf* in the selected states in Malaysia.