



*Proceedings*  
of  
**SEVENTH INTERNATIONAL CONFERENCE  
THE TAWHIDI EPISTEMOLOGY:  
ZAKAT AND WAQF ECONOMY**

6 – 7 January 2010

**Editors**  
Abdul Ghafar Ismail  
Mohd Ezani Mat Hassan  
Norazman Ismail  
Shahida Shahimi



**ORGANIZED BY**



INSTITUT ISLAM HADHARI  
UNIVERSITI KEBANGSAAN MALAYSIA



INSTITUT LATIHAN ISLAM MALAYSIA  
JABATAN KEMAJUAN ISLAM MALAYSIA



JABATAN WAKAF, ZAKAT DAN HAJI  
JABATAN PERDANA MENTERI

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## Forward

Alhamdulillah, Praise be to Allah and with His Merciful, we are able to organize the 7<sup>th</sup> International Conference on Islamic Economics and Finance. The theme of this conference is the Tawhidi Epistemology: Zakat and Waqf Economy. It is very timely to organize this conference mainly due to two main reasons: First, the growing economic malaise of the late 1960s gave way to crises that have gripped many countries though much of the 1970s, 1980s, 1990s and 2000s. As a result, the Keynesian consensus that existed to a considerable extent during the 1950s and 1960s was shattered and this has contributed to the current situation where several alternative theories compete for our critical attention.

Against this background, it is not surprising that many economists have turned to methodology for assistance. Because, if economists obtain the 'right' methodology then economics is more likely to arrive at results that are less ambiguous and therefore a new consensus could emerge. This hope is unlikely to be fulfilled from studying one methodology. It will become apparent that no one methodology will rescue us from all economic problems.

Second, the social system that utilizes zakat and waqf, is totally different from ILO-based labour relation (i.e., fully funded or pay as you go). Hence, a new institutional economics will come up from this system.

The importance of those reasons has attracted scholars from Oman, Iran, Nigeria, South Africa, United States, United Kingdom, India, Pakistan, Bangladesh, Brunei, Indonesia and Malaysia in contributing their papers.

We are also benefited from our collaboration with our partners Jabatan Kemajuan Islam Malaysia, Jabatan Wakaf, Haji dan Zakat and also Islamic Economics and Islamic Economics and Finance Research Group (EKONIS).

We hope the papers and disussion from this conference will lead us to explore new economic model which is based on tawhidi epistemology. The Oneness of Allah would create agree to be disagree. InshaAllah.

Prof Abdul Ghafar Ismail  
*Chief Editor and Chairman  
Of the Conference,  
Institut Islam Hadhari*

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# PROGRAMME

## 6<sup>th</sup> January 2010 (Wednesday)

Time		Programme
8.00 am	-	Registration of Participants
8.30 am	-	Arrival of Guests and VVIP
9.00 am	-	Opening Ceremony
10.00 am	-	Refreshment
11.00 am	-	<b>Distinguished Lecture on the Theme of the Conference:</b> <i>Tawhid, Zakah and Waqf in a General-System Framework</i> By Prof. Dr. Masudul Alam Choudhury (Department of Economics and Finance, College of Commerce and Economics, Sultan Qaboos University, Muscat Sultanate of Oman)
11.30 am	-	Session I
1.00 pm	-	Lunch & Solat Zuhr
2.15 pm	-	Session II
4.45 pm	-	Tea
6.30 pm	-	Dinner
8.00 pm	-	Trip to Putrajaya

## 7<sup>th</sup> January 2010 (Thursday)

Time		Programme
8.30 am	-	Session III
10.30 am	-	Morning Tea Break
11.00 am	-	Session IV
1.00 pm	-	Lunch & Solat Zuhr
2.15 pm	-	Session V
4.30 pm	-	Tea
5.00 pm	-	Free activity
6.30 pm	-	Dinner

# **THE CASH WAQF FOR EMPOWERING THE SMALL BUSINESSES**

*Achmad Tohirin*

Center for Islamic Economics Development and Studies (P3EI)  
Faculty of Economics, Universitas Islam Indonesia,  
Yogyakarta, Indonesia  
[achmad@fe.uii.ac.id](mailto:achmad@fe.uii.ac.id)  
[alphtin@gmail.com](mailto:alphtin@gmail.com)



## THE CASH WAQF FOR EMPOWERING THE SMALL BUSINESSES

Achmad Tohirin

### ABSTRACT

*This paper discusses the cash waqf model in relation to the empowerment of small businesses. Cash waqf emerges as a financial instrument which combines both economic/profit and social motives. As an Islamic endowment, it carries a distinct character in that the endowment is in the form of money or cash and it will be, managing-wise, kept on the same form perpetually. The denomination of cash waqf through certification can be varied, depend on the targeted donator. The potential of mobilizing this fund might be tremendous, as well as its important roles to contribute to the community development. This potential can be imminent with respect to the empowerment of small businesses. Most small businesses have no access to the formal financial institutions due to the lack of collateral, or fail to fulfil a bankability requirement. However, their important roles are often irrefutable, for example their ability to provide jobs for many unemployed workers. Due to its strategic role, the small businesses might be empowered through the cash waqf model available under Islamic financial system. This paper focuses on this matter.*

### Introduction

Improvement of society's welfare is an endless effort that can be implemented through various ways and methods. It is always an important agenda that need to be addressed in the formulation of the concept of development, which includes various aspects such as legal/laws, political, social, and economic aspects. As a result, to achieve the improvement of the society's welfare, many developing and least developed countries have been formulating, and implementing various models of development. Nevertheless, the outcomes of the development have more frequently been unsatisfactory, especially the development in the developing and least developed countries. Those countries implementing various development concepts oriented to growth have resulted in different outcomes. One important and obvious result is that the equitable distribution of income rarely follows the successful growth achieved. Hence, it is quite difficult to improve the welfare of the society as a whole.

United Nation Development Program (UNDP) in 1995 reported that more than three-fourths of the world's peoples lived in developing countries, but they enjoy only 16% of the world's income, while the richest 20% have 85% of global income (Todaro, 2000). This fact tells that at international level there exists a serious problem of inequitable distribution of income, and implicitly resources. In Indonesia, the same problem is latently prevailed, for example, the fact that economic resources, especially financial resources, are mostly concentrated in the Java Island only. This causes many problems in the national economic development. The same trend might be seen in Malaysia by comparing developing gap between Peninsular Malaysia and East Malaysia (Sabah and Sarawak).

One important institution in current development is banking sector. As a highly regulated industry due to its trust-based service provider, banking industry has been growing enormously to support the economic growth and development in all countries around the world. The main role for banking institutions to play is as a financial intermediary in the economy. This role includes double-arm sides, in one hand it mobilizes idle funds from all economic sectors and on the other hand it allocates the acquired funds to the investment sectors in the economy. Due to its highly regulated nature it is understandable that in implementing its function the banks apply relatively stringent rules and requirements especially to allocate the funds available. The 5 C's rules (collateral, capacity, character, credit and) is a very common requirements understood by almost all business sectors.

On the other side, current banking system also carries its weaknesses especially when dealing with lower income group within a community and small and medium enterprises (SME). It is not that easy for banking sector to deal with this group due to formal requirement and regulation that have to be fulfilled by banking institution, especially related to advancing loans/financing. The SME as parts of the business players in an economy also plays very important roles in the other functions. This sector has its advantages and weaknesses as compared to the other sector, especially large corporations. One very important merit of SME is its capability to absorb a relatively huge numbers of labour forces. It is also meant that this SME's helps reducing the number of unemployment in the economy. In addition the SME's sector is also consisting of a huge numbers of enterprises with various types of entities. It is also believed that the SME's sector has a character of mobility in its type of business, in other word it has a certain flexibility to move from one type of business to another following the opportunities come up in the economy.

It is also a fact that the mainstream banking and financial industries seem to less-effective to reach out the SME's sector due to some problems persisted such as difficulties in providing collaterals, scale of business involved, etc. Many SME's enterprises fail to gain access from banking/financial institutions. It is a fact that prevailed in many countries in the world, even in the developed countries. For example, it is estimated that as many as 60 to 70 million adults in the U.S. do not have any type of bank account (Rowe, Jr., 1993). Members of this group are likely to be poor and must pay for all of their financial transactions, from telephone bills to car payments, in cash. In addition, people without bank accounts are typically denied access to simple consumer credit services that others with bank accounts often take for granted. Lack of a bank account generally precludes one from being granted access to simple bank loans, credit cards, and other forms of consumer financial services (Lewison, 1999)

In addition Lewison (1999) quoted further that maintenance of a bank account is no guarantee of financial enfranchisement, however. Consumers with low incomes or poor credit histories are also frequently denied access to many mainstream consumer credit sources and often find themselves in the same borrowing class as those consumers who lack even a basic checking account. These consumers are forced as a whole to rely upon what is sometimes referred to as the "fringe banking" system (Caskey, 1996; "Poverty, Inc.", 1998, p. 29). The term "fringe banking" applies to institutions that lie outside of the traditional mainstream of the consumer financing business. Patrons of fringe banking services do their banking through institutions such as check cashing establishments (Rowe, Jr., 1993), subprime mortgage lenders ("Poverty, Inc.", 1998), lay-away plans, rent-to-own stores, "title lenders", "payday

lenders” (Murray, 1998), and even pawnbrokers, numbers rackets, and lotteries (Noponen, 1992; Light, 1977).

Those facts implied that there is an urgency for complementing an alternative type of banking/financial establishment that directed to address the problems such as; broadening the scope of banking/financial activities by including social aspect of man’s life (not rely only on the economic aspect); improving the distribution of income and wealth within a society; and helping eradicate poverty alleviation.

### **Waqf as part of Islamic Voluntary Sector**

Islamic concept on production instruct every single individual to be able to fulfill his/her needs in this world by encouraging him/her to work or to produce something which gives benefit to him/herself or and others, so that he/she might be able to achieve his/her self-fulfilling ability and not dependent on others. Islamic Teachings have a clear character in this regards, that there is an injunction that man should be able to manage their wealth and economic resources endowed by Allah SWT in a just manner to facilitate the improvement of all human welfare. The wealth and economic resources should not circulate only among a few people. They should be distributed equitably among all people so that they will enable people to achieve a prosperous society.

*“.....In order that wealth or property (merely) may not make a circuit between the wealthy among you.....” (Qur’an 59:7)*

This implies one important question on how to distribute the wealth and economic resources in a just and more equitable way. In this respect, Islamic Economic System recognizes two mechanisms in the distribution of income and wealth (AHM Sadeq, 2005), *first*, functional distribution of income and wealth and *second* income (re)distribution through transfer payment institutions both obligatory and voluntary. The first mechanism conducts the distribution through market mechanism, while the second one implements the distribution through various instruments such as Zakah, Infaq, Shadaqah, and Waqf.

As a religion that put emphasize on the importance to balancing all aspects of life, Islam provides a concept called Voluntary Activities. Following A.A. Islahi (1992) the activities include:

1. *Al Sadaqat al Nafilah* (Voluntary or Recommended Charity),
2. *Hibah, hadiyah or ‘atiyah* (Gift and Grant),
3. *Al Wasiyah* (a will in the legacy)
4. *Al ariyah or al qard* (lending)
5. *Al Nadhr* (the vow or dedication)
6. *Al waqf* (endowment)
7. Cooperative Association

Meanwhile M.N. Siddiqi (1996:125) characterized that traditionally, voluntary activities consist of five activities as follows:

1. Obligatory Family Support,
2. *Zakah* and *‘Ushr*,
3. Gifts and Grants,

4. Social Services,
5. *Waqf* (Charitable Endowments).

All those five activities in the implementation can be classified into a sector so called *Voluntary Sector*. Legal foundation of this sector is many and quite strong as they are mentioned in Qur'an.

QS: At Taubah (9): 71:

*The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey God and His Messenger. On them will God pour His mercy: for God is Exalted in power, Wise.*

QS Al Hasyr (59): 9:

*But those who before them, had homes (in Madinah) and had adopted the Faith, -show their affection to such as came to them for refugee, and entertain no desire in their hearts for things given to the latter, but give them preference over themselves, eventhough poverty was their (own lot). And those saved from the covetousness of their own souls- they are the ones that achieve prosperity.*

QS Ar Rum (30): 38:

*So give what is due kindred, the needy, and the wayfarer. That is best for those who seek the Countenance, of God, and it is they who will prosper.*

QS Al Baqarah (2): 177:

*It is not righteousness that ye turn your faces towards east or west; but it is righteousness -to believe in God and the Last Day, and the Angels, and the Book, and the Messengers; to spend of your substance, out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the ransom of slaves; to be steadfast in prayer and practice regular charity; to fulfill the contracts which ye have made; and the firm and patient, in pain (or suffering) and adversity, and throughout all periods of panics. Such are the people of truth, the God-fearing.*

QS: Al Anfaal (8): 72:

*Those who believed, and adopted exile, and fought for the Faith, with their property and their persons, in the cause of God, as well as those who gave (them) asylum and aid,- these are (all) friends and protectors, one of another. As to those who believed but came not into exile, ye owe no duty of protection to them until they come into exile; but if they seek your aid in religion, it is your duty to help them, except against a people with whom ye have a treaty of mutual alliance. And (remember) Go seeth all that ye do.*

Hadith Bukhari Muslim:

*Ibn 'Umar reported: 'Umar acquired a land at Khaibar. He came to Allah's Messenger (may peace be upon him) and sought his advice in regard to it. He said: "Allah's Messenger (may peace be upon him), I have acquired land in Khaibar. I have never acquired property more valuable for me than this, so what do you command to do with it?" Thereupon he (Allah's Apostle, may peace be upon him) said: "If you like, you may keep the corpus intact and give its produce as sadaqa." So 'Umar gave it as sadaqa declaring that property must not be sold or inherited or given away as gift. And 'Umar devoted it to the poor, to the nearest kin, and to the emancipation of the slaves, and in the way of Allah and guests. There is no sin for one who administers it if he eats something from it in a reasonable manner, or if he feeds his friends and does not hoard up goods (for himself). He (the narrator) said I narrated this hadith to Muhammad, but as I reached the (words) "without hoarding (for himself) out of it", He (Muhammad, may peace be upon him) said: "without storing the property with a view to becoming rich". Ibn 'Aun said:*

*“He who read this book (pertaining to waqf) informed me that in it (the words are) ‘without storing the property with a view of becoming rich.’”*

The importance of voluntary activities can be understood under the context that Islam is significantly stressing altruistic aspect in the social life. This is implied from the existence of two types of obligation attached to every Moslem individual, first is obligation for each individual which is irreplaceable or non-transferable, (*fardlu ‘ain*). Second is communal obligation (*fardlu kifayah*). Voluntary activities are conducted by Muslim individuals as a reflection of altruism characteristic of human being in Islam. These activities might provide many benefits for the community in the form of public services be made available, such as educational services, orphanage shelters, medical clinic facilities and so on. These kinds of services basically should have been provided by government at the basic level, however, there are always plenty of rooms for members of community to provide similar community’s needs due to the limitation of government budget to cover the whole package of such public services.

At this point, voluntary sector’s existence being felt very important by community members, because it helps improving the welfare of the community by providing public services deeply needed by them. The activities in this sector are highly motivated by Islamic injunctions under communal obligation for each Muslim individual. As it is believed by Muslim personality, that the best person would be those who capable of providing benefits and helps to others as much as possible. This kind of attitude will drive positively to the community welfare.

### **Waqf Institutions**

*“A man’s work ends upon his death except for three things: (a) a contribution to knowledge (b) on-going charity and (c) faithful child” (Hadith)*

Waqf has a specific characteristic making it different from other types of instruments which is its perpetuity property inherent within. As one important element of the five voluntary activities, waqf has an important role in connection with developing the ummah (society) and even human civilization. In this regards M. Boudjellal (2005) stated that because of the benefit continuity of the waqf donation, the Muslim Ummah, alongside the Islamic History, found that this special form of charitable donation is the best way to explain their attachment to the Islamic Teachings.

A.M. Sadeq (2005) stated that waqf is considered an important institution in an Islamic Economic System. It plays an important and precious role along the Islamic history, especially in time of Othoman Khalifate. There were various institutions, organizations, and even some infrastructure facilities which were built by use of proceeds from waqf properties. The importance of waqf relies on the form of property being donated and it can be utilized for various types of interest or necessities (i.e. public or ummah interests). Meanwhile, in Bangladesh Education Sector recorded merely more than 8,000 educational institutions established based on waqf. In addition, 123,000 mosques were built based on waqf, most of which have education institutions (A.M. Sadeq, 2005).

The following illustrations also indicate the important roles played by Waqf institutions for the countries (M. Boudjellal, 2005):

- Three-quarters (3/4) of all Arab land in the former Ottoman Empire belonged to ‘awqaf..

- In Algeria, under French occupation, waqf comprised half (1/2) of the lands of the country in the middle of the nineteenth century.
- For the same period, waqf comprised one third (1/3) of the land in Tunisia.
- In Egypt in 1949, about one eighth (1/8) of the agricultural land belonged to this category.

Further historical notes stated that in this waqf sector, there was interesting record on the proportion of waqf forms being donated by Muslim Ummah as revealed in a study by Ruth Roded during six centuries period (1340-1947). It covered 104 waqf institutions (endowment foundations) in Egypt, Syria, Palestine, Turkey, and Anatolia, and resulted in the following (M. Boudjellal, 2005):

- 58 percent properties were concentrated in big cities and were comprised of commercial shops, roadhouses, flat and houses.
- 35 percent were concentrated in small villages and countryside and comprised of agricultural lands, farms and gardens..
- Other types of 'awqaf represented 7 percent where 5.5 percent were in the form of money.

In a more recent development, it is recorded that in Malaysia there are about 20,735.61 acre of land as waqf properties (Ngadimon, 2006). Meanwhile in Indonesia it is recorded as of September 2002 that there are 360.002 locations of land as waqf properties totalling 1,472,047,607.19 meter square or equivalent to around 147,204.7 hectares (Tohirin, Achmad. 2002).

In general, the types of waqf can be distinguished into two categories as follows (A.A. Islahi, 1992):

- a. Waqf for individual or family benefits called as Family Waqf
- b. Waqf for public interest and the welfare of the poor called as *Public Waqf*.

In its historical records, there were four aspects of waqf that had always been of interest (M.N. Siddiqi, 1996: 146):

1. Objectives
2. Types of properties
3. Management
4. Its supervisory form

The concept of waqf have been practiced by Muslim for long time, however, there seems to be problem persisting in the implementing the concept of waqf, especially in managing waqf properties to generate optimal benefits/maslahah to the society. Mohamed Ariff (1991) observed that nearly all the waqf properties found in the South East Asia region represent endowments made in the nineteenth century. The explanation that there are now not as many wealthy Muslim individuals as in the distant part is hard to accept. A plausible explanation for this may well be found in the neglect, misuse, and abuse which could have discouraged others from donating their properties. In highlighting waqf management problems in Malaysia, Alhabshi (1991) have identified five problems as follows:

- The transfer of ownership titles of waqf properties to the council as the sole trustee of waqf properties in a given state.
- The shortage of qualified and competent personnel in the waqf section of almost every state council.
- The process of transferring the ownership titles.
- The state council has to incur costs in term of quit rent and sometimes assessment on the property whose title is under the name of the council.

- There seems to be very little understanding of the potential of waqf as an Islamic development institution within the circle of those involved in managing the waqf properties.

Considering problems persisting in the management of waqf properties, it is, then, very crucial to look into modern administration and management of waqf. One important factor will be the discussing the roles of *waqf nadhir*. According to Idris Khalifah in his research *Istiismar Mawarid al-Awqaf*, Waqf Nadhir (waqf management) is in charged for the following works (Mulya E Siregar et.al., 2001):

- a. Maintaining waqf assets
- b. Developing waqf assets and not let them useless so that they can not provide any benefits
- c. Exercising request of waqif (waqf donator) which is not against shariah's laws
- d. Distribute the proceeds to the eligible beneficiaries in due time
- e. Fulfilling obligation arisen from managing waqf from its own proceeds
- f. Repairing the damage of waqf assets so that they can be beneficial again
- g. Leasing the fixed assets of waqf such as buldings and lands with market rent rates
- h. Investing waqf assets to generate income
- i. Being responsible for any damage on waqf assets due to their negligence and for that their jobs can be terminated.

### **Cash Waqf Organisation**

Another form of waqf other than physical assets such as lands and buildings is cash waqf. However, this type of waqf might create few problems, for example, if it deals with ribawi transaction in its implementation which is prohibited in Islam. Other possible problem which is more serious is regarding keeping the waqf assets (financial assets) from diminishing in its values, since financial assets are very much affected by general price changes. It also is important to prevent cash waqf assets from wearing off, to preserve its main characteristics of perpetuity. Historical record under Ottoman Empire considered this type of waqf as specific category of Islamic Endowments and played important role in the economic and financial aspects of the empire (M. Cizacka, 1999). Cizacka, as quoted in Hasan, Samiul (2007), also mentioned that cash waqf has become popular because people without much (immovable) property wish to get the benefits of the waqf system and the banking system prefers it because it is easier to handle than property or other endowments. There have been examples where endowed capital was distributed as credit to a number of borrowers and the return from this investment was spent for religious and social purposes. If the return exceeded the expenses, the remainder was then added to the original capital of the endowment the following year.

Recognition of cash waqf is not new. Imam Zufar has allowed cash without attaching any condition. The majority of Malikis allowed cash and food stuff as waqf though some held to be makruh. The Hambalis are deemed to have not allowed cash but according to Ibn Taymiyah the various rulings on the invalidity of cash waqf are based on the opinions of al-Khiraqi and those who followed him. There is no opinion of Imam Ahmad on the point, and hence according to Ibn Taymiyah cash may be a valid subject of waqf. At present, countries, which accept and practice cash waqf are Egypt, Iraq, Syria, Iran, Turkey, India, Pakistan, Brunei, and Singapore (Mohammad Tahir Sabit Hj. Mohammad, 2006).

Cash waqf concept is aimed at mobilizing public funds to be pooled as a waqf asset (financial capital/endowment) to be managed in such a way that it can generate income stream besides maintaining its initial value to grow, or at least to preserve its perpetuity, then the income generated from investing the funds will be distributed to the beneficiaries. Preserving the perpetuity of waqf is a very important character in managing waqf assets, inclusive of cash waqf, because it is an essential characteristic of waqf. In this regard, it is very important to design a basis for valuation of this financial waqf asset. In addition, due to its financial nature of the asset, it has to take into account of the general price changes, i.e. inflation rates. Cash waqf might play important role in providing public services needed by the community. It can be directed to achieve this ends under condition that it has to be organized in such a way that reflect good government so that the donor/waqf would be willing to participate in donating the funds. Based on this concept, it implies that there are three important steps in developing cash waqf organization and management;

- Mobilizing Donation (fund raising method)
- Utilizing the pooled funds to generate income (portfolio investment method)
- Distributing the benefit/income to the beneficiaries.

Mobilizing funds requires an effective method of fund raising, considering the voluntary nature of waqf. In this regard, certification might be considered one simple way. Various nominal values might be issued for each certificate considering affordability of the potential donors to target. In this respect, the value of donation should be set in a way that it considers valuable. This is one important advantage of cash waqf concept compared to other types of waqf. It can target various segment of a community to participate, due to its flexibility and affordability in donation.

Managing the pooled funds will be the next step. An important principle in managing this financial asset is to apply income generating orientation or to be as productive as possible so that positive income stream can be generated. This principle implies that the funds should be used and invested in productive business ventures. There will be many options to arrange investment portfolio available as medium of allocating funds. This option includes direct investment into real sector through partnerships model (equity investment) with business players, and indirect investment through depositing funds in banking companies, or various security instruments. In this respect, it has to take into account the return and risk nature of each types of investment chosen.

Following the pooled income generated from investing of the funds is distributing the income to the beneficiaries. Related to this distribution, it is crucial to follow the purposes of the cash waqf program. Distribution of generated income might be targeted for the following purposes:

- Charity  
Distribution of this type is aimed to fulfill the needs of those who are unprivileged. The nature of this distribution is consumptive spending.
- Empowerment  
Segment of this target is persons or group of people who have prospective business ventures but having difficulties to access financial capital. Empowerment here is aimed to provide means of production, i.e. financial capital so that this group of small business enterprise might enhance their business ventures further. In assisting this group, various types of contracts in line with Sharia might be utilized, such as mudharaba, musharaka or murabaha, etc.
- Human investment



This type of human investment is targeted to provide education, through scholarship program, or training to improve the quality of human being by enhancing the level of skills of labor or entrepreneurs. In the end, it is expected that productivity of this group of people will improve and positive effect on the level of output might be resulted.

- Infrastructure investment

It is meant to assist providing physical facilities such as buildings for schools, medical facilities, and so on, which will help improving community's welfare.

Based on previous explanation it can be concluded that cash waqf has significant potential to contribute to community development. It might play very crucial role in alleviating poverty as it can be targeted to low income groups. Managing cash waqf requires many important aspects to take into account. Cash waqf might provide financial capital to business sector directly or indirectly. It also might play role as a mode of transferring wealth.

Since managing cash waqf funds might involve methods like managing financial institution like bank, the following discussion will be directed to that ends. As for prototyping institution, it is interesting to look at cash waqf implemented by Social Investment Bank Limited (SIBL) Bangladesh. The followings are major features of Cash Waqf Certificates as quoted in Hasan, Samiul ( 2007);

- Cash waqfs are accepted as endowment in conformity with Shari'a and managed by the Bank.
- Cash waqf accounts are open in perpetuity.
- Waqif will have the liberty to choose the purpose(s) to be served either from the list of 32 purposes identified by SIBL or any other purpose(s) permitted by Shari'a.
- Cash waqf accounts earn profit at the rate of 10.70% per annum.
- Only the profit amount (wholly or partially) is spent for the specified purpose(s); unspent profit amount is added to waqf amount to grow over time.
- Cash waqf can be created with a one time endowment or multiples of thousand(s) deposited at different occasions, through nominated bank accounts if so wished.
- Cash waqf is accepted in specified endowment receipt voucher and a certificate for the entire amount is issued as and when the declared amount is built.

### **Profit & Loss Sharing Concept**

PLS system as the utmost fundamental difference distinguishing Islamic banking and finance from its conventional counterpart can be viewed as alternative mechanism in financing techniques to avoid ribawi, i.e. interest based, mechanism. This system is a manifestation of Islamic injunction to conduct any business transaction in a manner that ensures fairness and justice for all parties involved. Under this system, therefore, risk and return will be equitably balanced, as Ahmad (1978a) stated that the rationale of the principle that there should be no profit-sharing without risk-sharing (*al ghum bi-'l-ghurm*) is that the justification for earning profit is having engaged in an economic venture and thus contributed to the economy. As for the nature of PLS system Al-Omar and Abdel-Haq (1996) emphasizes that Islamic finance relies on equitable risk-sharing between the person who provides the capital and the entrepreneur. This practice derives from the central tenet of Islamic banking based on the Qur'an: the prohibition of riba. Along with distributive justice, the rationale for profit-sharing also embraces allocative efficiency, economic stability and growth.

The PLS system transparently distributes the profit earned and the loss incurred from conducting business ventures for all contracting parties by fixing the profit ratio/share in advance for each party. From this system the rate of returns for contracting parties will not be known in advance, it will only be known after completing the business ventures, ex-post rate of returns. This system is conducted through two types of contract, namely *mudharaba* and *musharaka*. *Mudharaba* is a contract between two parties, one as capital provider (*shahibul maal*) and the other as entrepreneur (*mudharib*) to conduct business ventures. The contract will require both parties to arrange and fulfill their rights and obligations. Both parties should agree in advance for the profit share applied, whereas for any financial loss that might prevail will be born only by capital provider. The entrepreneur will suffer the loss, unless negligence can be proven, only in the form of efforts and time spent unrewarded. *Musharaka* is a contract between two or more parties to conduct business ventures. Each party entering into this contract will contribute capital in the form of financial or non financial capital. The profit share and the distribution of losses will be determined up-front or prior to executing the business ventures.

Presley, and Sessions, (1994) have shown that the *mudharaba* method will, under certain conditions, lead to an enhanced level of capital investment on account of the ability of *mudharaba* to act as an efficient revelation device. By applying the ideas developed in the Western contract literature by Holmstrom and Weiss (1985) and Meyer (1986) they show that a *mudharaba* contract between a project manager and a syndicate of investors may permit a more efficient revelation of any informational advantage the manager may have over the latter. Nienhaus (1988) emphasizes that theoretically, Islamic banks, through PLS financing, should provide capital to dynamic entrepreneurs who have good projects but cannot offer collateral, and so create new business and thus contribute to the community's economic development.

However, the main problem in implementing PLS financing is due to the principal-agent problem, i.e., moral hazard and adverse selection. Under moral hazard, the capital provider (*shahibul maal*) cannot observe the action/effort of the entrepreneur (*mudharib*). Such problem requires monitoring mechanism which can be incorporated through incentive scheme in the contractual agreement and its enforceability. Whereas adverse selection related to the existence of asymmetric information under which the uninformed party, in this case *shahibul maal/bank*, moves first by providing a menu of financing, e.g. through credit/financing rationing to the informed party, entrepreneur, to adjust to the contract offer of the uninformed party (i.e., *shahibul maal/bank*) to make a financing decision. (Wahrenburg, 1996).

### **PLS and Cash Waqf**

PLS system might be used to match those who have funds and those who need them. In this regards, cash waqf institution plays as capital provider (*shahibul maal*) and the SME as the entrepreneur (*mudharib*) who has prospective business ventures but no capital. The SME will get benefit from the existence of cash waqf institution to help them running their business ventures by getting financing from cash waqf institution through profit PLS scheme. At this point the cash waqf institution fills the gap left by banking system by outreaching to the SME. The problem of bankability can be overcome through the institution of cash waqf.

Significant financing by cash waqf institution into SME's will depend on the funds available under cash waqf mobilization. To outreach into SME's cash waqf institution should be able to mobilize the funds significantly. Therefore organizing cash waqf is vital since it will have significant impact to the success of cash waqf program. Therefore, it will be proposed that the organization will be comprised of three sections as follows;

*Funds Procurement Section*

This section has main function to mobilize funds from member of community. It might target different group of people with different potential in terms of their wealth. It might consider some sort of flexibility in terms of people willingness to participate in this program. In this respect, it might be wise to have classification of participation as the following;

1. Cash waqf donor (waqif).  
This is the main sources of cash waqf funds. Hopefully this basis of participants will be growing in numbers and in contribution along with the development of cash waqf institution. The donor (waqf) can consist of individuals and institutions. In Muslim countries mosques can be directed to participate because they are number big in numbers and their accumulated funds.
2. Usufruct giver.  
Usufruct means as lending any assets to other party to take benefit of the assets by using it. This group of participants is expected to participate in the program by providing financial assets for specific period of time to be utilized by cash waqf institution to generate income provided the principal funds will be repaid in full at the end of agreed period. Attracting participation from this group will surely required efforts to convince them by building a trustable cooperation. There will be no (financial) incentives given to this group of participants.

*Funds Utilization Section*

In order to generate income, the accumulated funds have to be utilized in such a way that income stream can be resulted. To produce that income the funds can be allocated into various type of investment directly or indirectly through the following ways;

1. Banking companies via investing in deposits which will earn returns on deposits.
2. Capital market via investing in securities which will gain dividend or capital gain
3. Partnership with business players which will give shared-profit from projects/business ventures.
4. In addition, the funds might be made available for specific purposes which generate non-financial returns as a part of providing benefit/maslahah to the community, provided the principal can be repaid.

Utilizing funds into partnership will require picking or selecting the right partners for the sake of investment's safety. Choosing the successful businessmen who at the same time have similar spirit and concern in enhancing the welfare of the community might be an appropriate method.

*Income Distribution Section*

Income generated from funds utilization will be allocated to;

1. Administrative expenses
2. Beneficiaries
3. Add up the initial funds for allowing it to grow or at least to prevent its value from declining or eroding.

Due to its financial nature and valuable character there are few things need to be settled when managing cash waqf institution;

- The nominal value per unit of certificate, to provide guidance, price of gold or price of land might be used as a benchmark.
- To anticipate any disruption in managing cash waqf program, it is a must to write up guidance and rules pertaining cash waqf organization which covers long period of time.

## **Conclusion**

Cash waqf as a relatively new method in Islamic voluntary activities might be considered as an important avenue to contribute to the development of a more productive waqf property's management, which ultimately capable of producing various public services needed by community. It can be implemented side by side to assist other types of waqf properties, especially buildings or lands, to enhance their productivity. It also can be implemented separately as independent waqf property directed to achieve similar purposes in the area of public services. In short, its public benefit or *maslahah* that being taken care of most.

Considering the important potential of cash waqf it might be established as an institution under Islamic public finance. It is therefore important to organize cash waqf in a proper way to be able to take fruit from it for the sake of public interest or *maslahah*. It will need serious thought to develop it as a public financial institution. It can learn from what have been done by Social Investment Bank Limited of Bangladesh. It will be more beneficial should implementing cash waqf program be connected to the mosque management to enhance further the economic role of mosque to the community. For spreading out the idea, it would be instructive to conceptualize cash waqf development model into a compact module.

Cash waqf institution might be established to target SME. In this regards, it can be used to empowering SME especially by providing financing to them. SME will be capable to run and even expand their business ventures through the partnership with cash waqf institution via PLS contracts. From SME side, they will be assisted in getting the financing, which cannot be accessed through banking system due to bankability problem. On the other side from the cash waqf institution, they can show the effectiveness of this institution in tackling the problem of lack-financing faced by SME. The empowered SME will have significant impact in some important aspects, such as more economic activities, employment, and income that can be enhanced. These will contribute to the betterment of income distribution among all segments in the society. The positive effect will also be achieved in the social gap as well.

At last, managing cash waqf will need a solid organization which might comprised of government agency and private institution at once due to a trust nature of the organization. In addition, organizing cash waqf will cover three main activities. Firstly, mobilizing donation (fund raising method) by use of certification, secondly, utilizing the pooled funds to generate income as productive as possible involving portfolio investment method, and thirdly, distributing the benefit/income to the beneficiaries to facilitate public services.

\*\*\*\*\**wallaahu a'lam bishshawab*\*\*\*\*\*

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