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THEME: ZAKAT MANAGEMENT, ISSUES AND PRACTICE

THE ROLE AND ACTIVITIES OF CENTRE FOR ZAKAT MANAGEMENT IN MANAGING ZAKAT IN BANGLADESH

A. B. M. Nurul Absar¹

ABSTRACT

Bangladesh is a Muslim majority country. 90.82% are Muslim of its total population. (BBS², 2011).with her vast population Bangladesh is trying to develop her socio-economic condition. In the way of development, poverty and extreme poverty are major obstacles that Bangladesh has been facing. According to Bangladesh Bureau of Statistics, the rate of poverty in 2010 is 31 percent. Now Bangladesh is trying to eradicate poverty by various development programs. The annual report of 2014 BBS states that now 26% people of Bangladesh live in poverty and 12.4% people live in ultra poverty level. This achievement is an integrated and continuous process with a combined effort of the public and private sectors. Centre for Zakat Management (CZM), is an institution starting its journey officially in 2008 with a strong believe that, Zakat is an unfailing tool for changing the lives of the poor and develop the country. In the few years of its journey, Centre for Zakat Management contributes to develop the status of the poor people by its various unique projects and continuous process. Proper management of Zakat can easily eradicate poverty and establish strong economic growth of this country along with the social development. Zakat basically is imposed on the Muslim riches to purifying their wealth for the will of Allah SWT as it is acknowledged that everything they own belongs to Allah SWT due to the work towards the betterment of the poor people. But only for the lack of proper management Zakat system failed to achieve its goal in Bangladesh. CZM is a pioneer organization for proper management of Zakat in Bangladesh. This paper is an attempt to analyze the activities and role of CZM as a pioneer and model of zakat management institution of Bangladesh. We also discuss CZM's role as an institutionalized platform aiming to enhance the collection, distribution, and effective utilization of zakat fund and a process of collective development of the people and economy of the country.

Keywords: Zakat, CZM, Poverty, Zakat Management, Bangladesh

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² Bangladesh Bureau of Statistics- Apex organization of Bangladesh. It's formed in 1974 for providing statistical information to guide the government in decision making and development process.

1. INTRODUCTION

Zakat is one of the five pillars of Islam, which has been made obligatory by Allah to Muslims. It is also described as a right of the needy, poor and deprived people in the Quran. Allah says- “And establish prayer and give Zakah and bow with those who bow [in worship and obedience].”³ In the another verse –“And from their properties was [given] the right of the [needy] petitioner and the deprived.”⁴ The role of Zakat institution are not only to collect the zakat but also to distribute the zakat funds to zakat recipients. Zakat is collected from various sources such as individuals as well as corporate companies. Later on it is distributed to the eight groups of recipients (*asnaf*) as prescribed in Holy Quran.⁵

Zakat denotes Islam’s strong concern with social and economic justice. It ensures an equal redistribution of wealth, which is implemented through moral obligation and financial measures (Ariff Mohammad, 1991). Zakat originated from Arabic word has two meanings. The first meaning “purity” By this meaning, zakat purifies properties of rich as the rights of the poor. Zakat also means “development and increase” because it ensures a fundamental right to the needy and the underprivileged (Al- Qurdawi, 2010). It is expected that if a Muslim pays zakat, he or she becomes more affluent than before. In this way will not become poor when he or she pay zakat. Because zakat provides money to the needy, money that will circulate more freely within the community and will promote the economy of the Muslim society (Al- Qurdawi, 1997). Therefore, zakat also accommodates social justice and wealth redistribution to the eight recipients of the zakat.

Many researchers have proved positive impact of zakat regarding the total development of Muslim society (Abdullah & Suhaib, 2011). Mainly economic impact of zakat depends on how it is implemented, especially with regards to the proper collection and distribution of zakat. Unfortunately, the development of zakat management system in Bangladesh is not suitable and long overdue. While other financial sectors tools of poverty alleviation have been under considerable limelight, same is not true for zakat. Bangladesh is one of the world’s most densely populated countries with 160 million people, 26 percent of whom live under national poverty line of US \$ 2 per day and with vast Muslim majority (BBS, 2011). Indeed, Bangladesh will reach its first United Nation in establishing Millennium Development goal by 2015.⁶ Many problems remain as obstacles to achieving MDG within the deadline. Poverty is the main barrier to the development of the country. Zakat as a tool of poverty alleviation is yet to receive much attention of economists, regulators and policy makers in Bangladesh. It needs a strong and efficient institution regarding Zakat management for success. Indeed the Zakat management system in the country is crude with near-total lack of institutional involvement in the process.

³ Al Quran-(2:43)

⁴ Al Quran-(51:19)

⁵ Al Quran- (9:60)

⁶ MDG, A strategic plan declared by UN for poverty reduction within 2015.

2. POTENTIALS OF ZAKAT IN BANGLADESH

Bangladesh like many other Muslim countries bears the impact of long colonial rules which destroyed its political, social and economic institution. Like other institutions 'Zakat' has been totally disorganized during the colonial rule. After the colonial era no effective attempt has been made to restore the glory or no success has been achieved in any effort. Since Zakat is a compulsory levy imposed by *Shariah*, it is to be established by the government. But Bangladesh is totally failed in performing her duty in this field. In Bangladesh a large number of pious Muslim regularly pay Zakat. In the absence of any central organization it is so difficult to find out any statistics of Zakat payers. If we calculate only tax payers of Bangladesh, we can make an idea of the Zakat payers. According to National Board of Revenue, the number of tax payers and tax collection is about 71000 million (US\$ 1000 million) during FY 2005-2006. The numbers of payers and amount is increasing day by day. Zakat payers are more than tax payers, because exempted amount for tax payers is almost similar to the nisab of zakat.⁷ On the basis of estimating the amount of Zakat collection centrally will not be less than tk 100000 million (US\$ 1400 million). It is surprising that Zakat, an expressly designed poverty eradication tool, clearly prescribed in the Holy Quran and Sunnah, has been completely ignored regarding all poverty removing plans and programs in Bangladesh, where 90% of the population are Muslims. Also there is confusion, lack of awareness and ignorance about true practice of Zakat in the mind of these people, so it has not any benefit to the traditional Zakat receivers.

In Bangladesh, according to the assessment made by Kabir Hasan (Kabir Hassan 2010), Zakat funds could have contributed up to 21% of the Annual Development Plan (ADP) in FY 1983-1984, 43% of ADP in FY 2004-2005, tk 30,683 million in FY 1983-1984 and tk 220,000 million in FY 2004-2005. Foreign aid from donors contributes a significant portion of the development budget of Bangladesh. If Zakat funds are properly managed, these funds could replace foreign aid and therefore significantly reduce the economic burden (Hossain Monowar Dr., 2013)

3. ZAKAT MANAGEMENT IN BANGLADESH

Zakat is "that portion of man's wealth is fixed for the needy and poor" (Al Quran). It is also defined as "a compulsory levy imposed on Muslim so as to take surplus money or wealth from the comparatively well-to-do members of the Muslim society and give it to the poor and needy" (Sabiq Sayyid, 1991). It plays an important role not only in the economy, but also in the social and moral development of the human.

By the view of Islamic jurisprudence, the role of government is organic in the implementation of Zakat in a Muslim country. The government is responsible for collection and distribution of Zakat and at the same time government also has the authority to monitor individual Muslims to pay their Zakat. This opinion is shared by all traditional schools of law in Islam. They justified this opinion on the practice by

⁷ Prescribed amount of wealth for being a Zakat payer, designed by Islamic Shariah law, based on Quran and Hadith .

the Prophet Muhammad (SAAS) and his rightly guided successors.⁸ During their time they collected and distributed Zakat. In spite of this, they also appointed zakat collectors and distributors to implement this system.(Habib Ahmed, 2004)

In early history of zakat management in Bangladesh, Madrasahs (mainly non-government religion based educational institutions, locally known as “Qaomi Madrasa”) and Masjids are main institution regarding collection and distribution of zakat. In Bangladesh, the majority of people pay zakat individually, mostly as token of charity. Distribution of clothing (sarees and lungis) is a traditional method of zakat distribution, which is neither make up the objectives of zakat nor lawful in view point of Islam. (Report on Zakat distribution, 2015) As per Islamic religious obligation Zakat is not collected compulsorily by Govt. in Bangladesh. In 1982, a zakat fund was established by the Govt. for the voluntary collection of zakat under “Zakat Fund Ordinance of 1982”.⁹ It is generated and monitored by “Islamic Foundation Bangladesh” under ministry of religious affairs. But the amount of being collected through this voluntary approach was very poor. Some other private institutions have also been working with Zakat management in Bangladesh by collecting and distributing Zakat. Islami Bank Foundation (IBF) is such an institution established as a subsidiary institution under Islami Bank Bangladesh Ltd. This institution has been working in utilizing the Zakat fund in an effective manner and poverty reduction programs like establishment of hospital to provide health services with low cost, maintaining women destitute rehabilitation centers, technical training institutes, poverty reduction investment for self employment and providing financial support to the poor students. This show very clearly how Zakat can be effectively utilized for poverty alleviation when it is collected centrally and used in al planned way. “Ahsaniya Misson” is another notable institution in collecting and distributing Zakat in Bangladesh. It has been observed that the Zakat distribution system of some private sectors in different countries including that of Bangladesh is failing to create an impact on the lives of poor and distressed people. They call for collective efforts for institutional management of Zakat. The “Center for Zakat Management” has been engaged in achieving similar objectives.

4. INSTITUTIONAL APPROACH TO ZAKAT MANAGEMENT

The testimony of Islamic history shows that the responsibility of Zakat management was bestowed upon the state and the government. Even a Muslim government may assign it to a corporate organization. In absence of them, private organization should take initiative for mobilization and proper Zakat management in a collective manner. To ensure an effective private Zakat management organization the following criterion should be addressed(Ayub Miah, 2014) as: a) Establishing the organization with legal identity; (b) Organizational structure with skilled manpower; (c) System of accountability and transparency in decision making and fund management; (d) Supervision of Shariah in all functional activities; (e) Targeting the real right-holders;

⁸ They are commonly known as “*khulafa-e-rashideen*”, namely Abu Bakr (R), Umar (R), Uthman (R) and Ali (R).

⁹ Ordinance no- 6, 1982, Ministry of law, justice and parliament affairs, peoples republic of Bangladesh.

(f) Integration of all charities for its program for poverty eradication; (g) Networking with social organization and social community; (h) Monitoring and evaluation methodology; (i) Scope for research and study on Zakat; (j) Macro and micro-level operation strategy for collection and distribution; (k) Linkage and co-ordination with the government agencies; and (l) Customize the program with national policy framework.

5. CZM-ITS ESTABLISHMENT, ROLE AND ACTIVITIES

The Center for Zakat Management (CZM) is a pro-poor social enterprise striving to implement a Zakat based livelihood and a human development program with a new vision and approach. CZM's philosophy is to achieve satisfaction of Allah SWT through promoting the obligatory system of Zakat ordained by Him. And its dream is to establish a socio- economic poverty free society through equitable distribution of wealth as per rules of Islam. CZM is formed with strong belief that, people's potentiality and capabilities are basic ingredients in resolving their own problems. CZM believes that people's inherent capacities, their dignity and collective actions governed by the religion and social custom are pre- requisites for sustainable development. And that is only possible when poor people are empowered with authority and sense of responsibility in designing program activities that fits to their livelihood pattern and priorities as well as freedom to effectively participate in their development processes, ranging from planning to management and implementation (Center for Zakat Management, 2011).

Center for Zakat Management (CZM) was established with all the characteristics as a private institution regarding zakat management. CZM was established and registered in the department of joint stock companies and firms on 14 September, 2008 under the societies registration act, 1860 (Regd. No. S- 8256 (27)/108). Before this legal platform, CZM began taking shape on 21 March 1993. On this date, an initiative, in the name of Zakat Forum (ZF), was privately launched, with the active support of 'Rahim afroz Bangladesh limited', one of the leading business groups in Bangladesh. Zakat Forum used to collect Zakat fund privately and disbursed it in an organized manner guided by the principles of the Holy Quran.

After 12 years of gathering experience, in 2005 Zakat Forum took up an initiative step in managing Zakat fund through targeting hundreds of impoverished families, residing in Manikgonj near capital city Dhaka. The underlying idea of this project was to completely change the lives of those households with Zakat in all aspects such as education, health, livelihood etc.

In 2008, ZF started to discuss the prospects of this initiative step with scholars, consultants and practitioners from home and abroad who were experts in Zakat Management. On 14 September, 2008, Center for Zakat Management (CZM) was established and started its institutional journey.

As a private institution regarding Zakat Management, CZM is keen to establish transparency and accountability at all stages of its functioning its top to grassroots' level. It has also a strong governing structure. Governing Board, Shariah Supervisory Council, Advisory Board, Management committee, Zakat Mobilization Committee,

Zakat Disbursement committee, Internal Audit committee are one board as part of CZM's governance structure (CZM Profile, 2014).

CZM acts as an institutional platform aiming at enhancing mobilization, disbursement and effective utilization of Zakat fund. CZM also encourages people's perception of their own problems, search for available resources and plan for the utilization of these resources to bring desire those changes in their lives in an organized participator manner. Having been influenced by the above believes, CZM has initiated a range of development activities aiming to achieve its philosophical objectives of; (1) Human Development and (2) Economic Development with its others objectives. CZM's other objectives are- (a) To create awareness among Muslims about Zakat as a religious duty; (b) To ensure proper utilization of Zakat fund by the prescription of Shariah for the poor and needy; (c) To establish effectiveness of the system of Zakat as an implementable strategy for reducing poverty and bringing prosperity to our society and (d) To facilitate an institutional platform to enhance collection, distribution and effective utilization of Zakat.

CZM believes that economic poverty jointly with lack of assets reduces inherent productive capacities of the poor for thinking of and taking risk for better livelihood option. It also reduces ability of management of the family and thus causes decreasing in moral capitals. If these people can be empowered with due shares, strengthen social relationships (social capital) with others in the community, equip with basic skills and knowledge for income generation they can easily come out from poverty cycle permanently.

6. CZM STRATEGY IN MANAGING ZAKAT IN BANGLADESH:

In the present Muslim world, Zakat is managed in different forms. Like (1) Mandatory state management by the government like KSA, Pakaistan, Sudan, Yaman; (2) Managed by corporation like in Malaysia; (3) Non-profit organization in many Muslim countries ; (4) Private initiative. CZM falls in third category as a non-profit organization with the registration from the government.

CZM has identified the following areas of intervention for distribution and utilization of zakat fund: (1) Jeebika- Zakat- based livelihood and human development program; (2) Mudareeb- Micro- enterprise development program; (3) Naipunna Bikash- Technical training and employment for the unemployed youth; (4) Genius- Scholarship program for the undergraduate students; (5) Gulbagicha- Education and nutrition program for the distressed children; (6) Ferdousi- Women and children's welfare program; (7) Insaniat- Humanitarian assistance program and (8) Dawah- Awareness building and motivation program(CZM Profile, 2015).

Activities of CZM under its unique programs:

CZM has a strong plan for collecting and distribution of Zakat. Especially under its dynamic programs, CZM makes a scientific and effective plan. Look at their program wise plan-

Table-1.0: Estimated unite cost of the Zakat based programs of CZM

No	Project	Unit	Unit cost	Duration	Services
1.	JEEBIKA Livelihood & human development program	Per household	USD 500 BDT 40,000	5 yeas	Cash transfer for investment, skill development
2.	MUDAREEB Micro- entrepreneurship development program	Per household	USD 1000 BDT 80,000	5 years	Cash transfer for investment in micro-enterprise
3.	NAIPUNNA BIKASH Technical training & employment program	Per head	USD 150 BDT 12,000	3-6 months	Technical training for unemployed poor youth
4.	GENIUS Scholarship program for undergraduate students	Per head	USD 500 BDT 40,000	2year	Monthly stipend and career building courses
5.	QURANIC GENIUS Scholarship program for Hafeze Qur'an	Per head	USD 250 BDT 20,000	2 year	Stipend for Hafez-e-Qur'an
6.	GULBAGICHA Education and nutrition program for underprivileged children	Per head	USD 100 BDT 8,000	1 year	Free Pre-primary education
7.	FERDOUSI Healthcare program for distress women & children	Per household	USD 150 BDT 12,000	1 year	Healthcare program with all facilities.
8.	INSANIAT Emergency financial assistant program	Per head (average)	USD 400 BDT 32,000	One time	Financial support for emergency

Source: Exploring Potential of Zakat, P. 19

A well plan for managing Zakat is so needed for successful Zakat management. Above mentioned chart shows a well designed and calculated plan for managing Zakat for eradicating poverty from the society. Zakat payers can easily contribute in various sectors by paying their Zakat through this chart. This chart can also help the Zakat payers in calculating, plan making and contributing in social development by their Zakat.

6.1. Jeebika: Zakat-Based Livelihood And Human Development Program

To CZM's understanding, it is so difficult to bring about an effective change in the life of poor communities without addressing their day to day livelihood issues. From this point of view, CZM has initiated a livelihood and human development program called Jeebika in the different locations of the country. Selected poor people are offered a number of services under a package at group level. Near about 1200 households have been targeted under the project since 2015. The goal of the project is to ensure sustainable community development with the help of Zakat fund and active community participation through integrated and group based approach. With some specific objectives this successful program has been implementing in the selected rural areas of the different location of Bangladesh. This is an approach to sustainable poverty alleviation through building self-managed people's group, fostering mutual

trust and relationship and economic opportunities. This program is aiming to improve availability and access to basic needs for targeted vulnerable household through strengthening livelihood activities, marketing access and skill development with to enhancing capability and moral standard of the participants by ensuring education for life skill development and pre-primary education and nutrition for the children. At same time ‘Jeebika’ project has also been working to improve overall condition of the targeted peoples like life skill development, education for children and adult, supply of hygienic and safe water, sanitation facilities etc. CZM has taken five projects in the different areas of Bangladesh under this integrated program. These projects are:

Table -2.1: List of Jeebika projects in the different areas of Bangladesh.

SL No	Name of the project	Duration	Target Household	No. of Beneficiaries
1.	Jeebika- Dhaleswari(Manikgonj)	2010-2014	250 HHs	1000
2.	Jeebika- Karnafuli(Chittagong)	2011-2015	450 HHs	1911
3.	Jeebika- Surma(Sylhet)	2011-2015	100 HHs	468
4.	Jeebika- Elengani (Tangail)	2012-2016	100HHs	457
5.	Jeebika- Sonaimuri (Noakhali)	2013-2017	250 HHs	904
		Total	1150 HHs	4740

Source: Annual report, 2014. Center for Zakat Management

Among these five projects, two projects have been evaluated by the independent research organization. Jeebika Dhaleswari project was assessed by ‘Read Communication’ led by Dr. Mizanur Rahman while Jeebika Karnafuly was assessed by ‘Power and Participation Research Center (PPRC)’¹⁰ led by Dr. Hossain Zillur Rahman.¹¹

Jeebika Dhaleswari project is located at Tilli Union of Satoria Upazila of Manikgonj district and it covered 250 HHs in two phases. The beneficiary HHs were provided with BDTK 37.5 million in different phases but eventually each HH got BDTK 15000.00. According to assessment of Read Communication, sustainable incomes of the targeted household, the standard of living, food intake, children’s education etc have been ensured consequently and improved significantly. The health and sanitation scenario has been changed completely and all the households have accessed to primary healthcare services, sanitation and safe water.

In the project tenure, over 263% raised in average income have been noticed by the assessment (CZM, 2014.p- 21). The Increase in income has had significant impact on the lifestyle of the HHs.

Jeebika Karnafuli project is an experimental livelihood project focused on the sustainable graduation of 450 impoverished families under 15 Grass Root

¹⁰ PPRC, An independent think- tank focused on issues of poverty ,resilience, growth, governance, urban transition etc, established in 1996,

¹¹ He is a prominent economist and former advisor of the caretaker government of Bangladesh.

Organization (GRO)¹² comprising two communities on the bank of river karnafuli in the Mohora area of Kalurghat in the eastern outskirts of Chittagong city. The project area, surrounded by two rivers Karnafuli and its tributary Halda, has two major livelihoods for its impoverished inhabitants- bamboo works and fishing. Dr. Zillur Rahman observes that CZM Jeebika projects have developed a new frontier for sustainable livelihood through Zakat. He also mentions in his report that, beneficiaries are financially empowered greatly and the members are much more confident about managing loans and repaying. In his assessment he also expresses that, the market access has been improved and the influence of the middlemen have been reduced significantly. Overall the quality of lifestyle has increased much. In his research, Dr. Zillur Rahman suggests to adopt 5-years projects instead of 4-year project in which the first three years should be the resilience period and the last two years should be the exit period. He expressed that, the Jeebika Karnafuli project can be a new model of financial empowerment.(Hossain Zillur Rahman,2014).

Under the Jeebika project, training is another important feature of livelihood development that has led to an improved level of knowledge, Attitude and Skills (KAS) of people, bringing changes in their attitude and values. Unlike traditional trainings, the program develops need-based skill training packages suited to the beneficiaries.

The CZM livelihood program is not only assisting micro-entrepreneurs in identifying potential enterprises but also providing support services such as market linkages, buyers and sellers meeting, exposure visit, participation on exhibition etc. It has dream to focus more on making linkages to larger enterprises, exporters and super-markets. Similarly, cooperatives or clusters are formed to be more competitive in the market.

Under this program, CZM put high priority on educating children in the project area. Lack of education is not considered a serious disadvantage by the poor families. Besides, in most families there is not enough money to pay for uniforms and other related cost for their school age children. This project also provides training program to building capacities of the poor people to enhance their lifestyle. The chart below, indicate a summary of CZM's training program in building capacity of the Poor people.

Table-2.2, list of training programs for capacity building under CZM Projects (2010-2014)

Issues/ Courses/ topics/ Interventions	No. of participants (GRO Leader/ Member					
	Jeebika Karnafuli	Jeebika Surma	Jeebika Dhalisho ry	Jeebika Tangail	Jeebika Sonai muri	Total
GRO* management and group dynamic	173	20	125	12	21	351
Account management	75	12	24	5	21	137
Management of IGA**	450	100	250	100	210	1110

¹² A Community Based Organization (CBO) for Jeebika program, self managed people's group.

Micro entrepreneurship	60	15	15	0	0	90
Beef fattening and dairy	18	50	188	25	0	281
Bamboo preservation, longevity and bamboo furniture	27	0	0	0	0	27
Bamboo made furniture and screen	25	0	0	0	0	25
Homestead gardening	19	25	159	10	21	234
Poultry firming and poultry treatment	24	50	29	0	21	124
Goat rearing	0	0	63	0	14	77
Training of Tubercular control	75	0	0	0	0	75
Training on disaster management	35	16	25	5	0	81

Source: Annual Report, 2014. Center for Zakat Management.

*GRO- Grass Root Organization, **IGA- Income Generating Activities.

This table shows a picture of a corporate initiative for poverty alleviation by proper managing of Zakat. It is a data of only four years unique development by which poor people can achieve their expected goals by changing their life and economic conditions. It also shows how Zakat institution can dynamically contribute in a total development of the people and the society. Above mentioned data shows a complete scenario of the comprehensive development of human life and society with a unique look.

6.2. Mudareeb: Micro-Entrepreneurs Development Program

Activities of Mudareeb programs are based on the needs and demands of the market coupled with the ability and potentiality of the targeted micro-entrepreneurs. Program intervention and entry are based on a thorough understanding on resource potential, skill and attitude of the people, and market demand for products and services. The success of this micro-entrepreneurship is dependent on the strength of a community and their ability to exploit local comparative advantages. The services are provided as per need of the targeted groups. The overall goal of Mudareeb program is to reduce poverty through the creation and development of micro-enterprises. Every member of human society, the best creation of Almighty Allah, is blessed with some sort of capacity. The poor people also have some qualifications. With the support and education and training many in the group have the potential to become entrepreneurs. Under this program some smarter members of the group are identified as micro-entrepreneurs and their actions are facilitated by CZM through training, counseling and skill development. The group is provided with small investment fund for scaling up their existing business. They are mainly engaged in business like cow rearing, renting agro- machineries, small retail business etc. About 90 entrepreneurs are provided funds and training for doing their business (Annual Report, 2014, CZM). These families have been engaged in cow- rearing, agriculture farming, grocery shops etc. with the equity fund they have been taking loans and repaying it regularly to their own accounts and at the same time they have deposited some savings as well. A revolving fund has been developed with the Zakat money for this program. In five year time the families have been successful in developing themselves as micro-

entrepreneurs. The group members have been trained on skill development, accounting, banking, marketing, and different aspects of doing businesses. With the support of CZM field staffs the families have been moving forward in terms of income generating and human development.

6.3. Naipunno Bikash: Technical Training And Employment Program For The Youth

Naipunno Bikash, another important program of CZM for poverty eradication through employment. Having huge population, Bangladesh suffers from a large number of unemployment. The unemployed are mostly uneducated or less educated who have lack of skill. If they are made skilled, they can find a means to earn their livelihood. CZM wants to reach the unemployed youths around the country and get them trained so that they can help themselves removing poverty. Under the Naipunno Bikash program, CZM provides vocational training to the unemployed poor youths and dropped out students and try to ensure their employment. This program has been launched to provide skill development and vocational training to the poor youths in order to build them skilled resources for proper employment. The program is being implemented through nine vocational training centers located in the different cities of the country including Dhaka, Faridpur and Thakurgaon. All facilities are available in these centers for the trainees including tuition-fees, and others academic expenses, monthly stipend and orientation for moral development with practicing religious values. The figures in table below, indicate a scenario of the activities under this unique and dynamic program-

Table- 3.0. Activities under Naipunno Bikash

	Basic Information	2012	2013	2014	Total
1.	Total Training Centers	01	03	05	09
2.	Total number of Trainees	25	375	617	1017
3.	Number of Trade	01	06	08	15
4.	Number of Batches	01	18	35	54
5.	Number of Employment	25	210	280	515
6.	Number of self- Employment	--	165	337	502

Source: Annual Report, 2014. CZM

Above mentioned data shows that, the number of training centers and trainees are increasing year by year. Employment and self – employment of the trainees are also in a satisfactory label.

6.4. Genius: Scholarship Programs For Students

Under this program, poor but meritorious undergraduate students are offered financial support in the form of monthly scholarship as well as capacity. It builds training aim at preparing them for entering into professional life after graduation. Financial support and other services are provided to deserving students selected for two years of their graduation course. The objectives of this program is to provide educational opportunities for the academically meritorious and financially needy young students to enable them to pursue their higher studies at home and abroad under a university or

institute and to train them in different fields in order to improve their knowledge-base, to strengthen their cultural and religious identities and make a meaningful contribution to the development of the nation. Under this program selected students are offered monthly scholarship training of and building capacity on different life oriented issues like mind control and self-development, time management, development management and leadership, documentation, moral development, national and international affairs.

As many as 550 students during 2010-2013 have been provided monthly scholarship amounting BDT 2500 each per month and capacity building training which helps them to be well prepared for competitive job market. Subsequently in 2014 the number of scholarship and amount of stipend money has been increased to BDT 3000 in month respectively.

CZM has introduced Quranic Genius Scholarship program to help the young Hafiz-e-Qur'an for continuing their studies in formal institutions. About 80 students are being provided with BDT 2000 each per month for two years in 2014. This program has a significant role to promote the knowledge of Qur'an and encourages the Hafez-e-Qur'an to glorify the nation by contributing their performance in the different level of the competition at home and abroad.

Under this program CZM distributed laptops to the poor but meritorious undergraduate students of the public universities and medical colleges. 100 selected students of various institutions including public universities, medical colleges, engineering universities were awarded Laptops as essential educational aid.

Table-4.0. Statement of scholarship program 2010-2014

Year	Total stipend	Male	Female	BDTK.	No. of Institutions	CB* Sessions
2010	120	108	12	1,450,000	9	10
2011	229	164	65	5,754,840	10	26
2012	297	205	92	6,869,733	13	32
2013	532	448	84	11,921,393	15	28
2014	654	547	107	18,438,204	18	35
Total	1832	1472	360	44,434,170	65	131

Source: Annual Report, 2014. CZM. * CB- Capacity Building

This chart shows that, the facilities are increasing in a very satisfactory label. Each and every year scope and number of scholarship are increasing and also it contributing in a very effective development of the nation.

6.5. Gulbagicha: Pre-Primary Education And Nutrition Program For Underprivileged Children-

Under this program underprivileged children from extremely poor families in urban slum and rural areas are supported with education facilities and nutritious food through running pre-primary education centers at grassroot level. In each center, 30 children are enrolled, provided with all necessary educational and teaching materials

and teachers and are taught Bengali, English, numerical as well as moral values of Islam.

To set up pre-primary education center for each 25 to 30 distressed children of the slum areas of capital city Dhaka and rural areas. One teacher in each center teaches the children. They are provided all necessary education materials, books and dresses free of cost. In order to cover up nutrition deficiency foods are provided in the classes. Besides this, counseling sessions are organized for the parents for moral and religious education. Under Gulbagicha two types of services were provided by CZM. (1) Center based service; and (2) Institution based service.

Center Based Service: A group of poor and orphan children consisting of 25 to 30 are organized under a center. They are offered education as well as nutrition support totally free of cost. Lessons are given six days a week. Local implementing organizations conduct these centers as partners of CZM.

Institution Based Service: poor children, particularly orphan and distressed children of orphanages and other institutions are offered monthly stipend to partially support their educational and nutritional needs. Most importantly, parents of these underprivileged children do not think education is a must for them. So, these children have an absolute chance to enroll primary schools. Now, by successful motivation of the parents of the children's, 99.99% of the beneficiary orphans enroll primary schools having completed pre-primary education at Gulbagicha centers. From 2010 to 2014, 5 years activities are shown in the table below:

Table-5.0, Activities of Gulbagicha.(2010-2014)

	Services	2010	2011	2012	2013	2014	Total
1.	No. of Institution	01	08	10	10	11	40
2.	Stipend Provided	100	1663	1663	753	415	4594
3.	No. of Centers	02	05	30	30	30	97
4.	Food Provided	100	2000	2000	1880	2000	7980
5.	Uniform Provided	--	--	1000	1000	1000	3000
6.	Books and education materials provided	100	2000	2000	1880	1550	7530
7.	Dress Provided	--	100	100	350	380	930

Source: Annual Report, 2014 of CZM

Above mentioned data shows us that, the activities under Gulbagicha are in an almost unchanged situation. It is needed to increase the number of the institution and other facilities to make this program more effective.

6.6. Ferdousi: Healthcare Program For Women And Children-

This program mainly aims to improve maternal and child health situation among the target population, to reduce child and maternal mortality rates in the target locations and to improve general and reproductive health awareness among mothers and adolescent girls. This program generally functions like a full time health center equipment and medicines. A qualified Para-medic staff keeps the center open every day while an MBBS Doctor provides specialist services of weekly basis. Services are

provided in exchange of a very cheap health card. For poor patients, medicines are distributed free of cost while for a little well off patients, services are offered at a very nominal cost. Pregnant and lactating mothers have a preference under the program. Occasionally, services are offered to them through home visit.

Table-6.0. Services provided under Ferdousi program (2010-2014)

	Particulars	2010	2011	2012	2013	2014
1.	No. of Ferdousi Health care Centers	1	3	4	4	9
2.	Household/ Families	250	800	1,050	1,550	4,000
3.	No. of patients received treatment by MBBS Doctor, Total	795	2,612	4,157	4,039	15,890
4.	Male	133	315	568	684	1,740
5.	Female	397	1,669	2,486	2,713	12,737
6.	Children	265	628	1,103	642	1,413
7.	Service to Lactating Mothers	91	140	145	150	235
8.	Pregnant Mothers	25	75	85	92	206
9.	Patient referred to Govt. hospital	5	12	22	24	281
10.	Counseling session conducted for women, average attendance/ sessions	25/25	250/25	235/24	242/25	1155/25
11.	Financial assistance for critical patient	17/BDT 15,900	04/BDT 45,000	07/BDT 60,000	06/BDT 55,000	42/BDT 35,100
12.	Sanitary latrines installed	5	55	137	10	35
13.	Hand tube-well installed	2	2	12	3	2

Source: Annual Report, 2014 of CZM

These data shows that, a good number of poor people specially women and children were benefited under this program. Facilities also are increasing year by year.

6.7. Insaniat: Emergency Humanitarian Assistance Program

Geographically Bangladesh is located in a very critical position. So natural disasters like cyclone, floods etc are very common in Bangladesh. Considering the sufferings of the victims of natural and accidental calamities like sudden illness, natural disasters, sudden death of the earning member of the family, accidents, income shortfall and similar other problems, CZM is committed to extend emergency support to these disaster victims in order to reduce their sufferings and restores them to their pre-disaster situation. Usually, financial assistance is granted in favor of the victims and institutions serving such people on the basis of duly recommended applications. On behalf of CZM, A Zakat disbursement Committee considers such applications. Activities under Insaniat program has shown in the table below:

Table-7.0 Activities under Ferdousi program (2010-2014)

	Services	2010	2011	2012	2013	2014	Total
1.	Emergency Medical Treatment	95,000	95,000	10,35,280	31,52,685	18,87,728	62,65,650
2.	Loan repayment	35,000	30,000	1,11,000	1,20,000	3,50,900	6,46,900
3.	Livelihood Support	30,000	35,000	94,000	5,06,000	3,50,000	10,15,000
4.	Education Cost	9,13,000	9,13,000	2,69,740	8,56,000	5,81,500	26,20,240
5.	Rehabilitation	----	---	1,77,000	1,53,000	2,50,000	5,80,000
6.	Legal Support	---	20,000	1,10,000	----	---	1,30,000
7.	Blanket Distribution	----	6,00,378	5,00,000	7,50,000	10,14,939	28,65,317
8.	Qurbani Meat Distribution	---	---	2,05,000	2,27,760	7,62,322	11,95,082

Source: Annual Report, 2014 of CZM. All figures shows in BDT.

6.8. Dawah: Awareness Building And Motivational Program

By Dawah program, CZM aims to propagate Zakat payment as a religious duty of the Muslims like other obligatory *Ibadah* of Islam. In order to create awareness among the people all modern medium and tools of communication are being explored and used in a very scientific and effective way. In this regard, various events including individual and corporate meeting, seminar, symposium, workshop, Zakat Fair, email, letters, distribution of books, leaflets, brochure, calendar, flyers etc. are being implemented under the Dawah program.

First Zakat Fair was organized in 2013 in a view of creating awareness to the Zakat payers of Bangladesh along with other national and international organizations. After successful implication of 1st Zakat Fair, 2nd and 3rd Zakat Fair also was successfully organized by CZM in 2014 and 2015 respectively. In all Zakat Fair, national and international organizations were participated. By the Zakat Fair, CZM is trying to make an effective and sustainable development in understanding Zakat as a means of poverty eradication in Bangladesh.

Under this Dawah program, CZM is trying to create a total initiation along with other corporate business group of Bangladesh. Successfully many reputed business group involved themselves in various activities of CZM. Their web site also designed with a view to create awareness among the peoples. CZM's publications and seminars also have a significant role in this regard. Each three month a bulletin is published from this center.

7. CONCLUDING REMARKS

Where most of the Government and NGO'S activities are limited regarding poverty eradication, CZM's approach to Zakat management is so integrated and comprehensive one covering basic needs of the poor and ultra- poor household. It has a scientific and effective programs and plans in managing Zakat. It covers livelihood,

skill development, healthcare, education, water and sanitation, risk and disaster management etc. under one package. Regarding the institutionalization of Zakat, as a private institution, CZM cover all basic conditions to be a leading organization in managing Zakat in Bangladesh. It has a strong and capable body of governance, a group of dedicated personals, accountability and transparency in its operation, professional management capacity, social interaction and targeted beneficiaries etc. Management expertise coupled with modern methodology and transparency makes CZM as a core organization in this field.

CZM is not depends on donor's fund or Government aids. It generates its fund by collecting Zakat from the local community. This fund generating idea is a unique and also potential. Because when local resources are mobilized by CZM the flow of local fund never ends. Under the microcredit program, a borrower always remains under stress for payment of installment with high rate of interest. On the other hand, Zakat receiver is fully burden and stress free and empowered with some assets from the beginning day. It is a great service to the poor community in the context of Bangladesh. Also there could be no profit motive behind this initiative like others microcredit organizations. By the CZM's proper programs, original framework of Zakat can be established properly in Bangladesh. As such Zakat fund has to be distributed among the specific categories of people as prescribed in the Holy Qur'an. CZM is guided and supervised by a Shariah Council. So proper utilization of Zakat is can highly achieved by this institution.

By this institutional zakat collection and distribution like CZM, social harmony and unity also can increase. It also promotes the brotherhood sprite in the society. Capacity building, skill development and awareness building is very much contributive to the Islamic development concept. CZM incorporates these component in its Jeebika program. Now time has come to expand the activities of CZM round the country. If a good number of pious Muslim of the country involve in of collective initiative of zakat management, Bangladesh will overcome poverty within its desired time in a very easy way.

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ZAKAT PROGRAMS AND THE SUCCESS FACTOR FOR MUALLAF DEVELOPMENT: AN ANALYSIS IN SELANGOR, MALAYSIA

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ABSTRACT

This article seeks to explain the effectiveness of Muallaf development programs organized in Selangor based on several success factors. The Muallaf people really need and seek for help from the Muslim especially in Muslim majority country in terms of economic strength and support. Thus, an important development program is crucial in order to support them physically and mentally. An effective program can be an instrument to equip them with negative perception that they received after becoming Muslims. In order to explore the effectiveness of Muallaf development programs organized in Selangor, this article uses the crosstabs methods based on several critical success factors. The research was conducted through in-depth interviews with selected Muslim converts from a variety of cultural backgrounds, living in the area of Selangor, Malaysia. This article indicates that Muslim converts who are receiving zakat assistant managed to success economically and managed to assist their non-Muslims family for solving family problems as a result of conversion to Islam as well as bringing them out of poverty.

Key Words: Muallaf, Zakat, Muslims-Non Muslims Poverty, Muallaf Programs

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1. INTRODUCTION

In general, Islam brings justice to this world which added with enough evidence by Al-Qur'an to justify the truth of its message by providing logical reasoning and it reflects to open space for human hearts to accept Islam. Equality, and a sense of collective responsibility towards one another has been a hallmark of the early Muslim community, and has resulted in an influx of the poor, the underprivileged and slaves into Islam, escaping the brutal and rigidly hierarchical social structure that prevailed in previous human civilization. With this justice, it has attracted the non-Muslims to embrace into Islam and become a new Muslims (Muallaf).

Muallaf is a person who converted and reverts to Islam regardless of races and nation. Multi-religion, ethnicity and diversity is very important in policy making, so this article is try to highlight the uniqueness of Zakat distribution in multi-ethnic and multi-religion country. Islam is for everyone not for some specific races thus, the cultural of specific races in the early assumption should be not affect the way of muallaf lifestyle or decision in policy. As stated in Islamic Encyclopedia, the word Muallaf comes from the Arabic 'Al-Muallafa Qulubuhum' which means "those whose hearts are won over" or "those hearts that need softening"(Al-Qurtubi, 1954).

Muallaf need help and mentors from Muslims community to teach them, support them, and guide them through their new journey as a Muslim. When they have someone that has warned them about these issues and is constantly helping them, teaching them, and answering questions, they feel supported and confident that they have someone to go back to. This is where the important of development programs is crucial in order to support them physically and mentally. An effective program can be an instrument to equip them with negative perception that they received after becoming Muslims. These programs is crucial to assist them materially and morally besides the support from the Muslims community itself. The lack of support will leave the new Muslim feeling isolated and unaware. Attempting to go through any combination of these issues alone without any support is often the reason why many new Muslims end up leaving Islam. In recognizing and highlighting these issues, the need for effective programs becomes blatantly clear.

2. MUALLAF DEVELOPMENT PROGRAMMS IN SELANGOR

In the state of Selangor, the Selangor State Islamic Religious Council (SIRC) is responsible for educating, assisting and monitoring the Muallaf through various programs beginning from the first day that they become Muslim until they pass away. Thus the aid and education programs setup by SIRC can be categorized into short-term and long-term programmes. Figure 1 shows the type of programmes and activities and the amount of zakat involved in the year 2009 until 2012.

Figure 1. Zakat Assistance Among New converts in the State of Selangor; 2002 -2012

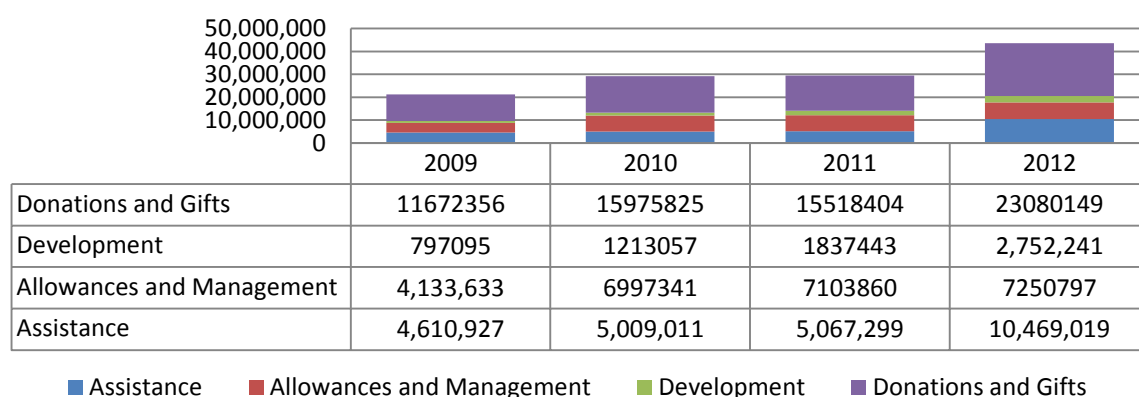


Figure 1 shows the increasing amount of zakat assistance towards new converts from 2009 until 2012 (update current data) in the State of Selangor. Most of the zakat donations and gifts are channelled to run programs and new converts institute in Selangor. The development assistance is used for repairing and constructing house, funeral, shelter management and constructing cluster houses. For the allowance and management assistance, the SZC utilizes these budgets for learning class, courses and training. Lastly, the assistance budget is used to monthly financial assistance, marriage, medical, rent assistance and capital assistance. This comprehensive zakat assistance shows that SZC is diligent to assist and channelled the zakat fund for the development of new converts in short and long terms period.

Table 1 displays all 31 types of programmes and activities for asnaf Muallaf through zakat distribution. What we can summarize is that from all the various types of programmes and activities, we can categorize them to four main range of zakat distributions. The first category comprise of 25 programmes involving the amount ranging from MYR 20 – MYR 500.00. The second category consists of 12 programmes amounting within the range from MYR 500.00 – MYR 10,000.00. The third category has 13 programmes with amount ranging from MYR 10,000.00 and above. Finally, the last category is the remaining 16 programmes that are stated as others, according to the need and application, and depending on the approval or depending on the technical approval.

Table 1. Types of Programmes and Activities for Asnaf Muallaf and Zakat Distribution, Year 2013

NO.	TYPE OF DISTRIBUTION / ACTIVITY	AMOUNT (RM)
1	AIDUL FITRI RELIEF FUND (ONCE PER YEAR)	
	H.R.H King of Selangor	400
	HARI RAYA DISTRIBUTION	400
2	MONTHLY AID	500
	CIRCUMCISION	250
	CIRCUMCISION (SPECIAL CASE)	500
4	WEDDING	2000
5	FUNERAL MANAGEMENT	1500

	WEAK / NO HEIRS / NO HOUSE	100
	SHORT SUPPLY FOR LIVING COST EXPENSES	200
	EMERGENCY CASE	200
	UTILITY BILLS	100
	TRANSPORTATION FARE	50
7	EMERGENCY	
	EXPENSES DUE TO LOSS OF EMPLOYMENT (MYR 500 * 6 MONTHS)	3000
	COST OF LIVING AND HOUSEHOLD EXPENSES (MYR 500* 6 MONTHS)	3000
	EMERGENCY	5000
	OTHERS	1000
8	GHARIMIN	
	MEDICATION	10000
	EXPENSES TO BUY BASIC NEEDS	5000
	HOUSE LOAN DUE TO LOSS OF EMPLOYMENT	APPROVAL BY TECHNICAL COMMITTEE
	OTHERS	3000
9	LAWYER FEE	5000
10	GROUP HOUSE CONSTRUCTION AID	BASED ON APPROVAL
11	INDIVIDUAL HOUSE CONSTRUCTION AID	
	3 ROOMS	45000
	4 ROOMS	55000
12	BUYING HOUSE AID	
	MEDIUM COST	45000
	LOW MEDIUM COST	45000
	LOW MEDIUM COST	45000
	HOUSE FIXING	BASED ON APPLICATION
13	HOUSE FIXING RELIEF FUND	20000
14	RENTAL RELIEF FUND (MYR 600 PER MONTH, MAX 6 MONTH)	600
15	BUSINESS RELIEF FUND	BASED ON NEEDS
16	PROTECTION HOUSE MANAGEMENT	BASED ON NEEDS
17	PROTECTION HOUSE FIX	BASED ON NEEDS
18	MEDICAL AID	10000
	MEDICAL AID (CHRONIC)	50000
	MEDICAL AID (EQUIPMENT)	30000
19	CONTRIBUTION FOR MUALLAF ENCOURAGEMENT	
	GOODIES (MUALLAF KIT)	BASED ON NEEDS
	CONTRIBUTION FOR BRINGING PEOPLE TO ISLAM	300
	NEW MUALLAF	
	OTHERS	500
20	AID ON ISLAMIC DAY	BASED ON NEEDS
21	PRINTING / PUBLICATION	BASED ON NEEDS
22	COMPUTER MAINTAINANCE	BASED ON NEEDS

23	MUALLAF ASSOCIATION AID	BASED ON NEEDS AND APPLICATION
24	ACTIVITY AID / STUDY VISIT	BASED ON NEEDS AND APPLICATION
25	CLASS ATTENDANCE ALLOWANCE (MYR 20.00 * 1 SESSION)	20
26	TEACHER ALLOWANCE	
	TEACHING MUALLAF CLASS 13 SESSIONS PER MONTH (MYR 100* 1 SESSION)	100
	LECTURE ALLOWANCE PSDK (MYR 200 * 1 JAM)	200
	FARDHU AIN ALLOWANCE CLASS (MYR 150 * 1 SESSION)	150
27	EDUCATION AID	
	LAPTOP	BASED ON NEEDS
	REFERENCE BOOK	CERTIFICATE - MYR 300, DIPLOMA AND ABOVE NO LIMIT
	TICKET (TWO WAY)	BASED ON NEEDS, TWICE PER YEAR
	SPECTICAL	300
28	STIPEND AID	
	PRIMARY	200
	SECONDARY	250
	HOSTEL	350
	UNIVERSITY / PRIVATE UNIVERSITY	450
	LEADERSHIP AND DA'WAH CERTIFICATE (PSDK)	300
	INSTITUT DAKWAH ISLAMIAH PERKIM (IDIP)	350
	PONDOK PASIR TUMBOH (PPT)	400
	PUSAT BIMBINGAN SAUDARA BARU (PUSBA)	300
	INSTITUT TAUFIQ ISLAMI (ITI)	525
	PUSAT DAKWAH ISLAMIAH YAYASAN ABU BAKAR (PDIYAB)	300
29	COURSE AID / TRAINING	
	BASIC LEVEL (MUALAF, IPTA/S, GENERAL, UMUM)	25000
	ADVANCED LEVEL	25000
	PROFESIONAL LEVEL	15000
	STRENGTHENING THE NON MUSLIMS	15000
	MANAGEMENT SKILLS DAKWAH NON MUSLIMS	15000
30	ASSISTANCE ON TALKS MUALAF PROGRAM TALKS	BASED ON NEEDS AND APPLICATION
31	FIXED ASSETS MUALLAF AID	BASED ON NEEDS AND APPLICATION

Source: Selangor State Islamic Religious Council, 2013

Basically, Table 1 indicates that distribution zakat aid for the Muallaf begins from the first day they become Muslims. For example, the new Muslim would be immediately helped with monthly allowance for five years until they become a Mukallaf. This aid is important for them to bear their cost of living. Besides monthly allowance, Islam is also

concerned with the education and health of its devotee. Support from SIRC towards education covers the fees, pocket money allowance, book allowance, ticket and eyeglasses. This support package is comprehensive throughout the 10 types of educational institution such primary and secondary school, university and Muallaf educational center within and outside of Selangor. For medical aid, the Muallaf is eligible for assistance of up to MYR 50,000. For accommodation, the Selangor State Islamic Religious Council had provided several aids for house repair/restoration/renovation, paying rent and also purchasing low cost houses. Another allowance includes funeral services, Islamic days celebration, contribution for Muallaf society and Muallaf encourage allowance whose purpose is to encourage, assist and educate the Muallaf in becoming better Muslims.

For non-monetary program, the SIRC had assembled several programs and educational classes for the Muallaf to learn about Islam. A class on *Fardhu 'Ain*³⁵ (individual obligations) for them to learn about performing the *Solat* (prayer), Zakat, Fasting and Hajj as well as a class on learning *Fardhu Kifayah*³⁶ (communal obligations) that teaches them moral responsibility upon a community, such that if someone undertakes or performs such practice, then the obligation has been fulfilled and the sin and responsibility are lifted from the rest. Moreover, in encouraging the Muallaf to attend classes, allowance for attending class is also given. Besides, there are a few subventions on courses and training for improving their management skills. This clearly manifests the great concern from SIRC in supporting, educating and nurturing the Iman of the Muallaf to become a better person and Muslim.

3. LITERATURE REVIEW

Most of new convert turns to Islam because of several reasons such as marriage, attract with the wholesomeness of Islam and zakat assistant in Islam (Aidit Ghazali et.al, 2012; Fariza Md Sham et.al 2013; Fuadah Johari et.al, 2013). For example, the Islamic welfare (i.e: zakat), is one of the tools for attracting the non-Muslims by providing assistant that can soften their heart beside increase their faith and believe to Allah s.w.t although they are not become a Muslims yet. Fuadah Johari et.al (2013) explained that new converts suffers from various aspect after they converts to become Muslims. Some of them were thrown out of family, society, friends as well as loss their job and loss their financial sources. While some of them feels lonely and vulnerable because of the attitude of the muslims itself who did not accept them as muslims. For example, if they entering a mosque, they will attract the attention of other Muslims such as they are doing something wrong by entering the Mosque although at that time they are already a Muslim. For most of the Mosque, they may find that cultural identity is stronger than religious standards and they feel difficult to be integrated with other Muslims. Moreover, some Muslims who are still learning about Islam did not know which branches of Islam they should refer to and/or are not well aware of the different movements and/or do not have an entire understanding of the principles of Islam (Razaleigh Muhamat et.al, 2009).

Islam as a religion and comprehensive way of life is part. This is because of the characteristic nature of Islam as *al-din* or the comprehensive way of life that results from one living in a state of surrender to God. Al-din implies the sanctification of all daily living into worshipful acts that unify life in a manner consistent with the *tawhidic* principle of the divine unity. According to the Qur'an, "Who can be better in religion

(din) than one who submits (aslama) his face (i. e. his whole self) to Allah... “(Al-Qur'an, 4:125). Practice of Islam as' al-din, therefore, should make Muslims dynamic, and to always moving forward and progressing in their quest for self-purification and self-perfection through worship, the on-going acquisition of knowledge and performing of selfless works. (Kruass, 2005). Asmak et.al (1970) finds out that a person tends to be religious when they receive higher formal religious education exposure. For other groups, especially those who were found to be casually religious and without any formal Islamic education, a different approach of marketing rather than showing the Islamicity of the products is necessary.

In Qur'an, one finds many verses of the Quran that stress the relationship between having faith (iman) and honouring it through man's conduct ('amal). Once a person has the awareness of God's unlimited power across time and that nothing can be concealed from Him, he becomes compelled to follow the path paved by Him. With the presence of fear and a sense of awe (taqwa), man would accordingly perform the expected *ibadah* (practice) and other worldly conduct as stated by the Islamic teachings, even when it comes to his virtues and vices (akhlaq). In short, religiosity should have a significant influence in shaping the choices of a man's conduct, which may include his economic and commercial activities.

Most studies on religiosity focus on Christianity with an emphasis on rituals like church attendance or participation and private prayers; belief like religious attitudes and trust in the church; and mystical experiences (Caird, D., 1987) However study of religiosity in the eyes of Islam need to be conducted in a different approach (Asmak, 1970). Being a Muslim means submitting one's life by following His dictates and guidance, which not only encompass one's rituals (ibadat) but also one's worldly conduct. Islam is a religion of submission, which requires a fully conscious and willing effort to submit namely, iman (faith), Syariah (includes ibadah and worldly conducts) and akhlaq (virtues and vices), which are used in this study to define the state of religiosity of a Muslim (Qur'an, Al-Tawbah: 18 & 20.)

Mariam binti Abd. Majid et. al (2010) found out that after conversion, most of New Convert will feel lost regarding find teacher or resources to effectively live their faith. New Muslims will also be facing practical issues when embracing a new way of life which is also differ from their previous way of life. Further, some of the issues may include their relationships with non-Muslims may change due to fear and preconceptions about Muslims and marriage with a non-Muslim. These practical issues may have the greatest impact for New Muslims and such support at a practical level is therefore important. Aishah M et.al (2011) seeks to investigate the conversion patterns among New Converts in Malaysia. Its focus is to find out the demographic information of New Converts and to identify the popular conversion patterns among New Converts in Malaysia. From the study conducted, he conclude that: a) majority of the New Converts come from Sabah and belongs to other races found in Malaysia such as Iban, Asli, Myanmar, Kadazan and Thai, b) many of them are unemployed despite having adequate academic level, c) majority of the new Converts agree that they get the first source of information regarding Islam from people who are close to them like family members, friends, colleagues and neighbours, d) majority of the New Converts associate their conversion process with the friendliness pattern, followed by the

intellectual pattern and lastly the mystical pattern. This coincides with the first source of information they obtain regarding Islam.

Razaleigh Muhamat et.al (2012) set out to explore the exact level of the social aspect of assimilation between Chinese Muallaf and their Malay counterparts in Kuala Lumpur. It was sure that assimilation in social aspect is a dilemma which Chinese Muallaf faces when they convert from their own religion to Islam. It suggests that when these converts begin to practice Islam, their behaviour changes in line with the identity of the Malays. This is because Islam associates to Malay in the Malaysian context. Whilst they are welcomed by their Malay counterparts, it is nevertheless hypothesized that they may not assimilate fully into the Malay community. Through this research the social assimilation level of Chinese Muallaf is at the low level.

According to McGuire (1997),

“Conversion is a process of religious change which transforms ‘the way the individual perceives the rest of society and his or her personal place in it, altering one’s view of the world.’”

Lofland & Skonovd (1981), describe the process of conversion from one religion to another; a) Intellectual; ‘response to teaching’ (Kose,1994) through reading, media, talks, b) Affection; through having good and positive personal experience with members of the Muslim society, c) Mystical; through visions and supernatural experiences, d) Experimental; going through the process of trial and error in the religion of choices, e) Revivalist; conforming to the crowd; involving emotional inspirations (Inaba, 2004); and f) Coercive; through pressure.

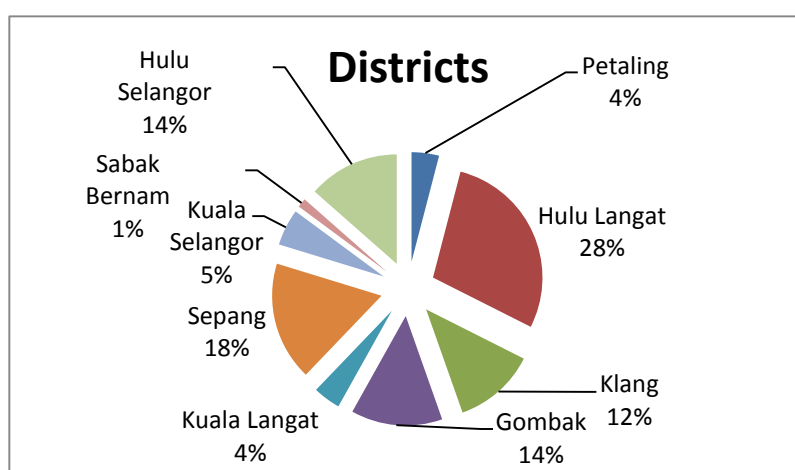
4. RESEARCH METHOD

The research methodology used by the researchers is quantitative and qualitative methods. The first method used throughout the research is through the questionnaires since the use of questionnaires allow us to get information in the most accurate. For the first part, an interview session was conducted on the 25th of June 2013, at 3.30 pm with two officers from The Selangor State Islamic Religious Council whom were Ustaz Mohd Helmi (Assistant Director for Muallaf Welfare in Selangor) and Ustaz Mohd Anwarulhaq (Assistant Director for Muallaf Education in Selangor). The main question in this article is regarding the factor that driven the muallaf to become a successful Muslims besides supports from zakat distribution centre. On top of that, census study is utilized in this research where 80 new converts were involved. Based on the quantitative approach, the questionnaire was administered to the new converts to gather data on the amount of zakat that they received, their income, expenditure and other demographic data. The team of researchers personally distributed the questionnaire to the respondents. Each part of the questionnaire was explained by the researchers to the respondents to ensure the respondents understood the questions. The questionnaire was read to the respondents who had difficulties reading the questionnaire.

In developing the questionnaire, previous empirical research in religiosity and Muallaf programs criteria were considered. The questionnaires were set in the Malay language and contained three major groups of questions. The first part elicited demographic information that is deemed influential to the level of religiosity. The second part was

about the main factors of Muallaf successful reasons. The last part asked them to identify their most important practice after they become a Muslims. Likert scale responses varying from very important to not at all important were employed. The team of researchers personally distributed the questionnaire to the respondents. Each part of the questionnaire was explained by the researchers to the respondents to ensure the respondents understood the questions. The questionnaire was read to the respondents who had difficulties reading the questionnaire. From this survey, a sample of 80 new converts in nine districts for the whole Selangor has been used for this study. Figure 2 describes the respondent demographic for this study.

Figure 2. Respondent Profile On New Converts in Selangor



Source: Research Question

The Selangor State Islamic Religious Council was selected because of their achievement as being the highest zakat fund collection in Malaysia. Besides that, the state of Selangor has the highest number of new converts in Malaysia. Thus, with the highest amount of resources (zakat fund) and new converts, it is important for Selangor Zakat Centre to manage and distribute the zakat fund wisely. One way of doing it is to understand the factors of contributing the new converts to become a successful Muslims. Thus, this study aims to identify the factors of contributing the probability of being poor among the new converts. Data for this research is conducted from January to July 2014. This survey covers nine districts in Selangor except the indigenous settlements (the Orang Asli). About 80 Muallaf persons were randomly picked from the list of registered Muallaf in Selangor to become the respondents of this study. Beside questionnaire about demographic data, a comprehensive questionnaire about the critical success factors was also asked to the new converts to gather data on the reasons for them to become a successful Mukallaf. In Selangor, zakat assistance to the new converts begins from the first day they become Muslims. The new Muslim would be immediately helped with MYR 500.00 monthly allowance for five years until they manage to act in accordance with Allah's orders and to perform worshipping (*Mukallaf*). Thus to segregate between the success and non-success factors, this study categories those who are receiving zakat from the 1 to 5 years after they convert are the success and those who had convert to Islam 6 years and above and still receiving zakat are those who non-success.

In Selangor, Muallaf conversion is often influenced by marriage and religious support (MAIS, 2013). Inter-marriage between various ethnic and religious has been practiced for centuries in Malaysia. In such marriage, Islam requires the non-Muslims party to convert to Muslims before the marriage could take place. Thus, support from Islamic Religious Department or congregation members is crucial in helping the people in convert their religion. The support can be expressed in many forms, such as care from congregations or religious organization, Muslims family, society, religious counselling, and assistance from clergy and hospital chaplains. Atqa (2010) found out that Muslims conversion in Indonesia due to receiving information, emotion and financial supports from members of Muslims. The Religious support is actually a perception of social support that comes from three sources: congregation members, religious leaders, as well as from God (Fiala, Bjorck, & Gorsuch 2002). Religious support is considered as an important factor in influencing religious conversion.

5. RESULTS

In this study, the reliability test is done by verifying the Cronbach's Alpha. According to Sekaran (2000), Cronbach's Alpha that is within 0.7 is acceptable and those who over 0.8 are considered good. In other words, reliability test is performed to ensure that the responses are reliable. The alpha coefficient for the four items is .896, suggesting that the items have relatively high internal consistency.

Table 2. Reliability Statistics

Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	N of Items	Respondent
.896	.904	4	80

To see the pattern of the demographic variable groups in relation to Muallaf critical success factors, Chi-square tests were performed by the cross-tabulation method. The chi-square *H₀* hypothesised that the groups were independent with regard to success/failure. On the other hand, the alternative hypothesis predicted that the groups were dependent and related to survival/failure. The results of the Chi-square tests with one degree of freedom to all the variables tested are summarised in Table 3 below.

Table 1. The Variables Pearson Chi-Square Significant Values - Crosstab Method

	Gender	Region	Status
Chi-Square	8.450 ^a	26.450 ^a	5.725 ^b
df	1	1	2
Asymp. Sig.	.004	.000	.057

a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 40.0.

b. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 26.7.

Results in Table 3 showed that there were significant differences in gender and region variables ($p < .05$) which contribute the most to this difference is region (26.450) and gender (8.450). It shows that most of the Muallaf comes from urban area (Residual

value = Urban 23; Rural = -23) and most of them are male gender (Residual value, Male = 13; Rural = -13) While the status variable did not give any significant effect on Muallaf significant values ($p > .05$)

To examine whether there was an association between years becoming muslims and four critical success factors variables, 1) Understanding The Islamic Teaching; 2) Attending Islamic Class; 3) High Motivation and 4) Always Pray, a chi-square test was performed. The Pearson chi-square statistics tests whether the four variables are independent (Kvanli *et al.*, 2000). The results of cross-tabulation between four critical success factors variables are summarised in Table 4.

Table 4. The Variables Pearson Chi-Square Significant Values - Crosstab Method with Success Factors

	Years Becoming Muslims	Understanding The Islamic Teaching	Attending Islamic Class	High Motivation	Always Pray
Chi-Square	22.050 ^a	94.625 ^b	65.000 ^c	48.300 ^c	83.800 ^c
df	1	4	4	4	4
Asymp. Sig.	.000	.000	.000	.000	.000

a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 40.0.

b. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 16.0.

c. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 20.0.

The Pearson chi-square statistics was highly significant with p -value $< .0000$ for all variables. Therefore it was reasonable to reject H_0 , and accept the hypothesis that the variables were in some way related.

5.1. Descriptive Results

Results for years on knowing Islam Before becoming Muslims and Understanding the Islamic Teaching in Table 5 indicates that most of the success Muallaf agree that by understanding the Islamic teaching, they manage to become a better Muslims. We can see that results for those who agree and very agree are 86.3 per cent and those who not agree and very not agree only 6.3 per cent. In can be concluded that the Muallaf require several years to understand the Islam and by understand it they have the courage to embrace Islam and become a Muslims. This understanding had become their main pillars for critical success factor.

Table 5: Factor 1 (Understanding The Islamic Teaching)

	Frequency	Per cent	Valid Per cent	Cumulative Per cent
Strongly Agree	3	3.8	3.8	3.8
Not Agree	2	2.5	2.5	6.3
Neutral	6	7.5	7.5	13.8
Agree	21	26.3	26.3	40.0
Strongly agree	48	60.0	60.0	100.0
Total	80	100.0	100.0	

Source: Resource Question

Results for Attending the Islamic class in Table 6 also shows that most of them agree with attending the class manage to improve their condition as Muslims. It shows that by attending the Islamic class the Muallaf manage to learn and understand the Islam. It

than strengthen their faith to embrace the Islam and accept the concept of only one God exist.

Table 6: Factor 2 (Attending Islamic Class)

	Frequency	Per cent	Valid Percent	Cumulative Per cent
Valid Strongly Not Agree	3	3.8	3.8	3.8
Not Agree	0	0	0	3.8
Neutral	7	8.8	8.8	12.5
Agree	21	26.3	26.3	38.8
Strongly Agree	49	61.3	61.3	100.0
Total	80	100.0	100.0	

Source: Resource Question

Results in Table 7 on High Motivation shows that most of them agree that high motivation manage to make them a better Muslims. Understanding the Islam had boost up their motivation and determination to embrace Islam. This motivation had helped them to face the upfront obstacle such as being thrown by their family, losing their wealth, job, friends and relative. This had become their critical success factor.

Table 7: Factor 3 (High Motivation)

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Not Agree	5	6.3	6.3	6.3
Not Agree	0	0	0	6.3
Neutral	16	20.0	20.0	26.3
Agree	13	16.3	16.3	42.5
Strongly Agree	46	57.5	57.5	100.0
Total	80	100.0	100.0	

Source: Resource Question

Results in Table 8 between years on Always Pray in Table 8 shows that most of them agree with always pray and relying to Allah s.w.t manage to give them strength and make them a better Muslims. It shows that by always praying and ask for Allah's guidance can provide them a better way to solve and face their obstacle after they become a Muslim.

Table 8: Factor 4 (Always Pray)

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Strongly Not Agree	1	1.3	1.3	1.3
Not Agree	0	0	0	1.3
Neutral	5	6.3	6.3	7.5
Agree	21	26.3	26.3	33.8
Strongly Agree	53	66.3	66.3	100.0
Total	80	100.0	100.0	

6. DISCUSSION

Results of this study indicate that all variables used in determined the critical success factor is significant. Gender ($p=.004$) and Region ($p=.000$) is significant values in determining the success factors in terms of demographic while status ($p=.057$) of the Muallaf did not give any significant effect. Based on the results the male gender had a higher chance of becoming Muallaf compared to female gender. Further, those who live in urban area had a better chance of understanding the Islam. This can be due to the accessibility of information and programs such as Islamic classes that organized by the Islamic Department.

The years of knowing Islam before they becoming a Muslims is a significant factors that contribute to their critical success factors. Mostly those who are living and had been seeing the way of Islam since their childhood had become more success. This can be relate to those who embrace Islam due to marriage rather than understand the Islam itself which reducing their attention to learn and understand the Islam. Those, time are critical success factors of becoming a success Muallaf.

Another success factors that significant in determine the success factors is their understanding to the true Islamic teaching. Through understanding the Islamic teaching, they become more attract and their self-motivation on becoming a success Muallaf will higher. One of the ways of understanding the Islamic teaching is through attending the Islamic class which can be done formally or non-formally. Through attending the class they can ask any questions relate to Islam which can clear their misunderstanding and also can avoid them of making any bad assumption on Islam. Further, they will acquire a high motivation based on their understanding on Islam and motivate them to strive and become a successful Muallaf. Lastly, most of the respondent agree and believe with the wisdom of pray and the power of Allah in determines what the best for His slave. Rasulullah s.a.w had teach the Muslims to always ask for Allah's forgiveness and guidance whether they are encounter challenges in earning a living, in family affairs, or other matters of life, the burden of sins greatly inhibits them from seeking the ultimate blessings of Allah and to have the potential of leading a good life in this world and the hereafter. As for making pray and the enormous potential it holds to help us ask for forgiveness and other things, the following provides a short description. The following are some of the prophet's sayings about making Doa to Allah. Prophet (peace and blessings of Allah be upon him) said: "The doa' of any one of you will be answered so long as he does not seek to hasten it, and does not say, 'I made doa' but I had no answer.'" (Narrated by al-Bukhaari, 5865; Muslim, 2735, from the hadeeth of Abu Hurayrah).

7. CONCLUSION

In conclusion, this research had determinant the factors that would increase the chances of Muallaf to become more success. This study suggests that the pillar of becoming a successful Muallaf and Muslims is through learning the true Islamic teaching which can boost high motivation among the Muallaf and strive hard to practice the Islamic teaching. This critical success factors not only comes in material ways but also come in blessing and happiness of life which is hard to find. Thus, the Islamic agencies and

Islamic Non-Government Organization (NGO) needs to organized more classes and ease the way of getting information on Islam. In Islam, conversion is an act of acceptance of truth. Therefore, the accessibility and variability of *da'wah* to Muslim converts is important to increase the non-Muslims' understanding of Islam and its difference from other religions.

Issues involving the Muslim converts are numerous and complex. Among them are the challenges of understanding Islam as a religion, welfare and psychological pressure from their family, foster family and society as well as psychological pressure to adapt to the new religion. The convert is a group that needs to be addressed in order to enhance and maintain confidence in the height of Islam. Support, guidance and assistance are one of the aspects that should be given priority to be channelled to the converts. The growth in conversions in the past decade is partly a reflection of social and geopolitical changes in Malaysia and the world during the past 10 years. Prior to 11 September 2001 there was relatively little press attention given to Islam. Following the attacks there was an understandable rise in focus on the faith, which led non-Muslims to want to find out more about the religion that was now so often in the news. A common thread in converts' stories was that something was missing in their lives beforehand and Islam then provided some stability in the midst of existential turbulence. The challenge for zakat administration department, mosques and other Muslims is to ensure that those who are expressing keenness towards Islam get the right guidance so their curiosity does not turn them into cannon fodder at the hands of extremists happy to exploit the vulnerable.

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APPENDIX

Cross tabulation : Years becoming Muslim VS Understanding The Islamic Teaching Count

		Understanding the Islamic Teaching					Total
		Strongly not agree	Not Agree	Neutral	Agree	Strongly Agree	
Years	1 - 5	1	2	4	16	38	61
Becoming Muslim	6 >	2	0	2	5	10	19
Total		3	2	6	21	48	80

Cross tabulation : Years becoming Muslim VS Attending Islamic Class

Count

		Attending Islamic Class				Total
		Strongly not agree	Neutral	Agree	Strongly Agree	
Years	1 - 5	1	5	15	40	61
Becoming Muslim	6 >	2	2	6	9	19
Total		3	7	21	49	80

Cross tabulation : Years becoming Muslim VS High Motivation

Count

		High Motivation				Total
		Strongly not agree	Neutral	Agree	Strongly Agree	
Years	1 - 5	3	11	9	38	61
Becoming Muslim	6 >	2	5	4	8	19
Total		5	16	13	46	80

Cross tabulation : Years becoming Muslim VS Always Pray

Count

		Always Pray				Total
		Strongly not agree	Neutral	Agree	Strongly Agree	
Years	1 - 5	0	3	14	44	61
Becoming Muslim	6 >	1	2	7	9	19
Total		1	5	21	53	80

LEGAL HORIZON OF ZAKAH PRACTICE IN ISLAMIC BANKING INSTITUTION IN MALAYSIA: AN OVERVIEW

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ABSTRACT

The objective of the zakat payment is focused on the economic development of the *ummah* (society) and nation rather than focused on the ritual practices. Islamic banking institutions in Malaysia are one of the entities that responsible to pay *zakah*. However, the debate that arises is on whether the Islamic banking institution should pay zakah or not in Malaysia. In short, the paper will look in depth the concept and the legallity of zakah. Besides, this paper also will discuss the legal background of Islamic banking institutions in Malaysia. Furthermore, this paper will analyze specifically on the *zakah* practice among the Islamic banking institutions in Malaysia. This paper is totally a qualitative research paper in which it is more exploratory in nature and possibly resulting in the development of concepts and theories. This paper will use historical approach as to find out how and why certain rules, principles or institutions have come to take their present form. In addition, this paper also summarizes the issues and challenges faced by the Islamic banking institutions in Malaysia pursuant to *zakah* practice. Finally, some recommendations will be laid down such as the needs to propose a new act to govern banking zakah and a proper body to monitor and supervised the new act as to improve the zakat practice in Islamic banking institutions in Malaysia.

Keywords: Banking Zakat, Zakat Practice, Islamic Banking Institution, Banking Law.

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1. INTRODUCTION

Malaysia has developed a rapid growth of Islamic transaction and finance. This growth has been done majorly through Malaysian Islamic banking institutions (IBIs). The IBIs were established since the establishment of the first Islamic bank which is Bank Islam Malaysia Berhad. Then it followed by conventional banks which offered Islamic Window (*Skim Perbankan Islam-SPI*) from the conventional banks itself. Nowadays, some conventional banks have diversified their banks into full fledged Islamic bank. It shows that the mass development of Islamic banking in Malaysia is truly being monitored by other countries to be their own model as well.

However, the IBIs should abide by the rules laid down in Islam whereby the banks obliged to pay *zakat* from its Islamic banking transactions and businesses. The payment of *zakat* is an obligation so as to purify the profits generated from Islamic banking businesses and to assist the needy and community. Some scholars defined the *zakat* as part of Corporate Social Responsibility (CSR).

2. THE CONCEPT AND THE LEGALITY OF ZAKAH

2.1. DEFINITION OF ZAKAH

Zakah is one of the five pillars of Islam. The word *zakah* is derived from the root *zaka* (زكى) which means to grow, to increase, clean and nice. When it is said about a person, it means to improve or to become better.¹ Consequently *zakah* is blessing, growth, cleanliness, and betterment as mentioned in the divine word of Allah;

قد أفلح من زكها

Meaning: "Truly he who succeeds that purifies (with faith and good deeds)."

(Surah al-Shams: 9)

Based on fiqh perspective, there are various definitions given by Muslim jurists (Fuqaha') on *zakah* definition. Imam al-Nawawi defined *zakah* as a portion of a specific property which is commanded by Allah to be handed over to specific person with specific requirements. A specific portion of specific a property is called *zakah* because the property will be increased, becomes meaningful and protects the wealth of a person from devastation².

¹ Yusof Al Qaradhwai, "A Comparative Study Of Zakah, Regulations And Philosophy In The Light Of Qur'an And Sunnah", Prof Dr Monzer Kahf, Internet, Available from: http://www.monzer.kahf.com/books/english/fiqhalzakah_vol1.pdf

² Muhammad Najib al-Muti'i. (t.t). *Takmilat al-Majmu' Syarh al-Muhadhdhab*. Mesir: Matbaat al-Imam. Jld. 5. Hal. 291.

According to Imam al-Syarbini, *zakah* is the name of a specific portion of a specific property, which must be issued or paid to a specific person with specific conditions³. Imam Shafi'i has stated *zakah* means a name to a specific property, specific portion and distributed to specific people⁴. While Imam Ibn Qudamah mentioned that the pronouncement of *zakah* is derived from *zaka* (زكاة) which means (نماء). The word *nama* means to evolve, to increase and to produce. The property is called *zakah* for the lasting value and productives⁵.

Based on the definitions provided above by *fuqaha*, we can conclude that *zakah* is an essential right of a property in the eyes of *Shariah*. Eventually, it will be taken out from a specific portion of a specific property with specific rates after it satisfied with all requirements prescribed by *Shariah* to be distributed to recipients (*asnaf*) as laid down in *Shariah*. It is an obligation upon all individuals. It has a direct impact not only on the relationship between man and Allah SWT as the Creator, but also within the relationship between man and society⁶. The objective payment of *zakat* is not only concentrated on the ritual practice solely but also concentrated economic and finance. It facilitates the distribution of property from not being monopolized by the rich and elite, but also to other needy groups, poor and not capable people. The specific portion for *zakat* rate was already agreed upon 2.5% as determined by National Fatwa Council⁷.

2.2. CATEGORIES OF ZAKAH

Zakah can be divided into two main categories, namely *Zakah Fitr* and *Zakah (Mal)*. *Zakah fitrah* is a payment that is paid to the welfare of those in need on or before the south-Fitr feast, which is the first day of Shawwal after Ramadan (CIOGC, 2013)⁸. While *zakah* can be defined as a payment of a welfare and must be paid by individuals who have some type at the same rate or in excess of the minimum amount (*Nisab*) for a

³ Muhammad al-Syarbini al-Khatib. (1958M/1377H). *Mughni al-Muhtaj ila Ma'rifat Ma'ani Alfaz al-Minhaj*. Jld. 1. Mesir: Syarikat Mustafa al-Babi al-Halabi. Hal. 268.

⁴ M. Iman Sastra Mihajat and Bedjo Santoso, "Alleviating Poverty Through Sukuk, Zakat and Waqf", Kertas kerja dibentangkan di Langkawi Islamic Finance and Economic, Langkawi, Kedah, 13-16 Disember 2010.

⁵ Abu Muhammad bin 'Abdullah bin Ahmad bin Mahmud Ibn Qudamah. (1392H/1972M). *al-Mughni*. Juz. 2. Mesir: Maktabat al-Qahirat. Hal. 427.

⁶ Nur Qamarin Nur Qamarina Sharom,, Norhayati Mohd Alwi And Noraini Mohd Ariffin, "Case Study On Zakat Management at Pusat Islam UTM, Skudai" Paper delivered at World Universities 1st Zakat Conference, Kuala Lumpur, 22-24 November 2011.

⁷ Sarini Azizan and Syed Mohd Ghazali Wafa Wafa Syed Mohd Adwam Wafa. "Preliminary Evaluation of Zakat Disclosure And Zakat Per Share Analysis." Paper delivered at World Universities 1st Zakat Conference, Kuala Lumpur, 22-24 November 2011.

⁸ The Central Zakat Committee (CZC) of The Council of Islamic Organizations of Greater Chicago (CIOGC), "The Institution of Zakat", Zakat Chicago, Internet, Retrieved from: <http://www.zakatchicago.com/Downloads/ZakatBook.pdf> pada 27 November 2011

whole year (haul) to give to those in need (JAWHAR, 2010). Zakat can be divided into different categories such as Zakat Income, Savings Zakat, Zakat Gold and Silver, Shares Zakat, Zakat Zakat Business and crop. An Islamic banking institution will issue a zakat every year which is obligatory kifayah claims. Zakat is obligatory zakat is issued as a result of business activities either based manufacturing, mining, fisheries, shipping, supply, agriculture, services, or the like are ongoing, whether in private business, a partnership with fellow Muslims or non-Muslims, Business in companies, cooperatives or business shares etc. (JAWHAR, 2010). This paper will refer to the obligatory of banking zakat (zakat perbankan) towards business.

2.3. COMPULSORY REQUIREMENT FOR BANKING ZAKAH (ZAKAT PERBANKAN)

Every trade or business transaction is obliged to pay zakat so as zakat perbankan and the requirements are as follows:

2.3.1. Islam

Zakat is an obligatory for Muslim. This requirement indicates that in a business that has a joint acquired ownership between a Muslim and a Non-Muslim, *zakah* will only to be imposed on the portion owns by a Muslim. A Non-Muslim is not asked to pay it because *zakah* is an act of approaching and showing obedience to Allah. It is clearly mentioned in the *hadith* narrated by Muadz in which the prophet Muhammad said to him:

“...invite the people to testify that there is no deity but Allah and I am the Messenger of Allah.”

Then the prophet added after he had mentioned performing prayer:

“...If they obey you to do so, then tell them that Allah has made it obligatory for them to pay zakah from their property and it is to be taken from the wealthy among them and given to the poor.”⁹

Thus, the prophet Muhammad made the obligation of *zakah* is only upon a converted person (Muslim).

2.3.2. Full Ownership

Full or legitimate ownership implies that the thing possess has been acquired lawfully and that person who possesses it has full right to use or dispose of it, to sell or *hibah* or to invest in anyway as he intends. No *zakah* is due upon a property whose ownership is not established.

⁹ Al Bukhari (1395) (3/330) and Muslim (121) (1/146)

2.3.3. Intention to Run Business

Trade *zakah* (Zakat Perbankan) will be imposed to an asset that is intended for business as to gain profits. If an asset that is not intended for business purpose and it is therefore not to be included in the *zakah* calculation. Fixed assets used for business are not subjected to *zakah* but if the assets are used for rental purposes then the assets are subjected to *zakah* calculation and assessment. The *zakah* assessment also will be applied if the assets are sold.

2.3.4. Full Lunar Year (Haul)

The possession of wealth for a period of one full year is one of the most requirements for *zakah*. The wealth or profit gained from business must be operated for at least a year according to the Qamariah Islamic calendar which is estimated 354 days. The Haul period is counted from commencement date of business. This is based on the hadith of Aishah;

*“No zakah is to be taken from a property until a year passes on it.”*¹⁰

(Recorded by Ibn Majah, At Tirmidhzi)

For additional capital in the business, *haul* is calculated based on the commencement date of business. For business property assessment, Imam Syafie opined that it must be assessed at the end *haul* of business.¹¹ Zakat assessment is based on the position of assets, liabilities and capital at the end of *haul* business, which is based on the Balance Sheet. The values contained in the Financial Statements at the end of the operations of a business are used for the purpose zakat assessment.

2.3.5 Rate of Zakat Payment (Nisab)

Property or goods of business must attain the *nisab* according to the current value of 20 *mithqal* gold (85 grams)¹². 20 *mithqal* gold is equivalent to 5 *awaq* of silver (200 dirham for pure silver) and a herd of less than 5 camels¹³. The *zakah* calculation for trade is derived from the hadith narrated by Abdullah Ibn Umar, where Prophet Muhammad Sallahu Alaihi Wassalam said,

“No zakah is to be paid on (a herd of) less than 5 camels, nor on less than 40 sheeps and /or goats, nor or less than 30 oxen, nor or less than 20 mithqal of gold, nor or less than 200 dirham (silver), nor or less than 5 camel-loads (of agricultural produce). And 10% zakat (is to be paid on) dates, raisins, wheat and barley, and crops watered by

¹⁰ Ibn Majah (1792) (2/373) and At Tirmidhzi (630,631) (3/25,26)

¹¹ Manual Pengurusan Zakat Perbankan, Jabatan Wakaf, Zakat dan Haji (JAWHAR) : Putrajaya, 2010, p.10

¹² Ibid, 10

¹³ Farishta G. de Zayas (2003) *The Law and Institution of Zakat*, Kuala Lumpur : The Other Press, p.136

natural means (i.e. rainfall or river etc) are subject to 10% and crops watered with well water are subject to zakat of 5 %.”

(Recorded by Al Bukhari)

Nisab is calculated from the excess of basic needs and free from any debt and basic needs of the owner. However, Imam Shafie opined that no such conditions of debt in determining whether a property attains *nisab* or not. The debtor is obliged to pay *zakah* from the money he borrowed if the money in his full ownership tills the end of *haul*¹⁴.

In order to make *zakah* assesment, certain rules need to be abide by such as it must be a *halal* property, a productive property (Al Nama’), source of business property must be on the basis of sale or transfer, the business property must not being used for personal purpose and the property not being changed to cash that less than *nisab* at the end of *haul*¹⁵.

3. THE LEGAL BACKGROUND OF ISLAMIC BANKING INSTITUTION IN MALAYSIA

According to the Islamic Financial Services Act 2013 (IFSA), Islamic banking institution must be defined as part of Islamic financial institution by virtue of Section 145. The said section clearly mentions the Islamic financial institution refers to a licensed Islamic bank or a licensed international Islamic bank or an approved operator of a payment system or an operator of a designated payment system or an approved issuer of a designated Islamic payment instrument. A licensed Islamic bank means a person licensed under section 10 to carry on Islamic banking business and includes a licensed international Islamic bank (Section 2, IFSA).

By looking at section 10 of IFSA, Bank Negara Malaysia (Bank Negara) will make a recommendation to the Minister of Finance to grant a license to a respective bank which met all requirements needed by IFSA to carry on Islamic banking business, takaful business, international Islamic banking business or international takaful business, with or without conditions (Schedule 5 of IFSA). The licensed Islamic bank then will operate Islamic banking business which means the business of accepting Islamic deposits on current account, deposit account, savings account or other similar accounts, with or without the business of paying or collecting cheques drawn by or paid in by customers; or accepting money under an investment account; and provision of finance; and such other business as prescribed under section 2 of IFSA.

On the other side of coin, the Central Bank of Malaysia Act 2009 (CBMA) defines Islamic financial institution as a financial institution carrying on Islamic financial business. By virtue of Section 2 of the act, Islamic financial business means any

¹⁴ Manual Pengurusan Zakat Perbankan, Jabatan Wakaf, Zakat dan Haji (JAWHAR) : Putrajaya, 2010, p.10

¹⁵Ibid, p.12

financial business in ringgit or other currency which is subject to the laws enforced by the Bank Negara and consistent with the Shariah. However CBMA silence on the definition of consistent with Shariah. Thus, we have to cross refer to PART IV Division 1 of IFSA with reference to Section 29 (1) where it is clearly stated that:

The Bank may, in accordance with the advice or ruling of the Shariah Advisory Council, specify standards—

on Shariah matters in respect of the carrying on of business, affair or activity by an institution which requires the ascertainment of Islamic law by the Shariah Advisory Council; and to give effect to the advice or rulings of the Shariah Advisory Council.

It means that Islamic banking business must be in accordance with the teachings of Islam which may not involve transactions in gambling (maysir), interest (riba), alcoholic products and goods (wine) and others. To determine whether all the Islamic businesses, activities and affairs in line with Shariah, Bank Negara will follow the advice or ruling of the Shariah Advisory Council (SAC). SAC is the highest authority body in Bank Negara to ascertain the Islamic law for the purposes of Islamic financial business (Section 52 of CBMA). The Islamic banking institution (IBIs) must appoint Shariah Committee (SC) and act on the advice of the SC as stipulated in Section 30 of IFSA. Normally, all rulings made by SAC will bind SC for each IBIs. If IBIs fail to do so or acted in a manner which is not in compliance with Shariah or the advice of its Shariah Committee, the IBIs shall cease in carrying business and operation as well as to surrender its license to Bank Negara (section 18, IFSA).

Therefore, it could be understood that *zakah* is part of Shariah matters in IBIs and IFSA. Even IFSA is silence on *zakah* in IBIs, the practice of *zakah* vis a vis it's payment is still under the supervision of SC. By referring to Section 30 of IFSA, the SC must advice an IBI on business, activity and affair that should be compliance to Shariah. Thus, *zakah* is part of activities in Islamic banking matters and under the purview of SC.

4. LEGAL RESEARCH METHODOLOGY

Research refers to the collection of information in a systematic manner on a range of topics.¹⁶ Generally, this research paper will be focusing on the legal research. Legal research is usually refers to any systemic study of legal rules, principles, concepts, theories, doctrines, decided cases, legal institutions, legal problem, issues or questions or a combination or all of them.¹⁷ This research paper aims to collect and analyze case law, journals together with any relevant legislation. This is often done from historical perspective. The historical approach involves an objective study of the past facts,

¹⁶ Paul Oilver, *Understanding the Research Process*, (Sage Publication Ltd:London, 2010) p2

¹⁷ Anwarul Yaqin, *Legal Research and Writing*, (Kelana Jaya:Lexis Nexis, 2007), p3

events or institution.¹⁸ In this research paper, the historical approach will be used as to study the development of law relating to *zakah* from divine approach until the modern approach. A research may involve either wholly or partly the study of legal problems in a comparative perspective. The purpose is to examine similarities and dissimilarities between two situations existing within the same legal system.¹⁹ This method will be used in this research paper as to examine the differences in terms of principles, theories, concepts and its institutions within the ambit of *zakah*.

A sample is a portion or subset of a larger group called a population. The target population consists of the institutions, persons, problems and systems to which or whom a study's finding is to be applied or generalized.²⁰ The sample is drawn on the assumption that it is a 'representative' of the population.²¹ In verification of qualitative research, the population and samples will be picked from the following related parties involved in *zakah*:

- Islamic banking institution
- *Zakah* institution
- Jabatan Hal Ehwal Haji, *Zakat* dan Wakaf (JAWHAR)

The instrument of research that will be used in this research paper is interviews. Interview is a widely used method of information collection. It is a process of conversation in which the interviewer asks question with the purpose of obtaining information and respondents answers. Commonly, it will be used in order to gain the experiences, opinions, attitudes, feelings and perceptions.²² This research paper used the semi structured interviews which were conducted through the sample from the varieties of related agencies of *zakah*.

Secondly, document analysis is a part of the methods in this research paper. It is an important research tool in its own right and is an invaluable part of most schemes of triangulation. Documentary work involves reading lots of written material. Most of the documents that will be analyzed are the official documents. These official documents will be taken from IBIs, Pusat *Zakat* Negeri (State *Zakah* Institutions) under State Islamic Religious Councils (SIRCs) as well as statutes. The documents will be compared and differentiated among documents as to find the possible solution to the problem arose.

¹⁸ Mahdi Zahraa, *Research Methods for Law Postgraduate Overseas Students*, (Kuala Lumpur:Univision Press, 1998) p58

¹⁹ Ibid, p18

²⁰ Arlene Fink, *Conducting Research Literature Reviews* (California:Sage Publications, 2010).p 88

²¹ Anwarul Yaqin, *Legal Research and Writing*, (Kelana Jaya:Lexis Nexis, 2007) p223

²² Anwarul Yaqin, *Legal Research and Writing*, (Kelana Jaya:Lexis Nexis, 2007) p170

5. ZAKAH PRACTICE IN ISLAMIC BANKING INSTITUTIONS

In general, *zakah* is an obligation to all qualified person. A qualified person could be an individual person or an artificial person. This paper will highlight on the *zakah* payment (*zakat perbankan*) made by companies which are IBIs in which they could be deemed as artificial persons. IBIs normally paid their *zakah* on their voluntarily basis. If IBIs refuse to pay *zakah*, no action and punishment will be imposed upon them. Not all IBIs make the payment of *zakah* to any *zakah* institution in Malaysia²³. Each IBIs has their *zakah* calculation and payment method. According to Suffian Mat Nan (2015) and Azhar Alias (2015), there are IBIs which pay half of *zakatable* profit, some of IBIs pay *zakat* more than *zakatable* profit, some IBIs pay *zakah* according to state poverty rates and there are some IBIs pay according to their most operated businesses of the state and so forth²⁴. Based on the experience of Maybank, half of the payment of *zakat* will be handed over to State Islamic Religious Councils (SIRCs) and the remaining of *zakah* portion will be distributed by the IBI itself²⁵.

By referring to the experience of Jabatan Zakat Negeri Kedah (Zakat Kedah), Bank Islam Malaysia Berhad (Bank Islam) is the highest paying bank to pay *zakat* in Kedah. Bank Islam has chosen Kedah because it has many branches and the highest operated businesses in that state²⁶. The payments of Zakah in Kedah were made around March or April at the beginning of each year by IBIs. However, some IBIs delay to pay *zakah* (around two or three months) on the ground to find the exact time to invite the Chief Executive Officer (CEO) of IBIs to hand over their Zakat payments to Zakat Kedah or to present their *zakah* payments to His Majesty, Sultan of Kedah.

The calculation and payment methods of *zakat* are varies among IBIs. This is due to the resolutions or rulings made by their respective SC. Each SC of IBIs in Malaysia has their juristic views and thoughts to follow. It will not be surprised that *zakah* payment of IBIs are differs. With regards to the Standard Operating Procedure (SOP) of *zakat*, most IBIs will refer to *zakat* manual issued by Jabatan Waqaf, Zakat and Haji, Malaysia (JAWHAR). The manual will serve as a guide and will not be implemented wholly. This is due to the fact that each IBIs has their manuals and guidelines. Sani Haron (2014) pointed out that the manual needs to be updated to cover the current

²³ Interview conducted with Ustaz Abd Ghani Endut, Head of Islamic Banking Division at CIMB Islamik Berhad on 7th January 2015.

²⁴ Interview conducted with Ustaz Sufian Mat Nan, Head of Islamic Banking Department at Menara Bank Simpanan Nasional on 7th January 2015 and Interview conducted with Ustaz Azhar Alias, Head of Islamic Banking and Zakah at Dataran Maybank Islamik Berhad on 16th January 2015.

²⁵ Interview conducted with Ustaz Azhar Alias, Head of Islamic Banking and Zakah at Dataran Maybank Islamik Berhad on 16th January 2015.

²⁶ Interview conducted with Ustaz Sani Haron, Head of Corporate Zakat Department at Jabatan Zakat Negeri Kedah on 31st December 2014.

practice of *zakah* by IBIs. Some IBIs mentioned that JAWHAR manual is not binding upon them. Interestingly, there is one IBI which has not followed any single of the manual and even did not pay the *zakah* due to their just cause²⁷. Impliedly, the non-payment of *zakah* will detriment the public interests and needs (Maslahah) particularly Muslim community²⁸.

6. ISSUES AND CHALLENGES OF ZAKAH PRACTICE IN ISLAMIC BANKING INSTITUTIONS IN MALAYSIA

AAOIFI is an acronym for Accounting and Auditing Organization for Islamic Financial Institution provides a set of guidelines known as the FRS 1 of the Financial Reporting Standard No. 1. AAOIFI is a set of accounting law in the Islamic banking and financial institutions that have signed and agreed upon and signed by all Islamic banking and financial institutions in 1990 in Algeria. However AAOIFI was registered and confirmed in Bahrain in 1991 as an autonomous international corporation that does not generate profits.

According to AAOIFI FRS 1, all Islamic banking and financial institutions should reflect their responsibility to pay *zakat* in the financial statement on behalf of shareholders and investors. In Malaysia, MASB-1 (No. 1 Malaysian Islamic Accounting Board) does not provide a clear emphasis on *zakat* in Islamic banking and financial institutions. For MASB-1, *zakat* is only a liability and a special burden in the statement of accounts and is not an Islamic obligation.²⁹ This paper aims to know on what extent the obligation of *zakat* payment upon all Islamic banking institutions? If the collection of *zakat* institutions is an obligation, then the next question is whether there are any existing provisions of law or statute that requires the collection of *zakat* institutions in Malaysia?

As far as the Islamic banking institutions are concerned, these institutions are corporate bodies (companies) and legal persons. It can be looked into the judgment given in the case of *Salomon v Salomon*³⁰ whereby the court was held that a company has been lawfully incorporated it becomes a separate legal entity or personality (i.e. it is recognized as an artificial person) from its directors/shareholders. Therefore, any liability incurred by the company is limited to the company and to recover any debt, the creditors have to sue the company and not its directors/shareholders since liability does not extend to them but is limited to the company. This distinction is important for both the directors of the company and those entering into contracts with the company. In

²⁷ Interview conducted with Ustaz Abd Ghani Endut, Head of Islamic Banking Division at CIMB Islamik Berhad on 7th January 2015.

²⁸ Interview conducted with Ustaz Sani Haron, Head of Corporate Zakat Department at Jabatan Zakat Negeri Kedah on 31st December 2014.

²⁹ Nur Barizah Abu Bakar and Abdul Rahim Abdul Rahman, "Towards *Zakat* Accounting Standard in Malaysia", *IKaZ International Journal of Zakat*, No. 1 (2008): 55

³⁰ [1897] AC 22

Malaysia, this concept is based on the provision laid down under Section 16(5) of Companies Act 1965.

From that case, the question will be raised again on whether the Islamic banking institutions can pay *zakat* for all banking transactions even there are specific provisions in company law and the effect of separate legal entity. The legal entity in banks is separated from members and shareholders.³¹ If the obligation is on the burden of the members, the bank will have no responsibility. The bank also cannot impose the obligation upon the members and shareholders to pay *zakat* since the effect of separate legal entity.

In principle, *zakat* is a religious affairs, it certainly is under the jurisdiction of the state through the Ninth Schedule (Fed List) and Second Schedule (State List).³² All aspects pertaining to the administration of *zakat* are under the jurisdiction of the states through the State Islamic Religious Councils (SIRCs). There are a total of fourteen SIRCs, one for each of the thirteen states and one for the federal territory. Due to the demand of more efficient and effective collection and distribution of *zakat* funds in Malaysia, some of the Religious Councils have corporatized an institution that responsible on the matter of collection (and distribution) part of *zakat* in those particular states. Eight Religious Councils have so far corporatized, starting with Pusat Pungutan *Zakat* (PPZ), Wilayah Persekutuan in 1991, followed by Pusat *Zakat* Selangor, Pahang and Pulau Pinang in 1995, and lastly Pusat Pungutan *Zakat* Negeri Sembilan and Melaka in 2000. It was followed by Tabung Baitulmal Sarawak in 2001 and the latest was Pusat *Zakat* Sabah that has been corporatized in 2007. However, up till today, only Selangor, Pulau Pinang, Sarawak and Sabah are fully corporatized (both collection and distribution affairs).³³

However, we have to bear in mind that Malaysian Islamic banking and financial institutions are under the purview of Bank Negara Malaysia. It can be viewed through Section 2 of Central Bank of Malaysia Act 1958 whereby every banking business, Islamic banking business as well as other financial institutions must be licensed by Central Bank of Malaysia (CBM). Thus, the power to license as well as power to monitor the operation of banking business is on the shoulder of CBM.³⁴ If the collection of *zakat* done by SIRCs, it would amount to conflict of interest between SIRCs and CBM.

³¹ Aishah Bidin, *Isu Undang-Undang Berkaitan Perlaksanaan Zakat Terhadap Syarikat di Malaysia*, in *Zakat Pensyariatan, Perekonomian dan Perundangan*, ed. Abd Ghafar Ismail and Hailani Muji Tahir (Bangi: Penerbit UKM, 2006), 360

³² Nur Qamarin Nur Qamarina Binti Sharom, Norhayati Mohd Alwi And Noraini Mohd Ariffin, “*Case Study On Zakat Management at Pusat Islam UTM, Skudai*” Paper delivered at World Universities 1st Zakat Conference, Kuala Lumpur, 22-24 November 2011.

³³ Norazlina Abd. Wahabi and Abdul Rahim Abdul Rahman, “*Efficiency And Governance Of Zakat Institutions*” Paper delivered at World Universities 1st Zakat Conference, Kuala Lumpur, 22-24 November 2011.

³⁴ Central Bank of Malaysia Act 1958

In the research done by Aishah Bidin in 2006, she pointed out that there will be certain problem to impose *zakat* upon a company. It is because there are specific provisions in company law and the effect of separate legal entity. The legal entity in banks is separated from members and shareholders.³⁵ If the obligation is on the burden of the members, the bank will have no responsibility. The bank also cannot impose the obligation upon the members and shareholders to pay *zakat* since the effect of separate legal entity.

Moreover, the research also found that there will be a problem between the state law and federal law. As far as the law is concerned, Malaysia adopted two branches of law namely Islamic law and common law. Both laws have their own courts whereby the cases dealt with Islamic law will be heard by Shariah court and the cases dealt with common law will be decided by civil court. However since *zakat* in Islamic Banking Institution is comprised of Islamic and civil principles, the issue now is whether Shariah court has jurisdiction upon *zakat* in Islamic Banking Institution or vice versa? Eventually, the civil court has power to hear the case of Islamic Banking since the banking business could be defined as commerce or business under the purview of Section 3 and Section 5 of Civil Law Act 1956. It also should be submitted that there is none of federal law with regards to *zakat* collection in Islamic Banking Institution. Thus, it shows certain loopholes and lacunae in this issue. Besides, there is not a single word in any act on the power of enforcement body to take legal action upon the banks whose fail to pay the *zakat*.

7. RECOMMENDATIONS AND CONCLUSION

In a nutshell, this paper had highlighted various issues and challenges faced by Zakah Institutions and IBIs in managing banking *zakah*. Banking *zakah* also known as trade *zakah* is really essential for the benefit and betterment of the ummah (*maslahah*). It should be paid by each and every IBIs under the concept of '*Adalah* and *Maqasid Shariah*.

As indicated by the paper, there is a need to draft a single act pertaining to *zakat* of IBIs. The act should be effective as soon as possible. Moreover, there should be a proper body to enforce the proposed act. The enforcement body should be centralized in order to uniform the law. Furthermore, the management of *zakat* in IBIs in terms of collecting and distributing should be carried out by the banks professionally. The method of calculation should be correct and the distribution should be reached to the proper recipients.

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THEME: PERFORMANCE OF ZAKAT INSTITUTIONS AND SHARIAH ISSUES

KEPATUHAN ZAKAT OLEH SYARIKAT TERSENARAI AWAM DI MALAYSIA

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ABSTRAK

Tujuan utama kajian ini adalah bagi mengukur kepatuhan zakat dalam kalangan syarikat tersenarai awam (PLC) di Malaysia. Kajian ini membuat penilaian terhadap status kewajipan berzakat terhadap PLC patuh syariah yang telah diluluskan oleh Majlis Pengawasan Syariah Suruhanjaya Sekuriti Malaysia. Maklumat diperolehi daripada laporan tahunan PLC yang disediakan di laman web masing-masing dan sebanyak 705 laporan tahunan telah dimuat turun dan dikaji. Pertama, kajian ini mengenal pasti pemilikan muslim majoriti di dalam PLC. Berdasarkan kepada laporan Pemilikan Saham Tertinggi, sebanyak 117 dikira sebagai dimiliki oleh muslim. Kedua, kajian ini mengenal pasti pembayaran zakat yang dibuat oleh PLC bagi tempoh 6 tahun (2009 – 2014). Kajian ini mendapati sebanyak 17 PLC mempunyai pelaporan zakat di dalam Laporan Kewangan masing-masing. Jumlah PLC yang membuat pembuat pembayaran zakat adalah meningkat daripada 9 syarikat pada tahun 2009 kepada 16 syarikat pada tahun 2014. Kajian ini mendapati kadar kepatuhan pembayaran zakat dalam kalangan PLC adalah pada kadar 15%. Oleh itu, strategi yang komprehensif perlu dilakukan sama ada oleh pihak institusi zakat dan pihak berkenaan yang lain supaya hasrat untuk memaksimumkan potensi kutipan zakat terutama dalam kalangan entiti perniagaan dapat direalisasikan.

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ZAKAT COMPLIANCE AMONG PUBLIC LISTED COMPANIES IN MALAYSIA

ABSTRACT

The main purpose of this study is to measure zakat compliance among Public Listed Companies (PLCs) in Malaysia. The study evaluates the zakatability status of shariah-compliant securities companies by Securities Commission's Shariah Advisory Council. The information obtained from the latest annual report available and 705 annual reports were examined. Firstly, this study identifies companies with majority muslim shareholders. Based on the largest shareholders reports, 117 companies are treated as owned by muslim. Secondly, this study identifies zakat payment from the companies for 6 year period i.e. 2009 – 2014. The study finds 17 companies have zakat disclosure in their financial reporting for the period of study. The number of zakat paying companies keeps on increasing from 9 companies (for the year 2009) to 16 companies (for the year 2014). This study discovers the compliance rate for zakat payment among PLC is 15%. Thus, comprehensive strategies need to be carried out especially by zakat institutions and other pertinent parties in pursuance of maximizing zakat potential especially by business entities.

Keywords: Zakat compliance, zakat on business, public listed companies, zakat potential

1. PENDAHULUAN

Zakat adalah satu kewajipan bukan sahaja oleh individu tetapi juga oleh entiti perniagaan. Entiti perniagaan menyediakan prospek pembayaran zakat perniagaan yang tinggi berbanding individu sesuai dengan tujuan penubuhan entiti perniagaan adalah untuk menjana keuntungan. Oleh itu kajian mengenai kepatuhan zakat oleh entiti perniagaan perlu dilakukan dan segmen syarikat tersenarai awam (PLC) di pilih untuk menjadi subjek kajian ini. Kajian ini dibuat terhadap syarikat yang merupakan saham patuh syariah iaitu 817 syarikat yang merangkumi 97% daripada keseluruhan PLC sebanyak 923 syarikat (Suruhanjaya Sekuriti Malaysia, 2012). Saham patuh syariah ini digembleng melalui Pasaran Modal Islam (*Islamic Capital Market*) menyumbang sebanyak RM942 trillion iaitu 64% daripada keseluruhan jumlah pasaran modal iaitu RM1.466 trillion (Suruhanjaya Sekuriti Malaysia, 2014). Kekuatan ini menjadikan segmen PLC adalah satu segmen yang menyediakan pulangan yang lumayan kepada institusi zakat.

Isu kepatuhan zakat amat penting bagi mengatasi masalah kebocoran dalam potensi kutipan zakat. Kadar kepatuhan zakat yang tinggi memberi indikator yang baik dan sihat kepada kutipan zakat kerana ini bermakna lebih ramai yang patuh terhadap tuntutan kewajipan untuk membayar zakat (Zainol Bidin et al., 2013; Mohd Rais Alias, 2013). Kadar kepatuhan zakat yang tinggi juga memberikan indikator bahawa ruang potensi telah hampir dipenuhi dan peluang lonjakan kutipan adalah terhad. Kadar kepatuhan zakat yang rendah memberi isyarat bahawa ruang potensi kutipan masih tinggi dan peluang meningkatkan kutipan masih terbuka luas. Oleh itu kadar kepatuhan zakat amat perlu dikenal pasti bagi membantu gerak kerja memaksimumkan potensi kutipan zakat di Malaysia.

2. OBJEKTIF

Objektif utama kajian ini adalah untuk mengetahui tahap kepatuhan PLC di Malaysia dalam menunaikan zakat perniagaan. Tahap kepatuhan ini diukur dalam bentuk kadar yang diperolehi melalui pengumpulan dan analisis data. Kajian ini juga dibuat bagi memberikan dapatan lain yang juga penting iaitu mengetahui status pemilikan muslim dalam sesebuah PLC, mengetahui jumlah pemilikan muslim yang layak dikenakan zakat di dalam segmen PLC di Malaysia, mengenal pasti syarikat yang layak membayar zakat, dan mengenal pasti syarikat yang membayar zakat dan seterusnya memperoleh kadar kepatuhan zakat dalam kalangan PLC. Dapatan kajian ini kelak boleh menjadi dapatan berguna kepada institusi zakat dan syarikat PLC dalam merangka langkah yang lebih baik bagi memaksimumkan potensi kutipan zakat.

3. KAJIAN LITERATUR

3.1. Trend Kutipan Zakat dan Zakat Perniagaan

Kutipan zakat di Malaysia menunjukkan prestasi yang baik berdasarkan kepada trend peningkatan saban tahun. Prestasi selama 10 tahun iaitu 2003 hingga 2012 menunjukkan peningkatan daripada RM423.8 juta kepada RM1.936 bilion dengan kenaikan sebanyak RM1.512 bilion iaitu peningkatan melebihi 300%. Manakala bagi zakat perniagaan jumlah peningkatan lebih memberangsangkan iaitu daripada RM49

juta pada tahun 2003 melonjak kepada RM294 juta pada tahun 2012 iaitu kenaikan pada kadar 1,700% dalam jangka masa 10 tahun. (Rujuk Jadual 1).

Jadual 1:Prestasi Kutipan Zakat dan Zakat Perniagaan di Malaysia 2003 – 2012

Tahun	Kutipan Zakat Keseluruhan (RM)	Zakat Harta (RM)	Kutipan Zakat Perniagaan (RM)
2003	423,785,769.11	372,105,147	26,047,694.90
2004	473,268,373.46	420,185,837	48,389,032.24
2005	573,088,304.78	525,456,182	127,216,937.65
2006	670,636,172.70	614,182,988	160,763,421.56
2007	806,284,070.94	744,294,626	216,014,293.97
2008	1,038,259,932.24	946,224,058	260,282,736.60
2009	1,196,871,797.00	1,113,734,286	277,499,070.01
2010	1,363,772,680.87	1,271,341,906	301,790,687.10
2011	1,641,114,994.83	1,545,226,013	389,919,837.76
2012	1,933,423,200.05	1,832,545,165	460,623,221.46
Total	10,120,505,295.98	9,385,296,207	2,268,546,933.25

Sumber: Laporan Zakat PPZ-MAIWP

Bilangan pembayar zakat di Malaysia juga terus meningkat daripada 426,207 orang pada tahun 2006 kepada 889,509 pada tahun 2012 iaitu peningkatan sebanyak 463,302 dengan peningkatan melebihi 100% dalam jangka masa 6 tahun. (Rujuk Jadual 2).

Jadual 2: Prestasi Bilangan Pembayar Zakat dan Zakat Perniagaan

Tahun	Pembayar Zakat Harta (Bil)	Kenaikan (Bil)	Kadar (%)	Pembayar Zakat Perniagaan (Bil)	Kenaikan	Kadar (%)
2006	426,207	-	-	15,653	-	-
2007	452,585	26,378	6.19	18,085	2,432	15.54
2008	586,533	133,948	29.60	18,197	112	0.62
2009	662,710	76,177	12.99	20,492	2,295	12.61
2010	694,041	31,331	4.73	32,350	11,858	57.87
2011	761,420	67,379	9.71	23,246	-9,104	28.14
2012	889,509	128,089	16.82	26,796	3,550	15.27
Total	4,473,005	463,302		154,819	11,143	73.76
	Purata Kenaikan		13.34	Purata Kenaikan		12.30

Sumber: Laporan Zakat PPZ-MAIWP, 2003-2012.¹

Manakala bilangan pembayar zakat perniagaan juga meningkat daripada 15,653 pembayar pada tahun 2006 kepada 26,769 pembayar pada tahun 2012 iaitu peningkatan sebanyak 11,143 pembayar dengan peningkatan sebanyak 71% dalam jangka masa 6 tahun.

Zakat Perniagaan merupakan antara penyumbang utama kutipan zakat di Malaysia. Berdasarkan kepada prestasi kutipan zakat sebagaimana yang dinyatakan di dalam Jadual 3, sumbangan zakat perniagaan adalah 27.71% daripada kutipan zakat harta atau 23.39% daripada kutipan keseluruhan termasuk zakat fitrah.

Jadual 3: Sumbangan Zakat Perniagaan Dalam Kutipan Zakat di Malaysia (RM juta)

Jenis Zakat Harta	2010	2011	2012
Pendapatan	695.10	736.80	781.00
Perniagaan	301.78	389.92	469.39
Simpanan	136.61	144.30	152.90
Harta	79.30	84.10	89.10
KWSP	13.70	14.50	15.40
Pertanian	11.00	11.70	12.40
Lain-lain	5.50	5.80	6.20
Jumlah Zakat Harta	1,242.99	1,387.12	1,526.39
Kadar Sumbangan Zakat Perniagaan	24.28%	28.11%	30.75%
Purata Kadar Sumbangan		27.71%	
Jumlah Zakat Keseluruhan	1,363.77	1,641.10	1,933.40
Kadar Sumbangan Zakat Perniagaan	22.13%	23.76%	24.28%
Purata Kadar Sumbangan		23.39%	

Sumber: Laporan Zakat PPZ-MAIWP 2010 - 2012

Perkara menarik ditemui apabila membuat analisis purata pembayaran zakat sebagaimana di dalam Jadual 4 Perbandingan Purata Bayaran Zakat yang melibatkan perbandingan dua perkara utama iaitu Zakat Harta dan Zakat Perniagaan. Purata pembayaran zakat bagi tahun 2012 adalah RM2,060 bagi zakat harta manakala RM17,190 bagi zakat perniagaan. Angka ini menunjukkan bahawa zakat perniagaan mempunyai purata pembayaran zakat yang jauh lebih tinggi berbanding zakat harta dan ini menunjukkan pembayaran zakat perniagaan mempunyai impak yang lebih bagi meningkatkan kutipan zakat. Ini juga menunjukkan pembayaran zakat perniagaan membawa pulangan yang lebih lumayan berbanding zakat lain.

Jadual 4: Perbandingan Purata Pembayaran Zakat

Tahun	Kutipan Zakat Harta (RM)	Pembayar Zakat Harta (Bilangan)	Purata Bayaran (RM)	Kutipan Zakat Niaga (RM)	Pembayar Zakat Perniagaan (Bilangan)	Purata Bayaran (RM)
2006	614,182,988	426,207	1,441	160,763,421.56	15,653	10,270
2007	744,294,626	452,585	1,645	216,014,293.97	18,085	11,944
2008	946,224,058	586,533	1,613	260,282,736.60	18,197	14,304
2009	1,113,734,286	662,710	1,681	277,499,070.01	20,492	13,542
2010	1,271,341,906	694,041	1,832	301,790,687.10	32,350	9,329
2011	1,545,226,013	761,420	2,029	389,919,837.76	23,246	16,774
2012	1,832,545,165	889,509	2,060	460,623,221.46	26,796	17,190

3.2. Status Kewajipan Membayar Zakat Oleh PLC

Status kewajipan membayar zakat adalah jelas dalam konteks kewajipan individu atau entiti perseorangan (*individual entity*, *natural person*, *shakhsiyyah 'adiyah*). Walau bagaimana pun dalam konteks syarikat perkara ini menjadi lebih rumit kerana syarikat dikategorikan sebagai *shakhsiyyah i'tibariah* atau *legal entity* kerana institusi korporat (termasuk PLC) tidak mempunyai ciri-ciri individu secara total (*individual entity*) (Said Bouheraoua et al., 2011). Oleh itu terdapat banyak perbincangan mengenai kewajipan zakat oleh entiti perundangan (Aznan Hasan, 2011) seperti PLC malah terdapat pandangan yang mengatakan zakat diwajibkan ke atas individu muslim sedangkan dan tidak ke atas entity kerana entiti tidak mempunyai status agama (Abdul Hamid Mohamad dan Adnan Trakic, 2013).

Jawatankuasa Fatwa melalui Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia Kali Ke-31 yang bersidang pada 9 Disember 1992 telah membincangkan Zakat Ke Atas Syarikat. Muzakarah telah memutuskan bahawa syarikat perniagaan adalah diwajibkan zakat apabila mencukupi syarat-syarat seperti berikut (e-fatwa):

- a. Perniagaan yang dimiliki oleh orang Islam.
- b. Perniagaan dimiliki oleh orang Islam yang merdeka.
- c. Sempurna milik.
- d. Cukup nisab.
- e. Cukup haul (genap setahun qamariah/ 354.3hari)
- f. Kadar zakat ke atas syarikat tersebut adalah 2.5%.

Jawatankuasa Fatwa menjelaskan bahawa “Syarikat yang dimiliki bersama antara orang Islam dan bukan Islam, maka wajib ke atas jumlah saham yang dimiliki oleh orang Islam sahaja...” Asas kepada pengenaan zakat ini adalah bersandarkan kepada sebuah hadis Rasulullah SAW iaitu:

ولا يجمع بين متفرق لا يفرق بين مجتمع مخافة الصدقة

Terjemahan: “Dan tidak terhimpun antara yang terpisah dan tidak terpisah antara yang terhimpun kerana takut bersedekah (zakat)” (Sunan Abu Daud).

Berdasarkan hadis ini dapat disimpulkan bahawa beberapa individu yang berada dalam satu syarikat atau perkumpulan maka dianggap satu tanpa dipisah-pisahkan antara satu sama lain. Apabila sebuah syarikat ditubuhkan dengan niat untuk menjalankan perniagaan sama ada syarikat perkhidmatan, syarikat guaman, perhotelan, runding cara, perubatan, rekreasi, cari gali dan sebagainya, maka syarikat tersebut dianggap syarikat perniagaan yang dikenakan zakat perniagaan.

Prinsip *fiqh* yang digunakan di sini menggunakan konsep *Khultah* (Azman Mohd Noor dan Muhamad Nasir Haron, 2013). *Khultah* terbahagi kepada dua iaitu:-

- a. *Khultah asy-syuyu'* iaitu berlaku percampuran yang menyebabkan tidak dapat dibezakan milikan masing-masing

- b. *Khultah al-jiwar* iaitu berlaku percampuran pemilikan yang masih dapat dibezakan pemilikan masing-masing (Lembaga Zakat Selangor, 2008:29)

Pengiraan zakat dalam kalangan PLC adalah menggunakan prinsip *khultah as-syuyu'* di mana percampuran pemilikan adalah tidak dapat dibezakan. Dalam konteks ini kewajipan berzakat tidak dikenakan atas individu perseorangan tetapi individu perundangan (*judicial person*). Individu perseorangan tidak dipertanggungjawabkan secara langsung di dalam hal ini tetapi perkongsian pegangan (*joint stock*). Ini bermakna perkongsian pegangan dikira sebagai pemilikan tidak terpisah dan tanggung jawab menunaikan zakat dipindahkan kepada entiti yang mempunyai ciri yang hampir sama dengan individu perundangan walaupun tidak sama sepenuhnya (Mumahhad Taqi Usmani, 1998:156).

Walaupun pemilikan salah seorang tidak mencukupi nisab, nilai yang diambil adalah nilai terkumpul kerana kewajipan zakat dikenakan bukan atas tanggungjawab seseorang individu tetapi atas perkongsian harta yang kini dikira sebagai satu entiti (Muhmmad Taqi Usmani, 1998:157). Adalah menjadi kewajipan syarikat perniagaan mengeluarkan zakat bagi pihak pemiliknya dan sekiranya syarikat tersebut tidak mengeluarkan zakat, maka pemiliknya hendaklah mengeluarkan zakat secara persendirian. Syarikat perkongsian antara orang Islam dan bukan Islam, maka zakat hanya dikeluarkan berdasarkan saham milik orang Islam sahaja (Muhmmad Taqi Usmani, 1998:156).

Dalam kajian yang dibuat oleh Malik M. Hafeez (2013), beliau membuat kesimpulan bahawa maksud perkataan seseorang (*person*) adalah digunakan kebiasaannya untuk individu manusia tetapi di dalam konteks perundangan ia mempunyai istilah teknikal yang membawa maksud hak dan kewajipan. Undang-undang mengiktiraf status individu perundangan (*legal person*) sebagai entiti yang sah seperti sesebuah dana dan syarikat. Walaupun individu perundangan ini mungkin merupakan individu perundangan yang bukan asli (*artificial juristic person*), tetapi ia boleh menerima pertanggungjawaban seperti memiliki harta dan menjalankan perniagaan sama seperti individu perseorangan yang sebenar. Institusi Baitulmal, wakaf dan masjid merupakan contoh pengiktirafan Islam terhadap entiti perundangan ini.

Oleh itu kajian ini mengguna pakai rasional di atas yang dikukuhkan oleh Fatwa Kebangsaan bahawa syarikat adalah entiti perniagaan yang wajib mengeluarkan zakat.

3.3. Kaedah Penentuan Pemilikan Muslim Dalam PLC

Proses penentuan saham milik muslim di dalam PLC adalah sesuatu rumit kerana pemilikan bertukar setiap masa kerana keadaan saham yang sentiasa didagangkan. Namun begitu mengikut amalan Lembaga Zakat Selangor (LZS) (Mohd. Sabirin Sarbini, 2012) penentuan pemilikan muslim ini dilakukan dengan merujuk kepada laporan pemilik saham tertinggi yang perlu dilaporkan oleh syarikat di dalam laporan tahunan. Pemilikan yang diambil kira adalah pemilikan individu muslim dan pemilikan (GLC) dan syarikat pelaburan berkaitan kerajaan (GLIC) seperti Kumpulan Wang Simpanan Pekerja (KWSP), Tabung Haji (TH), Permodalan Nasional Berhad (PNB), Kumpulan Wang Amanah Pencen (KWAP), Kementerian Kewangan Diperbadankan dan Khazanah Nasional (Khazanah Nasional, 2015).

Bagi syarikat yang mempunyai pemilikan muslim kurang daripada 30%, berdasarkan kepada pengalaman institusi zakat (Khairulazhar Samsudin, 2012; Mohd Sabirin Sarbini, 2012) adalah sukar untuk pemegang saham melunaskan zakat perniagaan melalui syarikat dan menggunakan dana syarikat. Mereka disarankan untuk membayar zakat secara persendirian di bawah kategori zakat saham (Lembaga Zakat Selangor, 2012).

3.4. Teori Kepatuhan Membayar Zakat

Kajian mengenai kepatuhan zakat lebih berkisar kepada topik gelagat kepatuhan. Berdasarkan kepada pelbagai literatur tentang teori kepatuhan zakat pelbagai teori digunakan mengikut reka bentuk kajian masing-masing. Kebanyakan kajian mengenai gelagat kepatuhan menggunakan teori psikologi sebagai kerangka kajian dengan menggunakan asas Teori Gelagat Terancang (TPB) sebagai asas dan ini merupakan pendekatan yang paling popular. Ia bermula daripada kajian yang dibuat oleh Kamil Md. Idris (2002) dengan tajuk Gelagat Kepatuhan Zakat Pendapatan di Kalangan Kakitangan Awam Persekutuan di negeri Kedah. Kajian ini dibuat untuk mengenal pasti dimensi sikap terhadap zakat gaji dan membentuk model gelagat kepatuhan zakat gaji bagi memahami bagaimana angkubah-angkubah yang terlibat mempengaruhi gelagat kepatuhan (Kamil Md. Idris, 2004: iii). Antara penyelidik lain yang turut menggunakan TPB sebagai kerangka kajian adalah Ahmad Radzuan Ghazali (2009) yang menjalankan kajian bagi melihat kesan tahap keagamaan dan akauntabiliti peribadi terhadap niat membayar zakat perniagaan dalam kalangan peniaga pemilikan tunggal. Penyelidik lain adalah Nor Adilah Ahmad Shokori (2011) yang membuat kajian mengenai kepatuhan terhadap zakat perniagaan dalam kalangan pengusaha stesen minyak dan Ram Al-Jefri Saad (2010) yang mengkaji gelagat kepatuhan pembayaran zakat perniagaan dalam kalangan peniaga di Pulau Pinang.

Terdapat kajian yang menggunakan asas pandangan Islam adalah sebagaimana kerangka kajian sebagaimana yang dibuat oleh Mohd Ali Mohd Noor et al.(2004) di mana dia menggunakan pandangan tokoh iaitu Yusuf Qaradawi yang mengatakan bahawa pendidikan dan keimanan mempengaruhi tindakan ekonomi seseorang. Pandangan ini dipetik oleh penyelidik melalui buku Yusuf Qaradawi (1995), Peranan Nilai dan Akhlak dalam Ekonomi Islam. Selain itu dalam tiga kajian lain menggunakan asas rasional seorang Muslim yang melihat prinsip zakat sebagai satu tuntutan ibadah iaitu kajian yang dibuat oleh Sanep Ahmad et al. (2011), Mohd Rahim Khamis et al (2011) dan Sanep Ahmad dan Zulkifli (2010).

Selain itu, pendekatan lain yang digunakan dalam membuat kajian mengenai kepatuhan zakat adalah dengan membuat perbandingan di antara gelagat kepatuhan zakat dan cukai. Mereka mengambil kira teori kepatuhan cukai dan disesuaikan dengan kepatuhan zakat sebagaimana yang dibuat oleh Kamil Md. Idris (2009) dan Sanep Ahmad dan Zulkifli (2010). Hasil kajian literatur oleh Kamil Md. Idris (2009) mendapati antara faktor yang mempengaruhi kepatuhan cukai adalah demografi iaitu umur (ketua isi rumah yang berumur melebihi 65 tahun lebih patuh), jantina (wanita lebih patuh), tahap pendapatan (golongan berpendapatan tinggi lebih patuh) dan beban tanggungan (golongan yang kurang beban tanggungan kewangan lebih patuh).

Hasil kajian literatur oleh Sanep Ahmad dan Zulkifli (2010) yang dibuat berdasarkan teori Becker mengenai jenayah dan hukumannya dalam pendekatan ekonomi telah

mengenal pasti beberapa faktor yang mempengaruhi gelagat individu untuk mengelak daripada membayar cukai iaitu kebarangkalian dikesan, kadar cukai dan struktur penalti. Hukuman yang tegas dan jelas boleh mengurangi tingkat pengelakan cukai selain faktor ekonomi, persekitaran, pengetahuan, sosial demografi, peluang mengelak, persepsi dan sistem cukai. Namun begitu bagi mengaplikasikan teori kepatuhan cukai terhadap kepatuhan zakat adalah tidak begitu tepat kerana zakat dan cukai sebenarnya adalah sangat berbeza kerana pematuhan dan pengelakan zakat tidak hanya mengambil kira beban fizikal sahaja seperti hukuman dan penalti tetapi lebih menyeluruh mencakupi beban fizikal dan mental. Perbezaan antara keduanya dinyatakan di dalam Jadual 5.

Jadual 5:Perbezaan Zakat dan Cukai

Zakat	Cukai
Konsep Zakat adalah penyucian jiwa dan harta (Yusuf Qardawi). Ia merupakan tanggungjawab agama iaitu sebagai ibadat	Konsep cukai adalah tekanan yang dikenakan oleh pemerintah kepada rakyat.
Tidak bayar zakat berdosa	Tidak bayar cukai dikenakan denda oleh pemerintah
Bayar zakat tertakluk kepada muslim yang layak sahaja.	Semua rakyat yang layak kena bayar cukai
Zakat dikutip oleh kerajaan Islam sahaja	Cukai boleh dikutip oleh sesiapa sahaja yang memerintah negara
Sumber zakat adalah dari sumber halal sahaja	Sumber cukai adalah semua sumber yang diperoleh.
Kadar zakat adalah tetap iaitu seperti 2.5 peratus dan yang berubah hanyalah nilai wang sahaja.	Kadar cukai boleh berubah mengikut kadar yang ditetapkan oleh kerajaan pada setiap tahun
Pengagihan zakat tertakluk kepada lapan golongan asnaf sahaja.	Pengagihan cukai adalah untuk membiayai semua aktiviti pemerintah untuk keperluan rakyat

Sumber: Kertas Seminar Persidangan Zakat dan Cukai Kebangsaan 2007 (Ruziah Ghazali, 2007).

Dalam kajian yang dilaksanakan oleh Zahri Hamat (2009) yang membuat perbandingan di antara perakaunan zakat dan perakaunan cukai (Income Tax Act 1967) di Malaysia mendapati keduanya adalah tiada kaitan.

Kajian gelagat kepatuhan zakat adalah sentiasa berkait dengan analisis faktor yang mempengaruhi pembayaran zakat dan faktor ditakrifkan sebagai unsur atau sebab yang menyumbang kepada sesuatu hasil (Dewan Bahasa dan Pustaka, 2007:405). Antara kajian yang paling awal di Malaysia yang pernah dijalankan mengenai gelagat kepatuhan zakat adalah mengenai kepatuhan zakat gaji oleh Kamil Md. Idris (2002). Kajian mendapati sikap terhadap zakat gaji boleh dirungkaikan kepada lima komponen kecil dan setiap komponen berserta angkubah telah diuji di dalam model gelagat kepatuhan melalui teknik statistik regresi logistik. Hasil kajian mendapati tujuh angkubah berkait secara positif dengan gelagat kepatuhan iaitu undang-undang zakat, kualiti perkhidmatan, pendedahan promosi, tiga komponen sikap dan pengetahuan.

Implikasi daripada penemuan kajian adalah undang-undang zakat perlu diperkemas, kualiti perkhidmatan perlu sentiasa dipertingkatkan dan strategi promosi kempen zakat perlu dipergiat. Namun begitu kajian ini mendapati elemen nilai agama mempunyai kesan negatif terhadap gelagat pembayaran zakat dan ini menunjukkan masih ramai yang suka membayar zakat sendiri dan mereka terpengaruh dengan pandangan yang tidak mewajibkan zakat gaji.

Zulkifli dan Sanep Ahmad (2010) telah membawakan kajian yang menghasilkan Model Teori Kepatuhan dan Pengelakan Zakat. Kajian ini cuba membina satu model kepatuhan zakat terhadap institusi formal kutipan zakat. Model dibina berdasarkan model kepatuhan cukai dengan mengambil kira beberapa faktor penting yang mempengaruhi kepatuhan pembayaran zakat. Berdasarkan model konseptual, gelagat pematuhan dan pengelakan zakat tidak hanya bergantung kepada hukuman jika adanya penguatkuasaan undang-undang, tetapi juga bergantung kepada pelbagai faktor lain iaitu komitmen kepada agama/keimanan, kefahaman/pengetahuan zakat, kemudahan mekanisme pembayaran, kepercayaan kepada institusi formal pungutan zakat, persepsi sistem cukai dan faktor persekitaran.

Mohd Rahim Khamis et al. (2011) telah mengemukakan satu teori ekonomi terhadap gelagat kepatuhan zakat perniagaan dengan mengkaji teori gelagat kepatuhan zakat dan menyarankan satu model ekonomi tentang perkara ini. Dapatan kajian ini mendapati faktor yang mempengaruhi gelagat kepatuhan zakat perniagaan adalah terdiri daripada enam variabel iaitu penguatkuasaan undang-undang, insentif kerajaan, tahap pengetahuan, tahap keimanan, tempoh perniagaan dan faktor institusi zakat.

Zainol Bidin dan Kamil Md. Idris (2008) telah membuat penyelidikan tentang peranan sikap dan norma subjektif terhadap kepatuhan zakat pendapatan. Beliau mendapati dimensi sikap pekerja muslim mempunyai pengaruh terhadap kesungguhan menunaikan ibadah zakat. Komponen sikap boleh dibahagikan kepada enam komponen manakala norma subjektif pula boleh dibahagikan kepada tiga komponen. Kesemua komponen ini mempunyai korelasi yang signifikan terhadap pembayaran zakat. Beliau mencadangkan agar institusi zakat mengambil kira semua komponen ini bagi memastikan pendekatan dan perancangan yang digunakan adalah lebih berkesan.

Kajian lain mengenai kepatuhan zakat turut diadakan oleh Mohd Ali Mohd Nor et al. (2004) bagi mengenalpasti faktor yang mempengaruhi pembayaran zakat pendapatan dalam kalangan kakitangan profesional di Universiti Kebangsaan Malaysia. Hasil kajian mendapati beberapa faktor mempengaruhi gelagat pembayaran iaitu lokasi, demografi, keyakinan, kemudahan, iman, pengetahuan agama dan pendidikan. Keputusan dari analisis ekonometrik menunjukkan faktor iman dan pengetahuan agama amat signifikan mempengaruhi pembayaran zakat pendapatan. Semakin tinggi tahap keimanan dan pengetahuan zakat, maka seseorang Muslim akan lebih cenderung untuk membayar zakat pendapatan. Hasil kajian juga mendapati pengetahuan mengenai fungsi Pusat Pungutan Zakat (PPZ) tidak mempengaruhi keputusan untuk membayar zakat. Usaha meningkatkan pungutan zakat perlu dilakukan dengan cara yang berintegrasi dengan mengambil pendekatan menyeluruh.

3.5. Kepatuhan Cukai

Kepatuhan cukai merupakan elemen utama yang dipastikan oleh sesebuah kerajaan (Franzoni Luigi A, 2000: 52). Terdapat dua laporan yang dibuat oleh sesebuah kerajaan bagi mengukur kepatuhan cukai iaitu United Kingdom dan Amerika Syarikat. Kerajaan United Kingdom mengeluarkan laporan Measuring Tax Gap setiap tahun sebagai analisis tahap kepatuhan cukai oleh pembayar cukai negara. Tax Gap atau Jurang Cukai ini ditakrifkan sebagai perbezaan di antara jumlah cukai yang sepatutnya dipungut secara teori berbanding cukai sebenar yang dipungut (Kerajaan United Kingdom, 2014). Pada tahun 2013 jurang cukai yang diperolehi berjumlah £35 bilion iaitu 7% daripada jumlah cukai dan pada tahun 2012 jurang cukai adalah £34 bilion iaitu 7.1% daripada jumlah cukai. Amerika Syarikat melalui Internal Revenue Service (IRS) membuat penyelidikan bagi tempoh tertentu untuk mengukur jurang cukai. Laporan bagi tahun 2006 yang dikeluarkan pada tahun 2012 mendapati jumlah jurang cukai bersih (*Net Tax Gap*) di Amerika Syarikat adalah \$385 bilion dengan kadar kepatuhan 85.5%. Kadar Kepatuhan cukai didapati lebih baik berbanding dengan dapatan kajian sebelum ini yang dibuat pada tahun 2001 iaitu dengan kadar 86.3%. (IRS, 2013).

4. METODOLOGI

4.1. Kerangka kajian

Kajian ini menggunakan pendekatan kuantitatif berbentuk bancian terhadap semua PLC patuh syariah di Malaysia. Ia dibuat secara kajian keratan rentas (*cross-sectional study*) bagi mengenal pasti pemilikan muslim dalam syarikat yang layak membayar zakat dengan mengambil data terbaru boleh capai daripada Laporan Tahunan syarikat. Data diperolehi melalui proses muat turun laporan tahunan syarikat daripada laman web rasmi PLC melalui capaian dalam talian. Proses muat turun laporan tahunan ini dilakukan dalam tempoh tiga bulan iaitu Januari - Mac 2013. Pendekatan secara bancian dilakukan dalam mengenal pasti syarikat yang layak membayar zakat bagi memastikan kesahihan hasil kajian. Jumlah populasi adalah berada dalam jumlah yang mampu capai bagi memastikan buat anggaran hampir tepat bagi memenuhi objektif kajian. Beberapa andaian telah dibuat berasaskan rasional tertentu bagi memastikan data yang diperolehi dapat dianalisis mengikut jangka masa kajian.

4.2. Populasi kajian

Populasi kajian ini adalah PLC yang sahamnya dikategorikan sebagai patuh syariah yang disenaraikan di Bursa Malaysia melalui penerbitan khas Suruhanjaya Sekuriti Malaysia iaitu Senarai Sekuriti Patuh Syariah oleh Majlis Penasihat Syariah Suruhanjaya Sekuriti Malaysia yang dikemas kini dua kali setahun. Menyedari PLC dan syarikat status PLC patuh syariah sering berubah, kajian ini menggunakan Senarai Sekuriti Patuh Syariah yang berkuat kuasa 30 November 2012. Senarai ini dianggap paling tepat bagi kajian ini kerana ia merupakan senarai terbaru semasa kajian dibuat. Senarai ini mempunyai 817 syarikat (89%) yang diluluskan sebagai syarikat patuh syariah daripada keseluruhan syarikat iaitu 923 syarikat. (Suruhanjaya Sekuriti Malaysia, 2012:9).

4.3. Pengumpulan Data

Kajian ini dibuat merangkumi tiga langkah utama iaitu mengenal pasti pemilikan muslim, mengenal pasti syarikat yang membayar zakat dan menganalisis trend pembayaran zakat dalam kalangan PLC.

4.3.1. Menenal pasti pemilikan muslim

Bagi tujuan mengenal pasti pemilikan muslim, laporan tahunan terbaru semasa proses muat turun laporan (Januari – Mac 2013) diambil. Oleh itu terdapat perbezaan tahun kewangan yang diambil bagi tujuan ini iaitu dalam julat 2011-2013. Walaupun terdapat perbezaan tahun tetapi kajian ini mengutamakan maklumat yang terbaru untuk diguna pakai bagi memastikan kualiti maklumat yang diperoleh. Daripada 817 syarikat patuh syariah, sebanyak 705 laporan tahunan terkini dapat dimuat turun iaitu sebanyak 86.3% daripada populasi. Sebanyak 112 syarikat tidak diperoleh kerana pelbagai faktor terutama kerana laman web tidak dikemas kini, sedang di selenggara dan laporan tahunan tidak tersedia untuk dimuat turun.

Sebanyak 515 laporan (73.1%) yang diperoleh adalah bagi tahun 2012, 160 laporan (26.7%) bagi tahun 2013 dan 30 laporan (4.2%) bagi tahun 2011. Senarai pemilikan muslim tertinggi yang diperoleh dianggap paling tepat kerana ia bersumberkan laporan rasmi sesebuah syarikat. Ia juga adalah selaras dengan amalan institusi zakat di Malaysia (Khairulazhar Samsudin, 2012; Mohd Sabirin Sarbini, 2012) Kaedah penentuan pemilikan muslim mengikut amalan institusi zakat di mana pemilikan yang diambil kira adalah pemilikan individu muslim dan pemilikan GLC dan GLIC.

4.3.2. Menenal pasti pembayaran zakat

Bagi tujuan ini data sekunder digunakan. Data sekunder yang digunakan adalah laporan tahunan syarikat bagi tempoh kajian iaitu 2009-2014. Analisis mengikut jangka masa ini diperlukan bagi mengesan pembayaran zakat bagi syarikat yang membayar zakat tetapi tidak konsisten setiap tahun. Kajian ini membuat andaian bahawa zakat yang dibayar oleh syarikat adalah jumlah zakat yang sebenar yang dikenakan. Andaian lain yang dibuat adalah, pembayaran zakat dikira apabila pembayaran zakat tersebut dinyatakan di dalam laporan kewangan tahunan syarikat.

4.4. Analisis Data

Data yang diperoleh dianalisis mengikut objektif kajian boleh dibahagikan kepada tiga iaitu pemilikan muslim, pembayaran zakat dan trend pembayaran. Semua maklumat diproses menggunakan perisian Microsoft Excel bagi membolehkan data dikeluarkan untuk dianalisis menggunakan tiga teknik utama iaitu analisis matematik, analisis deskriptif dan analisis nisbah atau kadar. Analisis kepatuhan ini dibuat berdasarkan kepada bilangan syarikat membayar zakat tanpa mengambil kira amaun zakat yang sepatutnya dibayar. Manakala kepatuhan zakat pula diukur menggunakan kaedah

peratusan. Kaedah peratusan ini digunakan oleh laporan Measuring Tax Gaps (Kerajaan United Kingdom, 2013).

5. DAPATAN KAJIAN

Berdasarkan kepada analisis yang dilakukan bagi mencapai objektif kajian, terdapat empat dapatan utama kajian sebagaimana berikut:-

5.1. Kedudukan Pemilikan Muslim Dalam PLC

Analisis pemilikan muslim dibuat berdasarkan kepada Laporan Pemegang Saham Tertinggi oleh syarikat di dalam Laporan Tahunan masing-masing. Daripada 705 buah laporan tahunan syarikat diperolehi, analisis pemilikan dibuat terhadap semua laporan. Didapati sebanyak 69 syarikat (9.79%) mempunyai pemilikan muslim melebihi 50% manakala 48 syarikat (6.81%) mempunyai pemilikan 30-50% muslim. 442 syarikat (62.7%) hanya mempunyai 1-29% pemilikan muslim manakala baki 146 syarikat (20.71%) tidak mempunyai sebarang pemilikan muslim sebagaimana dinyatakan di dalam Jadual 6. Didapati tiada syarikat patuh syariah dalam sektor hotel dan dana tertutup.

Jadual 6: Kedudukan Pemilikan Muslim Dalam PLC (Bilangan)

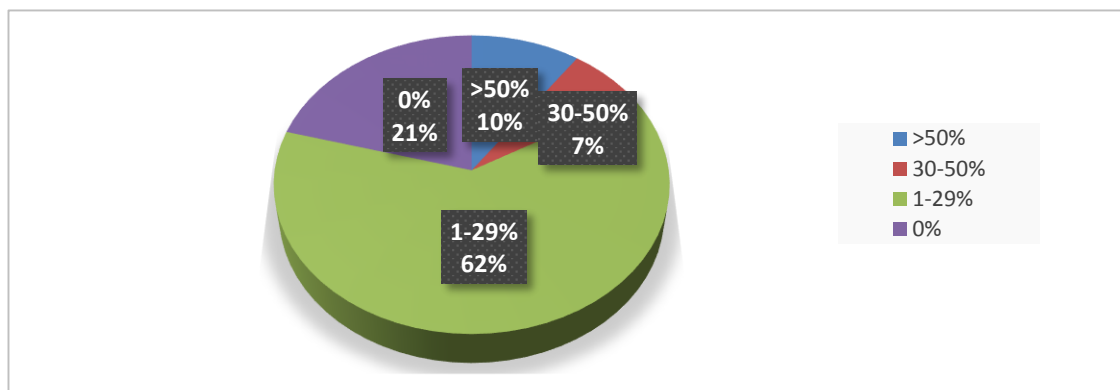
Sektor	Sekuriti Patuh Syariah	Syarikat Yang Diperoleh Status Pemilikan	Kategori Peratus Pemilikan Muslim			
			≥50%	30-50%	1-29%	0%
Barangan Pengguna	125	124	4	5	84	31
Barangan Industri	253	234	10	10	162	52
Perlombongan	1	1	0	0	0	1
Pembinaan	43	43	9	1	29	4
Dagangan/Perkhidmatan	178	153	28	20	80	25
Hartanah	74	73	5	3	52	13
Perladangan	39	39	3	3	21	12
Teknologi	95	29	5	5	11	8
Infrastruktur	7	7	3	1	3	0
Kewangan	2	2	2	0	0	0
Hotel	0	0	0	0	0	0
Dana Tertutup	0	0	0	0	0	0
Jumlah	817	705	69	48	442	146
Peratus (%)		86.30	9.79	6.81	62.70	20.71

Sumber: Analisis Kajian

Kajian ini memberi fokus kepada syarikat yang mempunyai pemilikan muslim melebihi 30% iaitu sebanyak 117 syarikat yang mewakili 16.6% daripada populasi. Rasional 30%

ini diambil daripada pengalaman institusi zakat (Khairulazhar Samsudin, 2012; Mohd Sabirin Sarbini (2012) bahawa kadar ini adalah munasabah untuk dijadikan asas gerak kerja pemasaran zakat perniagaan oleh institusi zakat. Rajah pemilikan muslim adalah sebagaimana di dalam Rajah 1.

Rajah 1: Kedudukan Pemilikan Muslim Dalam PLC

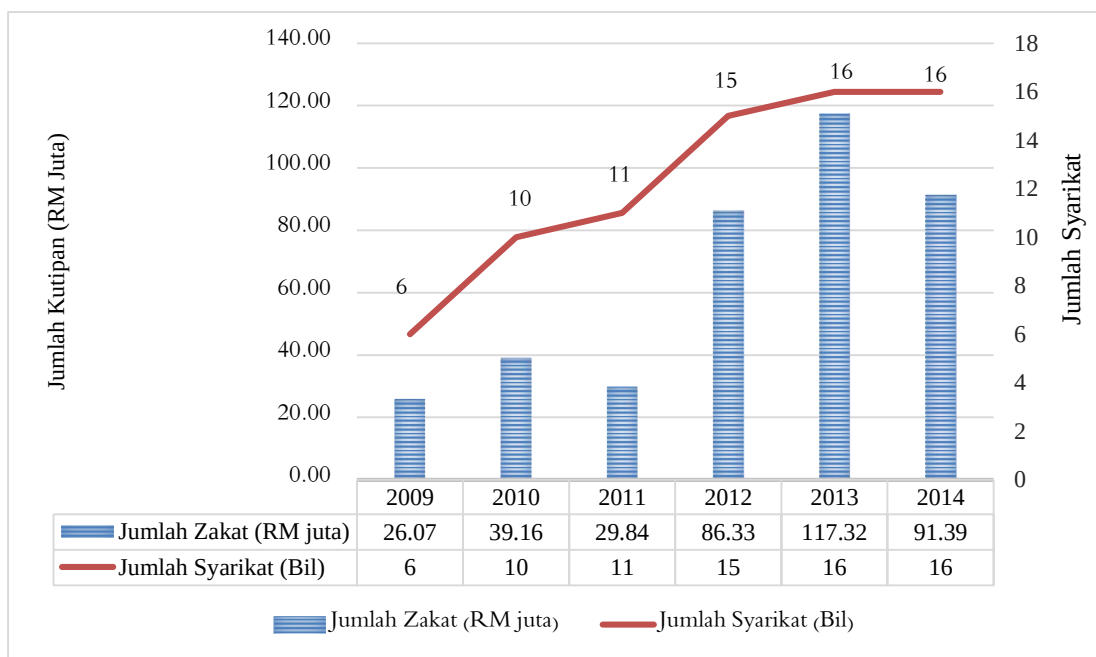


Sumber: Analisis Kajian

5.2. Syarikat yang membayar zakat

Bagi mengenal pasti syarikat yang membayar zakat, kajian ini membuat carian melalui laporan kewangan syarikat yang mempunyai pemilikan muslim bagi tempoh enam tahun iaitu 2009-2014. Daripada proses ini sebanyak 17 buah syarikat mempunyai rekod pembayaran zakat di dalam laporan masing-masing. 4 buah syarikat (23.5%) berada di dalam kategori pemilikan muslim 30-50% dan bakinya 13 buah syarikat (76.5%) mempunyai pemilikan muslim melebihi 50%. Bilangan syarikat yang membayar meningkat daripada 6 syarikat pada tahun 2009 kepada 16 syarikat pada tahun 2014 dengan peningkatan 166.6%. Jumlah bayaran zakat juga meningkat daripada RM26.0 juta kepada RM91.4 juta pada tahun 2014 iaitu peningkatan 251%. Perincian maklumat bayaran zakat adalah sebagaimana dinyatakan di dalam lampiran. Trend Pembayaran Zakat PLC adalah sebagaimana di dalam Rajah 2.

Rajah 2:Trend Pembayaran Zakat PLC 2009-2014



5.3. Analisis Pembayaran Zakat Syarikat

Daripada 17 syarikat yang membayar zakat 15 syarikat konsisten membayar zakat setiap tahun sebagaimana yang dinyatakan di dalam Rekod Pembayaran Zakat Syarikat Tersenarai Awam di Malaysia 2009-2014 di Lampiran 1. Lima syarikat yang membuat pembayaran zakat paling tinggi pada tahun 2014 Tenaga Nasional Bhd iaitu RM27.9 juta, UMW Holdings iaitu RM14.8 juta, BIMB Holdings Bhd iaitu RM13.2 juta, Felda Global Ventures Bhd iaitu RM13.2 juta, dan MMC Corporation Bhd RM6.1 juta. Trend pembayaran zakat adalah tidak menentu (*fluctuates*) berdasarkan pengiraan zakat tahun pembayaran zakat dibuat.

5.4. Analisis Kepatuhan Pembayaran Zakat Mengikut Pemilikan Muslim dan Sektor

Sektor Kewangan yang diwakili oleh Bank Islam Malaysia Berhad dan Syarikat Takaful Malaysia Berhad merupakan sektor patuh zakat 100%. Pembayaran zakat oleh kedua syarikat ini adalah konsisten setiap tahun bagi tempoh kajian. Sektor Perladangan yang diwakili pembayaran zakatnya oleh Felda Global Ventures Berhad dan TH Plantations Berhad menjadikan kadar kepatuhan sektor ini adalah 33%. Ini diikuti oleh Sektor Dagangan dan Perkhidmatan iaitu 19%. Sektor ini merupakan sektor terbesar dengan 48 syarikat dan bilangan syarikat yang membayar adalah sebanyak 9 syarikat. Perincian dapatan kajian adalah sebagaimana dinyatakan di dalam Jadual 7.

Jadual 7 :Kadar Kepatuhan Membayar Zakat PLC di Malaysia Mengikut Sektor (Bilangan)

Sektor	Pemilikan Muslim ≥50%			Pemilikan Muslim 30% – 50%			Jumlah Syarikat		
	Bil.	Bayar	%	Bil	Bayar	%	Bil	Bayar	%
Barangan Pengguna	4	1	25	5	0	0	9	1	11
Barangan Industri	10	0	0	10	1	10	20	1	5
Perlombongan	0	0	0	0	0	0	0	0	0
Pembinaan	9	1	11	1	0	0	10	1	10
Dagangan/ Perkhidmatan	28	6	21	20	3	15	48	9	19
Hartanah	5	0	0	3	0	0	8	0	0
Perladangan	3	2	67	3	0	0	6	2	33
Teknologi	5	1	20	5	0	0	10	1	10
Infrastruktur	3	0	0	1	0	0	4	0	0
Kewangan	2	2	100	0	0	0	2	2	100
Hotel	0	0	0	0	0	0	0	0	0
Dana Tertutup	0	0	0	0	0	0	0	0	0
Jumlah	69	13	19	48	4	8	117	17	15

Sumber: Analisis Kajian

PLC yang mempunyai pemilikan muslim melebihi 50% mempunyai kadar kepatuhan yang lebih tinggi iaitu 19% berbanding pemilikan 30% – 50% iaitu 8%.

5.5. Analisis Kepatuhan Zakat PLC Keseluruhan

Berdasarkan kepada Jadual 7, jumlah PLC yang membayar zakat adalah sebanyak 17 syarikat berbanding 117 PLC yang dikategorikan mempunyai pemilikan muslim melebihi 30%. Oleh itu kadar kepatuhan pembayaran zakat dalam kalangan PLC di Malaysia yang diperolehi hasil kajian ini pada 15%.

6. KESIMPULAN

Kajian ini telah berjaya memberikan penemuan baru dalam konteks sumbangan ilmu dalam bidang zakat. Kajian ini berjaya mengenal pasti pemilikan muslim dalam syarikat PLC di Malaysia. Melalui kaedah bancian, kajian ini memberikan anggaran hampir tepat terhadap pemilikan muslim di dalam kalangan PLC iaitu 16.6%. Seterusnya, kajian ini dapat memberikan dapatan tentang pembayaran zakat yang dilaporkan di dalam laporan kewangan syarikat bagi tempoh 6 tahun iaitu 2009-2014. Sebanyak 17 buah PLC telah membayar zakat dan 16 syarikat didapati konsisten membayar zakat dan jumlah bayaran zakat adalah sangat berbeza setiap tahun. Berdasarkan kepada bilangan syarikat yang membayar bagi tempoh kajian kadar kepatuhan membayar zakat dalam kalangan PLC diperolehi pada kadar 15%. Kadar

kepatuhan ini menunjukkan bahawa kadar ketidakpatuhan zakat adalah sebaliknya iaitu 85%. Kadar ini juga menunjukkan ruang dan potensi peningkatan kutipan zakat adalah masih luas dan semua pihak sama ada institusi zakat dan pihak yang berkaitan tidak boleh berada di dalam zon selesa dengan peningkatan kutipan zakat saban tahun. Kadar kepatuhan ini juga menunjukkan berlakunya ketirisan yang banyak di dalam operasi kutipan zakat negara dan semua pihak perlu berganding bahu bersama bagi memastikan trend ini dapat dibaiki dengan kadar segera. Ketirisan ini juga merupakan kehilangan dalam dana kutipan zakat yang amat diperlukan oleh ummah. Walaupun kajian ini dibuat dalam kalangan PLC tetapi dapatan ini boleh diluaskan sebagai satu petanda (*clue*) untuk sektor-sektor perniagaan yang lain.

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LAMPIRAN 1

REKOD PEMBAYARAN ZAKAT SYARIKAT TESENARAI AWAM DI MALAYSIA 2009 - 2014 (RM)

Sektor	Nama Syarikat	Pemilikan Muslim	2014	2013	2012	2011	2010	2009
Barangan Pengguna	1. MSM Malaysia Holdings Bhd.	≥ 50%	4,500,000	17,481,000	16,580,000	TBZ	TBZ	TBZ
Barangan Industri	2. UMW Holdings Bhd.	30 -50%	14,787,000	1,012,000	TBZ	TBZ	TBZ	TBZ
Perlombongan	Tiada	TB	0	0	0	0	0	0
Permbinaan	3. Merge Energy Bhd	≥ 50%	168,374	259,390	233,950	TM	60,000	TBZ
Dagangan/ Perkhidmatan	4. Axiata Group Bhd.	≥ 50%	898,000	8,500,000	8,500,000	845,000	TBZ	TBZ
	5. Faber Group Bhd.	30 -50%	3,490,000	3,950,000	1,500,000	1,000,000	1,000,000	TBZ
	6. KPJ Healthcare Bhd.	≥ 50%	2,272,000	1,825,000	1,320,000	130,000	1,269,000	TBZ
	7. MMC Corporation Bhd.	≥ 50%	6,066,000	3,909,000	5,351,000	2,047,000	1,236,000	TBZ
	8. NCB Holdings Bhd.	≥ 50%	1,089,000	843,000	TBZ	TBZ	TBZ	TBZ
	9. Pharmaniaga Bhd	≥ 50%	TBZ	TBZ	350,000	300,000	1,962,000	TBZ
	10. Telekom Malaysia Bhd.	30-50%	3,100,000	4,300,000	2,300,000	6,500,000	600,000	3,800,000
	11. Tenaga Nasional Bhd	30-50%	27,900,000	26,500,000	22,400,000	16,700,000	17,200,000	9,800,000
	12. Utusan Melayu (M) Bhd.	≥ 50%	127,009	50,076	36,000	261,000	TBZ	40,000

Sektor	Nama Syarikat	Pemilikan Muslim	2014	2013	2012	2011	2010	2009
Perladangan	13. Felda Global Ventures Holdings Bhd.	≥ 50%	13,184,000	32,612,000	16,580,000	TM	TM	TM
	14. TH Plantations Bhd.	≥ 50%	34,000	278,000	-119,000	409,000	248,000	4,268,000
Teknologi	15. Mesiniaga Bhd.	≥ 50%	180,000	180,000	180,000	TBZ	TBZ	TBZ
Infrastruktur	Tiada	TB	0	0	0	0	0	0
Kewangan	16. BIMB Holdings Bhd	≥ 50%	13,202,000	14,108,000	10,121,000	919,600	15,066,000	7,303,000
	17. Syarikat Takaful Malaysia Bhd.	≥ 50%	389,000	1,517,000	1,000,000	733,000	516,000	862,000
Hotel	Tiada	TB	0	0	0	0	0	0
Dana Tertutup	Tiada	TB	0	0	0	0	0	0
Jumlah Bayaran			91,386,383	117,324,466	86,332,950	29,844,600	39,157,000	26,073,000
Jumlah Syarikat			16*	16*	15	11	10	6

Sumber: Analisis Data

Nota:

1. TBZ: Tiada Bayaran Zakat – Ia bermaksud tiada rekod pembayaran zakat di dalam Penyata Kewangan syarikat.
2. TB : Tidak Berkenaan
3. Jumlah syarikat tersenarai awam yang mempunyai rekod pembayaran zakat adalah 17 syarikat. Namun begitu bagi tahun 2013 dan 2014 bilangan syarikat tersenarai awam yang membayar adalah sebanyak 16 sebagaimana dinyatakan di atas. Ini adalah kerana terdapat satu syarikat tidak meneruskan pembayaran zakat pada tahun 2013 dan 2014.

KEDUDUKAN ORANG KELAINAN UPAYA (OKU) SEBAGAI ASNAF ZAKAT DI MALAYSIA

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ABSTRAK

Kajian ini dijalankan bagi menganalisis dan mengenalpasti kedudukan Orang Kelainan Upaya (OKU) sebagai asnaf zakat dalam konteks pada masa kini. Isu ini dapat dibincangkan dengan memahami perluasan konsep dan interpretasi asnaf *ar-riqab* berdasarkan ijtihad para ulama. Perluasan konsep dan interpretasi asnaf ini adalah penting agar ia lebih bersifat holistik dan bersesuaian dengan maslahat semasa. Persoalannya, adakah perluasan konsep dan interpretasi *ar-riqab* ini membolehkan golongan OKU dikategorikan di bawah golongan *ar-riqab* dan apakah 'illah yang membolehkan mereka dimasukkan sebagai golongan ini? Justeru, objektif kajian ini adalah untuk memahami definisi sebenar asnaf *ar-riqab* menurut ulama' dulu dan kini termasuk fatwa-fatwa yang berkaitan dengannya serta mengetahui perluasan konsep dan interpretasi *ar-riqab* oleh para ulama. Kajian ini juga akan menilai kedudukan OKU sebagai asnaf zakat dan mengenalpasti kriteria-kriteria OKU yang boleh dimasukkan sebagai asnaf *ar-riqab*. Kajian mendapati bahawa bahawa OKU layak menerima zakat tetapi mestilah berdasarkan kriteria dan syarat yang telah ditetapkan oleh Syarak, Jabatan Kebajikan Masyarakat dan Kementerian Kesihatan. Perkara ini penting kerana ia merupakan satu ijtihad yang perlu mengambil kira semua aspek sebelum sesuatu ketetapan hukum ditentukan. Diharapkan kajian ini menjadi panduan kepada institusi zakat dan Majlis Agama Islam Negeri dalam melihat semula keperluan sama ada OKU layak diberikan zakat atau sebaliknya.

Kata kunci: OKU, Asnaf, Zakat, Malaysia

ABSTRACT

This study is conducted to analyze and identify the status of disabled person as recipient. The issue is whether the disabled person can be considered as *ar-riqab* and what are the *'illah* that allow this consideration? Thus, the objective of this study is to understand the definition of *ar-riqab* given by the previous scholars and contemporary jurists and also *fatwas* related to it. This study also intends to discover the new concept and interpretation of *ar-riqab* presented by the scholars and to justify whether the disabled person can be included as *ar-riqab* in Malaysia. The study found that disabled person is qualified to be recognized as recipient but it must follow the criteria and requirements prescribed by Shariah, the Department of Social Welfare and the Ministry of Health. As this matter is related to new *ijtihad*, it is important to comply with these requirements and criteria and to consider all aspects related to it before a specified legal provisions or *hukm* is issued. It is hope that this study may guide *zakat* institutions and the State Islamic Council in reviewing the issue conferred.

Keyword: Disabled person, Recipient, Zakat, Malaysia

1. PENDAHULUAN

Allah SWT telah menciptakan manusia sebagai satu masyarakat yang terdiri daripada pelbagai jenis bangsa, kaum dan warna kulit. Semua ciptaan Allah SWT ini mempunyai hikmah yang tersendiri. Sunnatullah juga telah menetapkan bahawa manusia akan diuji dengan ujian hidup sama ada sihat sejahtera, sakit atau cacat. Terdapat sebahagian manusia yang diuji dengan kecacatan pada pendengarannya, penglihatannya, anggota badannya dan sebagainya. Islam juga menekankan bahawa setiap manusia mempunyai hak dan kewajiban masing-masing yang perlu ditunaikan, begitu juga golongan OKU. Hak dan hukum kepada golongan OKU perlu diberi perhatian agar nasib golongan ini terbela, lebih-lebih di dalam masyarakat Islam yang menganggap mereka sebagai salah satu dari batu asas dalam pembinaan masyarakat yang baik. Firman Allah SWT:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا

Maksudnya: *Wahai umat manusia! Sesungguhnya Kami telah menciptakan kamu dari lelaki dan perempuan, dan Kami telah menjadikan kamu berbagai bangsa dan bersuku puak, supaya kamu berkenal-kenalan (dan beramah mesra antara satu dengan yang lain (Al-Hujurat: 13)*

Penelitian melalui ayat daripada surah al-Hujurat di atas mendapati bahawa antara fokus utama ayat ini merujuk kepada pembentukan masyarakat yang berakhlak dengan menyantuni hak sesama insani. Salah satu konsep atau pra syarat bagi melahirkan masyarakat yang berkualiti berasaskan metode “*al-Qudwah Qabla al-Dakwah*” (menjadi teladan sebelum berdakwah) adalah untuk mengiktiraf kewujudan setiap individu masyarakat tanpa mengira bangsa, kelainan paras rupa, dan tahap keupayaan fizikal dan mental.

Pelbagai mekanisme dan agenda dapat dirangka dan dilaksanakan bagi melahirkan masyarakat yang berkualiti. Salah satu daripadanya ialah dengan memperkasakan ekonomi bagi memastikan kesaksamaan sosial dan menjamin perpaduan dalam masyarakat. Zakat merupakan salah satu daripada rukun Islam yang memainkan peranan penting sebagai sumber ekonomi Islam sejak dulu hingga kini. Islam telah menggariskan hikmah dan objektif kewajipan membayar zakat khusus dalam membantu umat Islam serta menekankan bahawa semangat dan sifat zakat itu sebagai satu sistem jaminan penyelesaian atas segala kesulitan yang dialami umat Islam (KK US Noormala).

2. OKU DI MALAYSIA

Golongan OKU di Malaysia secara amnya dirujuk sebagai anak istimewa, anak syurga, orang cacat, kurang upaya, kelainan upaya, dan berkeperluan khas. Kewujudan golongan ini dalam entiti sesebuah masyarakat sebenarnya memberi isyarat kepada masyarakat tentang peranan sosial komuniti terhadap keberlangsungan hidup golongan istimewa ini berasaskan tiga elemen utama, iaitu ‘*al-Ta`aruf*’, ‘*al-Ta`amul*’, dan ‘*al-Ta`awun*’. Elemen ‘*al-Ta`aruf*’ merujuk kepada aspek mengenali antara satu sama lain dalam memahami dan menerima perbezaan dan kelainan

mereka. Elemen '*al-Ta`amul*' bermaksud bermuamalah atau berinteraksi dengan mereka dengan menghormati budaya hidup golongan istimewa ini. Selain itu, elemen '*al-Ta`awun*' melengkapkan isyarat kewujudan Golongan OKU ini, iaitu dengan memberi bantuan, memenuhi keperluan, dan mewujudkan ruang dan peluang kesamarataan dalam pelbagai aspek kehidupan.

Terdapat pelbagai terma yang digunakan untuk merujuk kepada definisi OKU. Dalam konteks ini, definisi OKU akan dirujuk sebagai 'Orang Kelainan Upaya' memandangkan istilah ini dilihat lebih positif. Perkara ini turut diketengahkan oleh bekas Naib Canselor Universiti Sains Malaysia (USM), Profesor Tan Sri Datuk Dzulkifli Abdul Razak. Menurutnya dalam Utusan Malaysia (2012), golongan OKU ini harus dilihat dengan cara yang betul kerana yang berbeza bukanlah dari segi fizikal tetapi keupayaannya disebabkan oleh sesuatu sebab semula jadi atau kejadian yang diinginkan. Mereka wajar dinilai kebolehannya berasaskan kelainan keupayaannya yang berbeza dengan mereka yang dianggap sempurna.

Adapun penggunaan istilah orang cacat dan singkatan OKU yang merujuk kepada 'Orang Kurang Upaya' mengundang ketidakselesaan golongan ini kerana istilah tersebut menggambarkan sesuatu yang negatif sedangkan terdapat golongan OKU yang memiliki keupayaan yang istimewa berbanding golongan tipikal. Isu ini juga turut disentuh oleh Ab Aziz Mohd Zin et al. (2009) yang menyarankan agar penggunaan 'kurang upaya' digantikan dengan istilah yang lebih tepat iaitu 'Kelainan Upaya'. Menurut Kamus Dewan (2010), istilah 'kurang' bermaksud tidak atau kurang cukup, tidak berapa (baik, maju, sihat, dan lain-lain), tidak sempurna. Manakala istilah 'cacat' pula bermaksud kekurangan atau keadaan kurang sempurna (lengkap, baik) pada badan (benda, perbuatan, akhlak, batin, dan lain-lain).

Tinjauan perbincangan definisi OKU mendapati, terdapat pelbagai pengertian OKU yang diistilahkan bagi menggambarkan keutamaan golongan istimewa ini dalam mendapat perhatian dan pembelaan sewajarnya. Mengikut Pertubuhan Kesihatan Sedunia (WHO), OKU membawa maksud seseorang yang tidak dapat memenuhi sepenuhnya atau sebahagian daripada keperluan hidup sosialnya, sebagai seorang individu yang normal, akibat dari kekurangan keadaan fizikal atau mental. Menurut Pertubuhan Bangsa-Bangsa Bersatu (PBB), OKU bermakna seseorang yang tidak berupaya menentukan sendiri bagi memperoleh sepenuhnya ataupun sebahagian daripada keperluan biasa seseorang individu dan atau tidak dapat hidup bermasyarakat sepenuhnya disebabkan sesuatu kekurangan sama ada daripada segi fizikal ataupun mental, sama ada ia berlaku semenjak lahir ataupun kemudiannya (Zinaida Ariffin, 2006). Menurut *Department of Health and Human Services, Texas*, OKU adalah seseorang yang terhalang fungsi pergerakannya yang memerlukan kemudahan yang direka bentuk khas seperti bangunan, peralatan dan kelengkapan serta susunan luar kawasan bagi mengatasi halangan pergerakan mereka itu (Reuter, 2001).

Terdapat beberapa pandangan lain berkaitan definisi OKU. Menurut Zinaida Ariffin (2006), OKU didefinisikan sebagai individu yang tidak berupaya menentukan sendiri sebahagian keperluan dirinya atau tidak dapat hidup bermasyarakat sepenuhnya disebabkan sesuatu kekurangan sama ada dari segi fizikal ataupun mental dan memerlukan bantuan daripada orang lain untuk meneruskan kehidupan mereka. Rosmawati (2008) juga mempunyai pandangan yang hampir sama terhadap definisi

OKU, iaitu sebagai orang yang mengalami keterbatasan mobilitasi (pergerakan) sama ada fizikal (anggota), mental (ringan, sederhana ataupun berat), penglihatan dan pendengaran. Wan Sabri et al. (2013) pula melihat bahawa OKU adalah individu yang mempunyai perbezaan dari segi ciri-ciri neurologi, keupayaan deria, keupayaan berkomunikasi, tingkahlaku dan emosi serta ciri-ciri fizikal.

Kesimpulannya, OKU di Malaysia boleh dibahagikan kepada dua kelompok masyarakat. Kelompok pertama terdiri daripada golongan kanak-kanak istimewa atau kanak-kanak berkeperluan khas dan kelompok kedua pula terdiri daripada golongan istimewa dewasa dan warga tua (Ab. Aziz et al. 2009). OKU juga boleh dirumuskan sebagai kumpulan minoriti dalam masyarakat yang mengalami ketidakupayaan dari segi fizikal dan mental. Elemen-elemen seperti mengalami masalah penglihatan, masalah pendengaran, kecacatan fizikal, keupayaan mental dan intelek, masalah sensori, keupayaan komunikasi, dan kelainan tingkah laku sosial merupakan ciri-ciri yang merujuk kepada OKU.

Secara dasarnya, kementerian yang bertanggungjawab menguruskan hal ehwal golongan OKU di Malaysia ialah Kementerian Pembangunan Wanita, Keluarga dan Masyarakat (KPWKM). Di bawah Kementerian ini, OKU dirujuk melalui Akta OKU (2008), iaitu mereka yang mempunyai kekurangan jangka panjang fizikal, mental, intelektual, atau deria yang apabila berinteraksi dengan pelbagai halangan, boleh menyekat penyertaan penuh dan keberkesanan mereka dalam masyarakat. JKM yang ditubuhkan pada tahun 1946 merupakan sebuah badan atau jabatan yang bernaung di bawah KPWKM yang menawarkan perkhidmatan kepada golongan sasaran termasuk OKU.

Menurut Jabatan Kebajikan Masyarakat (JKM), golongan OKU digalakkan berdaftar di bawah agensi ini. Ini bertujuan untuk mengetahui bilangan, taburan dan kategori OKU di negara ini bagi maksud merancang program berkaitan dengan pencegahan, pendidikan, habilitasi dan rehabilitasi, latihan serta perkhidmatan. Ini bertujuan untuk merancang penyediaan kemudahan yang bersesuaian dengan keperluan OKU. Di samping itu, pendaftaran ini membolehkan OKU yang berdaftar mendapat perkhidmatan yang bersesuaian menurut keperluan berdasarkan tahap kefungsiannya atau ketidakupayaan mereka. Jadual 1.0 di bawah menunjukkan kategori OKU sebagaimana disenaraikan oleh JKM:-

Jadual 1.0: Kategori OKU Menurut JKM

Bil.	Kategori	Catatan
1.	Kurang Upaya Pendengaran	Tidak dapat mendengar dengan jelas di kedua-dua telinga tanpa menggunakan alat bantuan pendengaran atau tidak dapat mendengar langsung walaupun dengan menggunakan alat bantuan pendengaran. Terdapat empat (4) tahap yang boleh dikategorikan sebagai OKU Pendengaran, iaitu: - Minimum (<i>Mild</i>) - (15 - <30 dB) (Kanak-kanak) - (20 - <30 dB) (Orang Dewasa) - Sederhana (<i>Moderate</i>) - (30 - <60 dB)

	• Teruk (<i>Severe</i>) - (60 - <90 dB) • Sangat Teruk (<i>Profound</i>) - (>90 dB)
2. Kurang Upaya Penglihatan	Tidak dapat melihat atau mengalami penglihatan terhadap kedua-dua belah mata walaupun dengan menggunakan alat bantu penglihatan seperti cermin mata atau kanta sentuh. Terdapat dua (2) tahap OKU Penglihatan, iaitu: • Buta (<i>Blind</i>) ◦ Penglihatan kurang daripada 3/60 atau medan penglihatan kurang dari 10 darjah dari <i>fixation</i>. • Terhad (<i>Low Vision / Partially Sighted</i>) ◦ Penglihatan lebih teruk dari 6/18 tetapi sama dengan atau lebih baik daripada 3/60 walaupun dengan menggunakan alat bantuan penglihatan atau medan penglihatan kurang dari 20 darjah dari <i>fixation</i>.
3. Kurang Upaya Fizikal	Ketidakupayaan anggota badan sama ada kehilangan atau tiada suatu anggota atau ketidakupayaan di mana-mana bahagian badan yang mengalami keadaan seperti hemiplegia, paraplegia, tetraplegia, kehilangan anggota, kelemahan otot-otot yang mengakibatkan mereka tidak dapat melakukan aktiviti asas seperti penjagaan diri, pergerakan dan pertukaran posisi tubuh badan. Keadaan ini boleh terjadi akibat daripada kecederaan (trauma) atau ketidakfungsian sistem saraf, kardiovaskular, respiratori, hematologi, imunologi, urologi, hepatobiliari, muskuloskeletal, ginekologi dan lain-lain. Contoh ketidakupayaan fizikal: • Limb defects (congenital/acquired), termasuk kehilangan ibu jari tangan • Spinal Cord Injury - Hanya sekiranya tiada • Stroke - pengembalian fungsi • Traumatic Brain Injury - selepas enam (6) bulan • Kerdil (<i>Achondroplasia</i>) iaitu $\leq 142\text{cm}$ bagi lelaki dan $\leq 138\text{cm}$ bagi wanita • Cerebral Palsy Nota: Individu yang mengalami keadaan kekurangan (<i>impairment</i>) tanpa menjejaskan fungsi, contohnya kehilangan jari, mempunyai lebih jari (<i>polydactyly</i>) dan tidak ada atau tidak sempurna cuping telinga tidak dipertimbangkan bagi tujuan pendaftaran.

4.	Kurang Upaya Pertuturan	Tidak boleh bertutur sehingga menyebabkan gangguan berkomunikasi dengan sempurna dan tidak boleh difahami oleh mereka yang berinteraksi dengannya. Keadaan ini adalah kekal atau tidak akan sembuh. Bagi kanak-kanak mestilah berdasarkan penilaian pada umur lima (5) tahun ke atas. Sekiranya ada kemusykilan, Pakar Otorinolaringologi hendaklah dirujuk.
5.	Masalah Pembelajaran	Masalah kecerdasan otak yang tidak selaras dengan usia biologikal. Mereka yang tergolong dalam kategori ini adalah lewat perkembangan global, Sindrom Down, lembap dan kurang upaya intelektual. Kategori ini juga merangkumi keadaan yang menjejaskan kemampuan pembelajaran individu seperti <i>Austisme (Autistic Spectrum Disorder)</i> , <i>Attention Deficit Hyperactivity Disorder (ADHD)</i> dan masalah pembelajaran spesifik seperti <i>Dyslexia, Dyscalculia dan Dysgraphia</i> .
6.	Kurang Upaya Mental	Keadaan penyakit mental yang teruk yang telah diberi rawatan atau telah diberi diagnosis selama sekurang-kurangnya dua (2) tahun oleh Pakar Psikiatri. Akibat daripada penyakit yang dialami dan telah menjalani rawatan psikiatri, mereka masih tidak berupaya untuk berfungsi sama ada sebahagian atau sepenuhnya dalam hal berkaitan dirinya atau perhubungan dalam masyarakat. Di antara jenis-jenis penyakit mental tersebut ialah <i>Organic Mental Disorder</i> yang serius dan kronik, <i>Skizofrenia, Paranoid, Mood Disorder (depression, bipolar)</i> dan <i>Psychotic Disorder</i> seperti <i>Schizoaffective Disorder dan Persistent Delusional Disorders</i> .
7.	Kurang Upaya Pelbagai (Multiple Disabilities)	Mempunyai lebih daripada satu (1) jenis ketidakupayaan dan secara umumnya tidak sesuai diklasifikasikan dalam kategori satu hingga enam (6).

(Sumber: Laman Web Rasmi JKM)

3. KEDUDUKAN OKU SEBAGAI ASNAF ZAKAT DI MALAYSIA

Perbincangan mengenai kelayakan dan kedudukan OKU sebagai penerima zakat boleh dilihat dalam konteks asnaf ar-riqab. Penentuan sama ada mereka berhak menerima zakat bergantung kepada penerimaan pemerintah dalam memperluaskan definisi asnaf ar-riqab. Justeru, kajian ini akan membincangkan definisi ar-riqab secara terperinci terlebih dahulu sebelum menentukan sama ada OKU layak menerima zakat atau sebaliknya.

4. KONSEP AR-RIQAB DALAM ISLAM

Allah SWT telah meletakkan kedudukan asnaf *ar-riqab* di dalam senarai penerima zakat pada posisi kelima iaitu dimulai dengan asnaf fakir, miskin, amil, mualaf dan yang ke lima *ar-riqab*. Firman Allah SWT dalam surah al-Taubah:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ

Terjemahannya: “Sesungguhnya zakat itu hanyalah untuk orang-orang fakir, orang miskin, amil zakat, yang dilunakkan hatinya (mualaf), untuk memerdekakan hamba, untuk membebaskan orang yang berhutang, untuk yang berada di jalan Allah dan untuk orang yang sedang di dalam perjalanan sebagai kewajiban dari Allah. Allah Maha Mengetahui lagi Maha Bijaksana”. (Surah al-Taubah: 60)

Dilalah ayat 60 surah al-Taubah di atas menerangkan tentang asnaf yang ditetapkan untuk mereka harta zakat dan ia merupakan *dilalah zanniyyah*. Maka ruang untuk berjihad dalam memahami dan mempraktikkannya dalam kehidupan umat Islam di Malaysia masih terbuka luas (Rosman, 2013).

4.1. Definisi Riqab

Perkataan '*riqab*' merupakan perkataan jamak, kata tunggalnya ialah '*raqabah*'. Raqabah menurut etimologi bermaksud leher, penghujung bahagian kepala, atau sebelah atas bahagian badan. Manakala secara terminologi, raqabah bermaksud hamba yang dimiliki (Ibnu Manzur, 1990; Fairuz Abadi, 1978; al-Razi, 2000; al-Qurrah Daghi, 1992; Zulkifli, 2013). Al-Qurrah Daghi (1992) menyimpulkan, perkataan '*raqabah*' atau '*riqab*' bermaksud leher atau tengkuk; sama ada ia dikaitkan dengan hamba atau orang merdeka. Berdasarkan kajian tidak terdapat takrifan yang khusus berkenaan definisi asnaf *riqab* menurut bahasa mahupun istilah dan ianya masih tergantung bersifat umum.

4.2. Riqab Menurut Ulama Mutaqaddimin dan Muta'akhirun

Para ulama' berbeza pendapat dalam menjelaskan maksud '*riqab*'. Jumhur ulama' berpendapat '*al-riqab*' yang layak menerima zakat hanyalah hamba mukatab iaitu hamba yang mahu dimerdekakan dan dia beragama Islam. Para ulama' yang berpendapat seperti ini sepakat mengatakan harus memberikan sebahagian harta zakat kepada pemilik hamba tersebut untuk dimerdekakan hamba itu dan melangsaikan segala hutangnya. Tidak dibenarkan menggunakan harta zakat untuk membeli hamba kemudian hamba itu dimerdekakan dan juga tidak dibenarkan bagi kategori hamba yang lain selain hamba mukatab seperti hamba *tadbir*, *istilad*, atau *tab'idh*. Pendapat ini ialah pendapat 'Ali bin Abi Talib, Sa'id bin Jubayr, al-Layth, al-Thauri, ulama' Hanafiyah, dan Syafi'iyah (al-Marghinani, 1990; Ibnu al-Humam, 1995; al-Zayla'i, 2000; al-Babarti, 2007; Badr al-Din al-'Aini, 2000; Ibnu 'Abidin, 1998; al-Khatib, 2008; al-Nawawi, 2000; Zakaria al-Ansari, 2001; al-Baijuri, 1999; al-Malbari, 2009; al-Bujairimi, 1996; Muhammad 'Abduh dan Muhammad Rashid Reda, 2002; *al-Mawsu'ah al-Fiqhiyah*, 1990).

Ibnu 'Abbas, Hasan al-Basri, Malik, Ahmad, Abu Thaur, Abu 'Ubayd, al-Bukhari, Ibnu Munzir, dan ulama' Malikiyah pula berpendapat bahawa '*ar-riqab*' yang layak menerima zakat hanyalah hamba sahaya iaitu menggunakan harta zakat untuk membeli hamba lalu dimerdekakan. Mereka berhujah bahawa jika '*riqab*' hanya

merujuk kepada hamba mukatab, maka dia termasuk dalam kategori gharimin kerana dia berhutang kepada tuannya. Manakala menurut mazhab Hanafi, Syafi'i dan salah satu pendapat Imam Ahmad, perbuatan tersebut adalah tidak dibenarkan (al-Qurafi, 2008; al-Khurasani, 1997; al-Dusuqi, 2003; Muhammad 'Abduh dan Muhammad Rashid Reda, 2002; *al-Mawsu'ah al-Fiqhiyah*, 1990).

Sebahagian ulama' seperti al-Syaukani (1985) berpendapat, '*ar-riqab*' bermaksud hamba mukatab dan juga hamba yang dibeli kemudian dimerdekakan. Manakala salah satu pendapat Imam Ahmad, Ibnu Habib daripada mazhab Hanbali, Ibnu 'Abdul Hakam daripada mazhab Maliki, Fakhruddin al-Razi, dan Ibnu Taimiyah pula menyatakan selain membebaskan hamba, diharuskan menggunakan sebahagian harta zakat untuk menebus tawanan (*al-asir*) yang beragama Islam daripada cengkaman orang kafir. Perbuatan ini adalah lebih utama, kerana jika membebaskan hamba sahaya yang dimiliki oleh orang Islam dianggap sebagai ibadah dan sedekah, maka lebih utama membebaskan tawanan Muslim daripada tangan orang kafir (al-Qurtubi, 1993; al-Qurafi, 2008; Ibnu Qudamah, 1994; Ibnu Muflih, 1997; al-Bahuti, 1996; Ibnu Najjar, 1999; *al-Mawsu'ah al-Fiqhiyah*, 1990).

Kesimpulan perbezaan pendapat ulama' tentang definisi *riqab* menunjukkan perkembangan ijtihad ulama' berkaitan definisi *riqab*. Sebelum zaman Imam Ahmad (164H-241H), ijtihad para ulama' hanya berkisar sama ada *riqab* bermaksud hamba mukatab sahaja atau hamba sahaya sahaja. Manakala salah satu pendapat Imam Ahmad, definisi *riqab* sudah diluaskan dengan dimasukkan orang Islam yang ditawan musuh. Namun ia masih lagi dalam suasana hamba, kerana adat peperangan zaman tersebut menjadikan tawanan perang sebagai hamba.

4.3. *Riqab* Menurut Ulama dan Fatwa Semasa

Para ulama semasa berbeza pendapat dalam mendefinisikan *riqab* sebagai penerima zakat.

Sebahagian ulama semasa dan fatwa semasa mentarjihkan pendapat yang mengatakan bahawa *riqab* terdiri daripada tiga golongan iaitu hamba mukatab, hamba sahaya yang dibeli kemudian dimerdekakan dan tawanan perang. 'Illah kelayakan menerima zakat bagi *riqab* adalah perhambaan. Pendapat ini merupakan pendapat Ibnu 'Asyur (2000), 'Abd al-Latif Hamzah (1983), Yusuf al-Qaradawi (2006), Wahbah al-Zuhaili (1991), Abdullah bin Mansur al-Ghufaili (2008) dan beberapa keputusan fatwa seperti fatwa Bayt al-Zakat Kuwait, Fatwa al-Lujnah al-Da'imah li al-Buhuth al-'Ilmiyah wa al-'Ifta' Arab Saudi, Fatwa Majelis Ulama Indonesia, Fatwa Mufti Kerajaan Brunei dan Fatwa Tentang Sistem Agihan Zakat Negeri Selangor 1991.

Al-Uthaimin (1413H) dan al-Qurrah Daghi (1992), berpendapat, selain golongan hamba dan orang yang ditawan, orang Islam yang diculik juga layak mendapat zakat dalam kategori asnaf *riqab*. Hujah mereka, penculikan adalah termasuk dalam salah satu bentuk tawanan, maka orang Islam yang diculik juga termasuk dalam maksud *riqab*.

Muhammad Rashid Reda (2002) dan Mahmud Syaltut (t.th.) berpandangan kos usaha membebaskan umat Islam yang dijajah boleh diambil daripada asnaf *riqab*. Hujah mereka, penjajahan merupakan perhambaan yang jauh lebih merbahaya terhadap nilai

keinsanan kerana perhambaan rakyat dan bangsa membabitkan pemikiran, harta benda, dan pemerintahan.

Daripada analisa pendapat ulama' *mutaqaddimun*, *muta'akhkhirun* dan semasa, beberapa kesimpulan boleh dibuat:

1. Mereka sepakat mengatakan hamba adalah maksud asal *riqab*.
2. Mereka berselisih pendapat meluaskan maksud *riqab* di luar konsep hamba.

Majoriti tidak menerima ijtihad meluaskan maksud *riqab* di luar konsep hamba. Sebahagian meluaskan maksud *riqab*, namun masih berkaitan dengan hamba iaitu orang Islam yang ditawan, yang mengikut adat peperangan pada ketika itu, tawanan tersebut akan dijadikan hamba. Namun sebahagian ulama semasa cuba meluaskan lagi konsep *riqab* dengan berbeza 'illah. Muhammad Rashid Reda dan Mahmud Syaltut berijtihad bahawa bangsa yang dijajah adalah lebih besar *mudarat* berbanding seorang hamba. Kaedah yang digunakan adalah *qiyas awlawi*. Selanjutnya beberapa fatwa dan amalan di Malaysia meluaskan qiyas tersebut dengan 'illah terbelenggu. Meluaskan konsep *riqab* di luar maksud hamba dibantah oleh beberapa orang ulama semasa seperti Yusuf al-Qaradawi (2006), Wahbah al-Zuhaili (1991), dan Abdullah bin Mansur al-Ghufaili (2008). al-Ghufaili (2008) mengemukakan hujah:

1. Tiada dalil dan hujah yang mengharuskan untuk memasukkan kemerdekaan rakyat diambil daripada saham '*riqab*'.
2. Tiada keperluan untuk menggunakan saham *riqab* untuk memerdekakan umat Islam yang dijajah, kerana ia boleh diambil daripada asnaf "*fi sabilillah*" atau daripada sumber am baitulmal selain zakat.
3. Penguasaan orang kafir terhadap umat Islam pernah berlaku pada zaman Nabi Muhammad SAW dan kurun ulama' salaf al-soleh, namun tiada dinukilkan mereka memasukkan umat Islam yang dijajah dalam maksud *riqab*.

Pendapat yang rajih adalah *riqab* terdiri daripada tiga golongan iaitu hamba mukatab, hamba sahaya yang mahu dimerdekakan, dan orang Islam yang dieksploitasi (Arieff Salleh Bin Rosman *et.al*, 2013), termasuklah mereka yang dibelenggu dalam aktiviti pelacuran (Zulkifli al-Bakri, 2012). Hujah pentarjihan ialah:

1. Lafaz '*wa fi al-riqab*' dalam ayat 60 surah al-Taubah adalah lafaz umum yang tiada lafaz lain yang mengkhususkannya atau menghadkannya hanya kepada satu maksud sahaja. Lafaz *riqab* menurut bahasa Arab secara hakikat bermaksud tengkuk atau leher. Manakala secara majazi bermaksud hamba yang dimiliki, kerana tengkuk mereka dibelenggu oleh tuan mereka kerana mereka tiada kebebasan diri. Menurut kaedah usul fiqh khususnya menurut Imam Syafi'i, jika tiada bukti untuk mengkhususkan sesuatu maksud lafaz, maka lafaz hakiki, majazi dan musytarak dalam satu lafaz boleh digunakan dalam satu masa (al-Razi, 1999; Qurrah Daghi, 1992).
2. Terdapat ijtihad ulama *mutaqaddimun* dan *muta'akhkhirun* yang tidak mengkhususkan lafaz *riqab* hanya kepada hamba mukatab, bahkan ada yang berijtihad orang Islam yang ditawan (al-asir) juga termasuk dalam maksud *riqab*. Ini membuktikan lafaz *riqab* masih dalam konteksnya yang umum dan tidak dikhususkan atau dihadkan maknanya.

3. Pendapat ulama semasa yang mengkhususkan lafaz *riqab* hanya kepada hamba dilihat tidak konsisten dalam ijtihad berkaitan golongan yang layak menerima zakat. Sebagai perbandingan, kenapa sebahagian besar ulama semasa bersetuju meluaskan maksud lafaz 'fi sabilillah' di luar maksud tentera dan persiapan peperangan

5. APLIKASI KONSEP AR-RIQAB DI MALAYSIA

Sebahagian ulama dan fatwa di Malaysia meluaskan maksud *ar-riqab* berkesinambungan daripada ijtihad Muhammad Rashid Reda dan Mahmud Syaltut. 'Illa *riqab* dikaitkan dengan pembebasan individu daripada belenggu. Namun, perluasan definisi dan konsep *ar-riqab* ini berbeza menurut kepada fatwa yang dikeluarkan oleh majlis fatwa setiap negeri. Secara ringkasnya, ia boleh dibahagikan kepada tiga konsep utama iaitu belenggu kejahilan, belenggu dengan masalah sosial dan akidah dan belenggu dalam pelbagai aspek.

5.1. Belenggu Kejahilan

Usaha bagi mengeluarkan individu dan masyarakat daripada belenggu kejahilan boleh diambil daripada harta zakat sepertimana Fatwa negeri Perlis menetapkan, "vi. Mesyuarat bersetuju. perbelanjaan yang dibuat oleh Pejabat Zakat dan Fitrah Negeri Perlis adalah mengikut Syariah Islamiah seperti berikut:... d. *Ar-riqab* (hamba). i. Basmi kejahilan. ii. Sekolah agama rakyat." (Mat Jahya b. Haji Hussin, t.th.).

Konsep *riqab* yang sama digunapakai di Negeri Sembilan dengan membebaskan diri daripada kejahilan. Antara contoh agihan zakat kepada asnaf *riqab* di Negeri Sembilan ialah: (1) Bantuan aktiviti pendidikan, termasuk aktiviti yang dibuat oleh sekolah, madrasah, pihak universiti dan sebagainya. (2) Program meningkatkan ilmu dalam kalangan masyarakat, termasuk program pembudayaan Al-Quran. (3) Dermasiswa pelajaran, termasuk dermasiswa pengajian timur tengah. (4) Bantuan persekolahan sekolah rendah dan menengah, bantuan Sekolah Menengah Agama, Sekolah Agama Rakyat, kelas agama petang, bantuan perpustakaan sekolah agama. (5) Urusan sekretariat timur tengah. (6) Elaun penyelia KAFA. (7) Bantuan pengajian sarjana dan PhD.

5.2. Belenggu Dengan Masalah Sosial Dan Aqidah

Ini merujuk kepada Fatwa Negeri Selangor. Mesyuarat Jawatankuasa Fatwa Negeri Selangor yang bersidang pada 14 Jun 2011, telah memutuskan golongan penerima agihan asnaf *ar-riqab* adalah seperti berikut: (A) Masalah Sosial: (1) Terbelenggu dengan dadah (penagih dadah dan bekas penagih dadah); (2) Terbelenggu dengan masalah jenayah syariah (minum arak, judi, zina, khalwat, mengandung luar nikah, buang anak, sumbang mahram, persetubuhan, muncikari atau ibu ayam, menjual atau memberikan anak kepada orang bukan Islam, mempersenda al-Quran dan hadis serta lain-lain yang berkaitan Enakmen Jenayah Syariah (Negeri Selangor) 1995; (3) Terbelenggu dengan amalan salah Islam (tidak solat, tidak puasa, usaha membunuh diri dan hidup bersama pelacur); (4) Terbelenggu dengan gaya hidup songsang (pelacur, lesbian, homoseksual, maknyah atau transeksual, biseksual, pengkid, tomboy, gigolo dan bersekedudukan dengan orang bukan Islam); (5) Terbelenggu dengan kes juvana (gangster, jenayah melibatkan harta benda, pergaduhan melibatkan

kecederaan, rompakan, pecah rumah, rogol, jenayah melibatkan senjata merbahaya dan ugutan melibatkan keganasan); (6) Terbelenggu dengan penyakit kronik (HIV/aids, kanser/barah, tibi, hepatitis dan penyakit-penyakit kronik lain). (B) Masalah Akidah: (1) Terbelenggu dengan masalah syirik dan khurafat (doktrin palsu, mengaku menjadi Nabi, menghina Islam, dan pemujaan salah); (2) Memurnikan akidah orang Islam yang terpesong (orang yang ingin/berhasrat untuk murtad dan orang yang dalam proses istitabah).

5.3. Belenggu Dalam Pelbagai Aspek

Pendapat ini adalah merujuk kepada amalan agihan zakat kepada asnaf *riqab* di negeri Terengganu. Pihak Pengurusan Agihan Zakat negeri Terengganu mendefinisikan sinf *riqab* sebagai “memerdekakan orang-orang Islam daripada cengkaman-cengkaman dan penaklukan sama ada dari segi cengkaman kejahilan dan terbelenggu di bawah kawalan orang-orang tertentu”. Berdasarkan data yang diberikan oleh Majlis Agama Islam dan Adat Melayu Terengganu agihan zakat kepada asnaf *riqab* di negeri Terengganu ialah: Bantuan Pemurnian Aqidah / Pemulihan Akhlak, Bantuan Peningkatan Ilmu (Agama), Bantuan Penyelenggaraan Aset, dan Kontigensi / Pelbagai.

6. OKU SEBAGAI ASNAF ZAKAT

Perluasan konsep dan interpretasi *ar-riqab* oleh para ulama telah membuka ruang yang melayakkan OKU diletak sebagai asnaf *ar-riqab*. Merujuk kepada Peraturan-peraturan pendaftaran, pemulihan dan pengawalan *riqab* (Negeri Selangor) 2013, Jadual (Peraturan 3), Senarai *Riqab* dalam Masalah Sosial, Kategori Enam: Terbelenggu dengan penyakit kronik menyatakan bahawa penyakit-penyakit kronik layak menerima bantuan zakat daripada asnaf *riqab*. Ini jelas menunjukkan bahawa OKU layak menerima zakat tetapi terikat dengan kategori OKU.

Keputusan Jawatankuasa Fatwa Terengganu menyatakan bahawa oleh kerana *ar-riqab* ditafsirkan sebagai cengkaman, pembelengguan, ancaman dan kecelaruan hidup. Maka diputuskan bahawa zakat harus diberikan kepada golongan OKU kerana mereka mempunyai sifat-sifat *riqab* di atas yakni mereka terkongkong dengan keterbatasan fizikal atau mental mereka dan keadaan masa depan mereka yang melibatkan pendedahan pendidikan Islam dan bantuan kebajikan. Namun pemberian zakat kepada mereka mestilah ditentukan berdasarkan penelitian terhadap situasi yang dialami oleh OKU tersebut (Muda, 2013).

Pertamanya, sekiranya mereka miskin atau fakir, maka hendaklah bantuan zakat itu diberikan kepada mereka atas saham *riqab* dengan kadar yang menyebabkan mereka bebas dari sifat-sifat di atas sehingga mereka boleh berdikari. Sebagai contoh, memberikan modal yang mencukupi untuk mereka memulakan perniagaan dalam bidang yang sesuai dengan potensi dan bakat mereka. Pemberian modal tersebut sebaiknya diatur dengan strategi yang tersusun dari pihak yang menguruskan agihan dana zakat setiap negeri. Contohnya, pemberian bantuan zakat secara beransur-ansur dalam setahun serta menjalankan pemantauan terhadap perniagaan mereka dari masa ke semasa (Muda, 2013).

Keduanya, sekiranya OKU tersebut adalah dari kalangan orang yang berada tetapi mereka tidak mengetahui cara untuk melepaskan diri dari sifat-sifat belenggu seperti yang dinyatakan di atas, mereka berhak untuk mendapat bantuan dalam bentuk latihan seperti kursus-kursus yang dianjurkan oleh pihak-pihak dan agensi-agensi yang berkaitan dengan menggunakan dana zakat yang telah ditetapkan (Muda, 2013).

Ketiganya, sekiranya mereka adalah orang yang berada dan mampu untuk membebaskan diri dari sifat-sifat belenggu di atas sama ada dengan usaha sendiri atau dengan bantuan orang menanggung nafkahnya, maka mereka ini tidak layak untuk menerima zakat (Muda, 2013).

Multaqa Asatizah dan Du'at (Murshid) atau Himpunan Para Ustaz dan Pendakwah telah mencadangkan serta menyeru secara terbuka agar pihak yang berkaitan seperti pihak zakat negeri-negeri, baitulmal dan institusi mufti menilai golongan OKU ini untuk dimasukkan dalam perluasan skop beberapa asnaf zakat.

Skop pertama yang dicadangkan ialah OKU dimasukkan sebagai asnaf fakir miskin kerana tiada khilaf jika sesiapa pun yang termasuk dalam kategori fakir dan miskin maka mereka layak dan berhak menerima zakat. Jika sekiranya orang kelainan upaya (OKU) ini tidak mampu bekerja, tiada upaya berusaha dan tidak juga mempunyai sesiapa untuk menyara hidup mereka sama ada ibu bapa atau saudara terdekat, maka dia berhak dikategorikan sebagai layak menerima zakat dan golongan ini boleh dimasukkan dalam asnaf fakir dan miskin. Namun, sekiranya mereka punya ibu bapa atau saudara terdekat yang berharta maka mereka adalah di bawah tanggungan keluarga dan tidak berhak menerima zakat.

OKU juga mungkin boleh diterima sebagai asnaf *fi sabilillah*. Dalam skop ini, Murshid memilih pandangan Majma' Fiqh Islami dan Nadwah Pertama Isu-isu Zakat Semasa yang merumuskan bahawa jihad *fi sabilillah* merangkumi jihad dengan makna yang umum sama ada jihad dengan tangan (tenaga), jihad harta atau jihad menerusi lisan atau pena. Ini meliputi jihad (berperang) pada jalan Allah dan juga segala aktiviti melibatkan dakwah pada jalan Allah.

OKU juga mungkin boleh dimasukkan sebagai asnaf *al-Riqab*. Tafsiran semasa terhadap asnaf *ar-riqab* bahawa orang Islam yang berada di bawah penguasaan orang kafir sama ada dalam bentuk cengkaman fizikal seperti terbelenggu di bawah kawalan orang-orang tertentu seperti gereja dan seumpamanya termasuk dalam golongan *ar-riqab*. Begitu juga dengan menilai status mereka yang terkongkong kebebasan mereka, dan keadaan masa hadapan mereka yang mungkin terbiar melarat selepas ketiadaan penjaga mereka, maka Murshid berpandangan wajar untuk mereka diberi bantuan zakat dari peruntukan *al-riqab*. (Sinar, 2012)

Kesimpulannya, pengkaji berpandangan bahawa OKU layak menerima zakat tetapi mestilah berdasarkan kriteria dan syarat yang perlu ditetapkan menurut pandangan JKM dan Kementerian Kesihatan. Perkara ini penting kerana ia merupakan satu ijtihad yang perlu mengambil kira semua aspek sebelum sesuatu ketetapan hukum ditentukan. Walaupun OKU mempunyai ruang untuk menerima zakat namun ketetapan ini perlu diikat dengan kriteria dan syarat serta tidak bertentangan dengan syarak. Memandangkan JKM merupakan jabatan yang bertanggungjawab untuk menguruskan hal ehwal OKU di Malaysia, maka kajian ini mencadangkan agar pihak

yang menguruskan agihan dana zakat setiap negeri agar bekerjasama dengan JKM dan Kementerian Kesihatan dalam menentukan sama ada OKU layak menerima zakat atau sebaliknya.

7. PENUTUP

Umat Islam digalakkan untuk bersikap lebih kreatif dan dinamik dalam memperluaskan kefahaman dan mendimensikan tafsiran ke atas *ar-riqab*. Ini kerana skop *ar-riqab* yang asal iaitu membebaskan manusia yang menjadi hamba daripada tuannya perlu dilihat dan dikaji semula. Dalam konteks kajian ini, pengkaji mendapati bahawa terdapat OKU yang dibelenggu dengan kekurangan fizikal dan mental yang sesungguhnya menghadapi pelbagai kesukaran dalam menjalani kehidupan seharian. Sekiranya mereka layak menerima zakat berdasarkan illah terbelenggu dengan keterbatasan fizikal dan mental, sudah pasti ia akan mengangkat lebih tinggi martabat zakat dan Islam sebagai satu-satunya agama yang turun dari langit untuk mencurahkan kesejahteraan di atas muka bumi, khususnya umat Islam di negara ini. Perlu ditekankan bahawa sekiranya pemberian zakat kepada OKU ingin dilaksanakan, ia mestilah berdasarkan kriteria-kriteria yang telah digariskan agar dana zakat yang diagihkan bertepatan dengan syarak dan keperluan mereka. Diharapkan kajian ini membawa inovasi kepada perluasan konsep dan interpretasi asnaf *ar-riqab* dalam wajah dan versinya yang baru dan berbeza dengan mengusulkan OKU sebagai satu golongan yang mempunyai ruang untuk diletakkan di bawah lingkungan asnaf *ar-riqab*.

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PERBANDINGAN SISTEM PENTADBIRAN ZAKAT DAN CUKAI DI NEGARA ISLAM MAJU

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1. PENGENALAN

Sehingga kini terdapat 57 buah negara Islam di dalam dunia. Sumber pendapatan utama bagi negara-negara Islam adalah zakat, percukaian, eksport dan tariff (Abu Bakar & Abdul Rahman, 2007). Zakat merupakan bayaran daripada sebahagian harta tertentu individu Muslim dan disalurkan kepada golongan asnaf bagi meningkatkan mutu kehidupan. Pendapatan cukai pula diperlukan terutama sekali bagi menampung perbelanjaan pembangunan negara. Oleh itu, sistem zakat dan percukaian adalah polisi yang amat penting kepada pemerintah negara Islam bagi menjamin pendapatan negara dan seterusnya menentukan perkembangan ekonomi masyarakat Islam.

Pembayaran zakat dikebanyakan negara Islam adalah bersifat sukarela dimana tiada undang-undang yang mewajibkan umat Islam membayar zakat. Ini kerana tingkahlaku umat Islam dalam pembayaran zakat dikaitkan dengan tahap keimanan individu (Muda et al., 2007). Tambahan pula, struktur organisasi zakat di kebanyakan negara Islam adalah tidak jelas dan terdapat pelbagai pertindihan kuasa. Ia berbeza ketika tampuk pemerintahan Khalifah Abu Bakar as-Siddiq dimana beliau menyatakan perang terhadap orang-orang yang enggan membayar zakat (Husnan, 1996). Tindakan perang ini bagi melindungi struktur kewangan negara dan struktur Islam.

Sebaliknya, sistem percukaian di kebanyakan negara Islam lebih berstruktur dan ditadbir oleh pemerintah atau kerajaan. Cukai yang dikenakan adalah seperti cukai langsung dan tidak langsung. Perdebatan tentang hukum cukai telah diperbincangkan oleh ramai ilmuwan Islam (al-Qaradawi, 1969; Ijtihadi, 1985; Jalili, 2006). Jalili (2006) berpendapat bahawa asas percukaian, institusi dan prosedur percukaian dalam Islam adalah tidak jelas dan tidak spesifik. Ketidakjelasan ini membolehkan pemerintah negara Islam untuk mengadaptasi atau mengubahsuai sistem percukaian Islam mengikut kehendak semasa, atau disebut sebagai isu siyasah Syari'ah (Rosman et. al, 2014).

Namun, sistem zakat dan percukaian dalam negara Islam sering dikaji secara teorikal seperti kepentingan zakat, sejarah percukaian Islam dan hukum pelaksanaan cukai (cth: Jalili, 2006; Abu Bakar & Abdul Rahman, 2007; Rosman et al., 2014). Masih terdapat kurang kajian sistem kutipan zakat dan percukaian secara praktikal dan komprehensif oleh negara-negara Islam yang nyata terdapat pelbagai perbezaan, terutama di negara Islam maju seperti Arab Saudi dan Brunei.

2. OBEJEKTIF PENYELIDIKAN

Mengenalpasti cara pentadbiran kutipan zakat dan cukai di negara Islam maju iaitu Arab Saudi dan Brunei.

3. KAEDAH PENYELIDIKAN

Kajian ini akan menggunakan data sekunder. Data pengurusan zakat dan cukai Arab Saudi dan Brunei akan diperolehi dari laporan zakat dan cukai kedua-dua buah negara tersebut. Data sekunder itu akan dianalisa secara "content analysis" untuk mengenalpasti persamaan dan perbezaan.

4. KEPUTUSAN DAN PERBINCANGAN

Pentadbiran zakat dan cukai di Arab Saudi diselenggarakan di bawah satu organisasi iaitu *Department of Zakat and Income Tax*. Pentadbiran zakat dan cukai dibawah satu organisasi ini memudahkan pengurusan kutipan pendapatan negara untuk diagihkan bagi pembangunan negara dan masyarakat. Ia juga memudahkan pengurusan pematuan pembayar zakat dan cukai. Namun, pentadbiran zakat dan cukai sebegini adalah sesuai bagi negara yang tidak mengutip pelbagai jenis zakat dan cukai. Di Arab Saudi, cukai pendapatan hanya dikenakan kepada individu bukan residen dan cukai tidak langsung tidak dikenakan ke atas barang dan perkhidmatan. Manakala zakat harta (contoh: perniagaan, syer dan dividen) harus dibayar oleh individu yang layak dikenakan zakat.

Sama seperti di Arab Saudi, Brunei juga hanya mengutip cukai perniagaan. Manakala hanya lima jenis zakat yang perlu dibayar oleh umat Islam iaitu zakat fitrah, simpanan, perniagaan, emas dan perak. Namun, sistem pentadbiran zakat dan cukai di Brunei diasingkan kepada Bahagian Kutipan dan Agihan Zakat dibawah Majlis Ugama Islam Brunei dan Jabatan Cukai di bawah Kementerian Kewangan Brunei. Rasional pengasingan pentadbiran zakat dan cukai adalah punca harta yang berbeza untuk dicukai dan dizakat.

Kelebihan penggabungan pentadbiran zakat dan cukai di bawah satu organisasi adalah dari pengurusan. Membayar zakat adalah wajib bagi umat Islam dan sekiranya umat Islam gagal melaksanakan tanggungjawab tersebut, maka tindakan boleh dikenakan kepada mereka. Pentadbiran yang diamalkan oleh kerajaan Arab Saudi ini adalah sama seperti ketika tampuk pemerintahan Khalifah Abu Bakar as-Siddiq dimana beliau menyatakan perang terhadap orang-orang yang enggan membayar zakat (Husnan, 1996) bagi melindungi struktur kewangan negara dan struktur Islam. Berbanding dengan Brunei, kutipan zakat adalah lebih bersifat sukarela di mana tindakan tidak diambil oleh umat Islam yang gagal membayar zakat.

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ANALISIS TAHAP KEPUASAN PENERIMA BANTUAN ZAKAT PERUBATAN DAN FAKTOR MEMPENGARUHI KUALITI KESIHATAN

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ABSTRAK

Zakat adalah sumber ekonomi terpenting bagi umat Islam. Kajian lepas banyak membuktikan bahawa zakat mampu menangani pelbagai masalah sosial dan ekonomi dalam masyarakat Islam. Di Malaysia, bantuan zakat perubatan contohnya telah banyak membantu asnaf yang bermasalah dan tidak berkemampuan untuk membayar kos rawatan perubatan yang tinggi. Peranan bantuan zakat perubatan dalam meningkatkan kualiti hidup asnaf terutama fakir, miskin dan gharimin perlu dikaji. Justeru kajian ini adalah sebahagian usaha dalam mendalami kesan bantuan zakat perubatan kepada kualiti hidup asnaf iaitu dari aspek sosial dan taraf kesihatan. Kajian ini juga mengenalpasti faktor-faktor yang mempengaruhi taraf kualiti kesihatan asnaf yang menerima bantuan zakat perubatan di Pulau Pinang, Kelantan dan Negeri Sembilan. Hasil dapatan kajian melalui analisis deskriptif menunjukkan bahawa penerima bantuan zakat perubatan adalah terdiri daripada responden berumur antara 41 hingga 50 tahun dan berpendidikan sekolah menengah. Kebanyakan responden adalah tidak bekerja dan mempunyai pendapatan yang rendah iaitu kurang daripada RM500 sebulan. Bagi tahap kepuasan responden terhadap pengurusan bantuan zakat perubatan oleh pihak pusat zakat, majoriti responden berpuas hati dengan perkhidmatan yang diberikan. Manakala kos rawatan adalah faktor terpenting yang mempengaruhi kualiti kesihatan responden berbanding faktor lain seperti akses, jarak dan masa menunggu. Bagi melihat dengan lebih jelas kesan bantuan zakat perubatan ke atas peningkatan kualiti hidup asnaf, satu kajian empirikal perlu dilakukan pada masa akan datang agar satu model pembasmian kemiskinan melalui bantuan zakat perubatan dapat dibentuk.

Kata kunci: zakat, asnaf fakir dan miskin, gharimin, tahap kepuasan, kualiti hidup

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1. PENDAHULUAN

Menurut teori ekonomi kesihatan, tahap kesihatan yang baik bukan sahaja memberi kesan ke atas kualiti hidup individu tetapi juga kepada pembangunan ekonomi negara. Kebelakangan ini peningkatan kos perubatan menjadi masalah kepada hampir semua negara di dunia. Tambahan pula, inflasi perubatan secara purata meningkat sekitar 15 peratus setiap tahun jauh lebih tinggi dari kadar inflasi negara (www.etiqa.com.my). Di peringkat global, peningkatan kos rawatan kesihatan adalah disebabkan oleh kemajuan teknologi dalam bidang perubatan selain jangkaan yang tinggi oleh pesakit terhadap rawatan yang diterima (World Health Organization, 2007). Sistem kesihatan di Malaysia juga terkesan dengan perubahan ini. Penduduk di Malaysia terpaksa menanggung kos perubatan dan perbelanjaan ke atas kesihatan yang semakin tinggi. Statistik dari World Health Organization (WHO) menunjukkan peratusan perbelanjaan poket (*out-of-pocket expenditure*) daripada jumlah perbelanjaan kesihatan telah meningkat dari 34% pada tahun 1995 kepada 36% pada tahun 2013. Perbelanjaan poket pula (pada harga tetap 2005) telah meningkat dari US\$872 pada tahun 1995 kepada US\$3,021 pada tahun 2013. Peningkatan yang tinggi ini memerlukan sumber pembiayaan yang lebih banyak untuk menampung keperluan rakyat Malaysia terutama yang kurang berkemampuan. Bagi umat Islam di Malaysia, antara sumber pembiayaan yang telah dikenalpasti dalam membantu meningkatkan taraf ekonomi dan sosial adalah melalui bantuan zakat kepada lapan asnaf iaitu fakir, miskin, muallaf, amil, gharimin, fisabilillah, riqab dan ibnu sabil.

Zakat adalah sumber ekonomi terpenting umat Islam selain waqaf dan mal. Sesebuah negara Islam perlu menjana sumber zakat dengan sebaik-baiknya dalam membina kekuatan ekonomi, sosial dan pendidikan negara. Dalam aspek pembangunan ekonomi, agihan zakat kepada golongan berpendapatan rendah dapat meningkatkan permintaan agregat dan merangsang pertumbuhan ekonomi negara (Zarina Kadri et al., 2012). Kajian oleh Zarina Kadri et al. (2012) juga telah mencadangkan fungsi zakat diperluaskan agar dapat menjadi pemangkin ke arah negara berpendapatan tinggi. Justeru, usaha penambahbaikan berterusan dalam pengurusan zakat di Malaysia sentiasa dilaksanakan selari dengan perubahan ekonomi semasa. Antara penambahbaikan yang dilakukan adalah dengan mempelbagaikan corak dan bentuk bantuan zakat agar lebih komprehensif sesuai dengan kehendak dan keperluan baru asnaf. Di Selangor contohnya, selain lapan asnaf zakat yang qati'e (putus) di dalam nas naqli al-Quran, jenis bantuan zakat berdasarkan kepada keperluan asnaf kini meliputi enam aspek utama iaitu keperluan perlindungan, makanan, pakaian, pengangkutan, pendidikan dan perubatan. Bagi aspek perubatan, mereka yang layak akan mendapat biaya perubatan yang optimum memandangkan kos perubatan bagi pelbagai jenis penyakit kian meningkat saban hari. Sebagai contoh, di Selangor, Lembaga Zakat Selangor telah memperuntukkan dana yang besar bagi pembiayaan kos rawatan asnaf. Pada tahun 2010, RM25.24 juta telah dibelanjakan bagi tujuan perubatan. Jumlah ini telah meningkat berbanding hanya RM23.17 juta pada 2009 dan RM15.78 juta pada 2008 (Hamizul Abdul Hamid, 2011).

Dengan kos perubatan yang semakin tinggi, jumlah peruntukan zakat perubatan dijangkakan akan meningkat setiap tahun. Tanpa sokongan kewangan, umat Islam yang berpendapatan rendah malahan sederhana sekalipun akan menghadapi masalah bagi mendapatkan rawatan kesihatan. Apabila jatuh sakit, seseorang individu tidak

boleh bekerja seperti biasa, oleh itu pendapatan isi rumah individu tersebut akan terjejas. Jika individu sakit dalam tempoh yang lama maka ekonomi isi rumah itu akan berdepan dengan masalah besar bagi meneruskan kelangsungan hidup. Sehingga kini bentuk zakat perubatan hanya terdiri daripada bantuan perubatan, bantuan rawatan dan mesin hemodialisis serta bantuan rawatan sakit kekal. Program bantuan zakat perubatan sewajarnya diperluaskan meliputi rawatan pencegahan, pendidikan dan pembangunan kemudahan kesihatan bagi menjamin taraf kesihatan yang lebih baik di kalangan asnaf. Menyedari hakikat ini, kajian ini mengenalpasti tahap kepuasan dan faktor mempengaruhi kualiti kesihatan penerima bantuan zakat perubatan di Pulau Pinang, Kelantan dan Negeri Sembilan.

Secara umumnya, bantuan zakat perubatan diberikan bagi membantu asnaf fakir atau miskin membiayai kos rawatan perubatan daripada mana-mana hospital kerajaan. Asnaf yang layak menerima bantuan perubatan perlu memenuhi syarat umum agihan zakat, tidak mendapat mana-mana bantuan yang mencukupi bagi membiayai kos perubatan serta perlu mendapat pengesahan bertulis daripada hospital kerajaan. Di Selangor, jenis bantuan zakat perubatan termasuklah untuk perubatan kronik seperti pembedahan akibat kemalangan, rawatan bulanan, peralatan (alat tiruan atau alat sokongan seperti kaki palsu) dan dialisis (Zurina Kefeli et al., 2013). Jadual 1 dibawah menunjukkan jenis bantuan zakat perubatan tersebut.

Jadual 1: Jenis bantuan zakat perubatan

Kategori bantuan	Jenis bantuan
Perubatan kronik	Kemalangan yang memerlukan pembedahan, peralatan implan, rawatan kanser, pembelian ubat atau keperluan pesakit yang disyorkan oleh pegawai perubatan.
Rawatan bulanan	Pesakit yang memerlukan susu khas, lampin pakai buang serta keperluan pesakit yang disyorkan oleh pegawai perubatan. Tambang kenderaan ulang-alik ke hospital untuk mendapatkan rawatan.
Peralatan	Bantuan alat tiruan atau alat sokongan seperti kaki palsu, tangan palsu, kalipers, tongkat tangan/ketiak, oksigen, kerusi roda, katil, alat pendengaran, cermin mata khas, kasut khas dan lain-lain peralatan yang disyorkan oleh pegawai perubatan.
Dialisis	Bantuan termasuklah hemodialisis, suntikan (Eprex/Recormon), APD dan CAPD.

Sumber: Lembaga Zakat Selangor

Di Pulau Pinang, bantuan zakat perubatan telah meningkat dari RM5.5 juta pada tahun 2010 kepada RM7.7 juta pada tahun 2013. Daripada jumlah agihan, amaun yang tertinggi adalah untuk rawatan dialisis iaitu sebanyak RM4.5 juta pada tahun 2010 (81%) dan RM6.4 juta pada tahun 2013 (83%). Di Kelantan, bantuan zakat perubatan meningkat dari RM3.5 juta pada tahun 2011 kepada RM3.8 juta pada tahun 2012. RM2.6 juta (74%) daripada jumlah agihan pada tahun 2011 adalah untuk bantuan kecemasan meningkat kepada RM2.7 juta (73%) pada tahun 2012. Manakala di Negeri Sembilan, peruntukan untuk bantuan zakat perubatan telah meningkat secara mendadak dari RM2.5 juta pada 2012 kepada RM8 juta pada tahun 2014. Seperti di Pulau Pinang, bahagian bantuan zakat perubatan yang paling besar adalah

untuk rawatan dialisis iaitu sebanyak RM9.5 juta pada tahun 2013 (89%). Jadual 2 hingga 4 menunjukkan agihan bantuan zakat perubatan di Pulau Pinang, Kelantan dan Negeri Sembilan mengikut jenis bantuan. Melihat kepada jumlah agihan yang tinggi untuk bantuan perubatan, adalah penting untuk mengenalpasti tahap kepuasan dan faktor mempengaruhi kualiti kesihatan penerima bantuan zakat perubatan di Pulau Pinang, Kelantan dan Negeri Sembilan yang terdiri daripada asnaf fakir, miskin dan gharimin.

Jadual 2: Agihan bantuan zakat perubatan di Pulau Pinang

Jenis bantuan perubatan	2010 (RM)	%	2011 (RM)	%	2012 (RM)	%	2013 (RM)	%
Rawatan/pembedahan	724,686.30	13	849,855.75	13	802,958.50	11	730,807.00	10
Rawatan dialisis	4,457,210.31	81	5,331,711.81	82	5,729,194.56	82	6,422,115.45	84
Implan	100,810.00	2	81,590.00	1	258,690.00	4	154,785.00	2
Bantuan Aids	204,397.00	4	208,894.00	3	208,537.00	3	360,566.40	5
JUMLAH	5,487,103.61	100	6,472,051.56	100	6,999,380.06	100	7,668,273.85	100

Sumber: Laporan Kemajuan Kutipan dan Agihan Zakat di Pulau Pinang, Zakat Pulau Pinang, 2014.

Jadual 3: Agihan bantuan zakat perubatan di Kelantan (asnaf fakir dan miskin)

Jenis bantuan perubatan	2011 (RM)	%	2012 (RM)	%
Bantuan kecemasan	2,587,523.55	74	2,744,773.80	73
Rawatan	857,194.35	25	978,919.60	26
Rawatan perubatan (Projek khusus)	36,700.00	1	48,150.00	1
JUMLAH	3,481,417.90	100	3,771,843.40	100

Sumber: Laporan Kemajuan Kutipan dan Agihan Zakat di Kelantan, Majlis Agama Islam dan Adat Istiadat Melayu Kelantan, 2012.

Jadual 4: Agihan bantuan zakat perubatan di Negeri Sembilan

Jenis bantuan perubatan	2012 (Januari-Jun) (RM)	%	2013 (Mei-Ogos) (RM)	%	2014	%
Rawatan perubatan	1,300,524.40	53	1,135,804.60	11	4,509,513.71	56
Dialisis	1,164,482.80	47	9,481,132.41	89	3,597,656.07	44
JUMLAH	2,465,007.20	100	10,616,937.01	100	8,107,169.78	100

Sumber: Muhamad Alias (Mei-Ogos & Sep-Disember 2014), Buletin Mains.

Kertas kerja ini dibahagikan kepada lima bahagian. Bahagian kedua membincangkan kajian-kajian lepas berkenaan sumbangan zakat dalam meningkatkan taraf ekonomi dan sosial umat Islam di Malaysia. Bahagian ketiga menerangkan kaedah kajian ini dijalankan dan diikuti oleh bahagian keempat yang membentangkan tentang keputusan analisis empirikal. Kesimpulan kajian dibincangkan di bahagian terakhir.

2. KAJIAN LEPAS

Nabi Muhammad SAW menegah orang Islam untuk meminta-minta seperti sabda baginda: “Meminta itu tidak dihalalkan, kecuali kepada tiga jenis orang iaitu orang yang sangat fakir, orang yang mempunyai hutang yang sangat banyak dan orang yang wajib membayar diyat (denda yang disabitkan kepada kesalahan qisas dalam syarak”. Justeru, orang yang mempunyai kesihatan dan kekuatan tubuh badan adalah ditegah untuk menerima bantuan zakat (seinggalah sekiranya telah dibuktikan bahawa disebalik kekuatan fizikal mereka memang layak menerima zakat). Zakat hanya layak diagihkan kepada yang berhak sebagaimana firman Allah SWT dalam Surah al-Taubah 9:60 yang bermaksud:

“Sesungguhnya zakat itu hanya untuk orang-orang fakir, orang-orang miskin, pengurus zakat (amil), muallaf yang dipujuk hati mereka, untuk memerdekakan hamba, orang-orang yang berhutang, orang-orang yang berjuang di jalan Allah, orang-orang yang sedang dalam perjalanan, sebagai ketetapan yang diwajibkan Allah dan Allah Maha Mengetahui lagi Maha Bijaksana”.

Peranan zakat dalam pembangunan ekonomi negara adalah amat penting. Namun kajian lepas berkenaan zakat di Malaysia lebih tertumpu kepada isu-isu makro seperti pengurusan dan pengagihan zakat. Terdapat beberapa kajian lepas membincangkan tentang kesan zakat ke atas pendapatan individu asnaf namun agak kurang kajian yang melihat kepada isu yang lebih mikro seperti kesan setiap jenis bantuan zakat kepada pendapatan asnaf di Malaysia.

Tidak dapat dinafikan bahawa agihan zakat yang cekap dan sistematik dapat menjadi pemangkin pembangunan ekonomi negara dan seterusnya memperbaiki tingkat pendapatan individu. Kajian awal oleh Ismail Muhd Salleh & Rogayah Ngah (1980) mendapati zakat yang dipungut di Perak, Kedah, Kelantan dan Terengganu mampu

memperbaiki agihan pendapatan kasar pengeluar padi di negeri-negeri berkenaan. Seterusnya, kajian oleh Noor Ghani et al. (2002) menunjukkan bahawa faktor-faktor kejayaan perusahaan mikro di Selangor dan Wilayah Persekutuan Kuala Lumpur adalah melalui dana zakat.

Keberkesanan skim agihan zakat ke atas asnaf fakir dan miskin melalui Skim Bantuan Kewangan Bulanan di Kuala Lumpur telah menunjukkan kesan yang besar (sehingga melebihi 100 peratus) terhadap pendapatan asnaf (Suhailiza Abd Hadi, 2003). Manakala kajian oleh Patmawati Ibrahim (2006) di Selangor dan Fuadah Johari (2004) di Melaka mendapati agihan zakat berjaya mengurangkan ketidakseimbangan agihan pendapatan di kalangan asnaf fakir dan miskin. Kesan bantuan zakat ke atas kemiskinan telah dikaji oleh Patmawati Ibrahim (2007; 2008) yang mendapati bahawa bantuan zakat telah merapatkan jurang kemiskinan antara golongan miskin dan kaya serta menyumbang kepada pertumbuhan ekonomi negara dan ummah. Begitu juga kajian oleh Akram & Afzal (2014), Ali & Hatta (2014), Ahmad Fahme Mohd Ali et al. (2013), Mohd Rodzi Embong et al. (2013) dan Zarina Kadri et al. (2012).

Selain itu, kajian empirikal oleh Hairunnizam Wahid et al. (2004) melihat kesan bantuan zakat ke atas kualiti hidup asnaf fakir dan miskin di Pahang, Perak dan Sabah. Dengan menggunakan model logit mereka mendapati bahawa bantuan zakat memberi kesan yang signifikan ke atas kualiti hidup golongan miskin terutama dari aspek pendidikan dan penyertaan sosial. Kesemua kajian yang telah dijalankan ini menunjukkan bahawa peranan zakat adalah amat penting dalam membantu meningkatkan tingkat pendapatan dan taraf hidup golongan asnaf di Malaysia. Namun agak kurang kajian yang memfokuskan kepada bantuan zakat perubatan terutama dalam meningkatkan kualiti hidup asnaf fakir, miskin dan gharimin. Justeru, kajian ini dijalankan bagi memenuhi jurang tersebut.

3. METODOLOGI

Kajian ini menggunakan data primer melalui kajian soal selidik kepada asnaf fakir, miskin dan gharimin yang menerima bantuan zakat perubatan di Pulau Pinang, Kelantan dan Negeri Sembilan. Negeri-negeri ini dipilih bagi mewakili wilayah utara (Pulau Pinang), selatan dan Pantai Barat (Negeri Sembilan) dan Pantai Timur (Kelantan). Setelah proses pembersihan data, sebanyak 60 soal selidik dipilih untuk analisis deskriptif dalam bentuk jadual frekuensi dan peratusan.

Borang soal selidik mengandungi 5 bahagian iaitu Bahagian A bagi maklumat demografi seperti umur, jantina, tahap pendidikan dan pekerjaan asnaf, Bahagian B berkenaan keperluan asas, Bahagian C meliputi maklumat tentang bantuan zakat perubatan, Bahagian D berkenaan tahap kepuasan asnaf dan Bahagian E merangkumi faktor-faktor peningkatan kualiti hidup asnaf.

4. KEPUTUSAN KAJIAN

4.1. Profil Penerima Bantuan Zakat Perubatan

Jadual 5 menunjukkan profil penerima bantuan zakat perubatan di Pulau Pinang, Kelantan dan Negeri Sembilan. Daripada 60 responden, 71.7% adalah ketua isi rumah, 56.7 % adalah lelaki dan 43.3% adalah responden perempuan. Secara majoriti,

32.3% responden berumur antara 41 hingga 50 tahun dan berpendidikan sekolah menengah dan mempunyai Sijil Pelajaran Malaysia (SPM) (35%). Kebanyakan responden adalah tidak bekerja (45%) dan hanya 3.3% bekerja di sektor kerajaan. Dari segi keupayaan fizikal, 90% adalah normal dan 10 % adalah Orang Kelainan Upaya (OKU). Bagi tempat kelahiran, 30% responden adalah dari Pulau Pinang, 75% responden telah berkahwin dan jumlah tanggungan yang tertinggi adalah 4 orang (20%). Kebanyakan responden mempunyai pendapatan bulanan yang rendah iaitu 51.7% menerima pendapatan kurang daripada RM500 dan 28.3% mempunyai pendapatan di antara RM501 hingga RM1,000.

Jadual 5: Profil responden

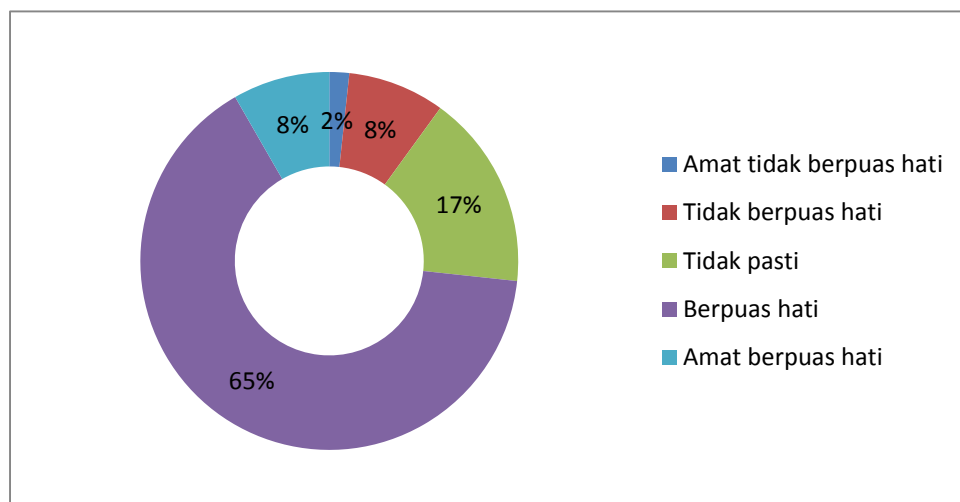
Status demografi	Frekuensi	Peratus (%)
Status responden		
Ketua isi rumah	43	71.7
Isi rumah	17	28.3
Jumlah	60	100
Umur (tahun)		
20-30	4	6.8
31-40	12	20.4
41-50	19	32.3
51-60	15	25.5
61-70	8	13.6
71-80	2	3.4
Jumlah	60	100
Jantina		
Lelaki	34	56.7
Perempuan	26	43.3
Jumlah	60	100
Tempat lahir		
P.Pinang	18	30
Kelantan	17	28.3
N. Sembilan	13	21.7
Lain-lain	12	20
Jumlah	60	100
Pekerjaan		
Bekerja sendiri	15	25
Kerajaan	2	3.3
Swasta	8	13.3
Tidak bekerja	27	45
Suri rumah	8	13.3
Jumlah	60	100
Keadaan fizikal		
Normal	54	90
OKU	6	10
Jumlah	60	100
Status perkahwinan		
Bujang	6	10
Berkahwin	45	75
Duda/janda	8	13.3
Balu	1	1.7
Jumlah	60	100
Jumlah tanggungan		

0	13	21.7
1	5	8.3
2	5	8.3
3	7	11.7
4	12	20
5	8	13.3
>5	10	16.7
Jumlah	60	100
Tahap pendidikan		
Tidak bersekolah	4	6.7
SRK	12	20.4
PMR/SRP	15	25
SPM	21	35
STPM/DIPLOMA	5	8.3
Ijazah	2	3.3
Lain-lain	1	1.7
Jumlah	60	100
Pendapatan (Bulanan)		
RM0- RM500	31	51.7
RM501-RM1000	17	28.3
RM1001-RM1500	3	5.1
RM1501-RM2000	4	6.8
RM2001-RM2500	2	3.4
RM2501-RM4000	3	5.1
Jumlah	60	100

4.2. Tahap Kepuasan Asnaf Terhadap Bantuan Zakat Perubatan

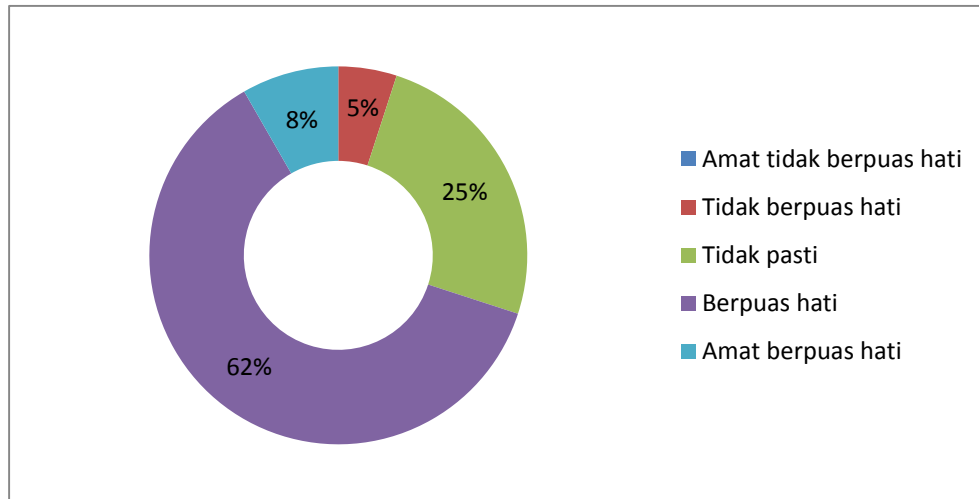
Rajah 1 menunjukkan tahap kepuasan asnaf terhadap kesesuaian tempoh masa menunggu dari tarikh permohonan sehingga bantuan zakat perubatan diterima. Secara keseluruhannya majoriti responden berpuas hati dengan tempoh masa sehingga bantuan diterima iaitu 65% responden berpuas hati manakala 8.3% amat berpuas hati.

Rajah 1: Tahap kepuasan asnaf terhadap tempoh masa dari permohonan sehingga bantuan zakat perubatan diterima



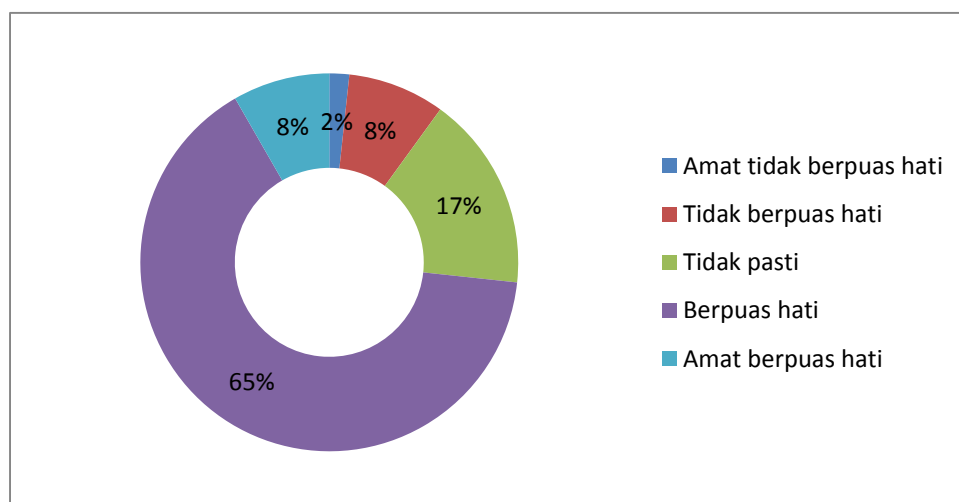
Rajah 2 menunjukkan tahap kepuasan asnaf terhadap ketelusan pengurusan pusat zakat dalam membuat penilaian permohonan bantuan zakat perubatan. 62% berpuas hati dengan ketelusan pengurusan pusat zakat manakala 8% amat berpuas hati. Hanya 5% tidak berpuas hati dengan pengurusan pusat zakat dalam mengendalikan permohonan asnaf.

Rajah 2: Pengurusan pusat zakat telus dalam membuat penilaian permohonan



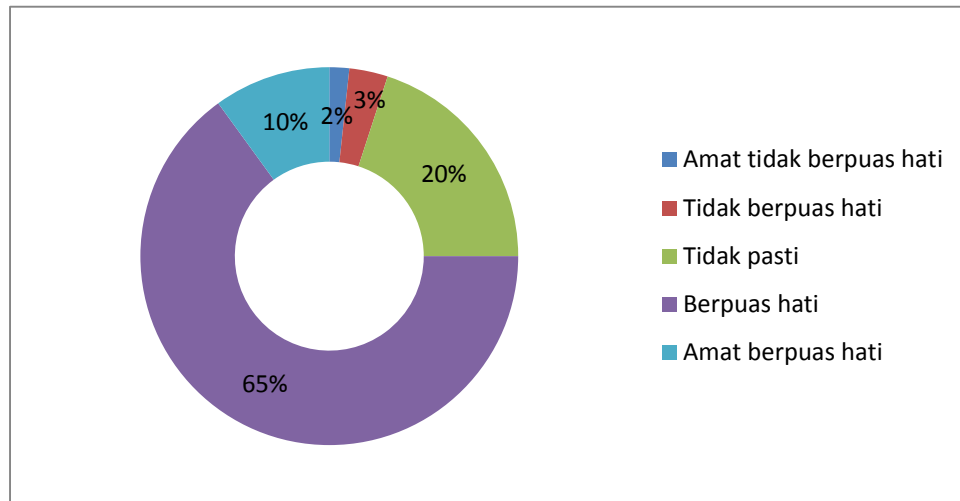
Rajah 3 menunjukkan tahap kepuasan asnaf terhadap jumlah bantuan zakat perubatan yang diterima sama dengan jumlah yang dipohon. Rajah tersebut menunjukkan 65% berpuas hati dengan jumlah bantuan yang diterima manakala 8% amat berpuas hati. Hanya 2% amat tidak berpuas hati kerana jumlah bantuan zakat perubatan yang diterima tidak sama dengan jumlah yang dipohon.

Rajah 3: Jumlah bantuan zakat perubatan yang diterima sama seperti yang dipohon



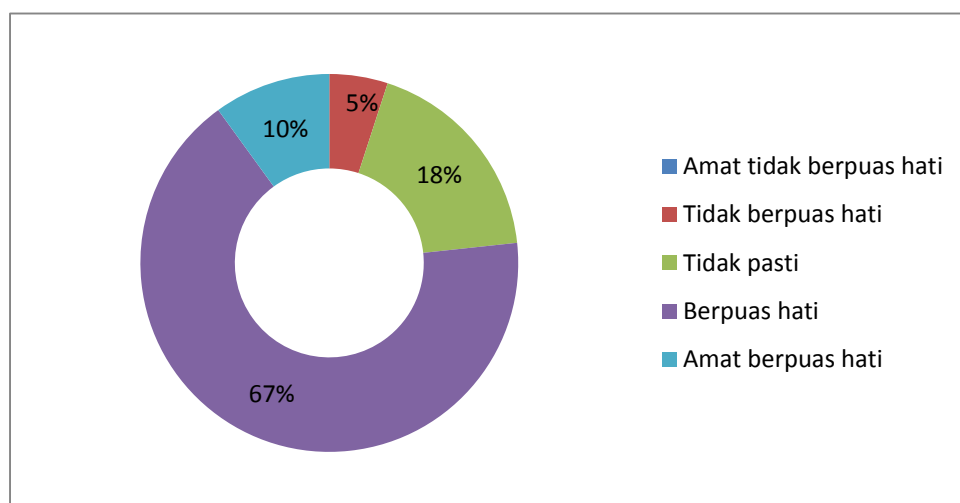
Rajah 4 menunjukkan tahap kepuasan asnaf terhadap jumlah bantuan zakat perubatan yang diterima bersesuaian dengan kos rawatan yang diperlukan. Daripada maklum balas responden 65% berpuas hati dengan jumlah bantuan yang diterima manakala 10% amat berpuas hati kerana jumlah bantuan bersesuaian dengan kos rawatan yang diperlukan. Hanya 2% amat tidak berpuas hati dengan jumlah yang diporolehi.

Rajah 4: Jumlah bantuan zakat perubatan bersesuaian dengan kos rawatan yang diperlukan



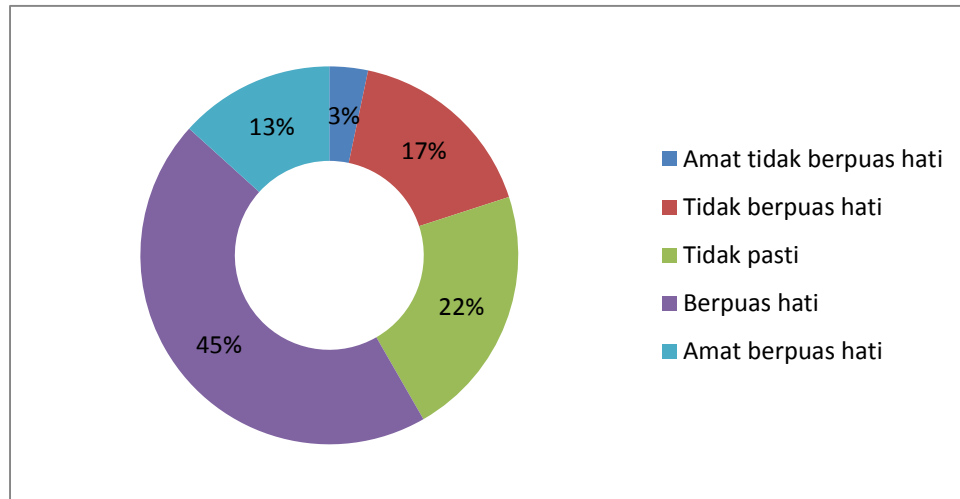
Rajah 5 menunjukkan tahap kepuasan asnaf terhadap cara agihan bantuan zakat perubatan yang diterima sekarang sama ada bersesuaian atau tidak. Rata-rata responden berpuas hati dengan cara agihan yang dijalankan oleh pusat zakat dengan 67% berpuas hati dan 10% amat berpuas hati. Hanya 5% tidak berpuas hati dengan cara agihan dan tiada responden yang mengatakan amat tidak berpuas hati.

Rajah 5: Cara agihan bantuan zakat perubatan yang diterima sekarang adalah bersesuaian



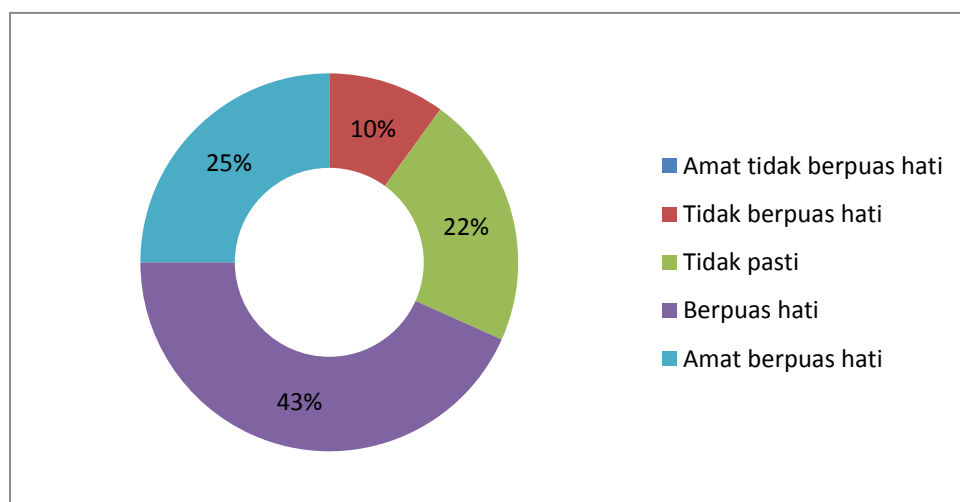
Rajah 6 menunjukkan tahap kepuasan asnaf terhadap pusat zakat yang mengambil tahu kebajikan penerima bantuan zakat perubatan. 45% berpuas hati dengan pusat zakat dalam menjaga kebajikan mereka dan 13% amat berpuas hati. Sebaliknya, hanya 3% responden amat tidak berpuas hati dan 17% tidak berpuas hati dengan pusat zakat kerana kurang mengambil tahu kebajikan mereka.

Rajah 6: Pusat zakat mengambil tahu kebajikan penerima bantuan zakat perubatan



Rajah 7 menunjukkan tahap kepuasan responden terhadap khidmat mesra pelanggan yang diberikan oleh pihak pengurusan pusat zakat di negeri masing-masing. Secara keseluruhannya, responden memberikan maklum balas yang positif dengan khidmat mesra pelanggan oleh pihak pusat zakat iaitu 43% berpuas hati dan 25% amat berpuas hati. Hanya 10% responden tidak berpuas hati dengan kenyataan tersebut.

Rajah 7: Pihak pengurusan pusat zakat memberikan khidmat mesra pelanggan

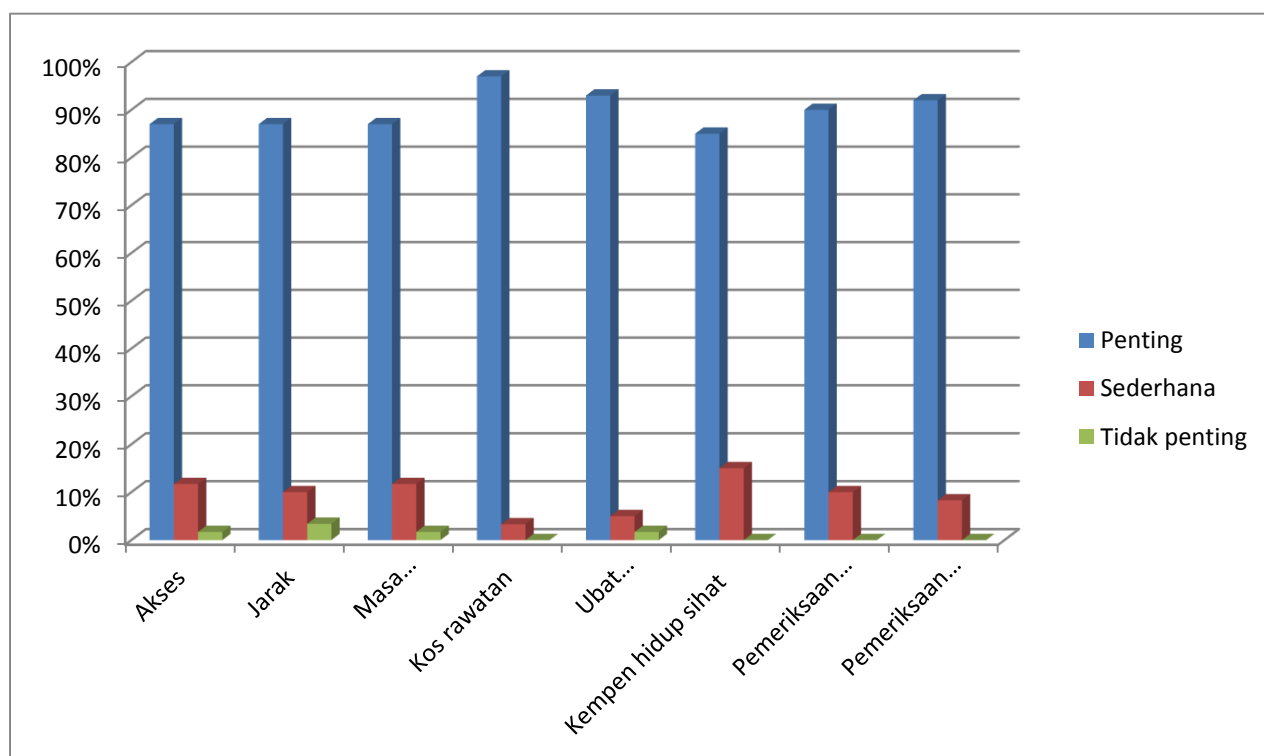


Kesimpulannya, Rajah 1 hingga 7 menunjukkan bahawa responden secara konsisten berpuas hati dengan pengurusan bantuan zakat perubatan oleh pusat zakat sama ada dari segi tempoh menunggu permohonan, ketelusan pengurusan, jumlah bantuan, cara agihan dan keprihatinan pusat zakat dalam menjaga kebajikan para asnaf. Namun berdasarkan kepada respon asnaf yang tidak berpuas hati, cadangan penambahbaikan adalah agar pihak pusat zakat lebih mengambil tahu kebajikan penerima bantuan zakat perubatan dan juga memberikan khidmat yang lebih mesra pelanggan.

4.3. Faktor Peningkatan Kualiti Kesihatan Asnaf

Bagi mengenalpasti faktor yang mempengaruhi kualiti kesihatan asnaf, setiap responden diminta untuk menilai kepentingan faktor-faktor seperti akses kepada kemudahan kesihatan, jarak kepada kemudahan kesihatan, masa menunggu, kos rawatan, ubat-ubatan berkualiti, kempen gaya hidup sihat, kemudahan pemeriksaan awal dan pemeriksaan kesihatan. Hasil kajian mendapati kesemua faktor adalah penting dalam mempengaruhi kualiti kesihatan asnaf terutama kos rawatan (97%), ubat-ubatan berkualiti (93%), pemeriksaan kesihatan (92%) dan pemeriksaan awal kesihatan (90%). Faktor-faktor lain yang turut mempengaruhi kualiti kesihatan asnaf adalah akses kepada kemudahan kesihatan, jarak dan masa menunggu masing-masing dengan kadar 87%. Penganjuran kempen gaya hidup sihat adalah faktor yang paling kurang mempengaruhi kualiti kesihatan asnaf. Keputusan kajian ini secara asasnya menunjukkan bahawa kos rawatan yang tinggi akan memberi kesan kepada taraf dan kualiti hidup asnaf terutama dari aspek kesihatan. Rajah 8 menunjukkan faktor-faktor yang mempengaruhi kualiti kesihatan asnaf yang menerima bantuan zakat perubatan.

Rajah 8: Faktor mempengaruhi kualiti kesihatan asnaf



5. KESIMPULAN

Zakat adalah sumber ekonomi terpenting bagi umat Islam. Jika kutipan zakat adalah tinggi dan agihannya diuruskan dengan baik, zakat mampu menangani pelbagai masalah sosial dan ekonomi dalam masyarakat terutama umat Islam. Bantuan zakat perubatan contohnya telah banyak membantu asnaf yang bermasalah dan tidak berkemampuan untuk membayar kos rawatan perubatan yang tinggi. Peranan bantuan zakat perubatan dalam meningkatkan kualiti hidup asnaf terutama fakir, miskin dan gharimin perlu dikaji. Justeru kajian ini adalah sebahagian usaha dalam mendalami kesan bantuan zakat perubatan kepada kualiti hidup asnaf iaitu dari aspek sosial dan taraf kesihatan. Kajian ini juga mengenalpasti faktor-faktor yang mempengaruhi taraf kualiti kesihatan asnaf yang menerima bantuan zakat perubatan di Pulau Pinang, Kelantan dan Negeri Sembilan.

Hasil dapatan kajian melalui analisis deskriptif menunjukkan bahawa penerima bantuan zakat perubatan adalah terdiri daripada responden berumur antara 41 hingga 50 tahun dan berpendidikan sekolah menengah. Kebanyakan responden adalah tidak bekerja dan mempunyai pendapatan yang rendah iaitu kurang daripada RM500 sebulan. Bagi tahap kepuasan responden terhadap pengurusan bantuan zakat oleh pihak pusat zakat, majoriti responden berpuas hati dengan perkhidmatan yang diberikan. Manakala kos rawatan adalah faktor terpenting yang mempengaruhi kualiti kesihatan responden berbanding faktor lain seperti akses, jarak dan masa menunggu. Bagi melihat dengan lebih jelas kesan bantuan zakat perubatan ke atas peningkatan kualiti hidup asnaf, satu kajian empirikal perlu dilakukan pada masa akan datang. Input yang diperolehi boleh dijadikan sumber kepada pembentukan model bantuan zakat perubatan bagi membasmi kemiskinan di kalangan asnaf pada masa hadapan.

PENGHARGAAN

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THEME: ZAKAT DISTRIBUTION, CONCEPT AND PRACTICES

***ZAKAT FOR ASNAF AL-GHARIMUN* IN BRUNEI DARUSSALAM: CONCEPTS AND PRACTICES**

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ABSTRACT

This research paper discusses the concepts of debt in Islam, category of *al-gharimun* that receive zakat. The data from the authority department shown and alarming increase in number of applicant to *zakat* under the category of *asnaf Al-Gharimun*. Why was the number increased and who are actually eligible to receive *zakat* under the category of *Al-Gharimun*? This paper tries to answer these questions. The concept of debt in al-Qur'an will be discussed and various discussions by Islamic scholars and researchers will be analysed. Data gathered from several officers of Islamic Religious Council of Brunei Darussalam through personal interviews. In the case of *asnaf Al-Gharimun* in Brunei Darussalam, it is interesting to see the increasing number of applicant in the year 2009 and 2010. The phenomena was due to misunderstanding and ignorant among the public with regards to what kind of debts that are eligible under the category of *Al-Gharimun* to receive *zakat*.

Keywords: *zakat* management, *al-gharimun*, Brunei Darussalam

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1. INTRODUCTION

The obligatory nature of *zakat* is firmly established in the Al-Qur'an and the ahadith. The Al Qur'an clearly mentioned, in many verses, the responsibility of the rich to pay *zakat* and in fact, this is always mentioned after the injunction of *solat*/prayer (Al-Qardawi translated by Kahf, 2005).

In the Qur'an, Surah Al-Taubah 9:103, Allah ordered the Prophet to collect *zakat*. To those who refuse to pay *zakat*, Allah states the penalty in Surah Al-Taubah 9:34-35.

For those who do not pay *zakat*, the Prophet Muhammad (PBUH) mentioned the penalty as reported in *Sahih Bukhari*, volume 2, Book 24, Number 486, as narrated by Abu Huraira:

Allah's Apostle said, 'Whoever is made wealthy by Allah and does not pay the *zakat* of his wealth, then on the Day of Resurrection his wealth will be made like a bald-headed poisonous male snake with two black spots over the eyes. The snake will encircle his neck and bite his cheeks and say, "I am your wealth, I am your treasure."'

According to Yusuf Ali's translation of Surah Al-Dharyat 51:19, the following is mentioned: 'And in their wealth and possessions (was remembered) the right of the (needy,) him who asked, and him who (for some reason) was prevented (from asking).' This indicates that *zakat* is not charity which is voluntarily given by wealthy people but rather the right of the poor on the wealth of the rich. It is a responsibility and a must for the rich to give *zakat* to the poor and destitute as well as other qualified recipients.

Therefore, an efficient management of *zakat* is crucial in the Islamic economic development. In Brunei Darussalam, the issue of accumulated *zakat* fund since 1960s amounted to more than BND\$230 million had raised the attention of the His Majesty in 2009. His Majesty's speech (titah) during the Brunei Islamic Religious Council (MUIB) Meeting in 2009 highlighted that the *zakat* distribution might also consider to help those indebted for an acceptable reasons particularly those who were destitute and could not afford to pay their government housing debts and other basic necessities (The Brunei Times, 14 Jan 2009). Since then, it was reported that MUIB received more than 50% of the 5,000 applications for *zakat* assistance was under the *al-Gharimun* category (The Brunei Times, 20 March 2009).

However, the number of recipient under the category of *al-gharimun* since 2009 were only 69 person (2.3%) of the total applicant (MUIB, 2014). Does it mean that the applicants were not the right people? Who are the applicants? Are they really entitle to received *zakat* as *al-gharimun*? What kind of debt that can be considered as *al-gharimun* to receive *zakat*? This paper tries to answer these questions.

Therefore, the discussion will be continued with exploration on the concepts of debt in Islam in section 2. Then it will be followed by Section 3, brings the detail discussion on *zakat* disbursement to the group of *al-gharimun*, before conclusion in the last section.

2. THE CONCEPT OF DEBT IN ISLAM

The Meaning of Debt

Debt is an issue that afflicts *many* Muslims, including the seemingly wealthy, and is something that is not adequately addressed. This is due most likely, to a lack of knowledge on the issue, as well as a lack of awareness of the problem itself.

There are several Arabic words that imply indebtedness such as *Qard*, *Dayn*, *Salaf*, and ‘*Ariyyah*. All these words are familiar in the discourses of Islamic jurisprudence. They are like loan, borrow and debt in English.

Debt in Arabic term known as *Dayn* which is rooted in the same root with *Din* i.e *da ya na*, which implies any right or property that is payable upon a person either to another person or his Lord based on commitment towards that person or his Lord (Ministry of Awqaf and Islamic Affairs, Kuwait, nd). This covers two dimensions namely the right of one's fellow human beings and the right of Allah. The first dimensions will be all rights arising from financial transactions such as sale contract, lease, credit and rental, or from non-financial transactions such as the dowry of a woman, the cost of damage and the cost of crimes. It also covers the rights, which arise from services.

The latter dimension is more comprehensive in sense that all mankind in this world are being indebted to Allah, the Creator. It includes all religious matters especially that involve the relationship between a man and his Lord such as missing prayers, missing zakat, or *sawm*. Besides, the debt may be a right or a wealth; it may also in kind as well as in cash. Debt is inevitable element of one's life. Thus Islam commands its adherents to fulfill their obligation either towards (debt to) mankind or Allah (Peer Syed Mohyuddin Mahboob, 2010).

In the terminology of Islamic framework, *Qard* and *Dayn* relate to the giving or taking of loans. However, the word *Dayn* has a broader connotation than the word *Qard*. *Dayn* incurs in any way which leaves a debt as a liability to another party to be paid later without any profit over the principal amounts (Ministry of Awqaf and Islamic Affairs, Kuwait, nd). Whereas, *Qard*, from root *qa ra da* could be defined as an interest-free loan for needy borrowers extended on a goodwill basis; in particular *al-Qard al-Hasan* provides funds for humanitarian and welfare purposes without any profit accruing to the lender (al-Zuhaili, 1989).

In fact, *Qard* consists on giving ownership of anything having value for the benefit of another by way of virtue (The Mejelle, nd). The ownership of the loaned objects is transferred to the borrower who can use, buy, sell, or donate them as the borrower wishes. *Qard* is only applied when one gets obliged to return the equivalent of the thing taken and repayment is for the same amount as the amount lent. Goods of the same kind will be paid back on demand or at the settled time. *Qard* should not bring any return or addition to the lender because that would be equivalent to taking Riba. However, a borrower can pay more than the amount borrowed, but it must not be stipulated in the

contract. Further, the date of payment of the loan may or may not be included in the *Qard* contract as the lender can demand repayment at any time. And the loan should not be conditional upon any other contract, such as *Bay'* and vice-versa.

'*Ariyya* is another structure of borrowing goods in a virtuous act (al-Shirbini, nd). However, in the case of '*Ariyya*, the exact borrowed commodity has to be returned to its owner, not any replacement. While in *Qard*, the same kind of the loaned commodity with essentially the same nature or character could be paid back.

On the other hand, a *Dayn* is the result of any contract or credit transaction. The created debts ought to be returned without any profit over their principal amounts. *Salaf* is a form of *Dayn* that is similar to *Salam* (al-Shirbini, nd). It is used for a loan of fixed tenure and in that sense it is closer to *Dayn*; *Salaf* includes loans for short, intermediate and long term loans and the price of the commodity is paid in advance, while it is delivered at a future date. The amount given as *Salaf* cannot be called back before its due date. Therefore, this creates a liability for the seller to supply the commodity in the future.

The Legitimacy of Debt

Allah said in the Holy Quran Surah al-Baqarah 2:282, to the effect: "O ye who believe! When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing Let a scribe write down faithfully as between the parties: let not the scribe refuse to write: as Allah Has taught him, so let him write. Let him who incurs the liability dictate, but let him fear His Lord Allah, and not diminish aught of what he owes. If the party liable is mentally deficient, or weak, or unable Himself to dictate, Let his guardian dictate faithfully, and get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as ye choose, for witnesses, so that if one of them errs, the other can remind her. The witnesses should not refuse when they are called on (For evidence). Disdain not to reduce to writing (your contract) for a future period, whether it be small or big: it is just in the sight of Allah, More suitable as evidence, and more convenient to prevent doubts among yourselves but if it be a transaction which ye carry out on the spot among yourselves, there is no blame on you if ye reduce it not to writing. But take witness whenever ye make a commercial contract; and let neither scribe nor witness suffer harm. If ye do (such harm), it would be wickedness in you. So fear Allah. For it is God that teaches you. And Allah is well acquainted with all things.

It is the order of the Holy Qur'an, when the matters of borrowing money arise, whether it be for small or large amounts, it should be written down in a contract. Also, if possible this transaction should take place in front of two witnesses, so that there is no dispute at a later stage. Some Scholars state it is preferable and some state it compulsory to write down a loan transaction. If for any reason, in the future there is a dispute, this written document can be produced as proof. In the Shari'ah, it is not a sin to take a loan (non-interest) in the state of necessity. However, to not return the borrowed money is oppression and a sin.

In line with the debt toward mankind, it has been restricted in Islam, in the sense that it should be paid back without involving injustice between the debtor and creditor. Islam encourages Muslims to help each other. In Islam to give loan is better than to give charity. In fact Islam prohibits any acts of begging. For it may humiliate the doers. As Prophet Muhammad (peace be upon him) once was asked by the companion by the name Qubaisah to help him to repay the debt. The Prophet (PBUH) then said, "Wait until one gives a charity than we will give it to you" then the Prophet (PBUH) said, "Begging is prohibited except in three conditions; one is being indebted and fails to pay it back, the begging is permissible until he fully paid back then he stops begging, one whose property was damaged by the natural disasters so that the begging is permissible until he received a sufficient assistance to survive, and finally the poor and needy one whom has been witnessed by three trustworthy people in his community, the begging is permissible to fulfill his needs. Qubaisah, other than three above mentioned, begging is prohibited and those who do it, they eat unlawful things".

Thus one who takes credit or loan and repays it back is better and respected than those who receive charity. However, Islam has commanded Muslims to give and take debt that is free interest based or *Qard Hasan*. As Allah says in Surah al-Baqarah 2:245, to the effect:

"Who is he that will loan to Allah a beautiful loan, which Allah will double unto his credit and multiply many time? It is Allah that giveth (you) want or plenty, and to Him shall be your return".

Al-Qard al-Hassan means a beautiful loan that does not carry any value added to the principle that is borrowed. In Islamic bank practices, it refers to a credit or loan in which the debtor uses it for the good purposes and later on he has to pay only the same amount with that he took from the bank.

Some Rules Related to Debt

The word *dayn* (debt) in the Arabic language implies submission and humiliation. The relationship between the linguistic and legal definitions is thus, obvious. The debtor who is known as *madin* is akin to being a detained person or a prisoner, as described in the following Prophetic tradition: "Your companion is being detained by his debt" (Abu Daud, Sulaiman, 1952). Moreover, Muslim jurists agree that debt (*dayn*) is a financial obligation that must be discharged as mentioned above. The Holy Quran uses the term *gharim* (debtor) to describe any indebted person failing to repay his debt as it is clearly stated in *ayah* 60 Surah al-Taubah. According to Abu Hanifah (d. 765AD) however, a debtor is one who carries a debt and is unable to accumulate the *nisab* over his debt (Ibn Nujaim, Zainuddin, 1997). Such an indebted is considered to be poor and hence entitled to *zakat* (Al-Mawardi, 1386/1966).

Muslim jurists such as Malik (d.795), Shafi'i (d.820) and Ahmad (d.855) argue that debt, whether personal or public, may be held on the behalf of the individual or group (Al-Zuhaili, 1989). Personal debt may be utilized in the purchase of a shelter, furniture,

medicine; or in building a home, being used in marriage as well as in other non-extravagant expenses. Debts incurred on behalf of the public however, entitle debtors to repayment from the Muslim public treasury. Similarly, personal debts that exhaust one's wealth are either used in dealing with circumstances of exigency such as natural disasters or in acquiring bare necessities; all of which would also be paid from *zakat* or endowment funds. It should be noted however, that according to Islamic law, the clearance of debts from *zakat* funds requires a verification of the legitimate needs of the debtors; this should not necessarily represent a case of financial destitution. Debtors' assets include homes, clothing, beds, utensils, servants and transport, but should however, -when necessary- stay out of the creditors' grasp (al-Qardawi, 2005).

Debts incurred on behalf of the public in the good interest and benefit of other individuals or the community; as in cases of reconciliation are considered to be a rewarding charity. The noble acts of such individuals extinguish enmity, hatred and disunity, while effectively building peace and harmony. Islam accords said individuals an honourable status and grants them the legal right of payment of their incurred debts from *zakat* even when reconciliation is made among non-Muslim groups. According to the Shafi'i School of Law, debts incurred for beneficial public services qualify for *zakat* coverage even when the debtors themselves are wealthy. This is logically understandable in light of Islam's decided interest in the building of community understanding, reconciliation and cohesion.

Indebtedness incurred for the good of the community and causes related to it further demonstrate that debt is capable of acquiring an inherently positive social value and may turn into a highly recommended act of piety and nobility. It further follows that philanthropic/charitable contributions made specifically for the community's public interest including the establishment of learning institutions, places of worship, hospitals and orphanages are deserving of financial attention from the state treasury (Benaouda Bensaid, 2013).

Debt in Islam is long last liability that does not limit in this world but it is also liability in the hereafter as well. As a result, whatever debt the deceased had, in estate distribution for example, the heirs should settle it first, before the estate is distributed to eligible heirs.

Indebtedness however, does not remove from religious piety and morality. The Prophet Muhammad himself at one point was indebted and faced difficulties in paying it off. His example on indebtedness reveals legitimacy in the life of the Muslim individual and the community. As such, the crucial point is repaying debt back while maintaining the community and state of religious and moral responsibility. 'Aisha the wife of the Prophet reported that he bought foodstuffs on credit for a limited period of time and mortgaged his armour for it (Al-Bukhari, Muhammad ibn Ismail. (1407/1987). He is also reported to have borrowed a camel from a Bedouin at a time of scarcity for the poor who were deserving beneficiaries of *zakat*. He wanted to slaughter the camel to feed them or to sell it and buy provisions for them. One also comes across Ibn 'Umar's advice to Humran in which he said: "Oh Humran, fear God and do not die in debt, lest it be taken from your good deeds when there will be no dinars and no dirhams". The religious texts cited above

provide legitimate allowances for debts regarding which Muslim scholars have stipulated three conditions; namely that the borrower should be determined for repayment; in essence that it should be known or most likely expected that the debtor is able to repay it; and that the loan should be made for items of religious permissibility (Benaouda Bensaïd, 2013).

Debt has its strict rules and regulations in Islam. For one, interest is completely forbidden. Additionally, while debt is discouraged, for cases where a person must borrow money, the debtor and lender must enter into a contract, the rules of which are clearly stipulated in the Quran. In cases where a debtor has made the mistake of taking debt on interest, all efforts should be sought to get rid of the interest. When not possible immediately, the debtor should seek all means to reduce payment of interest rates on repayment of debt, whether through debt consolidation or other means - until the debt is paid off completely. Hence it is recommended when debt is done the following steps should be done:

1. To specify the period of the loan, i.e., the length of time after which the loan must be repaid.
2. Writing down the loan and the time when it is to be repaid.
3. If the one who writes down the loan is a person other than the debtor, then the debtor is the one who should dictate to him the details of the loan.
4. If the debtor is unable to dictate because of sickness or some other reason, then the one who should dictate on his behalf is his guardian.
5. The loan should be witnessed, and the witnesses should be two men, or one man and two women.
6. The lender has the right to ask the borrower to guarantee the loan with a pledge which the lender will keep. The benefit of the pledge is that if the time comes for the debt to be repaid and the borrower refuses to pay, the item in pledge may be sold and the debt paid with that money; anything left over is to be given to the owner of the pledge, namely the debtor.

Guaranteeing a debt in one of these three ways (writing, witnesses or pledge) is *mustahabb* and is preferable, but it is not obligatory (*wajib*). Some of the scholars are of the view that it is obligatory to write down a loan, but most of the scholars say that it is *mustahabb*, and this is the more correct view. The reason for that is to protect people's rights so that they will not be exposed to loss because of forgetfulness or confusion, and as a precaution against those who do not fear Allah.

Situation of *al-Gharimun* in Which He Deserved Zakat

As mentioned early, the Holy Quran stated *al-Gharimun* in ayat 60 Surah al-Taubah which says to the effect: “*The alms are only for the poor and the needy, and for those employed in connections therewith, and for those whose hearts are to be reconciled, and for the freeing of slaves, and for those in debt, and for the cause of Allah, and for the wayfarer - an ordinance from Allah. And Allah is All-Knowing, Wise.*”

"People under debt", as explained by al-Qardawi, include those hit by disasters. Individuals struck by natural disasters or accidents are not left to voluntary charity alone. They are given a share in the proceeds of *zakat*. The Prophet told Qubaisah, "Asking is not permissible, except in three cases." The Prophet mentioned among them a man struck by a disaster that wipes out his wealth. Early commentators on the Qur'an include in the category of persons under debt [*al gharimin*] "He whose house caught fire or whose wealth was wiped out by flood or who has debts that burden his family." How much are such persons given? In the saying mentioned above, the Prophet (p) says such a person may ask "until he secures sufficiency of sustenance". This undoubtedly differs from one person to another, depending on factors such as the general standards of living, size of family, and social status. For a merchant whose inventory is burned, for example, securing sustenance of living may require purchasing a minimum amount of inventory sufficient for his type of business. Some jurists even argue that such people must be given amounts sufficient to put them back on their feet at the level they had before the accident took place. Al-Qardawi (2005) mentioned "I believe what determines how much persons struck by disasters should be given depends on the availability of funds in the *zakat* agency and on several other factors, namely other needs that draw on these funds. Lastly, it must be emphasized that the rural areas of today's Muslim countries desperately need such Islamic insurance against the financial aftermath of natural disasters and drought, because of predominant poverty and insufficiency of voluntary charity to take total responsibility for such insurance."

Al-Gharimun's Religious and Moral Responsibility:

The negative influences of financial responsibilities that have yet to be discharged spoils the purity of worship while potentially religiously affecting the acceptance of piety and religious deeds even for those who sacrifice their own lives for God.

Islam gives due attention to the *al-Gharimun's* intention, thought and moral commitment to debt payment. In fact, Islam grants positive commitment as shown in divine assistance to debt payment and decries any negative thoughts towards loans and debts. This extends beyond the superficial face of contracts and agreements to deeply touch on the spiritual, moral and emotional state of Muslim religious life while constantly reinforcing financial trust and security. It is in this context that we grasp the implications of the tradition of the Prophet in which he is reported to have said: "Whoever takes people's money (by debt) with the intention of paying it back, God will pay it back on his behalf and whoever takes it with the intention of usurping it, God will destroy him".⁶⁰

God's paying the debtor's loan speaks not only of a sort of divine interference, but also characterizes a strong religious presence in Muslim financial management while merging the sacred with the profane. Hence, it is understood why thoughts and decisions of financial unaccountability entail a life of difficulty and hardship, a lack of blessings, in

⁶⁰ Narrated by al-Bukhari.

addition to the incurring of severe consequences in the Hereafter. Muslims are thus instructed to clear their outstanding debts first, as reported in the following tradition; “Deferring of paying outstanding debts on the part of rich people is injustice” (Muslim, 1956). Other similar traditions invoke not only torment and punishment in the eschatological world, but raise the equally important issue of credibility and honour. This is understood in accordance with the saying of the Prophet in which he is reported to have said; “The delay of a capable man in paying his debts desecrates his honour and makes him liable to punishment”. This meaning is significant for it effectively links the individual’s self- worth to morality while sustaining the societal fabric through individual financial prudence first followed by the application of law.

Indebtedness and Muslim Integrity: In this section we shall examine the religious and moral implications of debt for Muslims and more specifically; understand how debt affects the integrity of Muslims. In a commonly used religious invocation, Muslims seek refuge in God from excessive debt (*ghalabat al-dayn*) and the abuse of people; the prime contention being that indebtedness results in inevitable stressful and abusive conditions.

The recitation of such an invocation connects Muslims to their real world while maintaining a religious awareness of both financial planning, responsibility and accountability.

Muslims’ over-indebtedness affects their religious integrity in numerous varying degrees. In the spiritual world, Muslims strive to liberate their minds and souls from all sorts of pressures that might affect their religious, and physical health. Pilgrimage for instance explains the need of Muslims to discharge their financial duties lest their religious integrity become at stake. Prior to Hajj, Muslim are religiously recommended as well as culturally accustomed to clearing their personal debts and fixing issues pertaining to public rights. In fact, according to a number of Muslims jurists, Muslims are not permitted to perform the obligation of pilgrimage with debts and loans. Other legal opinions allow it when the debtor is confidently able to pay debts back.

Debt is seen as source of humiliation during the day and anxiety during the night. The second Caliph ‘Umar ibn al-Khattab (d. 644 CE) bases his cautioning on indebtedness on the very fact that debt begins with worry and ends with hostility. For instance, Qurtubi (d. 1273CE) elaborates on the effects of debt on the Muslim at the individual level in light of the following statement of Muslim scholars: “Debts are a disgrace and a humiliation as they preoccupy the mind and cause one to worry about paying it off. Debts also cause feelings of humiliation, particularly when meeting the lender, or a feeling that he is being done a favour when accepting a delay in payment. The debtor may potentially commit himself to paying off the debt then find himself unable but to break the promise; whereupon he may lie to the money lender, or even swear an oath to him then break it. The Debtor may also die without clearing his debt which will cause him to be confined for it”. The following traditions of the Prophet reinforce this meaning: “When a man gets

into debt, he speaks and tells lies and he makes a promise and breaks it”.⁶¹ “The soul of the Muslim is held hostage by his debt in his grave until it is paid off.” On the community level however, scholars have described the negative consequences and the dangers indebtedness poses to the economy; most notable among which is the desire for immediate gratification with no thought of the future, the lack of responsibility and self-reliance and the poor distribution of wealth.

Remarkably enough, when debts exhaust all the revenues of a Muslim person, they would then be described according to the teachings of Islam, as a poor (*faqir*) or needy (*miskin*) individual and thereby be entitled to financial support stemming from the community (Benaouda Bensaid, 2013).

3. DISBURSEMENT OF ZAKAT TO AL-GHARIMUN CATEGORY IN BRUNEI DARUSSALAM

As mentioned earlier, to whom the *zakat* is eligible to be distributed is mentioned in al-Qur’an Surah Al-Taubah 9:60. There are eight categories of deserving persons mentioned in this verse. Among the eight categories are those who are in long-term poverty - the poor, the needy and the slaves. There are also those who are temporarily poor such as those in debt and wayfarers who need help. The other two categories (*fi sabilillah* and *muallaf*) are for protection and propagation of Islam (*jihad* and *da’wah*/preaching) and one category is for financing the *zakat* institution’s administrative costs (*amil*).

Those in debt is defined by MUIB as ‘The *Al-gharimun* group is made up of those who have run into debt on building projects for the public such as the construction of mosques or schools. An issue on the definition of *Al-gharimun* was raised by His Majesty recently - to consider those who are in debt for basic necessities such as in debt for purchasing government houses’ (*The Brunei Times*, 15 January 2009).

While Lembaga Zakat Selangor/Zakat Authority of Selangor defined *al-Gharim* as ‘to pay the liabilities of Muslims who are trapped in their obligations for their basic needs and provide humanity assistance for Muslims who have been the victims of disasters such as fires, floods, robberies, etc,’ (Mustafa Murtala, 2008).

Neither the Al-Qur’an nor the *Hadith* of the Prophet (PBUH) specified how to distribute the *zakat* amongst the eight groups nor the portion of the *zakat* to be received by each group. Al-Shafi’i is of opinion that *zakat* should be distributed to all the eight categories if they exist, otherwise to those who are available of them. Some of the Hambalites agree with the Shafi’i point of view but Imam Malik and Abu Hanifah said that it is not necessary to cover all groups. Abu Ubayd narrated an opinion of Ibn Abbas, which says that *zakat* can be given even to one group of the eight (Al-Abdin, 2002).

⁶¹ Narrated by al-Bukhari and Muslim

The Practice In Brunei Darussalam

The recipients who are entitled to receive zakat under the category of *Al-Gharimun* will not receive the amount of debts through them but the MUIB's officer will pay off their debts directly to the creditors. The application for zakat fund under the category of *Al-Gharimun* will have to go through three stages:

1st Stage: The Committees of Research do the investigation on the applicants' debts and then have the meeting to either recommend the application to be approved or not. If they supported it, then they will proceed to the 2nd stage.

2nd Stage: The Verification Committee members will verify the application form. If the applications are being recommended, then it will proceed to the 3rd stage, which is the final stage.

3rd Stage: In this final stage, the Committee of Zakat Endorsement will endorse the zakat if the applicants are to be entitled as the recipients of *Al-Gharimun*. At this stage, the meeting will be held between the *Al-Gharimun* Department, the State Mufti and also the High Committees of Islamic Religious Council of Brunei to verify and approve the applications

MUIB distributed the *zakat* fund under *Al-Gharimun* category in 3 phases in which the first phase was the applications received during January 2009 until December 2009. The Second Phase was from January 2010 until December 2010. And the Third phase refers to the applications received during the period of January 2011 until October 2014.

The approved recipients of *zakat* fund under the category of *Al-Gharimun* in the first and second stages were mainly for debts on housing schemes both administered by Housing Development Department and Yayasan Sultan Haji Hassanah Bolkiah amounted to BND\$2,887,303 (412 persons) in 2009 and BND\$1,513,394 (127 persons) in 2010 (refer appendix 1). For the third stage, only 81 applicants were approved amounted to BND\$925,969 which were for various types of debts. 72 applicants were rejected in 2013 while the rest more than 4000 applications are still pending (MUIB's officer, 2 June 2015).

The applications under the category B which consist of various types of debts are shown in appendix 2. Debts in bills like water, electricity, gas and phone. There are also debts in housing scheme, land tax, housing loan scheme, transport scheme, bankruptcy (court), others (Government), personal loan, credit card loans, home loan, car loans, furniture loans, overdue school fees, private, guarantor, mortgage, business loans, legal debt and other (Non-Government) loans. The figure shows the types of debts and the amount (in total) being applied. Personal Loan was the highest at 29% valued at about \$31.6 million. The second highest debts being applied for under the category of *Al-Gharimun* is Car loan at BND\$14.1 million. While, those who already declared bankruptcy amounted to BND\$12.7.

It seems that the number of applicants for various types of debt in category B were double of category A. MUIB found that the applicants do not understand the meaning of *al-gharimun*. A new guide line is needed for this category since previously, the *al-gharimun* is for those in debt due to public expenditure such as building mosque, madrasah, school etc.

As can be seen from appendix 3, the number of applicant increases by 1.5% from 862 applicants (2009) to 875 applicants (2010). The data shown that about 20% of the applicants are unemployed and about 40% earned below BND\$1,000.

4. CONCLUSION

Though *zakat* and charity (*sadaqah*) are normal practices in Muslim societies, their emotional implications are far less apparent. Receiving charity is not always pleasant, particularly for those whose financial needs force them to shift their respective social status from the donor to a receiver. Furthermore, the debtor's religious life cannot be distanced from the life of the community which seeks to continually sustain favourable avenues for regarding spiritual and intellectual education, socialization and support. For debtors however, such highly communal religious occasions may turn into causes of embarrassment, increased stress and frustration. Should a Muslim debts force him Muslim to avoid community life, he may then skip a number of communal obligations and would have also consequently violated a number of religious instructions concerning adherence to the Jama'ah (group and community).

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APPENDICES

Appendix 1:

The Total Applications and Approval for Zakat under *Al-Gharimun* Category

Year	Total Application Received		Total Applications Approved	Total Amount approved (estimation) BND\$	Total Application Rejected
	Category A (Loan on Housing Scheme under Housing Development Department and Yayasan Sultan Haji Hassanal Bolkiah)	Category B (Debtors other than Housing Scheme)			
2009	1767	1796	412(Category A)	2,887,303	0
2010	-	514	127(Category A)	1,513,394	0
2011	-	413	10	148,030	0
2012	-	122	27	250,960	0
2013	-	109	30	280,416	72
2014	-	72	14	246,553	0
Total	1767	3026	620	5,326,657	72

Appendix 2:

Types of Debt under category B

No	Type of debt	Total Amount Applied
1	Water	\$2,632,866.98
2	Electricity	\$5,777,739.87
3	Gas	38089.36
4	Telephone	\$724,318.78
5	Government's Housing Scheme	\$11,482,644.26
6	Cukai Tanah	\$141,059.92
7	Housing Loan Scheme (Government Loan)	\$1,230,023.39
8	Government Car Loan	\$220,822.34
9	Muflis (Mahkamah)	\$12,701,002.49
10	Others (Debts to Government)	\$2,235,139.24
11	Personal Loan	\$31,619,017.39
12	Credit Card Loan	\$5,763,035.21
13	Bank's Housing Loan	\$10,827,562.04
14	Bank's Automobile Loan	\$14,096,855.74
15	Loan for Furnitures and Fittings	\$1,468,887.13
16	School fees	\$58,402.32
17	Loan to Personal Creditors	\$1,115,219.59
18	Guarantor	\$930,715.64
19	Pawnshop	\$583,846.32
20	Loan for Businesses	\$5,074,933.98
21	Debts for Legal Cases	\$18,100.00
22	Others (Non-Government)	\$1,167,512.78
Grand Total		\$109,907,794.77

Note: The data was up to September 2013

Appendix 3

Number of Applicants according to Income Groups

Income									
No	Phase	No Income	Below \$500	\$501-\$1000	\$1001-\$2000	\$2001-\$3000	\$3001-\$4000	\$4001 above	Total
1	First	149	149	232	274	50	4	4	862
2	Second	110	122	198	356	66	16	7	875
3	Third	279	293	229	231	40	6	6	1094
Grand Total		538	564	669	861	156	26	17	2831

INSTITUTIONALIZATION OF ZAKAT SYSTEM IN BANGLADESH: LEGAL AND REGULATORY FRAMEWORK

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Manjur Hossain Patoari²

Mohammad Ridwan Goni³

ABSTRACT

Zakat is the most fundamental and essential system in Islamic legal system. Although Quran and Sunnah have given an effective guideline for Zakat management, the government of Bangladesh has only partially followed it. Unfortunately Bangladesh is not a declared Islamic state. As a result it does not have a proper law and regulatory framework for the management and implementation of Zakat. Institutionalization of Zakat backed by the necessary legal and policy framework for Zakat management in the country can play an important role particularly for alleviation of extreme poverty. The paper analyses the existing Zakat regulations and the legal system in the country and suggests a necessary and effective legal framework for Zakat management. It discusses the possible impacts of its implementation. This is a descriptive study based on content analyses, qualitative analyses of secondary data.

Keywords: *Zakat* institution, *shariah* law, poverty alleviation, proposed law, Bangladesh

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1. INTRODUCTION

Zakat institution is a centre of concern for socio-economic and sustainable development of any Islamic State. The holy Quran has mentioned the term '*Zakat*' eighty times (Qardhawi, 2004) to understand the significant of *Zakat* to the mankind. *Zakat* payment has been ordained by Allah (SWT) with a view to achieving social harmony among various sections of the *Ummah*. Institutionalization of *Zakat* in any country is important for smooth administration such as promotion, collection and distribution of *Zakat*. *Zakat* institution may be given a safety-net interpretation in the society. This interpretation is even more significant when an economy experiences a slowdown or recession as a result of financial or economic crisis. The poor and needy as well as the low income groups of the population are most affected by economic recessions (Ragayah & Faridah, 2009). In this circumstance, law can be an important tool for ensuing good administration and management of *Zakat* in a country. The same initiative was initiated by second Caliph Umar Al-Khattab to be known as transformer of Muslim world to institutionalize *Zakat* as an institution (Htay & Salman, 2014). In order to implement *Zakat* properly, involvement of the State and establishment of *Zakat* institution with proper legal and regulatory framework are indispensable. On the other hand, the right of supervising the smooth functioning of the institution of *Zakat*, of collecting the *Zakat* dues, and of distributing the *Zakat* funds unquestionably vests in the Muslim State (Zayas, 2003). Establishing *Zakat* in the society is not only a religious duty or obligation, but it is a social institution that can be utilized to strengthen the socio-economic development of Muslim *Ummah*. If *Zakat* is institutionalized through an enactment by the government in Bangladesh, all wealthy Muslims will be required to pay *Zakat* collectively in accordance with law.

Most available researches and writing related to *Zakat* are on the importance of *Zakat* payment for Muslim, *Zakat* as an important *ibbadat* and its consequences for non-observance, its impact on socio-economic development, and related issues. However, there are very few researches that have examined the management, collection and performance of *Zakat* institution in Muslim countries. Only a few studies are found on the regulatory framework of *Zakat*. This will be a new study in Bangladesh. It is designed to indicate the new law required for institutionalization of *Zakat* in compliance with the provisions in *Shariah*. Undoubtedly, *Zakat* has represented one of the most important outcomes of Islamic civilization. The main objective of this paper, therefore, is to develop and suggest a legal framework for establishing a reliable and efficient institution for smooth collection, distribution, and management of *Zakat* for realization of its full impact particularly in poverty alleviation and socio-economic justice in Bangladesh.

2. RESEARCH OBJECTIVES

It is certainly true that *Zakat* has come down as one of the most important outcomes of Islamic civilization. The main objective of this article is to create a reliable *Zakat* institution for smooth collection and distribution *Zakat* in an easy way by which wealthy Muslims are willing to pay *Zakat* or in some cases, if necessity arises, they are compelled to pay *Zakat*. It also proposes a law in line with the provisions of *Shariah* that will ultimately eradicate poverty and maintain socio-economic justice in Bangladesh.

3. DOCTRINE OF ZAKAT

Zakat is one of the five fundamental pillars of Islam. What is *Zakat* and its methods of distribution? In this paper, it is not our objective to define *Zakat* rather, our objective is to discuss the meaning of *Zakat* briefly to the readers who have no idea regarding *Zakat*. *Zakat* is an obligatory (*Fard*) duty for all Muslims who possess wealth in different forms such as gold, silver, jewelry, cash, livestock, or agricultural produce, beyond certain lower limit called *Nisab* (minimum amount sufficient to meet basic family needs for the period, to pay *Zakat* each one-year period of ownership of the asset (Al-Habshi, 2003). Generally, *Zakat* is levied at the rate of 2.5 percent on such assets annually. It is commonly called ‘poor tax’ in Islam; a payment from the rich to the poor and needy for maintaining socio-economic balances in the society. Western scholars including Russell Powell (2010) often like to level it as collection of money by state as a tax. A number of Islamic scholars rejected this notion (Siddiqui, 2006). Although payment of *Zakat* is obligatory and its collection may be similar to tax, but it is not a tax. Basically payment of *Zakat* is a kind of *ibadah*; if a Muslim does not pay *Zakat* regularly, he/she is not fulfilling the promise given to Allah (SWT). Allah (SWT) declares in the Holy Quran that: “So establish *Salat* and give *Zakat*, and hold fast to Allah” (Quran 22:78). In this regard, Prophet Muhammad (SAW) said: “Islam was built upon five pillars: to witness that there is no God but Allah and that Muhammad (SAW) is His servant and messenger, performing prayer, giving *Zakat*, performing pilgrimage and fasting during the month of *Ramadhan*” (Bukhari, V.I, p. 102). Two famous scholars namely, Shad and Al-Qaradawi have wonderfully pointed out the meaning of *Zakat*. According to them, the literary meaning of *Zakat* has a twofold meaning:

1. It means “purity” and “cleanness”. The payment of *Zakat* purifies the soul of that Muslim who pays *Zakat*. It eliminates selfishness and greed of *Zakat* payer. It also cleans the dirt of wealth as well as the heart of the *Zakat* payer. By removing the stringiness, *Zakat* purifies the heart of the *Zakat* payer and prepares him to sacrifice for the cause of Allah (Shad, 1986). The Quran says: “Take from their wealth so that you might purify and sanctify them” (Quran 9:103).
2. The second meaning of *Zakat* is fertility or growth. The payment of *Zakat* is designed to enable the poor or recipients to grow in wealth and spirit (Al-Qaradawi, 1973).

Sometimes some wealthy Muslims make question that why they should pay *Zakat* to the poor? They argue that the assets which they acquired are completely done only because of their labor, skill and due diligence. Answering this question, Holy Quran rightly says: “Everything in the heavens and everything on the earth and everything in between them and everything under the ground belongs to Him” (Quran 20: 6). Hence, all objectives including properties belong to Allah (SWT). It means that the real owner of all property of the earth is Allah. Based on the above verse it can be concluded that paying *Zakat* to the poor is an acknowledgement to Allah (SWT) and seeking pleasure from Allah (SWT) that he/she would never acquire that property if Almighty Allah would not give or help. Thus, paying *Zakat* is a sign and expression of wealthy Muslims thanks to Allah (SWT) for their wealth. Although payment of

Zakat apparently demonstrates that money is decreasing, it ultimately accelerates the economy of a country. The *Zakat* recipients firstly meet their own demand and subsequently can take part for the development of a country when he/she becomes solvent. If every citizen of a country economically solvent, then business and trade, science and technology will automatically go up in that particular country which subsequently develops the economy of the country. Hence, it is articulated that paying *Zakat* by wealthy the Muslims does not cause reduction of money. Rather, the money of the state escalates in the state where more people are involved in benefit making process. On the other hands, as it is promised by Almighty Allah, He will enhance property of those people who pay *Zakat* properly only for Allah's satisfaction. In this sense, *Zakat* means growth.

4. RECIPIENTS OF ZAKAT

The Holy Quran has beautifully described the groups of people who are entitled to receive *Zakat*. According to Quran (9:60), the following eight kinds of people (Samad & Lowell, 2010, p. 303) are eligible as the recipients of the *Zakat*:

- a) beggar (*Fuqara*);
- b) poor (*Miskin*);
- c) *Zakat* collectors/officers (*Ameleen*);
- d) a Muslim who has recently been converted into Islam (*Muallafah*);
- e) emancipated slave (*Fil-Riqab*);
- f) debtors (*Gharemeen*);
- g) Allah's cause (*Fi-Sabi Lillah* meant that person during the early days of Islam who intended to join Jihad; who intended to make Hajj; who intended to learn and memorize the Quran); and
- h) wayfarers.

5. INSTITUTION OF ZAKAT AS POVERTY ALLEVIATION

Zakat institution can play important role for alleviating poverty and achieving socio-economic justice as this institution collects money from rich Muslims and distribute it to the poor and needy people of society. This institution provides an in-built social security system based on redistribution of money. It provides a mechanism for eradication of poverty in the society. Everybody will agree with us that the prime object of all governments is to alleviate poverty from state. The government of Bangladesh is not out of it. History shows that *Zakat* managed to eradicate total poverty during the time of S. Umar ibn al Khattab (13 -22H) and during the time of S. Umar bin Abdul Aziz (99-101H). By proper distribution of *Zakat* over time, it was appeared that the government did not find any deserving poor all over the country who can take *Zakat* (Ahmed, 2004, p. 31). Various Muslim countries of the world have used *Zakat* fund for poverty alleviation. The global volume of *Zakat* collected each year through *Zakat* institution is estimated to be US \$ 10 billion. Data collected for Indonesia, Malaysia, Qatar, Saudi Arabia and Yemen, which make up 17% of the world's estimated Muslim population, indicates that in these countries alone at least US\$5.7 billion is currently collected as *Zakat* each year. However, this fund is basically used between 23% and 57% for humanitarian assistance (Stirk, 2015).

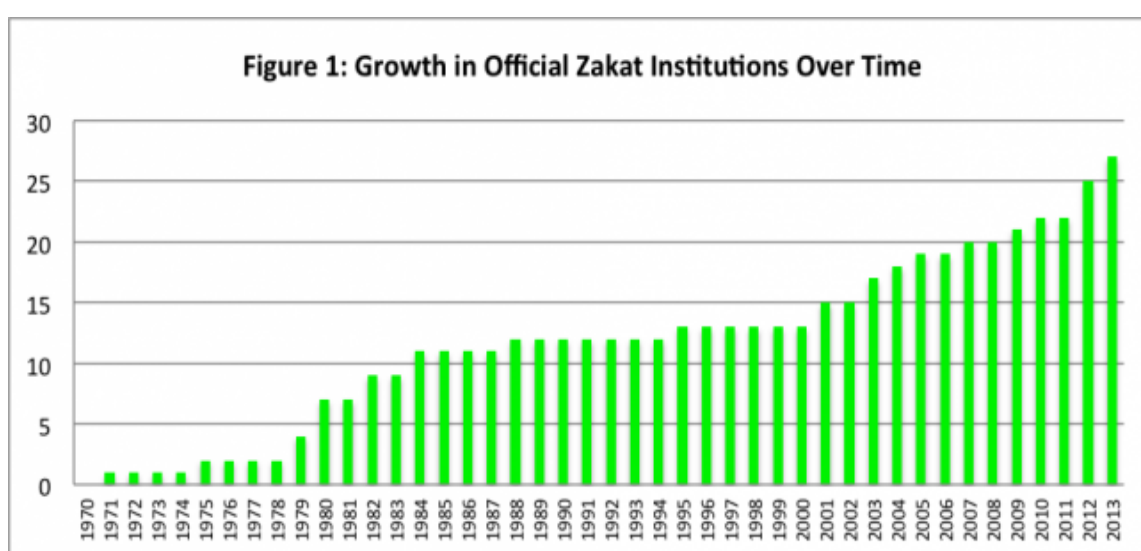
Poverty is considered as one of the major challenges for Bangladesh. A substantial number of populations of Bangladesh have failed to fulfill their basic necessities of life such as food, clothing, shelter, education and medical care. According to Bangladesh Bureau of Statistics (BBS) household survey, 31.5% of the total population lives under the poverty line – including 17.6 percent who are said to be ‘extremely poor’ (BBS, 2010). The incidence of poverty is high in the rural population as compared to the urban population in Bangladesh. At the national level, rural and urban poverty were estimated at 43.8% and 28.4%, respectively (Bangladesh Economic Review 2009; 2010). Such scenario is not desirable for any developing country. For this reason, government of Bangladesh (GOB) has taken several initiatives or programs with the assistance of donor agencies and NGOs for alleviation of poverty. The GOB has given commitment to international community for the implementation and fulfillment of Agenda 21 and Millennium Development Goals (MDGs). One of the major targets of the MDGs and Agenda 21 is to eradicate extreme poverty and combat poverty respectively. Although Bangladesh has little progress on that issue with the aid from various donor agencies, still the country has to go far in order to achieve this target. Thus, our opinion in such situation is that government of Bangladesh has to pass a law for the establishment of a sound *Zakat* institution for proper collection and distribution of *Zakat* that will work lot for the alleviation of poverty in Bangladesh. The *Zakat* system as a way of Islamic financing can be used as one of the strong weapons to combat poverty (Hassan and Khan 2007). By institutionalizing *Zakat* institution in our country, huge amount of money will be collected every year from wealthy Muslims which can be used subsequently for poverty alleviation projects. We also believe, if government properly manages the whole system under the new regulatory framework, a time will come when there will be no absolute poverty in Bangladesh. It needs setting up of a proper and effective *Zakat* management system.

6. PRACTICES AND OVERVIEW OF ZAKAT IN BANGLADESH

Bangladesh is a Muslim populated country, not an Islamic country. *Zakat* system is not perfectly introduced in Bangladesh. History shows that no government of Bangladesh has taken any initiative since independence of this country in 1971 for the establishment of an official institution to centrally manage *Zakat* in Bangladesh because of being a so-called secular state. Rather a *Zakat* Board has been established in the country only for income generating source of government. Payment of *Zakat* is either based on voluntary basis or administered by *Zakat* Board as per the *Zakat* Fund Ordinance, 1982. There is no institution for *Zakat* collection. The present *Zakat* ordinance is small, outdated and has several shortcomings and limitations. According to this ordinance, people generally pay *Zakat* privately according to their will and caprice. There is no authority to examine the payment of *Zakat* whether *Zakat* is paid properly or not. But it is true that the proper collection and distribution of *Zakat* reduces, or eradicates social conflicts, leads to the growth of the middle class, strengthens the weaker section and prevents all of the greatest social diseases related to financial issues, especially interest and money-hoarding (Hussain & Abdullah, 2015, p.1). Due to lack of proper law, *Zakat* recipients get a poor amount of money and consume it immediately as *Zakat* is paid individually, not at the State level. We all know that the First caliph Hazrat Abu Bakar Siddique (RA) declared war on the tribes or on those wealthy Muslims who refused to pay *Zakat*. Some Muslim countries

such as Saudi Arabia, Sudan, Malaysia, Libya, Yemen and Pakistan - collect *Zakat* as mandatory from all wealthy Muslims and in these countries *Zakat* is collected by the government (Marty & Appleby, 1996). In Bahrain, Oman and Indonesia, the countries have enacted laws of *Zakat* and established *Zakat* organizations supported by their government for collection and distribution of *Zakat* (Mutiar, Zakaria & Zahri, 2013). In other countries such as Jordan, Iraq and Tunisia, the management of *Zakat* is looked after by independent institutions (Monzer, 1995). It is interesting to note that *Zakat* has become increasingly institutionalized in various countries of the world as an institution. In the late 1980s, governments across the Islamic world began establishing official institution to manage the collection and distribution of *Zakat*. The growth of official *Zakat* institution around the world in the last 44 years is shown in Figure-1.

Figure 1: Growth in Official *Zakat* Institutions in the World



Source: Allison Minor, 2014

Hence, this growth (Figure-1) indicates the significance of *Zakat* institutions in the world. But the government of Bangladesh still has not introduced a sound *Zakat* institution in the country. Thus, the purpose of *Zakat* system is still frustrating in Bangladesh, and the poor remains poor. It is, therefore, highly desirable that at all places *Zakat* fund should be created, and from this fund disbursements should be made in cash and kind with a predominant object of making recipients financially self-sufficient (Ansari, 2011, p. 390). From the above discussion, it is clear that institutionalization of *Zakat* in Bangladesh with the adoption of a comprehensive law is essential for a smooth collection and distribution of *Zakat* for poverty alleviation. However, question may arise as to the legitimacy of institutionalization of *Zakat* in Bangladesh as a non-Islamic country. In this respect, our argument is that there are many Islamic laws applied in Bangladesh in various matters such as, marriage, dower, divorce, guardianship, maintenance, gift, will, *wakf*, pre-emption and inheritance. It is also laid down in the Muslim Personal Law (*Shariat* Application) Act of 1937. According to section 2 of the said Act, “any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under

contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including *talaq*, *ila*, *zihar*, *lian*, *khula* and *mubaraat*, maintenance, dower, guardianship, gifts, trusts and trust properties, and *waqfs* (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (*Shariat*)". Hence, we can conclude that if the government of Bangladesh establishes an independent *Zakat* institution and enacts a law for proper administration and management of *Zakat*, the collected *Zakat* Fund by the operation of law can usually contribute to various welfare and poverty alleviation programs, namely, financial help for food to the poor, medical care to the poor children, scholarships to the poor, distribution of rickshaws, vans, sewing machines, cattle, and poultry to help alleviate poverty, building up homes for homeless; financial help for small businesses, disaster relief to suffering areas and so on.

7. REFORM PROPOSALS

7.1. Enactment of new law

The government should enact a new law (proposed name "*Zakat* Management Act") in line with *Shariah* law and set up an independent *Zakat* institution to be called the Department of *Zakat* under the Ministry of Religious Affairs of the Government People's Republic of Bangladesh for proper administration and utilization of *Zakat*. We think the ministry is perfect other than the Ministry of Finance as *Zakat* is a religious matter. The Department of *Zakat* is responsible for the implementation of *Zakat* among the Muslims in Bangladesh. All wealthy Muslims must follow the rules, regulations that will be added in the new law. It is noted that Saudi Arabia has a *Zakat* law which was issued on 13/5/1950 under the Royal decree and consists of 20 articles that cover all rules and regulations of *Zakat* in the country. According to this law, Saudi Arabia established a Department of *Zakat* and Income Tax (DZIT) for the collection of *Zakat* and tax as effectively and efficiently as possible through the correct assessment (DZIT, 2012). It is obvious from the various researches that countries with obligatory collection of *Zakat* tend to collect more *Zakat* than that of the voluntary payment of *Zakat*. For example, the Saudi Arabian Department of *Zakat* and Income Tax collected 2.93 billion USD in *Zakat* during the 2012-2013 *Zakat* fiscal year (DZIT, 2013), the Indonesian *Zakat* institutions and Kuwait *Zakat* House received roughly 232 and 116 million dollars in *zakat* in 2012 (Kuwiat House, 2014). During Prophet's (SAW) reign, *Zakat* was collected and distributed by the state as indicated by the holy Quran that "Take *sadaqa* from their wealth to purify and cleanse them" (Quran 9: 103). It means *Zakat* was established at state level; it was not left at the discretion of individual level. After the demise of the Prophet (SAW), this system was also followed by four rightly guided *Khalifah* that succeeded to him. Hence, we think that government is responsible for carrying out the collection and disbursement and to make some regulatory frameworks to ensure that the *Zakat* is administered by good management. In these circumstances, the proposed law is indispensable for a sound *Zakat* institution.

7.2. Proposed organizational set-up

There will be a Department of *Zakat* in Bangladesh. It will be the main body for the collection and disbursement of *Zakat* fund. It will be headed by Director General.

Zakat institution will work at four levels throughout the country namely, Capital City (Director General), District level headed by Director, *Upazila*/City Corporation level headed by Deputy Director, Village/Ward Council (ward council at city corporation area) level headed by officer. The Department of *Zakat* and its subordinate body will have permanent office except Village/Ward *Zakat* office. Village/Ward *Zakat* Committee will work at chairman/ward council office. Village/Ward *Zakat* committee will consist of three members, namely, one officer from government, chairman/ward commissioner from respective village/ward council and one Imam of local mosque from respective village/ward council appointed by chairman/ward commissioner (see Figure 2). All members of Village/Ward *Zakat* Committee will engage for three months for *Zakat* operations and will work on voluntary basis except government employee. However, the committee is responsible for maintaining all records relating to *Zakat* matters and must furnish all reports to the Deputy Director of *Zakat*. The first step of the *Zakat* institution is to appoint *Zakat* officials and employees at all levels as the institution thinks necessary for the implementation of *Zakat* rules and regulations throughout the country. All officials or employees who will be involved in *Zakat* operations must be Muslims.

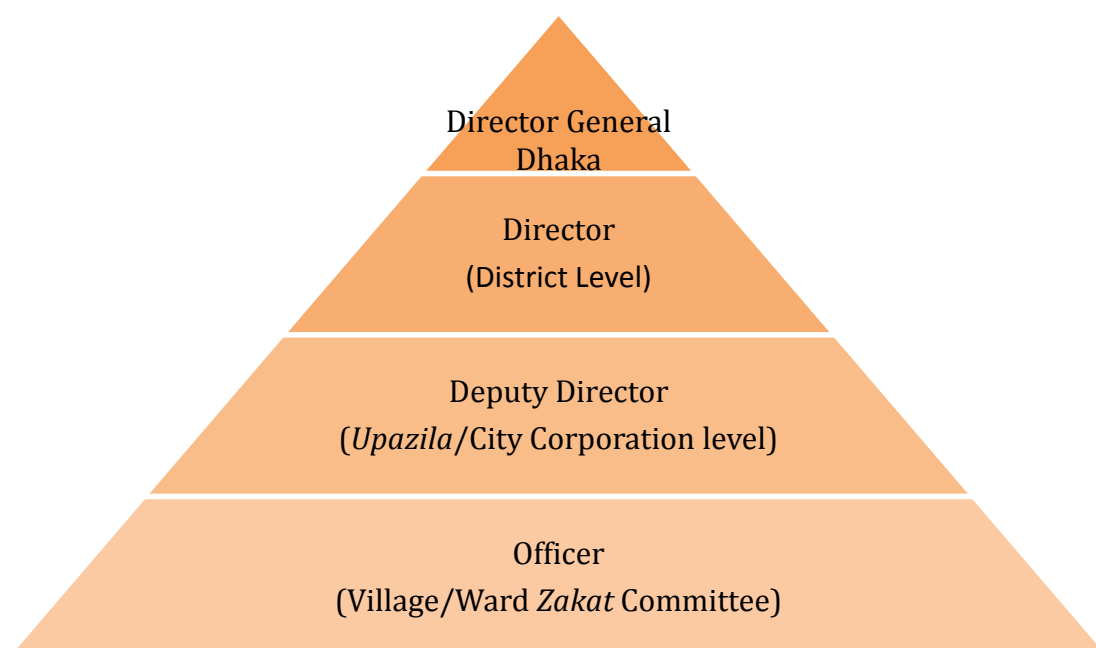


Figure 2: Organizational structure of *Zakat* Institution

7.3. Powers and functions of zakat institution

The practical functioning of the institution of *Zakat* must be kept in the highest plane of integrity, courtesy, and loyalty to the Muslim Nation. The powers and functions of *Zakat* institution are given below:

1. Assessment, collection and disbursement of *Zakat* by the Department of *Zakat* with the assistance of other subordinate bodies of that department;
2. The Department of *Zakat* will formulate policies for the management and administration of *Zakat* fund;

3. The Department of *Zakat* and other subordinate bodies can ask for information from any wealthy Muslim on any alleged matter of *Zakat* and the alleged Muslim is bound to provide information in time. In case of failure to provide information, the institution can start to work at its own initiative.
4. The Department of *Zakat* imposes punishment such as, fine, penalty and forfeiture of property against those Muslims who did not pay *Zakat* money to the department without any reasonable and just causes;
5. The Department of *Zakat* can execute any judgment relating to *Zakat* issue being referenced by the *Shariah* Court/any special court or tribunal established for resolving *Zakat* matters;
6. The witnesses of a *Zakat* case before the Court are protected for their deposition. Hence the Department will take immediate help from law enforcing agencies if needed.
7. The Department of *Zakat* will arrange convention, seminar, colloquium, and workshop and will also make *Zakat* campaign through *Imams* of local mosques, print and electronic media for the purpose of promoting and raising awareness of *Zakat*.

7.4. Expenses of the zakat institution

According to section 10 of the *Zakat* Fund Ordinance, 1982, “all administrative expenses of the *Zakat* Board shall be borne by the Government”. This section is contrary to the spirit of Islam. Basically the institution of *Zakat* is administered by *Zakat* officials. Here *Zakat* officials mean all officers and employees appointed for collection and distribution of *Zakat* purpose. It is noted that government has to maintain *Zakat* fund separately from other governmental funds so that this fund does not mix with other funds or other revenues collected by the government. Government will provide salary to all *Zakat* officials and manage all administrative expenses from this fund in accordance with the teaching of the Holy Quran, *Surah At-Tawbah* verse 60.

7.5. Qualification and appointment procedure of zakat officials

All *Zakat* officials must be pious and must possess high moral character. They also must possess a thorough knowledge of the law of *Zakat* so that they can advise and assist the *Zakat* payers for the fulfillment of *Zakat* dues. The Director General of Department of *Zakat* must hold the same qualification, but addition qualifications also may be needed that DG must have fairness, highly professional experience i.e., having proven expertise as a *Shariah* scholar and diverse background in *Shariah* law and administration, a proven record of political independence with high moral character. During the life of the Prophet (SAW), in his capacity as the ruler of Islamic state, he used to appoint *Zakat* officers who were in charge of the due and actual receipt, identification and assessment of the needs of deserving person, distributing physically the received *Zakat* and reporting their activities to the head of government in Medina (Kahf, 2000). Hence, in our paper we also follow this rule. All officials must be appointed by a Selection Board under the Ministry of Religious Affairs of Bangladesh. However, the Selection Board shall consist of eight members, namely, (a) a Chairman and a Vice-Chairman to be appointed by the government from among eminent Muslim scholars; (b) the Secretary of the Religious Affairs Division, *ex-officio*; (c) the Director General of the Islamic Foundation, *ex-officio*, who shall also

be its Secretary; (d) Four selected Deans of the Faculty of Islamic Studies/*Fiqh* either from public or private university to be appointed by the government.

7.6. Transparency of zakat institution

Transparency will be another important element of *Zakat* law. There must be a provision to ensure transparency of *Zakat* institution. The *Zakat* institution must have a real effort to maintain honesty and transparency of *Zakat* collection and distribution. To ensure transparency to the public, government will form an official website “www.zakatadministration.bd” under the proposed enactment stating all activities, annual financial report of Department of *Zakat* and its subordinate bodies; publish all information including amount of *Zakat* paid by *Zakat* payers and other necessary information necessary to be disclosed. Each year, this *Zakat* institution will be audited by a professional auditor and financial report will appear on the official website as a guarantee of transparency. Information disclosure to public will ensure the credibility of *Zakat* institution which is an essential element of good governance.

7.7. Collection and distribution mechanism

Collection and distribution of *Zakat* is the most critical part for *Zakat* management. The matter has been highlighted by al-Qardhawi (2001) who listed five requirements for the success of *Zakat* institution, namely, (a) the expansion of new resources for *Zakat*; (b) the collection of *Zakat* from tangible and intangible properties; (c) systematic *Zakat* management; (d) efficient *Zakat* distribution; and (e) the thoroughness in the implementation of Islamic rules. In doing so, the *Zakat* officials must fully be aware at all times of their jurisdiction and *Zakat* law. There is no specific instruction in Quran and *Sunnah* of the Prophet (SAW) about how to collect and distribute *Zakat*. In that case, the *Zakat* institution has to take optimum measures for good management of *Zakat* fund. *Zakat* will be collected at all levels of the country through *Zakat* officials. There will be a provision in this *Zakat* law that every wealthy Muslim who possesses the *nisab* must pay *Zakat* before the month of Ramadan each year. If any *Zakat* payer fails to submit the *Zakat* money to respective office before the stipulated time, *Zakat* institution will deduct the *Zakat* money from that person’s bank account on/from the first day of the Ramadan. The *Zakat* officials will immediately transfer the *Zakat* funds to the Department of *Zakat* bank account and subsequently submit their report to the Department. At the same time, *Zakat* institution will distribute *Zakat* fund according to its budget by the *Zakat* officials with the presence of Village/Ward *Zakat* Committee to eight categories of people as per Quranic instruction. Who will get *Zakat* first among the eight categories of *Zakat* recipients? Al-Shafi said, it is duty of government to distribute *Zakat* money to all the eight categories if they exist; otherwise, to those who are available. Imam Hanbali also agreed with this instruction. But Imam Malik and Imam Abu Hanifa said, it is not necessary to cover all categories; it depends on circumstances. One of the eminent Islamic scholars Al-Qaradawi said, *Zakat* should be distributed to all the eight categories if the funds are huge and the degree of their needs is similar. He also opined that it is not necessary to give equal shares to all categories of *Zakat* recipients and should be given according to their number in society and conditions of need (Al-Qaradawi, 1973, p. 686-688, 692). Hence, the *Zakat* institution will distribute *Zakat* funds to all categories of *Zakat* recipients according to their need.

8. CONCLUSION

Everybody will believe in a word that *Zakat* is the first universal welfare scheme in human history that is playing a significant role in developing the social life and social security of all people. However, the government of Bangladesh still has not set up a sound institution for smooth collection and distribution of *Zakat*. Hence, this paper has provided new ideas and new legal and regulatory framework i.e., the Zakat Management Act for proper *Zakat* management and administration in Bangladesh so that the *Zakat* institution can take part for the socio-economic development of the country. In addition, the proposed regulatory framework will provide motivation to new researcher for further research in the area of *Zakat* collection and disbursement in Bangladesh.

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RETROSPEKTIF TERHADAP PENGIRAAN HAD AL-KIFAYAH: CADANGAN PENGAPLIKASIAN UNTUK SETIAP NEGERI DI MALAYSIA.

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ABSTRAK

Kajian tentang penentuan had kifayah menurut keperluan semasa masih belum mendapat perhatian dari kalangan pengkaji-pengkaji kerana pengiraan tentang had kifayah fakir dan miskin dijalankan oleh Jabatan Mufti bagi sesuatu negeri di Malaysia. Kajian ini mencadangkan penggunaan indeks harga pengguna (IHP) sebagai alternatif pengiraan had kifayah. Kajian ini menggunakan pendekatan metodologi metod bercampur iaitu menggunakan kaedah kualitatif dan kuantitatif. Skop kajian dijalankan di kawasan Wilayah Persekutuan dan asnaf-asnaf yang menerima zakat dijadikan responden temuramah. Manakala indeks harga pengguna dijadikan data bagi pengiraan had kifayah menggunakan kaedah kuantitatif. Hasil dapatan menunjukkan pengiraan berasaskan kepada IHP boleh dijadikan sebagai asas pengiraan kepada penentuan had kifayah. Justeru itu, kajian ini mencadangkan agar penggunaan IHP sebagai asas penentuan had kifayah boleh dijadikan sebagai penentuan asas untuk setiap negeri walaubagaimanapun boleh di ubah menurut keperluan sesuatu negeri.

Kata kunci: Kewangan Islam, Had Kifayah, Zakat, Asnaf Fakir, Asnaf Miskin, Indeks Harga Pengguna (IHP).

Keywords: Islamic Finance, Had Kifayah, Zakat, Asnaf for Poor, Asnaf for Hardcore Poor, Consumer Price Indexs (CPI)

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1. PENGENALAN

Kebanyakan institusi zakat menggunakan pendekatan kewangan dalam mengukur kemiskinan berdasarkan kaedah Had Kifayah (Purata Garis Kemiskinan Zakat). Kaedah pengiraan Had Kifayah (HK) adalah hampir sama dengan Purata Garis Kemiskinan (PGK) kerana ia menggunakan pendapatan sebagai pembolehubah untuk menentukan sama ada individu atau isi rumah itu miskin atau sebaliknya (Mohamed Salahuddin Abdul Rasul et al, 2011).

PGK didefinisikan sebagai pendapatan yang diperlukan bagi memenuhi keperluan minimum termasuklah makanan, kesihatan, pakaian, pendidikan, rekreasi, pengangkutan, minyak dan sewa (EPU, 2012). PGK ini telah ditetapkan oleh Unit Perancang Ekonomi (EPU), Jabatan Perdana Menteri, manakala Had Kifayah ditentukan oleh institusi zakat negeri masing-masing.

Takrifan had kifayah dari segi bahasa ialah kadar keperluan (kecukupan). Manakala dari segi istilah ialah kadar minima bagi keperluan asas dalam kehidupan seseorang⁷⁰. Dengan kata lain had kifayah merujuk kepada suatu kadar keperluan asas minimum yang ditetapkan berdasarkan kepada kos sara hidup semasa. Had kifayah juga digunakan sebagai kayu pengukur dalam mengetahui kadar yang perlu dibantu untuk untuk menepati kecukupan perbelanjaan asasi.

Selain itu, had kifayah merupakan suatu garisan kecukupan bagi seseorang individu atau bagi sesebuah keluarga. Dalam konteks kajian ini, had kifayah merujuk kepada suatu garisan, had atau kadar keperluan asas minimum yang ditetapkan oleh Majlis Agama Islam Negeri @ Pusat Zakat Negeri berdasarkan kos sara hidup masa kini. Ini bersesuaian dengan hadith yang diriwayatkan oleh Imam Tarmizi yang bermaksud:

“Tidak halal pemberian sedekah (zakat) kepada orang kaya dan tidak juga kepada orang yang kuat tubuh badan (mampu berusaha)”

Had kifayah memainkan peranan bagi menentukan tahap keperluan yang diperlukan oleh isi rumah untuk menampung keperluan harian. Ianya dikira berdasarkan pelbagai pembolehubah seperti bilangan ahli dalam isi rumah, kumpulan umur dan lain-lain. Jabatan Wakaf, Haji dan Zakat pada tahun 2007 telah menggariskan beberapa komponen utama dalam menentukan keperluan Had Kifayah seperti perlindungan, makanan, pakaian, perubatan, pendidikan dan pengangkutan berdasarkan *Maqasid al Syariah* (Objektif Syariah) iaitu 1) memelihara agama; 2) memelihara nyawa; 3) memelihara akal fikiran; 4) memelihara keturunan atau maruah; dan 5) memelihara harta benda.

Walau bagaimanapun, terpulang kepada setiap institusi zakat negeri untuk menentukan keperluan setiap komponen ini. Adalah penting untuk ambil perhatian bahawa Had Kifayah adalah berbeza bergantung kepada bilangan ahli isi rumah dan kumpulan umur dalam isi rumah (JAWHAR,2007).

⁷⁰ Mesyuarat MAIWP kali ke-126, bil 4/2013 yang bersidang pada 17 Disember 2013.

2. KAJIAN LITERATUR

1. Keperluan asas yang diambil kira dalam penentuan Had Kifayah adalah seperti berikut (Baitulmal, 2014):
2. **Perlindungan** adalah merangkumi perbelanjaan menyediakan perlindungan untuk diri dan tanggungan di bawahnya merangkumi sewa rumah atau bayaran ansuran rumah murah, bil air dan elektrik, serta segala yang bersangkutan dengan keperluan asasi sebuah tempat tinggal berasaskan keperluan minima.
3. **Makanan** bermaksud segala bahan makanan dan minuman asasi yang diperlukan atau dimakan oleh seseorang individu dan tanggungan di bawahnya yang memenuhi keperluan asasi sama ada ketika berada di dalam atau di luar rumah.
4. **Pakaian** adalah segala bentuk pakaian yang digunakan atau dipakai oleh seseorang individu atau tanggungan di bawahnya merangkumi pakaian harian, pakaian kerja, dan lain-lain pakaian asas.
5. **Perubatan** merujuk kepada segala bentuk perubatan iaitu rawatan biasa, pembelian ubat-ubatan biasa, pembelian alat-alat perubatan biasa dan rawatan major daripada mana-mana pusat perubatan serta rawatan alternatif lain.
6. **Pendidikan** merujuk kepada bentuk pendidikan seperti perbelanjaan pendidikan fardhu ain dan perbelanjaan berkaitan pendidikan diri, ahli keluarga sama ada dua peringkat pra sekolah, rendah, menengah, kolej dan IPTA. Ianya juga meliputi keperluan yang berkaitan pendidikan tersebut seperti pembelian peralatan pelajar.
7. **Pengangkutan** adalah merangkumi segala perbelanjaan yang berkaitan pengangkutan berbayar (tambang) oleh seseorang individu dan tanggungannya serta musafir yang diharuskan oleh syara'.

Keperluan Had Kifayah

Penggunaan Had Kifayah bertujuan untuk memudahkan proses penentuan golongan miskin tegar, miskin dari golongan yang tidak miskin. Qardawi (2000) dan Parid (2001) mengesyorkan bahawa pengagihan zakat perlu sekurang-kurangnya mencukupi tahap kos sara hidup minimum dan keselesaan untuk penerima dan tanggungannya. Jumlah zakat diagihkan perlu dipastikan kesinambungan kehidupan yang berkualiti di mana kesan pengagihan zakat adalah untuk mencapai atau mencukupi taraf hidup Keperluan Asas (*Daruriyyat*) dan Keselesaan (*Hajiyyat*) (Qardhawi, 2000). Othman al-Habshi (1990; 1998; 2006) menjelaskan bahawa zakat adalah cara yang paling berkesan untuk membantu golongan miskin dan mereka yang memerlukan.

Islam menekankan umatnya untuk mengambil serius peranan zakat dalam memperbaiki kehidupan sosial umat Islam yang miskin. Beliau juga menyatakan bahawa kadar zakat yang diterima oleh orang miskin sepatutnya membantu mereka meningkatkan taraf hidup mereka, iaitu, dalam memenuhi *Daruriyyat* mereka dan

keperluan *Hajiyyat* mereka yang menjadi keperluan minimum dalam hidup mereka. Oleh itu, zakat yang diterima oleh mereka haruslah membolehkan mereka untuk meningkatkan keperluan kehidupan mereka.

Perspektif keperluan di sini bermaksud kesejahteraan dalam kehidupan untuk mencapai kemudahan dan keselesaan dalam kehidupan mereka. Jadual 1 menunjukkan contoh penentuan Had Kifayah berdasarkan keperluan isi rumah di Wilayah Persekutuan berdasarkan kepada Cabutan Minit Mesyuarat Majlis Agama Islam Wilayah Persekutuan Kali ke 126 Bilangan 4/2013 pada 17 Disember 2013 dan diguna pakai sehingga kini.

Jadual 1: Penentuan Had kifayah di Wilayah Persekutuan

Jum	Kategori Isi Rumah	Jumlah had kifayah (RM)
1	Ketua Keluarga	450.00/950.00
1	Dewasa Bekerja (Isteri)	280.00
1	Dewasa Tidak Bekerja/ Bersekolah (18 tahun ke atas)	210.00
1	Remaja Bersekolah (13-17 tahun)	270.00
1	Kanak-kanak Bersekolah (7-12 tahun)	240.00
1	Kanak-kanak Pra Sekolah (5-6 tahun)	220.00
1	Kanak-kanak Tidak Bersekolah (4 tahun ke bawah)	130.00
JUMLAH		1,800.00/2,300.00
Tambahan Jika Ada		
1	Sakit Kronik	250.00
1	OKU	250.00
1	Ibu Tunggal	250.00
1	Belajar IPTA/IPTS	250.00
1	Keluarga Bermasalah	250.00
Tolakan Jika Ada		
1	Kereta 1.5cc keatas	100.00
1	Kereta 1.5cc kebawah	50.00

Sumber: Baitulmal Wilayah Persekutuan

Sebagai contoh, sekiranya sebuah keluarga itu mempunyai 5 anggota keluarga dengan kedua-dua ibu bapa bekerja, seorang dewasa bekerja yang berumur 18 tahun, seorang remaja bersekolah dalam kumpulan umur 13-17 dan kanak-kanak bersekolah dalam kumpulan umur 7-12, maka Had Kifayah keluarga tersebut adalah RM1,950. Namun, sekiranya pendapatan bulanan isi rumah tersebut adalah RM2,300, maka keluarga ini tidak layak untuk menerima zakat kerana pendapatan isi rumah tersebut melebihi Had Kifayah yang diperlukan. Walau bagaimanapun, sekiranya pendapatan mereka adalah RM1,550, maka mereka layak untuk menerima skim zakat yang tertentu. Di samping

itu, sekiranya isi rumah tersebut mempunyai penyakit kronik, jumlah Had Kifayah mereka akan meningkat.

2.1. Indeks Harga Pengguna (IHP)

Indeks harga pengguna atau IHP (Consumer Price Index, CPI) merupakan kaedah yang digunakan untuk mengukur atau menentukan kadar [inflasi](#). IHP mengukur harga purata barang-barang dan perkhidmatan yang biasanya digunakan oleh isi rumah pada tempoh masa yang ditetapkan. IHP diukur dengan membandingkan purata harga barangan dan perkhidmatan pada tahun asas dengan purata harga barang bagi tahun semasa.

IHP mengambil kira "bakul" barangan dan perkhidmatan secara am, dikelaskan berpandu kepada "Klasifikasi Penggunaan Individu Mengikut Tujuan" oleh [Pertubuhan Bangsa-Bangsa Bersatu](#) (United Nations "Classification of Individual Consumption According to Purpose (COICOP)"). Berikut adalah 12 kumpulan barangan dan perkhidmatan yang diambil kira dalam pengiraan IHP:

Jadual 2: 12 Kumpulan Barangan Dan Perkhidmatan Yang Diambil Kira Dalam Pengiraan IHP

Bakul barangan dan perkhidmatan	Item
Makanan dan Minuman Bukan Alkohol	Roti dan bijirin lain, Daging Ikan dan makanan laut, Susu, keju dan telur, Minyak dan lemak, Buah-buahan, Sayur-sayuran, Gula, jem, madu, coklat dan manisan, keluaran makanan (dalam tin), Kopi, teh, koko dan minuman bukan alcohol.
Minuman Alkohol dan Tembakau	Arak dan Rokok
Pakaian dan Kasut	Baju, Seluar, Kain, kasut, selipar dan lain-lain
Perumahan, Air, Elektrik, Gas dan Bahan Api Lain	Sewa, Ansuran Bulanan, Bil Utiliti dan lain-lain
Hiasan, Perkakasan dan Penyelenggaraan Isi Rumah	Kos Pembaikan Rumah dan Perkakasan Rumah
Kesihatan	Bil Hospital/ Klinik
Pengangkutan	Pembelian Petrol, Diesel, Bayaran Tol dan bayaran teksi, bas dan beca
Komunikasi	Bil dan kad prabayar Telefon, internet dan lain-lain
Perkhidmatan Rekreasi dan Kebudayaan	Menonton Wayang, siaran televisyen berbayar, haiwan peliharaan dan produk haiwan kesayangan, peralatan sukan dan lain-lain
Pendidikan	Yuran Sekolah, Pembelian buku dan alat tulis dan lain-lain
Restoran dan Hotel	Makanan di luar rumah
Pelbagai Barangan dan Perkhidmatan	Barangan kelengkapan diri, insuran diri dan lain-lain

Nota: Buku Penyiasatan Perbelanjaan Isi Rumah, Jabatan Statistik Malaysia.

Pemilihan item dalam bakul IHP (Indeks Harga Pengguna) menggunakan kaedah 'Probability Proportionate to Size' mengikut kumpulan utama. Bakul IHP mengandungi 762 spesifikasi item, dan senarai ini diperolehi daripada hasil kajian perbelanjaan isi rumah atau HES. Indeks Harga Pengguna dikira mengikut negeri-negeri di Semenanjung Malaysia, Sabah dan Sarawak. Walau bagaimanapun, indeks bagi negeri Perlis digabungkan dengan Kedah; WP Putrajaya dengan Selangor dan WP Labuan dengan Sabah memandangkan sumbangan relatif yang kecil bagi negeri-negeri tersebut.

Harga yang diguna dalam pengiraan IHP adalah harga runcit atau harga transaksi termasuk semua jenis cukai yang dikenakan ke atas barangan dan perkhidmatan tersebut. Pungutan ini dilaksanakan setiap bulan bagi kesemua item kecuali bagi barangan makanan mudah rosak yang dipungut setiap minggu. Bagi sewa rumah, harga dipungut secara suku tahunan. Senarai IHP dikemaskini dari masa ke semasa untuk memastikan item-item yang terpilih, benar-benar mencerminkan corak perbelanjaan pengguna. Harga yang dipungut daripada kedai yang sama setiap bulan bagi tujuan konsistensi, dan perbandingan harga dalam menentukan indeks harga pengguna. Pungutan harga dilakukan setiap bulan bagi semua item non-perishable seperti makanan dalam tin, dan setiap minggu untuk perishable seperti ikan/sayur.

IHP dikira berdasarkan standard dan prosedur yang diterima pakai di peringkat antarabangsa, membabitkan penggunaan formula kaedah "Laspeyres". Indeks harga dikira bermula dari peringkat item kepada kumpulan perbelanjaan, sub kumpulan, kumpulan utama dan seterusnya jumlah keseluruhannya. Indeks Harga Pengguna (IHP) digunakan sebagai indikator utama, untuk mengukur keadaan ekonomi semasa. IHP juga digunakan sebagai "proxy" mengukur kadar inflasi negara, dalam menganggarkan perubahan dalam "cost of living" dan IHP untuk menganalisis arah aliran harga pada masa hadapan, dan menjadi deflator utk menyusun pelbagai perangkaan lain termasuk GDP. IHP guna 2010 sebagai tahun asas. Sejak 2010, harga barangan Semenanjung naik 8.7%, Sabah 8.3% dan Sarawak 8.6%. Malaysia pula meningkat 2.9% setahun. Di Sabah, Jabatan Perangkaan merekodkan harga dari 3,159 lokasi iaitu 512 di Kota Kinabalu, 119 di Kota Belud, 190 di Lahad Datu, Keningau (188), Tawau (243), dan lain-lain.

2.1.1. Pengiraan IHP

Proses pengiraan IHP merupakan satu proses yang rumit kerana bakul pengguna mengandungi banyak barang. Terdapat tiga langkah utama dalam pengiraan IHP :

1. Mengira kos bakul pengguna IHP pada harga tahun asas.
2. Mengira kos bakul pengguna IHP pada harga tahun semasa.
3. Mengira IHP bagi tahun asas dan tahun semasa.

Harga yang digunakan dalam pengiraan IHP adalah harga runcit tanpa mengambil kira samada ia dinyatakan sebagai harga biasa atau harga istimewa termasuk juga semua cukai jualan dan cukai eksais yang dikenakan ke atas komoditi tertentu. Harga-harga ini dipungut pada tempoh masa yang ditetapkan. Di Malaysia, pungutan ini dilaksanakan setiap bulan bagi kesemua item kecuali bagi barangan makanan mudah

rosak yang dipungut setiap minggu. Pengecualian diberikan kepada sewa rumah yang dipungut pada setiap suku tahun.

2.1.2. Asas Masa

IHP bagi Malaysia dinyatakan dalam tahun asas 2005=100 yang mula berkuatkuasa pada bulan Januari 2006. Bakul barangan dan perkhidmatan dan juga tempoh asas bagi IHP dikemaskini setiap 5 tahun dengan mengambil kira perubahan dalam corak perbelanjaan isi rumah.

2.1.3. Kadar Perubahan

Kadar perubahan yang ditunjukkan oleh pergerakan harga boleh dikira menggunakan beberapa cara. Tiga kaedah pengiraan yang digunapakai sekarang ialah perubahan peratus di antara bulan semasa dan bulan yang sama tahun sebelumnya (tahun ke tahun); bulan semasa dengan bulan sebelumnya (bulan ke bulan) dan perubahan peratus antara purata tahunan tahun semasa yang spesifik dengan purata tahunan yang sama ditetapkan pada tahun sebelumnya. Contoh berikut menunjukkan cara mengira perubahan mata indeks dan perubahan peratus.

Indeks harga pengguna - indeks harga pengguna sebelumnya = Perubahan mata indeks

contohnya, $125.4 - 124.3 = 1.1$

Perubahan mata indeks / indeks sebelumnya $\times 100$ = Perubahan peratus

contohnya, $(125.4 - 124.3)/124.3 \times 100 = 0.9\%$

3. METODOLOGI

Di dalam kajian ini perbandingan dibuat diantara Had Kifayah yang telah diperbaiki menurut tahun 2013 sebagai tahun asas berdasarkan kenaikan HPI pada tahun tersebut dan Had kifayah yang di amati daripada hasil temubual bersama 30 orang responden dari golongan asnaf. Kajian ini akan menggunakan kaedah metod bercampur (mixed methods) yang akan mengabungkan kedua-dua kaedah iaitu kuantitatif dan kualitatif. Pendekatan metod bercampur ini memberikan lebih banyak kelebihan di samping ianya memberikan keyakinan yang lebih kerana ianya bersifat lebih komprehensif.

4. HASIL DAPATAN

Pendekatan ini akan menggunakan had kifayah yang telah dikira dan disediakan oleh MAIWP pada tahun 2013. Justeru itu, HPI pada tahun 2013 juga akan dirujuk sebagai tahun asas. Kenaikan HPI yang tertentu akan di ambilkira dan dibandingkan dengan tahun yang sebelumnya. Secara khususnya hanya enam HPI khusus yang diambilkira di dalam pengiraan had kifayah iaitu perlindungan, makanan, pakaian, perubatan, pelajaran dan pengangkutan.

Jadual 3 dibawah memberikan indeks perubahan harga HPI dari tahun 2010 sebagai tahun asas ke tahun 2014.

Jadual 3:

Indek Harga Pengguna (CPI)	2010	2011	2012	2013	2014
CPI Perlindungan	100	101.7	103.4	104	106.6
CPI Makanan	100	105	107.8	108.9	113.9
CPI Pakaian	100	99.8	99.4	98.8	98.4
CPI Perubatan	100	102.6	104.6	105.5	107.6
CPI Pelajaran	100	102.3	104.9	105.2	108.2
CPI Pengangkutan	100	104.5	105.3	105.4	110.7

Berdasarkan Jadual diatas, hampir kesemua indeks pengguna meningkat melainkan indeks pakaian yang menurun sebanyak 1.6 mata berbanding tahun 2010. Kenaikan tertinggi adalah pada indeks makanan pengguna yang mencatat kenaikan sebanyak 13.9 mata berbanding tahun 2010.

Had Kifayah MAIWP yang terkini telah dikemaskini pada tahun 2013 dan pengiraan had kifayah pada tahun tersebut telah mengambilkira keadaan semasa. Justeru itu, HPI 2013 akan dijadikan asas untuk mengira kenaikan atau penurunan HPI pengguna dalam pengiraan had kifayah. Jadual menunjukkan peratus perubahan indeks pengguna 2013-2014. Sila rujuk pengiraan peratus perubahan seperti yang telah diterangkan diatas.

Jadual 4: Peratus Perubahan Indeks Pengguna Berbanding 2013 - 2014

Indek Harga Pengguna (CPI)	2013	2014	% Perubahan
CPI Perlindungan	104	106.6	2.50%
CPI Makanan	108.9	113.9	4.59%
CPI Pakaian	98.8	98.4	-0.40%
CPI Perubatan	105.5	107.6	1.99%
CPI Pelajaran	105.2	108.2	2.85%
CPI Pengangkutan	105.4	110.7	5.03%

Jadual diatas menunjukkan bahawa perubahan tertinggi dicatatkan pada Indeks Pengangkutan Pengguna iaitu sebanyak 5.03% diikuti oleh Indeks Makanan Pengguna sebanyak 4.59%. Indeks Pelajaran mencatat kenaikan sebanyak 2.85% dan Indeks Perlindungan sebanyak 2.50%. Indeks perubatan pula mengalami kenaikan sebanyak 1.99% manakala indeks pakaian menurun sebanyak 0.4%

Berdasarkan perubahan yang seperti di catatkan diatas, had kifayah juga akan mengalami kenaikan seperti kenaikan indeks pengguna tersebut. Justeru itu, contoh had kifayah yang dicadangkan adalah seperti berikut:

Jadual 5: Cadangan Had Kifayah Berdasarkan Perubahan HPI tahun 2013 - 2014

Tahun	2010	2013	2014
Dewasa Bekerja (Rumah Sewa)	610	950	980
Dewasa Bekerja (Isteri)	170	280	289
Dewasa Tidak Bekerja/Bersekolah (18 Tahun keatas)	170	210	217
Dewasa Bersekolah (15 – 18 Tahun)	264	270	280
Kanak – Kanak Bersekolah (7 – 14 Tahun)	204	240	249
Kanak – Kanak Tadika (5 – 6 Tahun)	182	220	228
Kanak – Kanak Umur 4 Tahun Ke Bawah	100	130	134
Jumlah	1700	2300	2378.5

Kenaikan sebanyak RM30 untuk dewasa bekerja (sewa rumah) dilihat adalah bersesuaian dengan kenaikan semasa kos sewaan rumah terutamanya di Wilayah Persekutuan untuk tahun 2014. Peningkatan ini juga selari dengan keadaan indeks pengguna semasa dilihat lebih bersifat menyeluruh dalam penetapan kenaikannya. Bagi dewasa yang bekerja pula kenaikan sebanyak RM9 untuk tahun 2014 adalah suatu peningkatan yang tidak begitu ketara. Namun begitu kenaikan ini dapat membantu kepada ketua keluarga dalam menguruskan kos sara hidup seharian yang semakin meningkat di Wilayah Persekutuan. Atas dasar ini kajian kami merasakan kenaikan sebanyak RM9 sesuatu yang realistik dengan bersandarkan kepada asas kos sara hidup semasa seperti yang direkodkan di dalam indek pengguna.

Selain itu analisa kami yang berdasarkan kepada indeks pengguna juga mendapati remaja bersekolah (15-18 tahun) turut mengalami peningkatan dari segi had kifayah untuk tahun 2014. Sebagai perbandingan jumlah had kifayah untuk kategori ini adalah RM280 pada tahun 2014 berbanding RM270 pada tahun 2013, iaitu peningkatan sebanyak RM10. Berdasarkan kepada pengamatan kami peningkatan had kifayah bagi kategori ini amatlah bersesuaian memandangkan kepada keadaan ekonomi semasa terutamanya kos melibatkan makanan, pendidikan dan pengangkutan.

Sementara itu bagi pengiraan had kifayah untuk kategori kanak-kanak bersekolah (7-14 tahun) juga mengalami peningkatan sebanyak RM9 bagi perbandingan di antara tahun 2014 dan 2013. Ini adalah selari dengan peningkatan kos seharian bagi kanak-kanak yang bersekolah terutamanya melibatkan kos makanan, pendidikan dan pengangkutan. Selain itu peningkatan ini akan memartabatkan institusi Baitulmal kerana institusi ini dikatakan mengikuti perkembangan ekonomi semasa negara dalam menentukan had kifayah.

Akhirnya bagi dua kategori iaitu kanak-kanak tadika (5-6 tahun) dan kanak-kanak umur 4 tahun ke bawah turut mengalami peningkatan had kifayah berdasarkan kepada HPI. Kedua-dua kategori ini meningkat dengan jumlah yang agak rendah iaitu sebanyak RM8 dan RM4 untuk tahun 2014 berbanding tahun 2013. Walaupun peningkatan had kifayah agak rendah namun kami merasakan ianya bersesuaian dengan tahap umur mereka. Sebagai contoh, kos pemakanan seharian bagi tahap umur ini tidak terlalu tinggi berbanding kategori yang lain kerana cara pemakanan yang hampir sama dengan ahli keluarga yang lain.

4.1. Implikasi Pelaksanaan GST

GST atau cukai kepenggunaan akan dilaksanakan pada bulan April 2015 ini akan mendorong kepada kenaikan IHP seperti yang berlaku di Australia semasa Negara itu melaksanakan GST. Justeru itu pihak kami mencadangkan untuk mengambil kira kenaikan sebanyak 6% terhadap semua indeks pengguna yang diambil kira didalam pengiraan had kifayah.

Jadual 6: Cadangan Had Kifayah tahun 2013 – 2014 Setelah GST

Tahun	2010	2013	CPI 2014	2014 + GST
Dewasa Bekerja (Rumah Sewa)	610	950	980	1039
Dewasa Tidak Bekerja	170	280	289	306
Dewasa Tidak Bekerja/Bersekolah (18 Tahun keatas)	170	210	217	230
Dewasa Bersekolah (15 – 18 Tahun)	264	270	280	297
Kanak – Kanak Bersekolah (7 – 14 Tahun)	204	240	249	264
Kanak – Kanak Tadika (5 – 6 Tahun)	182	220	228	242
Kanak – Kanak Umur 4 Tahun Ke Bawah	100	130	134	142
Jumlah	1700	2300	2378	2521

Berdasarkan jadual 6 had kifayah jika diasaskan kepada peningkatan HPI adalah RM2378.00. Had Kifayah bagi asnaf fakir adalah RM1189.00 (RM2378/2) manakala had kifayah bagi miskin adalah dari RM1189.00 sehingga RM2378.00. Walaubagaimanapun, jika di ambilkira kenaikan GST sebanyak 6% maka Had Kifayah bagi asnaf fakir adalah RM1260.50 (RM2521.00/2) manakala had kifayah bagi miskin adalah dari RM1260.50 sehingga RM2521.00.

4.2. Pendekatan Kualitatif Menggunakan Temubual Berstruktur

Satu temubual telah dijalankan dengan menggunakan khidmat 10 orang pembantu penyelidik yang telah diberi penerangan tentang prosedur temubual secara berstruktur untuk memastikan soalan yang diajukan dapat memberikan jawapan yang seragam dan konsisten. Seramai 30 orang responden yang terdiri dari asnaf yang berurusan dengan MAIWP pada 16hb Mac 2015 dari jam 2.30 petang hingga 5 petang telah ditemubual. Sebanyak 9 soalan temubual berstruktur yang berkisar tentang perbelanjaan semasa asnaf telah dirangka untuk tujuan mendapatkan maklumat perbelanjaan asnaf. Contoh soalan-soalan yang diajukan adalah seperti jadual dibawah:

Jadual 7: Soalan Berstruktur Kajian Had Kifayah Asnaf

PENGENALAN (Pembantu penyelidik memperkenalkan diri dan menerangkan tujuan temubual)
SOALAN 1: Jumlah bantuan Zakat
1. Berapakah jumlah bantuan zakat bulanan yang anda terima setiap bulan? 2. Selain bantuan bulanan, apakah jenis bantuan zakat lain yang anda terima (cth: bantuan pembelajaran & bantuan bayaran hutang)
SOALAN 2: Perbelanjaan Barangan Makanan & Minuman
1. Berapakah anggaran jumlah perbelanjaan barang makanan untuk sebulan? 2. Berapakah anggaran jumlah perbelanjaan barang minuman untuk sebulan? 3. Apakah item barang makanan yang paling mahal?
SOALAN 3: Perbelanjaan Rumah/ Perlindungan
1. Adakah anda tinggal di rumah sewa? Jika ya, berapakah bayaran sewa untuk sebulan? Maintance Fee jika duduk di apartment. 2. Berapakah jumlah bagi bayaran utility (elektrik, air) untuk sebulan?
SOALAN 4: Perbelanjaan untuk Pakaian
1. Berapakah anggaran jumlah untuk pembelian pakaian anda dan tanggungan dalam sebulan? 2. Berapa kerapkah anda (dalam bulan) anda membeli pakaian untuk anda dan keluarga anda?
SOALAN 5: Perbelanjaan untuk Pendidikan
1. Berapakah jumlah perbelanjaan untuk pendidikan (anda @ isi rumah) dalam sebulan?
SOALAN 6: Perbelanjaan untuk Kesihatan
1. Berapakah jumlah perbelanjaan untuk kesihatan dalam sebulan? 2. Perlu rawatan susulan setiap bulan?
SOALAN 7: Perbelanjaan untuk Pengangkutan
1. Berapakah jumlah untuk pengangkutan dalam sebulan? 2. Medium pengangkutan?
SOALAN 8: Lain-lain Perbelanjaan
1. Adakah terdapat perbelanjaan lain yang anda rasa perlu namun tidak terdapat dalam pengiraan Had Kifayah (insuran, bayaran hutang bulanan selain hutang kereta & rumah & modal perniagaan)?
SOALAN 9: Cadangan
1. Adakah anda mempunyai cadangan atau pandangan lain yang ingin diutarakan?

Demografi profil 30 responden yang ditemubual di ringkaskan di dalam jadual dibawah.

Jadual 8: Profil Responden Asnaf Yang Ditemubual

	Profil Responden	Frekuensi	Peratus %
<i>Jantina</i>	Lelaki	15	50
	Perempuan	15	50
<i>Umur</i>	20 - 39 Tahun	7	23
	40 - 59 Tahun	11	37
	60 - 80 Tahun	12	40
<i>Status Perkahwinan</i>	Bujang	2	6.7
	Berkahwin	15	50
	Janda	5	16.7
	Duda	2	6.7
	Ibu Tunggal	6	20
<i>Status Kediaman</i>	Sendiri	5	16.7
	Sewa	15	50
	Tumpang	4	13.3
	Pusaka	1	3.3
	DBKL (Sewa)	5	16.7
<i>Bilangan Tanggungan</i>	Tiada	4	13.3
	Satu	8	26.7
	Dua	5	16.7
	Tiga	7	23.3
	Empat	2	6.7
	Lima	1	3.3
	Enam	3	10
<i>Tahap Pendidikan</i>	Tiada	4	13.3
	Rendah	6	20
	SRP/PMR	3	10
	SPM	16	53.3
	Diploma	1	3.3
<i>Jenis Pekerjaan</i>	Kerajaan/Badan Berkanun	2	6.7
	Swasta	6	20
	Kerja Sendiri	10	33.3
	Tidak Bekerja	12	40
<i>Pendapatan</i>	Tiada	9	30
	Kurang Dari RM500	7	23.3
	RM500 - RM1,000	12	40
	Lebih Dari RM1,000	2	6.7

Jadual di atas menunjukkan profil responden asnaf yang ditemubual di Pusat Agihan Zakat Baitulmal Wilayah Persekutuan Kuala Lumpur. Demografi profil responden asnaf melibatkan lapan perkara. Lapan perkara tersebut adalah Jantina, Umur, Status Perkahwinan, Status Kediaman, Bilangan Tanggungan, Tahap Pendidikan, Jenis Pekerjaan dan Pendapatan. Seramai 30 orang responden berjaya ditemubual yang masing-masing sebanyak 15 orang bagi lelaki dan 15 orang bagi perempuan. Bagi umur setiap responden, jadual di atas membahagikan kepada tiga kategori umur.

Kategori pertama adalah dari lingkungan 20 hingga 39 tahun yang melibatkan sebanyak 7 orang responden, kategori kedua 40 hingga 59 tahun yang melibatkan 11 orang responden dan kategori ketiga adalah 60-80 tahun yang melibatkan 12 orang responden. Bagi status perkahwinan responden, jadual di atas menunjukkan terdapat lima kategori responden. Kategori pertama adalah bujang. Seramai dua orang responden terdiri daripada kategori bujang. Kategori kedua adalah berkahwin. Kategori responden ini terdiri daripada 15 orang responden. Kategori ketiga dan keempat adalah janda dan duda. Bilangan responden bagi kedua-dua kategori responden tersebut adalah sebanyak 5 dan 2 orang. Bagi kategori yang kelima adalah ibu tunggal. Kategori ini terdiri daripada 6 orang responden asnaf.

Bagi status kediaman responden asnaf, terdapat lima kategori bagi status kediaman responden. Kategori pertama adalah sendiri dan melibatkan sebanyak 5 orang responden. Kategori kedua adalah sewa dan melibatkan sebanyak 15 orang responden asnaf. Kategori ketiga bagi status kediaman adalah tumpang dan seramai 4 orang responden asnaf yang terlibat. Kategori seterusnya adalah pusaka dan hanya seorang responden asnaf sahaja yang menetap di rumah pusaka. Status kediaman terakhir adalah DBKL (sewa) dan 5 orang responden asnaf menyewa dengan DBKL.

Bilangan tanggungan responden asnaf boleh dipecahkan kepada tujuh kategori. Kategorinya adalah tiada, satu, dua, tiga, empat, lima dan enam. Bilangan responden asnaf yang tidak mempunyai tanggungan adalah sebanyak 4 orang. Bagi satu tanggungan adalah sebanyak 8 orang responden. Bagi dua tanggungan adalah sebanyak 5 orang. Bagi responden yang mempunyai tiga dan empat tanggungan, masing-masing terdiri daripada 7 dan 2 orang responden. Responden yang mempunyai lima tanggungan hanya satu orang. Manakala yang mempunyai enam tanggungan adalah sebanyak 3 orang responden.

Demografi di atas menyenaraikan tahap pendidikan responden sebagai salah satu item profil responden. Tahap pendidikan responden boleh dibahagikan kepada lima kategori. Kategori pertama adalah tiada tahap pendidikan. Seramai 4 orang responden asnaf bagi kategori pertama. Kategori yang kedua adalah tahap rendah dan seramai 6 orang responden asnaf tergolong dalam kategori tersebut. Seramai 3 orang responden asnaf mempunyai tahap pendidikan tahap SRP/PMR. Sebanyak 16 orang responden asnaf yang terlibat mempunyai tahap pendidikan peringkat SPM. Hanya seorang responden sahaja mempunyai pendidikan tahap diploma.

Bagi jenis pekerjaan responden, terdapat empat kategori. Pertama adalah kerajaan/badan berkanun, seramai 2 orang responden yang terlibat. Kategori kedua adalah swasta dan seramai 6 orang responden asnaf yang terlibat. Seramai 10 orang responden terlibat dengan kerja sendiri dan bagi responden yang tidak bekerja adalah seramai 12 orang.

Kumpulan pendapatan responden dibahagikan kepada 4 kategori. Kategori yang pertama adalah tidak mempunyai pendapatan dan melibatkan 9 orang responden asnaf. Kategori kedua adalah kurang RM500 dan melibatkan 7 orang responden. Bagi kategori pendapatan RM500 sehingga RM1000, seramai 12 orang responden terlibat. Hanya 2 orang responden terlibat bagi kategori pendapatan yang lebih RM1000.

4.3. Hasil Dapatan Temubual Berstruktur

4.3.1. Perbelanjaan Barangan Makanan & Minuman

Berdasarkan dapatan temubual, kami mendapati 4 responden asnaf yang tidak mempunyai tanggungan dan hasil dari temubual mereka menyatakan bahawa perbelanjaan bagi makanan dan minuman sebulan adalah RM250 untuk 2 orang responden, RM350 dan RM400 bagi selebihnya. Kami berpendapat RM250 mungkin perbelanjaan yang lebih tepat.

4.3.2. Perbelanjaan Rumah/ Perlindungan

Seramai 5 orang responden menetap di rumah sewa DBKL pada harga sewaan sebanyak RM124.00 sebulan. Hanya data 6 orang responden sahaja yang diambil kira dalam pengiraan keperluan perlindungan manakala selebihnya orang responden menetap di rumah sendiri atau menumpang samada di rumah anak, saudara atau tinggal di rumah pusaka. Berdasarkan maklumat yang diperolehi, secara purata kos perlindungan adalah sebanyak RM500.

4.3.3. Perbelanjaan untuk Pakaian

Perbelanjaan untuk pakaian adalah sangat rendah dikalangan asnaf yang ditemubual. Separuh dari responden iaitu seramai 15 orang tidak membeli pakaian dan selebihnya berbelanja secara purata dari RM3 hingga RM40 sebulan untuk pakaian.

4.3.4. Perbelanjaan untuk Kesihatan

Berdasarkan maklumat dari temubual, kebanyakan responden tidak membelanjakan pendapatan mereka untuk kesihatan iaitu seramai 21 orang. Hanya 9 responden yang mempunyai perbelanjaan kesihatan. Secara purata mereka membelanjakan sebanyak RM37 sebulan bagi setiap orang di dalam tanggungan termasuk responden. Walaubagaimanapun mod untuk perbelanjaan kesihatan adalah RM50 sebulan.

4.3.5. Perbelanjaan Untuk Pengangkutan

Seramai 7 asnaf tidak membayar apa-apa kos pengangkutan kerana mereka menumpang kereta anak. Walaubagaimanapun, asnaf-asnaf yang ditemubual mempunyai kos yang berbeza di antara satu sama lain mungkin bergantung dengan jarak ke tempat kerja dan juga medium pengangkutan yang digunakan. Secara umumnya, kebanyakan responden menggunakan motorsikal sebagai medium pengangkutan utama. Ada juga responden yang menggunakan perkhidmatan pengangkutan awam. Secara umumnya mereka membelanjakan di RM 10 hingga RM500 sebulan. Mod perbelanjaan pengangkutan adalah RM150 sebulan.

4.4. Perbandingan Pengiraan Had Kifayah

Berdasarkan cara pengiraan menggunakan kaedah IHP, temubual dan penyetaraan cukai GST, kaedah-kaedah itu memberikan jumlah yang hampir sama diantara hasil temubual dan hasil pengiraan IHP dan setelah diambilkira perlaksanaan GST. Ini adalah kerana tarikh temubual dilaksanakan adalah amat hampir dengan tarikh perlaksanaan GST.

Jadual 9: Perbandingan Had Kifayah MAIWP (2013) IHP (May 2015), Temubual (2014) Dan Selepas 6% GST

Bi l	Kategori	Keperluan Asas	MAIWP	IHP	TEMU BUAL	GST
1	Ketua Keluarga	Perlindungan Berbayar	500	536	500	568
		Perlindungan Tidak Berbayar	-			-
		Makanan	180	196	250	208
		Pakaian	50	50	40	53
		Perubatan	50	54	37	58
		Pelajaran	-	-		-
		Pengangkutan	170	171	150	182
	Jumlah (P/B)		950	1,008	977	1,068
2	Dewasa Bekerja (Isteri)	Makanan	180	196	250	208
		Pakaian	50	50	40	53
		Perubatan	50	54	37	58
		Pelajaran	-	-	-	-
		Pengangkutan		-	-	-
	Jumlah		280	301	327	319
3	Dewasa Tidak Bekerja / Bersekolah (18 tahun ke atas)	Makanan	150	163	250	173
		Pakaian	30	30	40	32
		Perubatan	30	33	37	35
		Pelajaran	-	-		
		Pengangkutan	-	-		
	Jumlah		210	226	327	240
4	Remaja Bersekolah (13-17 tahun)	Makanan	90	98	100	104
		Pakaian	20	20	25	21
		Perubatan	20	22	25	23
		Pelajaran	50	53	50	57
		Pengangkutan	90	91	90	96
	Jumlah		270	284	290	301

5	Kanak-kanak Bersekolah (7-12 tahun)	Makanan	90	98	100	104
		Pakaian	20	20	25	21
		Perubatan	20	22	25	23
		Pelajaran	50	53	50	57
		Pengangkutan	60	61	90	64
	Jumlah		240	254	290	269
6	Kanak-kanak Pra Sekolah (5-6 tahun)	Makanan	90	98	100	104
		Pakaian	20	20	25	21
		Perubatan	20	22	25	23
		Pelajaran	30	32	50	34
		Pengangkutan	60	61	65	64
	Jumlah		220	232	265	246
7	Kanak-kanak Tidak Bersekolah (4 tahun ke bawah)	Makanan	90	98	100	104
		Pakaian	20	20	25	21
		Perubatan	20	22	25	23
		Pelajaran	-	-	-	
		Pengangkutan	-	-	-	
	Jumlah		130	140	150	148
	JUMLAH KESELURUHAN		2,300	2,444	2,626	2,591
Tambahan Jika Ada						
1	Sakit Kronik		250	250	250	250
2	OKU		250	250	250	250
3	Ibu Tunggal		250	250	250	250
4	Belajar IPTA / IPTS		250	250	250	250
5	Keluarga bermasalah		250	250	250	250
6	Saudara baru / muslim		250	250	250	250

Jadual di atas menunjukkan bahawa kadar had kifayah telah meningkat berdasarkan pengiraan CPI dan GST dan tidak jauh berbeza dengan kadar pengiraan dari temubual. Justeru itu, adalah amat bertepatan jika had kifayah MAIWP di tingkatan

untuk memastikan keperluan dharuriyah secara khususnya dapat dipenuhi oleh asnaf-asnaf dibawah seliaan MAIWP.

Berdasarkan jadual 9 had kifayah jika diasaskan kepada peningkatan HPI adalah RM2444.00. Had Kifayah bagi asnaf fakir adalah RM1222.00 ($RM2444/2$) manakala had kifayah bagi miskin adalah dari RM1222.00 sehingga RM2444.00. Walaubagaimanapun, jika di ambilkira kenaikan GST sebanyak 6% maka Had Kifayah bagi asnaf fakir adalah RM1295.50 ($RM2591.00/2$) manakala had kifayah bagi miskin adalah dari RM1295.50 sehingga RM2591.00. Perbezaan antara had kifayah (GST) dengan dapatan had kifayah temubual adalah sebanyak RM35 sahaja. Ini menguatkan lagi keperluan untuk di tingkatan had kifayah sedia ada kepada yang di cadangkan menurut kajian ini.

5. KESIMPULAN

Had kifayah memainkan peranan yang amat penting dalam penetapan asnaf miskin dan fakir. Instrument ini digunakan dalam menentukan seseorang itu layak untuk menerima zakat atau tidak berdasarkan kepada pendapatan dan perbelanjaan asas mereka. Perbelanjaan asas merangkumi enam (6) perbelanjaan asas iaitu perlindungan, makanan, pakaian, perubatan, pendidikan dan pengangkutan.

Seperti yang dinyatakan, di antara objektif kajian adalah untuk menganalisa penetapan had kifayah bagi Wilayah Persekutuan selaras dengan perkembangan semasa ekonomi negara yang semakin mencabar. Kajian ini telah membuat tiga (3) perbandingan di antara had kifayah yang telah digunapakai oleh Baitulmal Wilayah Persekutuan, had kifayah yang menggunakan CPI sebagai asas dan had kifayah yang mengambilkira kesan pelaksanaan GST sebanyak 6%.

Hasil daripada temubual bersama wakil dari pihak Baitulmal mendapati bahawa had kifayah yang digunapakai pada masa kini adalah dirangka pada tahun 2013. Ianya adalah penambahbaikan had kifayah yang sebelumnya iaitu pada tahun 2008. Penambahbaikan ini dirangka dengan membuat perbandingan had kifayah dengan had kifayah bagi empat (4) negeri lain iaitu Johor, Selangor, Perak dan Pulau Pinang.

Di antara komponen had kifayah yang ditambahbaik dengan peningkatan yang ketara adalah perbelanjaan perlindungan dan makanan yang selari dengan keadaan semasa ekonomi negara. Walaubagaimanapun ada sesetengah komponen had kifayah seperti perbelanjaan pakaian dan pengangkutan tiada kenaikan dari tahun 2008. Kajian ini mencadangkan agar setiap komponen di dalam had kifayah perlu dinaikkan kepada peratusan tertentu kerana keadaan ekonomi semasa memberikan kesan yang besar kepada perbelanjaan asas seharian pengguna. Atas dasar inilah kajian ini menggunakan CPI sebagai asas dalam mengukur perbelanjaan bagi setiap komponen di dalam had kifayah.

Selain itu kajian kami ini juga mencadangkan agar digunakan CPI sebagai asas dalam pengiraan had kifayah bagi Wilayah Persekutuan. CPI ini dirasakan amat bersesuaian kerana ianya merupakan asas pengukuran yang digunakan diperingkat nasional dalam menilai paras perbelanjaan asasi di kalangan pengguna. Hasil daripada analisa yang dibuat menunjukkan ada sedikit peningkatan dari segi had kifayah bagi kesemua enam (6) komponen utama yang digunakan. Secara umumnya, setelah menggunakan

CPI sebagai asas dalam pengiraan had kifayah maka ianya meningkat daripada sebelumnya yang menggunakan had kifayah daripada Baitulmal Wilayah Persekutuan.

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THEME: POVERTY ALLEVIATION AND SADAQAH MODEL

REDUCING POVERTY AMONGST THE POOR ASNAFS

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ABSTRACT

While allocating funds for projects meant for reducing poverty have been in the pipeline all along, they are all viable projects meant for those who cannot afford them like medical care, education, security and others. But to give them a project that they can proudly declare as their own (managed and sustained by them except for the initial set-up funding) are too little and small scale in size. We need projects that can grow and sustainable although the initial set-up costs have to be born by the philanthropic fund. This paper propose a project that is not new but with several adaptations having considered the constraints that the poor asnafs faced but with a great potential that can go beyond the national boundary and reducing the poor to as low as needed (zero %; relative though). Its sustainability which has failed so far is now subjected to a few modification.

Keywords: Islamic finance, alleviating the poor, viable project, sustainable, Awqaf Fund Islamic philanthropy

1. INTRODUCTION

The poorest group of the 'Zakat asnafs' has been in the list of the recipients for a long time. But during the days of the Khalifahs there were times when there were no poor citizens to receive the zakat. Time has changed and this category of asnaf has existed and seems like never to disappear from the list. There are a lot of inefficiency in the utilization of the zakat and waqaf fund as seen from the millions of ringgit collected and distributed and yet this category of asnaf seems to be more permanent than ever. Projects have been generated and fund allocated to them but somehow nothing seems to be effective enough for them to be uplifted from the poor. This paper is another proposal, feasible and viable on paper, implemented successfully in many places in Malaysia but yet receiving luke warm responses from the authorities.

2. BRIEF LITERATURE REVIEW

As far as Malaysia is concern the number of Awqaf projects are many and since 1957 (independence year), various development projects financed by the government development plans (ten Five-yearly development Plans) have been completed and for every one of them, poverty eradication has always been a priority Chamhuri et al 2007). The Islamic philanthropic funds (zakat and waqaf) have also reported increasing role and contribution towards this endeavor by trying to increase equity participation of the Muslims in the country's economic expansion (Rogayah 2011). Sadly though the achievement has not been as expected and though liberal policies have been installed to assist the achieving of the economic targets, the lowest poverty section however have still not been handled effectively.

The lowest of the asnafs have been left almost "as they are" because of the lack of many of the assets (strengths) that are required for any participation in development project. Thus they almost destined to be in the 'status quo' platform in perpetuity for projects planned for them have so far not being successful or unsustainable. Various projects based on new ideas and creativity have been proposed and yet none has shown any good potential.

The management of the Awqaf Fund has been in the limelight but at the moment it has shown improvement, better efficiency, more professional, finally more liberal in their outlook (but still within the shariah requirement) and ready to launch into new areas of operations (Ridzwan et al 2013, Fuadah et al 2013, Mohd Umar et al 2012, Syed Mohd Ghazali Wafa 2010, Salarzahi 2010, Monzer Kahf 2003).

3. VIABLE SMALL-MEDIUM SIZE PROJECTS IN SUPPORTING AGENCIES

A visit to the retail division of a few banks, financing companies and small business advisory units of any institutions dealing with entrepreneurs will reveal that many projects have been identified and proven to be successful. They can be made viable provided certain conditions are met. Most development and supporting agencies are bent on ensuring that these conditions are clearly understood and that before even agreeing to consider providing assistance to the entrepreneurs. Not all conditions are met but at least those involved or the ones that are seeking assistance from them know their respective shortcomings and where the assistances to be provided are to be

focused. Lindblom's 'muddling through' is no longer recognized and everything is almost predetermined, planned and structured. Yet Murphy's Law prevail and who are we to blame?

4. FUNDAMENTAL PREREQUISITES

There are various models that one can refer, to start a business project. We begin with the basic economic principles of supply and demand where both sides of the equation need to be present. They need to be balance too to achieve an equilibrium state or else an equal opposite force will appear to stabilize it.

- a) On the left side of the equation, will be the inputs or supplies. This covers a varied list of items that are necessary for the production or manufacturing process or even for providing services. Again this can be divided into the tangibles and the intangibles which for further considerations grouped into 2 components, namely;
 - The controllable
 - The uncontrollable.
- b) On the right side of the equation will be the outputs and how the project deliverables responds to the demands of the market. Similarly, these are tangibles as well as the intangibles and further divided into the controllable. This is shown in Table 1 below. Yes, the chart is simplified to handle the focus of the paper.

But for the more sophisticated, other considerations like local/foreign, % of loan financing, ownership status, types of credit facilities, full/part production, self/agent marketing, and many more could be considered. But for the group of people which is of concern, the simple model is a complicated one. Further discussion of this paper will be focused on the simplified model as shown.

Table1: the Supply-Demand Model for a Simple Project

	TANGIBLES		INTANGIBLES	
	CONTROLLABLE	UNCONTROLLABLE	CONTROLLABLE	UNCONTROLLABLE
SUPPLY SIDE	a: facilities	b: raw material	c: knowledge	d: price
	e: production volume	f: machine performance	g: skill/ knowledge acquisition	h: sales service
DEMAND SIDE	i: product display	j: client's purchase	k: promotion intensity	l: satisfaction
	m: contract/ agreement	n: future order	o:peer recommendations	P: repeat customer

From this simple model there are 8 variables to handle and for the absolute poor to be in control of all these, might be 'giving them an oversize boots to wear'. Even the retail division of the financial institutions and small and medium enterprise (SME) development agencies that are on a charitable mode would want to ensure of a certain % success rate for their sustainability index score.

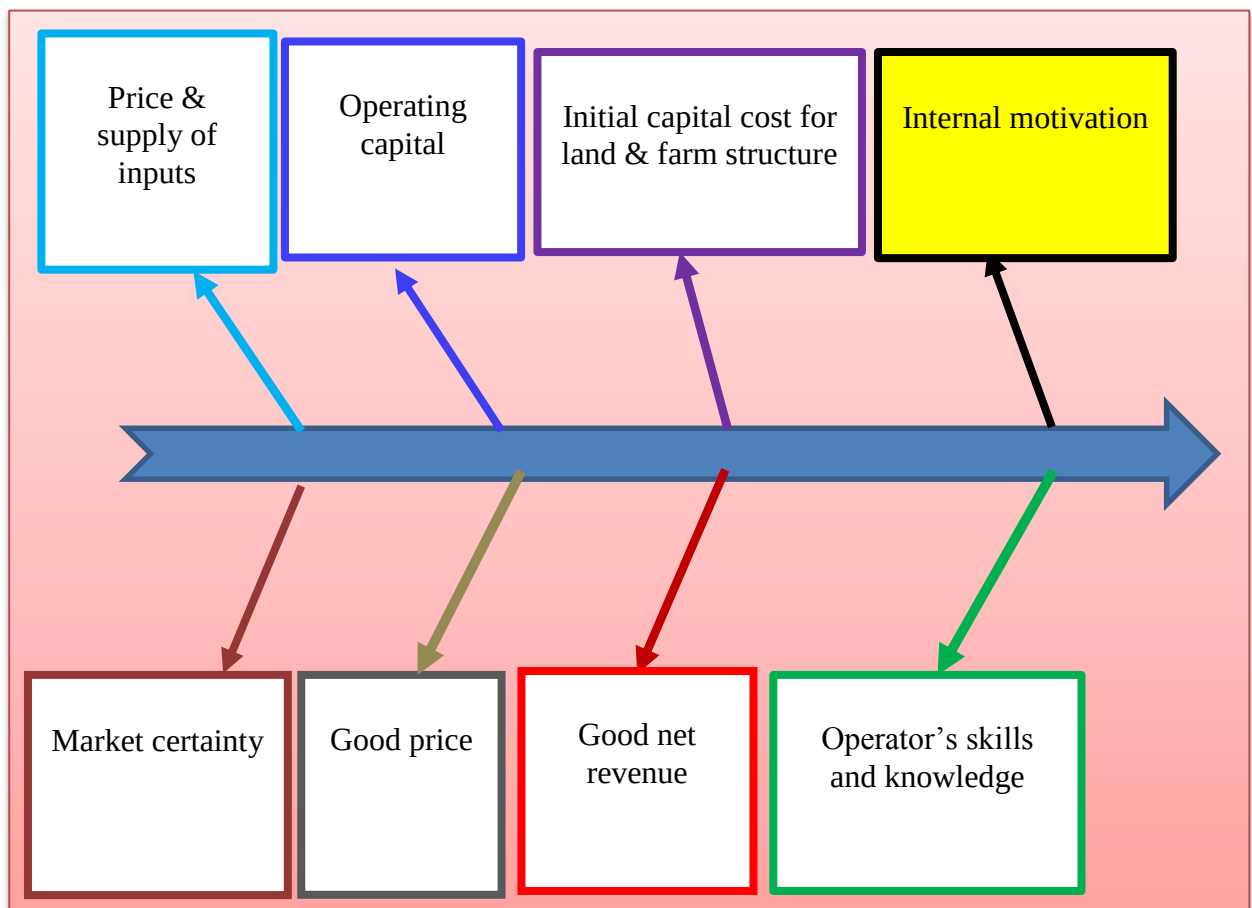
The Table also includes two examples of variables for each of the 4 x 2 matrix to facilitate the understanding of the propose project for the poor asnafs.

5. WAQF POLICY FOR THE POOR: THE UNSUCCESSFUL ENDEAVOR.

From records the amount of financing given to the poor vary amongst Waqf institutions and the number of receivers as well as the total value given have been on the increase (99 million in 2010, Baharuddin Sayin 2012). Suggestions for removal of this group of people by giving those projects that can be self-financing in the long run. Finally they (asnaf operators) are removed from this asnaf category of receivers and instead become a giver to other asnafs or provide significant contribution to the Waqf Fund. But so far and on record nothing has matured this far yet.

A further analysis of these category of asnafs and the reasons of their failure are shown through the Ichigawa fish-bone chart as shown.

Chart 1: Ichigawa Fish Bone diagram showing the main problems



As shown in the Ichigawa fish bone diagram, they are the common reasons for project failure reported by the SME Corporation of Malaysia. With these information then if a Waqf funding project is to be initiated all these problems need to be addressed and provided for. This is not as simple as it looks. But this paper is going to suggest for a project that is already available but yet there are no takers or something is not right somewhere.

6. PROPOSED PROJECT IN BRIEF

To set up a contract chicken growing farm. The following details are true as of December 2014.

- a) Number of personnel in the team: 10 including two unemployed youths, plus 8 asnafs from the lowest category.
- b) Run a chicken farm of capacity 30,000 birds in a 35-40 day cycle.
- c) Land size required: minimum 2 acres and at least 500 meters from the nearest living human soul. To be acquired from state land (many idle land), and can be funded through waqaf or zakat. Is an investment and can be treated as loan or donation.
- d) Set up a chicken barn costing RM 10-12 per head, thus $30K \times 10 = RM300K$, with the probable source from waqaf or donations.
- e) Chicken Wholesaler Company to be involved. It assures market (buy all the chicken produced by the farm @RM 1 per head = RM 30,000 per batch of a 40-day cycle).
- f) Wholesaler to supply day-old chicks and feed (starter and grower) for the whole cycle.
- g) Wholesaler to provide technical training and veterinary expertise.
- h) The 10 personnel are shareholders with the 2 unemployed youths as full time worker and the other 8 can participate as part timers. If the 8 are capable able-bodied individuals, they can join as full time workers and are salaried.
- i) Revenue outcome: possible maximum RM30K minimum income in a 40-day cycle.
- j) Costs incurred and to be paid:
 - Cost of the 2 workers costing @RM 1500 = $x2 = RM 3K$ per cycle.
 - To put aside RM 2K for repayment of the construction of the barn and land cost if financing is on a loan platform. If it is financed by waqaf Fund, then to give this amount to the zakat or waqaf fund as appreciation.
 - Allocate RM 1 K for maintenance and contingency.
 - *Another RM 3K allocated for a private company to assist in managing the farm.*
 - Total Costs = RM 9K giving a possible balance of RM 20K as net revenue to be considered for dividend. If this is divided by the 10 shareholders, each is possible to get RM 2K per cycle. AND WE HAVE REMOVE 10 ASNAFS FROM THE POVERTY CATEGORY.

7. WHAT CAN GO WRONG?

On paper it looks perfect but why is it that we have records in Negeri Sembilan where three farms were set-up and all closed within a one year time span. An Ichigawa Fish Bone Analysis was done and the **seven (7) problems** have been identified, confirmed and actions proposed and accepted.

- a) **Capital for construction of barn. Zakat and Waqaf fund** are now made available and the team do not have to worry about the loan repayment. Even if there is a need to pay, the above allocation is deemed adequate.

- b) **Land for the barn. The state land office** has agreed to assist in this proposal and find suitable land that is idle and not developed yet although allocation have been disbursed.
- c) **Costs of day-old chicks and feed for the 35 days are** heavy and scary. The wholesaler has agreed to provide free, on the condition that it gets to buy all the chicken at harvesting time for a RM1 per head.
- d) **Workers; to get 2 youths and at a salary of RM 1.5 K per cycle** should be better than the current unemployment status plus the knowledge that they are also shareholders and deserve the dividend allocation.
- e) *Managing the barn is very demanding and burdensome if without proper training and experience. Thus a private company is appointed to do this at a cost. It will also handle the in-bound as well as out-bound logistics scheduling.*
- f) **Location of farm:**
- g) Attitude

8. WHY AND WHAT ELSE CAN BE DONE?

Advantages gained from the contract farming:

- market assured
- day-old chicks supplied free
- feed for the 35-40 days of rearing provided by the supplier
- supplier provide veterinary assistance consistently
- supplier buys back all the live chickens

9. CONTRACT FARMER: REQUIREMENT:

- a) To have a suitable size of piece of land 2-5 acres (require capital)
- b) To build a barn for the 30000 chicken (**require capital**)
- c) To provide facilities and equipment to run the farm
- d) To have enough workers to help run the farm (**two workers**); 2 hours in the morning and 2 hours in the late afternoon
- e) The farm is fenced and have water and electricity and nearest house should be more than **500 meters away**

10. POSSIBLE DIFFICULTIES ENCOUNTERED:

- a) Lacks the knowledge, experience and know-how
- b) Age beyond the productive years
- c) Have handicap on physical activities
- d) Low work aptitudes and attitude as they have been under monthly zakat aids for a long time,
- e) Low level of financial capabilities

11. RECOMMENDATIONS:

- a) To allocate a team of 10 asnafs to run the farm,
- b) Eight of them are the real poor group while two are unemployed youths who will undergo training and become the operators. They will be paid @RM 1500 per cycle.

- c) All 10 are shareholders
- d) To get the service of a private company to manage the farm such as maintenance, overall cleanliness, book keeping, scheduling deliveries and receiving inventories, and the overall hygienic condition of the farm.

12. WHY IS IT THAT THE PROJECT IS NOT TAKING OFF.?

- a) Farm too far from where I am staying now and my kids need to go to school. **[build housing for them?]**
- b) Not skillful for the job **[can be trained]**
- c) Weak and not healthy and age is a factor (be a sleeping partner).
- d) Do not like to work and can still get the monthly zakat allocation (**lazy**)
- e) Prefer easy work life as before (**lazy**)
- f) Attitude and weak desire to progress and get out of the financial doldrums (**needs motivation**).

13. FUTURE PROSPECTS

The potential income of the group of ten can be increased if they decide to increase the farm size. Demand for chicken in Malaysia is still more than production. There is the never ending demand for chicken to be exported to Middle East.

If there are 10,000 poor asnafs, possible chicken farm to be built will be 1000 and multiply by 29000 per cycle is equal to 29 million chickens available every cycle. BUT the demand in the Middle East market is 1 million birds per day?

We have not considered the full Halal chicken market in the world.

Brazil is the largest chicken producer and exporter in the world. “We prefer Malaysian’s halal chicken rather than Brazil’ because there are only 5% Muslims in Brazil. Thus that is why we would prefer Malaysian’s chicken”, quite one embassy staff from the Middle East during a ‘Halal Market Trade Fair’ in Kuala Lumpur.

ATTACHMENT 1: THE FINANCIAL DETAILS PER CYCLE OF PRODUCTION

Expected revenue: Sold @RM1 per life bird x 29K = 29000

Direct costs:

Labor, = 3000

Private company managing farm: = 3000

Maintenance and contingency = 3000

Estimated gross profit: =20000

Deduct: contribute to financing/Waqf fund = 10000

Balance to be distributed to the shareholders: = 1000 each

Financial status in 1 year (7 cycles):

Total revenue: 29,000 x 7 = RM 203,000

Total costs: 9,000 x 7 = RM 63,000

Gross profits: 20,000 x 7 = RM 140,000

Contribute to Waqf Fund: 10,000 x 7 = RM 70,000

(can afford to pay back for investment cost of barn: RM 300K within 5 years)

Each shareholder now gets: = RM7 K per yr.

The unemployed youths get: 1.5K plus 1k a cycle = 1.45K a month

ATTACHMENT 2: SOME INSIGHTS INTO A CHICKEN FARM

4. **MARKT PREPARATION:** Observe them growing; Daily Routines:

Duty 1



Feeding: Different types of feed; day-old starter and grower. Early morning and afternoon.

Duty 2



Cleanliness: sensitive to wet and humid air. Need good ventilation and dry. Wet saw dust must be avoided. Clean water tray and feeder troughs

Duty 3



Observation : Look for the abnormal and quickly isolate them. If more than 5 inform the vets.

5. **CLEANING AND DISINFECTING:**

To ensure at least five days of emptiness

Duty 4:



Floors: Scraped, washed and disinfected daily

Duty 5:

Buildings: Walls and roofings checked and cleaned. Electrical wirings repaired, every cycle.

Duty 6:



Water drainage: Zero effluent, ponds drained on land and dried, zero breeding for flies

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A COMMUNITY BASED SADAQAH APPROACH TO ERADICATE EXTREME POVERTY: AN EVALUATION OF ACTION RESEARCH PROJECTS OF CRP, IIUC

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Mohammad Rokibul Kabir²

ABSTRACT

Poverty is a curse and begging is a shameful act which is strictly prohibited in Islam. Though thousands of attempts have been made to eradicate poverty, none of such initiatives was successful in true sense. On the other hand, no remarkable efforts have been made to deal with eradication of begging. As such, strategies were based on capitalist point of view though it was of primarily social than industrial engineering technology. In this regard, Center for Research and Publication (CRP) of International Islamic University Chittagong, Bangladesh undertook a community based sadaqah approach to alleviate extreme poverty and street begging in rural areas of Bangladesh. For this purpose, three projects have been undertaken as the pilot projects in three different districts of the country. The pilot projects are situated in Chittagong, Brahman Baria and Kishorgonj of Bangladesh. This study is an endeavor to explore the working model of this community based sadaqah approach and to bring into light the success story of such a unique approach. The data and information for the study are collected through a structured questionnaire to discover the living standard of the beneficiaries of the projects before and after the implementation of the projects. The findings reveal some very interesting results showing the success of the projects.

Keywords: Extreme poverty, community based sadaqah approach, pilot projects, CRp, IIUC, Bangladesh

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1. INTRODUCTION

Bangladesh, situated in the north-eastern corner of South Asia, is a densely populated country. According to the World Bank (2013) report, the poverty rate in Bangladesh is 31.5% in 2010 and as many as 4 crore 70 lakh (100 thousand) people of Bangladesh are living below the poverty line and of them, 2 crore 60 lakh live in extreme poverty. Since its inception many efforts have been taken to eradicate poverty. In this context NGOs are trying hard for decades, but their activities are questioned from many corners of the country. On the other hand, no such significant effort is visible to involve local people to contribute in poverty alleviation.

The UN (2000) in its Millennium Development Goals, included eradication of poverty as the first goal. It sets the target to eliminate world poverty and hunger by half by the year 2015. However, all the plans and measures taken for solving the problem and meeting the targets are basically along the line of traditional economic growth or industrial engineering approach. Social engineering approach has been neglected. But poverty is more of a problem of social structure and attitudes and lack of understanding and commitment to religious and social values and goals. As a result, the world is far behind meeting the target.

Therefore, what is needed now to eradicate hunger and begging is a community based direct action approach through formation of rural social enterprises following largely social engineering approaches. It needs a micro-managed local direct action approach largely founded on social engineering in which social institutions like purpose-built local cooperatives, clubs, associations, religious institutions, work groups, etc. as social enterprises are to be formed at rural level to directly address and solve the problems of the local poor and eradicate local poverty.

Under the circumstances, to fill the gap and meet the need to bring it to the sharp national and international focus for direct action, the Center for Research and Publication has initiated and now promoting a societal campaign for a community-based village level action plan for immediate eradication of abject poverty and the culture of begging from the society relying on a strategy of primarily social than industrial engineering technology.

2. OBJECTIVES OF THE STUDY

The paper aims at introducing an alternative approach to alleviate extreme poverty as initiated by the Center for Research and Publication called 'Community Based Approach'. The study discovers the outcome of the project after one year of commencement. A critical evaluation is also attempted to understand the applicability of such approach to eradicate abject poverty and street begging.

3. LITERATURE REVIEW

In 2008, the World Bank has redefined the international poverty line at \$1.25 a day instead of \$1 a day, based on the purchasing power parities (World Bank, 2008). Based on this new figure, it was suggested that those who earned less than \$1.25 a day are categorized under absolute poverty. In this regard, the estimation of World Bank is that approximately 3 billion people are living in poverty and 46 million more people will come under the income level of US\$1.25 a day due to the recent global economic meltdown and slow economic growth rates (World Bank, 2010, Ali & Hatta, 2014). Poverty is considered as a degrading and undesirable state of condition in any society. The extent of the miserable socio-economic nature of life in poverty can be understood from the following statement of a poor Ugandan woman in 1998 : ‘When one is poor, she has no say in public, she feels inferior, she has no food, so there is famine in her house; no clothing, and no progress in her family’ (World Bank Group, 2000; Narayan, et al., 2000).

The developing world has already attained the first Millennium Development Goal target to cut the 1990 poverty rate in half by 2015. The 1990 extreme poverty rate \$1.25 a day in 2005 prices was halved in 2010, according to estimates. Notwithstanding this achievement, some 1 billion people will still live in extreme poverty in 2015 even if the current rate of progress is to be maintained. In some developing countries, we continue to see a wide gap or, in some cases, widening gap between rich and poor, and between those who can and cannot access opportunities.

Commercial banks in the developing countries fail to cater the credit needs of the poor because of perceived high risk and high transaction costs associated with the small loans and saving deposits (Coleman, 2006). As a tool of poverty alleviation, microcredit system was evolved in Bangladesh, which needed no collateral. One of the major objectives of microcredit program is that the program must reach the poor and the loan must bring net benefits to them and uplift their socioeconomic condition. In fact, microcredit programs have failed to eradicate poverty completely among the rural poor in Bangladesh. Evidence from Bangladesh showed that microfinance program had a positive role in poverty alleviation, but the magnitude of the microcredit impact on the living standard (in terms of income) of the poor households was small and it failed to meet the social needs and could not stop social inequalities (Mahmud, 2007). Hence, an alternative approach is essential to bring the large extreme poor people out of the vicious circle of poverty and community based approach is an endeavor in this regard, which demands researches for further development.

4. METHODOLOGY OF THE STUDY

Both primary and secondary data have been used in this study.

4.1 Data Sources

For secondary data about the projects, different documents of the projects were explored. The project reports of the coordinators are the key information sources regarding the results of the action research model. Records kept by each of the club/society were also browsed time to time.

Primary data were collected through informal interviews with the stakeholders, beneficiaries and employees of the projects. Observation method was also applied in this regard.

4.2 Study Period

The study period was 1 year starting from July 2014 to June 2015.

4.3 Evaluation Method

The results of the projects are evaluated through comparison with the target to achieve and the actual achievements. A comparison has also been made among the three projects.

5. ACTION RESEARCH PROJECT

5. 1 Background of the Project

As a stakeholder of the society and patron of revival of Islamic equitable society International Islamic University Chittagong always believes in research for development. In line with its mission of contributing in restoration of glorious past of Muslim Ummah, IIUC established a research wing called Center for Research and Publication (CRP). Though CRP started its journey with research publications in two journals called ‘IIUC Studies’ and ‘IIUC Business Review’, it thought to do something in the field within a few years after inauguration. In the early part of 2014, renowned scholar Professor Dr. Rafiqul Islam Molla, Academic Advisor of IIUC, with Professor Dr. Farid A. Sobhani, Director of CRP, and other members of CRP initiated an action research to find an alternative solution to eradicate extreme poverty and shameful act of begging. The Vice-Chancellor of IIUC, Professor Dr. A. K. M. Azharul Islam and the Pro Vice-Chancellor of IIUC, Professor Dr. Abu Bakr Rafique, gave their consent and full support for the action research and approved the seed fund for it.

5.2 Project Summary

Idea came to develop Action Research Projects under the name *Polly Seba Club* and projects have been carried on by CRP as pilot project at three different arenas since July 2014. Initially it was an idea to select 5 projects at different places, but due to lack of registered club/organ, fund and suitable coordinators only 3 projects were selected. Project places were primarily investigated to see feasibility of the project. Only the registered organizations/civil societies have been considered for the projects. Three sub-projects as action research project are:

1. **Putibila Project:** Undertaken by Putibila Samaj Kollan Songstha, a registered organization located at Putibila Union in Logagora Upazila, Chittagong, Bangladesh
2. **Jahanara Project:** Undertaken by Jahanara Begum Public Library- a registered organization located at Saharpar, Nabinagar, B. Baria, Bangladesh
3. **Pulerghat Project:** Undertaken Pulerghat Welfare Trust- a registered organization located at Pakundia, Kishoregonj, Bangladesh

5.3 Funds for the Projects

Fund generation is a major challenge to run any project. IIUC provided seed funds for the projects, and project coordinators' efforts helped to collect fund from local people as well. However, an amount of BDT 1 Lakh (100 thousand local currency) was granted from IIUC for each project. Local collection of the projects were as follows:

- Putibila - Tk.30,000 from local people
- Jahanara - Tk.50,000 as donation
- Pulerghat - Tk.2 Lac as donation (to run the project & others)

Each of the above projects maintains own bank account in the name of the organization and competent persons were assigned to look after the fund of the projects.

5.4 Community Based Model: Its Need and Management

Islam promotes sadaqah (voluntary charity) and urges people to do so. It is thought to be a glorious activity. In the holy Qur'an the importance of Sadaqah is narrated in the following verses,

“Those who (in charity) spend of their goods by night and by day, in secret and in public have their reward with their Rabb (only God and Sustainer). On them shall be no fear nor shall they grieve.” (Qur'an, 2:274)

Necessity of Sadaqah has also been narrated in several hadith like Mu'aadh bin Jabal (r.a.) narrated from the Prophet (s.a.w.s.), “Sadaqah extinguishes sin as water extinguishes fire.” (Ahmad, Tirmidhi and Ibn Majah).

The Prophet (s.a.w.s.) also said: “The believer’s shade on the Day of Resurrection will be his Sadaqah.”

For this reason people, especially the Muslims, always seek to help poor and to contribute to the society. But the problem is that an organized effort is missing in a country like Bangladesh to use sadaqah funds for poverty alleviation; rather people donate in scatter and unproductive way to help too many people resulting no change in the level of extreme poverty. Meanwhile, shameful activity like begging is seen to be a popular profession for such poor as it is very easy to run without capital and people like to give alms due to misconception about religion. Islam, Majumder and Rahman (2014) argued that street begging in Bangladesh, in particular, is associated with the urbanization, high population growth rate among poor people and slow economic activities. Again, different Non-Government Organizations (NGOs) have been working in Bangladesh since the early seventies aiming to alleviate poverty. Among these, a few have been able to gain worldwide reputation including the Nobel Peace Prize winner organization Grameen Bank. These organizations have created a mentionable effect on poverty alleviation with their various programs. However, criticisms still remain, as ‘poverty’ remains a major problem in the Bangladeshi economy (Al-Mubarak, 2014). Moreover, most of the NGOs charge very high rate of interest and look for collateral, which create obstacles in their success in poverty alleviation.

Thus, CRP felt the necessity of an alternative model in which an organized effort is made to manage sadaqah with active participation of local people. Each of the projects is run and managed by a coordinator, appointed by CRP along with local participants. Both money and management are the joint responsibilities. Coordinators were the Faculty Members of IIUC who offered voluntary services and are responsible for the whole project. They visit their respective project sites in a regular interval and supervise daily activities through mobile communication.

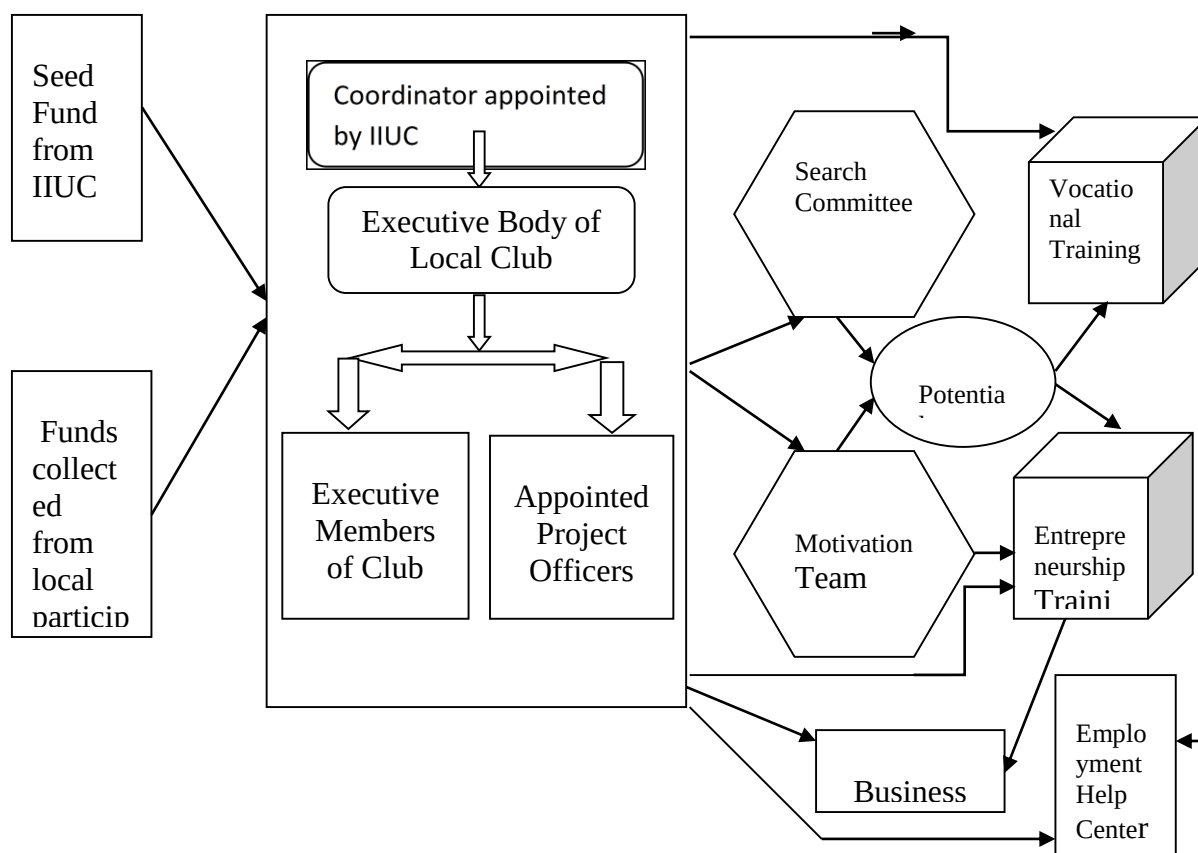


Figure 5.1: IIUC Action Research Model for Poverty Alleviation

The model depicted above shows how the community based action research project works. As mentioned earlier initial funds are given by IIUC and each coordinator of three projects motivated local rich people to contribute funds under the umbrella of respective local club or society. The club management committee is led by the coordinator as appointed by CRP in each project. Under the coordinator, the executive committee of the club is responsible to monitor members of the club and appointed officers. Club members and appointed officers are divided into two committees called search committee and motivation team. Search committee is responsible to identify extreme poor and street beggars and motivation team is accountable to motivate them to involve with the club/society and to leave begging. The trainees as selected by the committees are sent to two different training schedules of vocational training and entrepreneurship training according to their abilities and potentialities.

After successful training, the vocational trained personnel would be able to find their own occupation. If they fail to find so, a Job help center is there run by the club. On the other hand, the entrepreneurship trained personnel would be motivated to establish their own business and wherever necessary the club will provide capital for such business. All the beneficiaries would get the help as Sadaqah and without any return, but they would have a moral obligation to participate or contribute in the club/society.

Local participation is a must for success of any local project because local knowledge is the key for a project. Fund raising was one of the issues of the local participation. Moreover, absence of local participations may result in a resistance from the inhabitants. Hence, local people should be involved in planning, implementation and evaluation of the project activities. Thus, a Committee with the local people was formed for each project. Putibila formed different Sub-committees and Pulerghat developed a list of 50 persons in the locality.

6. EVALUATION OF ACTION RESEARCH PROJECTS

Three sub-projects of action research project of CRP have been presented below in a logical framework table that is used improving the planning, implementation, management, monitoring and evaluation of projects. The vertical logics of the action research project are wider objective, specific objective, output and input of the project. The horizontal logics of the project are summary description, objectively verifiable indicators, data sources, and risk & assumptions.

6.1 Logical Framework Table of Action Research Projects

	Summary Description	Objectively Verifiable Indicators	Data Sources	Risk and Assumptions
Wider Objective (Goal)	Making a village/union /locality free from abject poverty and begging	45 extreme poor & beggars within 1 months (leaving begging)	Special Report Visibility of Begging	Local participation
Specific Objectives	Enhancing money income of the beggars & extreme poor	Generating more income (as compared to begging)	Opinion Survey of the Beggars	Availability of fund
Output (Results)	Providing work other than begging	Employing 45 extreme poor & beggars in three projects @15 beggars & extreme poor	Project Record	Employment opportunities
Input (Activities)	Discussion, Motivation, Works & Support, Social Campaign, Say 'NO' to Begging			

The success of the projects has been evaluated in the following table where comparisons took place between target and achievements as well as among the projects

Table-6.1: Evaluation of Project Outcomes after 1 Year of Operations

Points of Comparison	Putibila		Jahanara		Pulerghat	
	Target	Achievement	Target	Achievement	Target	Achievement
Seed Funds from IIUC	Tk. 1 Lac	Tk. 1 Lac	Tk. 1 Lac	Tk. 1 Lac	Tk. 1 Lac	Tk. 1 Lac
Funds from Local Participants	Tk. 1 Lac	Tk. 0.3 Lac	Tk. 1 Lac	Tk. 0.5 Lac	Tk. 1 Lac	Tk. 2 Lac
Vocational Training	To establish 15 extreme poor and street beggars	Sewing Training to 3 women in the training & production center established in the project	To establish 15 extreme poor and street beggars	i) Sewing training for 5 female persons ii) Barber training for 6 illiterate young poor	To establish 15 extreme poor and street beggars	-----
Entrepreneur Development		-----		-----		Entrepreneurship Development for Poultry sector to 3 persons
Employment Help		Weight measuring machines to 2 beggars		i) One trained youth got job in an AC salon in Dhaka ii) Another one went abroad as skilled barber iii) Occupation of 1 tailor Master among the poor (Tk.3,000 per month)		Established Trust Public Library & appointed a Manager among the poor (Tk.3,500 per month)
Funding to trainees for Business Development		Fruits & vegetable business by two beggars		-----		i) Helping to develop poultry farms to 3 poor persons and ii) Trading items to 3 beggars (Tk.10,000 each)

From the above table, it is evident that each of the three sub-projects have some successes in comparison with the target. A comparative description has been given below in each of the criterion.

6.1 Seed Funds from IIUC

The target of seed funds from IIUC was Tk.1,00,000 in each project and IIUC authority contributed exactly the expected amount in each of the projects.

6.2 Funds from Local Participants

The initial target to collect the local funds was equal to that of IIUC funds of Tk.1,00,000 in each project. In this regard, Putibila project ables to cater Tk.30,000, Jahanara Project

local fund contributed Tk.50,000 and Pulerghat project ensured Tk.2,00,000 from the local people. Thus, both Putibila and Jahanara projects' targets were underachieved while Pulerghat project has shown tremendous success in this case with double collection of the target.

6.2 Vocational Training

Putibila project established a 'sewing training & production center' from which 3 women have taken training and now involved in production for the local inhabitants. Jahanara project ensured sewing training for 5 female persons and barber training for 6 illiterate young poor while Pulerghat project were not involved in such activities. Thus, Jahanara project has been able to train the highest number of persons, whereas Putibila project is in second position.

6.3 Entrepreneurship Development

Pulerghat project has shown tremendous success in this regard as it ensured entrepreneurship skills of 3 persons in the poultry sector, while both of Putibila and Jahanara were not able to contribute in entrepreneurship development.

6.4 Employment Help

Putibila project provided employment help to two street beggars by giving them weight measurement machine and now they are doing their business and earning near the income level of begging. Jahanara project helped one swing trainee to get job in a tailoring shop, one of the barber trainees got job in an AC salon at Dhaka and the magnificent success is that one barber trainee went abroad as skilled barber. Pulerghat project employed one of the unemployed youths as the librarian of the Pulerghat Trust Library.

6.5 Funding Trainees for Business

Putibila project provided capital to 3 beggars for doing fruits business. Jahanara project did not contribute in this sector. Pulerghat project supplied capital to the trained entrepreneurs for establishing poultry firms.

6.5 Overall Evaluation

The initial targets for each project was to help 15 extreme poor and street beggars for their establishment. In this regard, Jahanara project helped the highest number poor ensuring involvement of 11 of them while Putibila project provided help to 8 people and Pulerghat project helped 5 extreme poor. Though Pulerghat is in 3rd position in terms of number, its great achievement is to develop entrepreneurs and providing capital to them for own business which, in turn, will ensure the employment of many others. Thus, the actual number is more than what has stated here. In summary, it can be said that the success is very good though each of the projects fell a bit short in achieving the target of 15 poor in each. In fact, within such a short period with a small fund it is very difficult to do more than what was actually done.

7. CHALLENGES OF THE PROJECTS

The projects had to undergo some serious problems though such problems were successfully resolved. Some challenges were same in each of the projects, while there were some challenges for specific project. The challenges are highlighted project-wise in the following table.

Table-7.1: Challenges of the Action Research Projects

Putibila	Jahanara	Pulerghat
- Village polities - Cheating of some beggars - People want monetary benefits - Some beggars prefer begging than any other works	- Lack of people for voluntary services - People are greedy for position - Lack of interest of the local people	- Lack of committed manpower in local area - Beggars demand more money - 40% of the beggars are reluctant to get rid of begging - Political coloring of social services - Religious people enjoy by giving coins to beggars

8. CONCLUSION AND POLICY IMPLICATION

The world is passing a critical time now. Financial crisis, political melt down, Arab Spring and cruel strategy to handle them, counter terrorism etc. are the current phenomena. Whatever the name or form is poverty and suppression of poor by the rich are the main reasons for such ruthless situation. The long cherished dream of poverty free world is still far away as the traditional capitalist world failed to contribute in real sense in eradicating poverty. Hence, alternative solutions to extreme poverty and street begging are bare necessity. Under such background the initiative of CRP of IIUC demand appreciation. Though 1 year is a short period to evaluate such a project, an attempt has been made in this study to explore the feasibility of it. Though there were some severe challenges faced by the pilot projects, the achievement is remarkable with employment generating activities of 26 poor persons. The study suggests local administration, local communities and local voluntary organizations to play role in eradication of abject poverty and street begging. All social clubs, co-operative societies should consider 'eradication of begging' as one of their programs. Government should formulate new rules against solvent beggars by banning begging. Motivational measures may also be taken by the government for interested clubs and society for such activities. There should be social campaign against begging such as, say no to begging; stop begging; begging is immoral and so on.

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MANAGEMENT OF INSTITUTIONAL SADAQAH FOR POVERTY DIMINUTION: A SUSTAINABLE SADAQAH MODEL

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ABSTRACT

Sadaqah (voluntary charity) is a glorious activity in Islam. Both the mandatory (Zakat) and voluntary sources of sadaqah (waqf. and other charity) and CSR funds of different institutions can be used for the welfare of the society through a Social Enterprise (SE). It is a matter of regret that, in spite of having financial and managerial capability in the hand of many profit maximizing business enterprises, poverty has been remained as a never ending phenomenon and become one of the severe problems for the societies of many transitional economies like Bangladesh where more than 40% people live in poverty. The main reason of such an inhuman situation is the profit motive of so called traditional business. It is to be mentioned that, maximization of wealth is the common goal of most of the traditional business concerns, but the main purpose of an Islamic business institution is to ensure social justice by creating an equitable society. Though different business organizations are contributing towards society through different sadaqah activities in a scattered manner, an organized effort is essential in this regard. Thus, this study is an attempt to propose a social enterprise model to ensure proper utilization of institutional sadaqah. To put forward a model for efficient use of Institutional Sadaqah, existing models of social enterprises have been examined and a sustainable sadaqah model is proposed in this study.

Keywords: Institutional Sadaqah, Sadaqah Managemnt, Social Enterprise, Poverty Reduction

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1. INTRODUCTION

Islamic economic system is based on unity, justice, and social and economic equality that expressly discourage and forbids isolated wealth creation. Although, Islam allows and encourages a person to do business and enrich himself, it urges entrepreneurs to accomplish the social responsibilities due from them (Shahzad, 2009). Again, Sadaqah or voluntary charity has been promoted in Islam and thought to be a splendid activity. In the holy Qur'an the importance of Sadaqah is narrated in the following verses,

“Those who (in charity) spend of their goods by night and by day, in secret and in public have their reward with their Rabb (only God and Sustainer). On them shall be no fear nor shall they grieve.” (Qur'an, 2:274)

Necessity of Sadaqah has also been narrated in several hadith like Mu'aadh bin Jabal (r.a.) narrated from the Prophet (s.a.w.s.),

“Sadaqah extinguishes sin as water extinguishes fire.” (Ahmad, Tirmidhi and Ibn Majah).

The Prophet (s.a.w.s.) also said:

“The believer's shade on the Day of Resurrection will be his Sadaqah.”

Different business institutions are trying to contribute to the society through sadaqah since ancient time but to what extent such sadaqah contribution in isolation is effective is a matter of question. Thus, in recent years, the institutional management of such funds has been given much importance and some institutions are seen to put steps forward in this regard in different countries in the world including Bangladesh. Still the problem lies in the non productive nature of such fund management by different institutions. Hence, an alternative is essential to use the sadaqah funds which will be reproductive in nature. In this regard, building social enterprises with such funds may be a good solution to the said problem because a social enterprise is an [organization](#) which attempts at maximizing human and environmental well being and accordingly sets its strategies to ensure equitable development of the society rather than maximizing profits for the owners (Biztaxlaw, 2013). The study, thus, is an endeavor to propose a model of social enterprise with sadaqah funds by eliminating the problems faced by a traditional social enterprise.

2. OBJECTIVES OF THE STUDY

The main purpose of the study is to propose a model for developing social enterprises with sadaqah funds to ensure a balanced and equitable development of society as it is upheld in an Islamic economic system. In line with it the following objectives of the study are set,

- i) To describe the idea of social enterprises and to identify the barriers of establishing social business enterprises

ii) To clarify the concept of sadaqah and find the ways in which it can help to overcome the problems faced by a traditional social enterprise.

iii) To develop a model for social business enterprise with sadaqah fund.

3. LITERATURE REVIEW

It is a matter of sorrow that according to global income distribution statistics 94% of the world income goes to 40% of the people, and the other 60% live on only 6% which is a clear indication of social disparity throughout the world showing a vivid picture of injustice. (Shahzad, 2009). In fact, the present hazardous situation of the world is the byproduct of such hungry and greed nature of a few richocrates of the world. In this regard, we should be mindful of the words of Dr.Muhammad Yunus, Winner of the Nobel Peace Prize in 2006, "Poverty is a threat to peace". Such sentiments should not go unheeded. He proposed a new model of social business for poverty alleviation and described it as a business created and designed to address a social problem which is a non-loss, non-dividend and financially sustainable company. Social business, in fact, is a subset of social enterprises. Social enterprise broadly describes the commercial activities by socially minded organizations which are defined by Mair and Marti (2006) as a process involving the innovative use and combination of resources to pursue opportunities to catalyze social change and/or address social needs. It includes both profit and not-for-profit initiatives, and it can be distinguished from conventional entrepreneurship through the 'relative priority given to social wealth creation vs. economic wealth creation. In business entrepreneurship, social wealth is a by-product of the economic value created. Social entrepreneurs also take into account a positive return to society. Social entrepreneurship typically aims at social, cultural, and environmental goals and is commonly associated with the voluntary and not-for-profit sectors (Thompson, 2002).

Though social enterprises can ensure justice and equitable development of the society, sources of funds is a big barrier in this case. Sadaqah given by different institutions as a part of their social responsibility can be a good source of fund in this regard. Sadaqah is thought to be a glorious deed in Islam and one can expect Allah's rewards both in this world and in the life hereafter by giving sadaqah for the welfare of society. In fact, giving charity out of wealth does not decrease it; instead it increases it as mentioned in the following verses,

"Allah will deprive usury of all blessing, but will give increase for deeds of charity: for He loves not creatures ungrateful and sinner." (Qur'an, 2: 276)

"That which you give in usury for increase through the property of (other) people, will have no increase with Allah: but that which you give for charity, seeking the Countenance of Allah, (will increase); it is those who will get a recompense multiplied." (Qur'an, 30:39).

Similarly the importance of sadaqah and Zakah for poverty alleviation and eradication of social discrimination has been mentioned in Al-Hadith as Prophet Muhammad (peace be on him) remarked:

"Had there been two mountains of wealth for the son of Adam, he would have sought the third one; nothing but the earth can fill the belly of the son of Adam." (Al-Bukhari)

In light of this, the role of Sadaqah and *Zakat* in fostering moral qualities and attributes in people in an Islamic society is exceptional because it encourages and also impresses a sense of moral responsibility on the rich to look after the poor and the less fortunate members of the society, thereby seeking to suppress greed, miserliness and selfishness in order to create a society that is caring, loving, equitable and just.

Abu Musa narrated that the Prophet (s.a.w.s.) said, "Every Muslim has to give in sadaqah (charity)." The people asked, "O Allah's Messenger (s.a.w.s.)! If someone has nothing to give, what will he do?" He said, "He should work with his hands and benefit himself and also give in charity (from what he earns)." The people further asked, "If he cannot do even that?" He replied, "Then he should help the needy who appeal for help." Then the people asked, "If he cannot do that?" He replied, "Then he should perform all that is good and keep away from all that is evil and this will be regarded as charitable deeds." (Bukhari Vol. 2, Hadith 524). Thus, people can also contribute for the welfare of society without contributing money or money's worth. Hence, working for social enterprises will be considered as Sadaqah.

4. METHODOLOGY OF THE STUDY

The necessary data for the study were collected through document analysis. For this purpose a thorough literature survey has been conducted. In order to obtain the reliable secondary data various journals, periodicals, books, policy papers, papers of different international organizations and agencies were consulted carefully. Conceptual framework of Islamic economic system has been studied very cautiously to identify different types of sadaqah fund and their application areas. References of Quran and Hadith have been furnished regarding the importance of sadaqah in Islam and its role in poverty alleviation.

To propose a model for sadaqah management through social enterprises the existing models of Social Business and social business enterprise have been critically analyzed. On the basis of analysis and literature survey a unique model has been proposed which is expected to work for eradication of extreme poverty.

5. SOCIAL BUSINESS ENTERPRISE AND ITS BARRIERS

5.1 Social Business Enterprise

The term social enterprise has different meaning in different areas. In the United States its philanthropic roots are observed and in the United Kingdom, European Union and Asia its cooperative roots is explored([Ridley-Duff & Southcombe, 2011](#)). Doing charity by doing trade is the main theme of philanthropic roots of social business in the United

States. In other countries as mentioned above, there is a much stronger emphasis on mutual principles, democratic control of capital and community organizing (Kerlin, 2009). Thus, the terms social enterprises and entrepreneurship have emerged as a new label for describing the work of community, voluntary and public organizations, as well as private firms working for social welfare rather than for profit objectives (Shaw and Carler, 2010). As such, social entrepreneur is any person, in any sector, who uses earned income strategies to pursue social objectives. Therefore, social entrepreneurs are driven by a double bottom line, a virtual blend of financial and social returns, profitability is still a goal but it is not the only goal, profit are re-invested in the mission rather than being distributed to shareholders (Boschee & McClung, 2003).

Many commercial enterprises would consider themselves to have social objectives, but commitment to these objectives is motivated by the perception that such commitment will ultimately make the enterprise more financially valuable. Social enterprises differ in that, inversely, they do not aim to offer any benefit to their investors, except where they believe that doing so will ultimately further their capacity to realize their social and environmental goals. Again, all the benefits of a social business enterprise (SBE) are to pass to the customers and stakeholders. Hence, benefit maximization principle is the core of it instead of profit maximization principle like traditional business enterprises. Unlike its traditional counterpart it does not allow dividend to its investors. In fact, SBEs are non-dividend but non-loss- companies. The bottom line for them is to operate without incurring losses while serving the people, and the planet, particularly disadvantaged people, in the best possible manner. Both SBEs and profit-maximizing enterprises (PMEs) will operate and compete in the same market place and try to out-manuever them for their market shares. Interesting, SBEs will compete with other SBEs along with PMEs to push each other to improve their efficiency to serve the people and the planet better (Hoque and Sobhani, 2014).

5.2 Barriers Of Social Business Enterprises

Investigation of Solaiman and Ullah (2014) identified problems of entrepreneurship development. The responses of the interviewees in this regard revealed a number of problems of social entrepreneurship development in the study areas which includes lack of support for social entrepreneurship and inadequate motivational training which, in fact, are utmost essential for social entrepreneurship development. It has been reported that the next two important constraints are absences of capacity building programs of social entrepreneurship and ineffective campaign program. These problems affect the social entrepreneurship development process adversely and which ultimately frustrate the sample social entrepreneurs in taking right decision for the purpose. It appears from the observation that management information system and research on entrepreneurship problem and prospects are absent in study areas. As a result, it is informed that the sample social entrepreneurs are deprived to receive right information in right time, on one hand and their attitudes towards integrated package assistant, i.e. stimulatory, supportive and sustaining activities etc. do not corroborate in the formulation of policies/programs of social entrepreneurship development of the country, on the other.

Ahmed (2014) identified the gap between the demand and supply of funds for social business enterprise as the main problem.

Kabir (2013) in his study revealed challenges and problems of social enterprises which include difficulties in capital accumulation, lack of competent entrepreneurs, fund management crisis, absence of religious motivations etc. To overcome the above mentioned challenges, management of sadaqah through social enterprises could be an effective way.

6. SADAQAH MANAGEMENT AND SOCIAL BUSINESS ENTERPRISE

6.1 Sadaqah

Any sort of charity is known as sadaqah. It is not restricted to giving part of our wealth or material possessions or any special deed of righteousness. Islam considers all good deeds as sadaqah. Thus, the contributions of corporate houses in the name of Corporate Social Responsibility (CSR) also come under the definition of sadaqah. The CSR activities of different corporate houses played role in limited areas but proper management of such fund could make it more effective (Hoque and Sobhani, 2014). Thus, corporations and business institutions should come forward to fill up the gaps between the rich and the poor by ensuring accurate management (Baughn, Bodie, & McIntosh, 2007). This is due to the fact that being the big business enterprises; corporations have both financial and managerial strengths in funding social business enterprises as part of their commitment toward society and thereby minimizing many social problems like poverty, unemployment, income inequities etc from the societies of developing countries (Hoque *et al*, 2014).

6.2 Overcoming The Challenges Of Social Enterprise Through Sadaqah Management

As described in the earlier part of the study three main barriers against the establishment of social enterprises are fund crisis, shortage of personnel with good entrepreneurship skills and lack of institutional capacity in managing funds of a social enterprise. The fund crisis can be met by sadaqah of institutions as it is proved by Hoque (2014) in his empirical study where he showed that big corporate houses have enough capacity for funding social enterprises. The shortage of skill manpower and lack of management capabilities can be overcome by establishing training institutions which will be run with the social enterprise funds under the leadership of big corporate houses whose entrepreneurship qualities have already been proved. Since all sorts of contributions will be treated as sadaqah, the contributors will also feel better as they are accomplishing their social responsibilities. Moreover, they will also be motivated for their contribution to the humanity from religious perspective.

7. A SUSTAINABLE SADAQAH MODEL

Dr. Yunus (2009) proposed a model for social business which firstly emphasizes on the change in the specification of targeted stakeholders, and the provision that the value proposition and constellation are not focused solely on the customer, but are expanded to encompass all stakeholders. Secondly, it focuses on desired social profits through a comprehensive eco system view, resulting in a social profit equation which is completely different from the traditional business motive. The third is that the economic profit equation targets only full recovery of cost and of capital, and not financial profit maximization. Baraka (2012) criticized the model of social business and proposed a model based on Islamic charity fund (waqf) and argued that his model is better than social business model. But his model did not give any clear indication about the management and repeated application of such fund though showed employment creation through establishment of hospital which, under any circumstances, should not be a profit making organization.

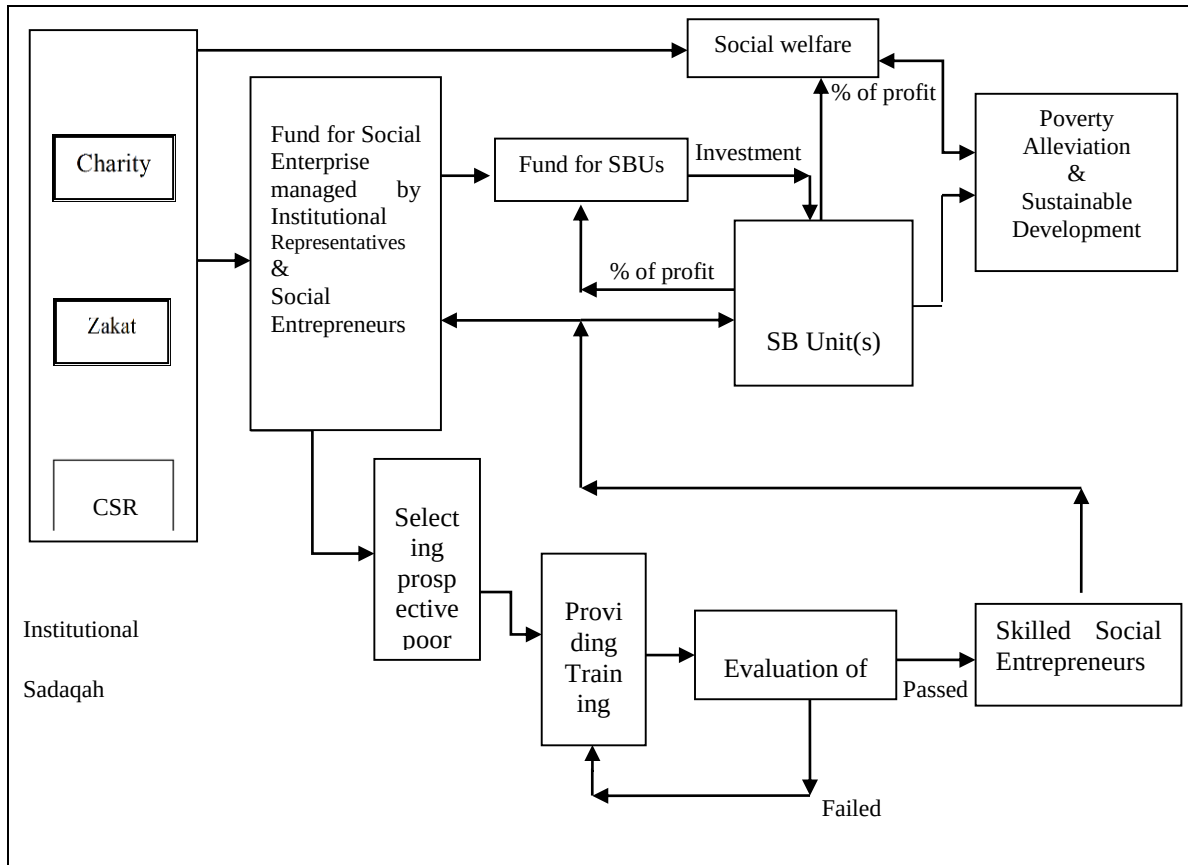
Kabir (2013) critically analyzed the model of Social Business and found a few challenges and problems of social enterprises without which, as per his study, the model cannot be implemented.

Ahmed (2014) in his study argued that the main obstacle of social business enterprise is the mismatch of demand and supply of fund and suggested 8 sources of Islamic fund to establish social enterprise but did not show how such fund could be managed.

Again, Hoque, Khan and Mohammad (2015) emphasized on Sadaqah (zakat) mobilization to create social entrepreneurs but not visualized the way in which such entrepreneurs would work for social enterprises.

Considering the backdrops of the above mentioned models, a comprehensive sustainable Sadaqah model is proposed as follows to run social enterprise for diminution of poverty.

Figure 1: Sustainable Sadaqah Model for Poverty Diminution



Source: Developed by Authors

The proposed model for Sadaqah management in above figure shows the ways in which institutional sadaqah can be used to fight against poverty in the society through a Social Enterprise (SE).

Institutional sadaqah may come in the form of charity, zakat and corporate social responsibilities. A certain portion of such institutional funds may directly be used for social welfare, especially for those needy people who are in urgent crisis. The remaining portion of sadaqah will be utilized to create a social enterprise (SE) fund which will be managed by representatives of the participating institutions who possess entrepreneurship skills with very good knowledge on social enterprise whose contributions of skill are also a kind of charity as it is mentioned in the earlier part of this paper with reference from Quran and Hadith. Social entrepreneurs with successful training will also participate in the fund management.

Since there is lack of competent social entrepreneurs, as found in the earlier studies and described above, a training institution will be established with SE fund. Prospective poor will be selected after careful screening by the expert social entrepreneurs. Proper training will be provided to the prospective people as selected after screening. An evaluation test

may be arranged to examine their skills and competence. Those who will fail to show their competence will be sent to the back step for further training. The successfully passed trainees will be thought to be skilled social entrepreneurs and they will be assigned to run social business unit(s) for a certain portion of profit or for salaries. A few numbers of the top ranked entrepreneurs among them will also get the opportunity to participate in the fund management team with the institutional representatives. On the other hand, funds will be set aside from the SE funds for Social Business Unit(s) (SBUs).

On the basis of size of the SBUs fund and number of successfully passed entrepreneurs several SBUs will be formed. SBUs will do business with environmental friendly 100% halal products and with justified profit margins. The profit of the Social Business Unit(s), after deduction for entrepreneurs, may be utilized both for social welfare and expansion of existing SBU and for the development of new SBUs. In this case, a certain portion of profit (say 50%) may be kept in SBUs fund for reinvested and the rest of the profit (50%) could be used for social welfare and poverty reduction. Along with activities like building of shades for homeless at different places where they can pass night instead of sleeping in streets, it may include the activities of providing foods for the needy who usually begs for foods, arranging works like cleaning, washing and such other works requiring no or less skills on the basis of daily payments as social welfares. Offering training regarding sewing clothes, establishing nursery, rearing goats and cows and so on along with necessary funds to the interested poor people could make a tremendous impact in the society for poverty reduction. On the other hand, Social Business Unit(s) will play dual roles for reduction of poverty. First, it will create employment opportunities in the society; secondly, it would contribute to the national economy through its business. It would have a non financial benefit as well. Since, the main purpose of a social business is social development; the business will ensure halal products without any contamination which is the burning issue at present.

8. CONCLUSION AND POLICY IMPLICATIONS

The demand for social finance is growing, but conventional markets have failed to sufficiently offer the right products or attract investors. The products offered are mainly debt based with regular loans being the most common (an obligation to pay interest without any rebates). On the other hand, the traditional social business suffers from problems like lack of competent social entrepreneurs and deficiency of capital. Again, different organizations often seen to participate in voluntary charity through sadaqah and CSR as well as they are bound to pay zakat to the needy. At present such contributions are made in scatter ways which is rarely contributing to the society for alleviation of poverty. An institutional effort of managing such voluntary and mandatory sources of fund through social enterprises may make it an efficient tool to fight against poverty. Instead of managing the funds and applying it for social welfare only, the model proposed in this study will enable it to generate more fund through social business units in addition to the fund raised through sadaqah and it would make the model a continuous source of employment generation and everlasting poverty diminution tool. Hence, it can be called a sustainable sadaqah model. it is expected that this study will help immensely in developing awareness among government, existing profit maximizing entrepreneurs,

potential social entrepreneurs and scholars regarding the social entrepreneurship development and thereby helping in accelerating social entrepreneurship development process with a view to reduce poverty and ensure overall welfare of the society. The paper leaves scope for further study in the areas of supply chain management of social enterprises, regulatory framework for social enterprises and separate accounting systems for social enterprises.

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GOVERNANCE ASPECTS OF MICRO CREDIT INSTITUTIONS: A CASE OF AMANAH IKHTIAR MALAYSIA

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ABSTRACT

Micro financing institutions are acknowledged as a type of institutions that are evidently able to help the poor not only to continue their lives, but also to sustain their leaving by involving in economic activities to generate their income. Micro financing is different from other philanthropic institutions as the participants need to payback their financing, rather than being given freely without repayment. As such, governance plays an important aspect to ensure all the branches are working properly and rate of defaults are at lowest. This papers focuses on the governance of an Islamic philanthropic institution, specifically the micro financing institution. The governance of the Amanah Ikhtiar Malaysia (AIM) as one of the government's micro financing arm are analyzed. Using one of the branch in East Zone as the unit analysis, this study examine the governance aspects of the AIM and other challenges. This study also identify the challenges faces by the middle management of the AIM. Findings show that there is a unique structure of the AIM that shows the flow of decision from the higher management to the lowest and vice versa. However integration are required to ensure that all branches are working accordingly to the annual plan.

Keywords: Islamic philanthropic institution, Islamic micro finance, governance, corporate governance, Islamic finance

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1. INTRODUCTION

Micro financing is a mechanism to reduce poverty among the citizens. Their approaches are to help the target participants from the grassroots. Differently from other philanthropic activities, microfinance is purposely designed to cater the financial needs of the needy by encouraging to produce their own income from the contribution, while at the same requires for the repayment. Based on this, categorizing this activity and its institution is perhaps the suitable match, even though its financial sources come from the different sources. In this case, philanthropic activities and institutions are synonymously connected with the charitable based activities, where their sources are originated from the non-profit sources (). Most of their establishment are in the form of non-profit institutions (NGOs).

Islamic micro finance is not a unique institution in Islam, as Islam itself promotes the idea of fairness and solidarity. As has been suggested by Abdul Rahman (2007), the sources of the Islamic micro financing can come from the Islamic charitable based sources including zakah and business based activities and arrangement including the mudharabah contracts. In the form of the established micro finance and Islamic micro finance institutions and operation, these institutions are inspired by Grameen Bank Model of Bangladesh that was set up by with the idea of Professor Yunus. With a good model, yet the governance plays an important roles to monitor the the officers.

This paper focuses on the governance aspects and challenges of the Amanah Ikhtiar Malaysia, one of the micro credit institutions in Malaysia that contribute positively in increasing the income among the poor. To achieve the purpose, this paper is divided into introduction of AIM, governing Islamic financial institutions case study of branch A and analysis. This paper in closed with the conclusion.

2. GOVERNING THE ISLAMIC FINANCIAL INSTITUTIONS

The main concepts that relate with governance in Islam are the accountability, hisba and syura. in Islam, the accountability is the most important concept, in which humanity as khalifah should accountable for his/her doings. As has been stressed in Islam, individuals should be accountable in his/her relationship with Allah swt, with other human beings and the environment (Shahul, 2000 and Lewis, 2006). The guidance has been provided in Islamic teachings and it is their responsibility to do goods and leave the wrongdoing, encourage the goods and discouraging the doings. This can be understood from the verse: *"And let there be [arising] from you a nation inviting to [all that is] good, enjoining what is right and forbidding what is wrong, and those will be the successful."* (Ali Imran 3:104).

This concept in is interpreted by requesting the entities to include all stakeholders in their consideration. It is understood that every entity (profit and non-profit organization) should preserve rights of other stakeholders in their decision and operation. Does their action will give impact to the stakeholders (shareholders/ trustee/ contributors/ government etc.)? In this case the highest body (board of directors or trustee) that

monitor the organization should have responsibility to give good decisions (with the given situation) and accountable for their decision).

3. AMANAH IKHTIAR MALAYSIA

AIM is an organization that provides a micro credit scheme or micro financing to the poor in Malaysia in order to reduce the level of poverty. Amanah Ikhtiar Malaysia has been operated for more than 25 years and more than two decade. AIM have hold about 300 000 customer until 2014 and have been recognize as a success organization that able to liquidate poverty through the program provided until now. AIM recognized as a complement not a competitor towards the government effort in order to liquidate poverty.

The organization is led by the Chairman. The organization has several branches in every states, in which these branches are divided accordingly to six zones, North, East, Middle, South, Sabah and Sarawak. Each of the zones consist of the Regional Managers (according to the states), and Ecosystem Development Managers.

Its services ranges from financing, to the welfare activities to help the members. Their activities as follows:

3.1. Financing

Different types of business will bring customer to choose different financing scheme that suitable with their project and needs (See Table 1). Besides, it is also must depend on their income whether they able to pay back the financing. The uniqueness of the products lay upon the concept of financing without a guarantee, guarantor and also without imposed of law by getting back the financing given have been used by the organization also become the key success of the organization.

Usually for new Sahabat that enter the organization, they will be provided RM 1000 until RM 3000 maximum for their first financing called as i-Mesra. This is the basic scheme that needs to be taken by new Sahabat before they enter to another scheme. In addition, new Sahabat will do the pay back for a year within 10 percent charge because that the condition put by the organization. Then, the nest financing will be one times from the previous financing. If their project has a higher potential and success, Sahabat can take more than one scheme through the “Refinancing” or “Double”. For example,if Sahabat has taken i-Srikandi and want to add a new financing, by taking i-Sejahtera. Furthermore, the period for pay back also can be shortly than a year within 5 percent charge.

Table 1 : Amanah Ikhtiar Malaysia Financing Services.

Financing Schemes	Financing (RM)	Limit	Payback Period (Weekly)
<i>Economic</i>			
i-Mesra	1,000 - 2,000	-	12, 25, 35, 50
	3,000 – 10,000 (max)		12, 25, 35, 50, 75, 100
i-Srikandi	12,000 – 20,000 (max)		12, 25, 35, 50, 75, 100, 125, 150
i-Wibawa	5,000 (max)		12, 25 (weekly or every months for six months or lump sum)
<i>Non-Economic</i>			
i-Sejahtera	1,000 – 2,000		12, 25, 35, 50
	3,000 – 10,000 (max)		12, 25, 35, 50, 75, 100
i-Bestari	1,000 – 2,000		12, 25, 35, 50
	3,000 – 5,000 (max)		12, 25, 35, 50, 75, 100
Recovery			
i-Penyayang	1,000 – 2,000		12, 25, 35, 50
	3,000 – 5,000 (max)		12, 25, 35, 50, 75, 100
i-Emas	2,000 (max)		12, 25, 35, 50

Sources: Amanah Ikhtiar Malaysia Website, 2015

3.2. Savings

When Sahabat involved with the financing, automatically it is an obligation for them involve with savings of AIM. Minimum amount is RM 1 and maximum RM 15 which is based on the economy financing schemes. Example is if Sahabat taking a financing RM 1000 they will pay for the Saving RM 1. However, for the members that does not continue with financing or rest from taking the financing the amount will be subject to the last savings which is if Sahabat last financing RM 6000 they will pay RM 6.

Then, if Sahabat has delay during the payback as long 4 weeks continued, the savings will be used for the pay back in order to cover the delayed problem. In addition, all amount of saving also can be used within the balance of pay back but will base on the condition of the procedure.

3.3. Welfare and well-being fund for AIM members (TKKS)

This welfare has been established on July 2006 base on Sahabat wish. TKKS also one from the religion indictment that consist of public value that can help them when there are disaster or problems.

3.4. Relationship of Amanah Ikhtiar Malaysia (AIM) with Sahabat

Amanah Ikhtiar Malaysia is well established company and also has proven that the company has helped the poor improve their lifestyle and also increase their income. This is because the companies already establish more than 25 years that more experience and have made many improvements within the company itself and the customer. Besides, AIM consists of variety of product which is not only giving financing to Sahabat but also has a fund to protect their welfare and help them during the calamity. Thus the product is the product uniqueness of the company.

Then, the opportunities of the company are the company could get the new customer from the family that has become Sahabat that can continue the legation of businesses through the loyalty given by loyal customer. Besides, high demand towards the financial product has make people would like involve with many kinds of business that has become the first contribution for a country economy.

4. CASE STUDY: AMANAH IKHTIAR MALAYSIA, BRANCH A

The branch A of Amanah Ikhtiar Malaysia has started the operation on 25 February 2004 years. The establishment of the branch is based on branch restructuring of the involved branches. When this branch first operates it has been managed by Branch Manager (PC). The PC has been assisted by two assistance; PPC and PPC. At the first, there are about seven staf (PA) which is has manage about 1369 number of Active Sahabat which is at seven block and consist of 48 center. Nowadays, the branch has managed more than 3000 of Sahabat at 10 blocks that consist of 76 centers.

There are seven schemes of financing that are provided. Their differences are accordingly divided into three categories. First categories of financing are based on economic purposes, second is for non-economic purposes and the third is for recovery. The financing scheme provided for the poor at the urban area to start their small business and increase their income. Most of the Sahabat are involved with business activities included agriculture, fishing, services and small businesses activities.

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graph LR; PC[Pengurus Cawangan (PC)] --- PAS[Pegawai Amanah System (PAS)]; PC --- PAP[Pegawai Amanah Pengurusan (PAP)]; PC --- PPC1[Penolong Pengurus Cawangan (PPC)]; PC --- PPC2[Penolong Pengurus Cawangan (PPC)]; PC --- PA1[Pegawai Amanah (PA)]; PC --- PA2[Pegawai Amanah (PA)]; PC --- PA3[Pegawai Amanah (PA)]; PC --- PA4[Pegawai Amanah (PA)]; PC --- PA5[Pegawai Amanah (PA)]; PC --- PA6[Pegawai Amanah (PA)]; PC --- PA7[Pegawai Amanah (PA)]; PC --- PA8[Pegawai Amanah (PA)];
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The organizational chart illustrates the hierarchy of PT. KAWAN BANGSA. At the top level is the **Pengurus Cawangan (PC)**. Reporting directly to the PC are four positions: **Pegawai Amanah System (PAS)**, **Pegawai Amanah Pengurusan (PAP)**, **Penolong Pengurus Cawangan (PPC)**, and another **Penolong Pengurus Cawangan (PPC)**. Below each of these two PPC positions, there are eight **Pegawai Amanah (PA)** roles, totaling sixteen PA roles reporting to the PC.

5. RESEARCH METHODS

This study uses the primary and secondary data as for data collection. Interview have been made with the staff of the Branch A in April –May 2015. The respondents are PA and PA. The main theme for the interview is to identify governance aspects and challenges.

6. ANALYSIS

6.1. Pegawai Cawangan

Based on the interview, there are several issues have been pointed out by the PC. Based on her explanation, there are several challenges that are faced by the branches. Among the problems are many sahabat left the AIM, payback problems and competitions. One of the reason for the problems are the competition among the branches as well as other government agencies. Other agencies that focus on microfinance and located nearby the branch and its blocks are Tekun, Bank Simpanan Nasional and MARA. Additionally, she also highlighted the segregation of the branches within the nearby areas may impact on the demand from the sahabat on their products.

6.2. Pegawai Amanah

The interview and comparison used as a tool to improve the branch and also the organization of AIM itself. The questions asked on several aspects including issues of sahabat who left the AIM, payback problems and other issues. So, the interview was made the staf which is all Pegawai Amanah (PA) that handle a block that consist about 300 until 340 Sahabat.

Respondents consists of 40 percent of males and 60 percent of female. In terms of educational level most of the staf which is PA are from Diploma which is 5 person followed by SPM 4 person, STPM 1 person and there is no PA has educational level from Bachelor. In addition, most of the staf has work with AIM for more than three years and just work with AIM KBR2 in three years below.

Based on the findings, 30 percent of PA has manage about 300 - 320 Sahabat that have a good perception with Sahabat. Then, 20 percent manage about 321 – 340 number of Sahabat has a normal and good perception with Sahabat and lastly half of the PA has manage 341 – 350 number of Sahabat which has a good perception with Sahabat.

Findings showed that most of PA does not have any problem with Sahabat since they have a normal and a good perception with Sahabat which is a positive perception. However, there is a large number of Sahabat that still left AIM for the last year which is over the target forecasted by the organization.

7. CONCLUSION

Findings demonstrated that the AIM has a very systematic governance structure from the high management level to the grass root, ie. from the centre, zones, branches and

blocks. However there are challenges including the competition with the other nearby branches and as well as other competitors including other government agencies. The situation indicates the need for integration in the decision related to locating of the branches, which is decided by the higher management level. In this case, branches are located near to each other.

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THEME: ISLAMIC MICROFINANCE, STRATEGIC MANAGEMENT AND IMPACT

STRATEGIC MANAGEMENT ANALYSIS OF MICROFINANCE SERVICES ON PERFORMANCE COMPANY: EMPIRICAL STUDIES ON SWAMITRA, INDONESIA

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ABSTRACT

This research analyzes business strategies and its influences to Swamitra Microfinance performance. This research builds a model and five hypotheses to answer the research problem. The research problem is the Swamitra Microfinance strategy to increase firm performance. Respondents of this research are 123 persons. Respondents are managers of Swamitra in Java. This research uses Structural Equation Model (SEM) under AMOS 4.01 program as analysis tools. The data analysis result of this research shows that the model research and the result can be accepted. The result of this research proves that competitiveness, human resources quality, organization culture, and product quality have positive and significant influence to business strategy. Moreover, business strategy has positive and significant influence to firm performance. The higher of intensity of competition, human resource quality, organization culture, and product quality then the firm performance will be higher through business strategy. Based on the results of the research could be taken theoretical implications that this research gives more justification for antecedents positively influence business strategy, i.e.: Intensity of Competition, human resource quality, organization culture, and product quality. Managerial implication of this research is suggestions to Swamitra to pay more attention to competitiveness because this factor is the most dominant factor to improve business strategy. Limitation of this research is using data only from Swamitra. Further researches need to develop research model in different microfinance like rural bank and add independent variable that influence microfinance business strategy.

Keywords: Intensity of Competition, Human Resource Quality, Organization Culture, Product Quality, Business Strategy, Company Performance.

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1. BACKGROUND OF THE STUDY

Indonesia is the fourth largest country in the world in terms of population with 250 million people, with 88% of them being Muslims, making it the largest Muslim population country (based on 2010 Indonesian census). However, Indonesia also has other religions including Protestants, Roman Catholics, Hindus and Buddhists. Indonesian economy is dominated by micro, small, medium enterprises (MSME's) which together constitute 99% of the total business. Micro enterprises themselves dominate 98.85% of total business absorbing 90.98% of the total labor force and contributing 57.12% to GDP in 2010 (Indonesia Bureau Statistics, 2011). These figures show that micro-businesses play a strategic role in Indonesia economy. The Indonesian banking institutions are categorized into commercial and rural banks. In Feb 2011, there were 122 commercial banks and 1822 rural banks. Of the rural banks, the ones that are Islamic are only 151 with 291 total bank offices⁸⁰.

Microfinance has become a global discourse that is believed by many to become an effective method to overcome poverty. Microfinance is an effective alternative approach to tackling poverty, tackle unemployment and inequality, and empower the local economy⁸¹. Experience in several countries suggests that the government set up a special agency dealing with financing for micro, with full support, both politically and financially. While in Indonesia until now there is no special institution that handles the financing for micro-enterprise. Although microfinance has been established since 100 years ago in Indonesia, but the financial services system that is not effective in empowering microfinance and alleviation poverty. Though this effort to support the majority (almost 95%) of business entities in Indonesia and trusted as economic actors in society that are resistant to national and international crisis.

Micro-enterprise, which is the informal sector of the economy are very large numbers of people and vulnerable. They have the potential to be developed, and if properly empowered can be up graded to small and medium enterprises, this means it will remove poverty in Indonesia. In an effort to encourage the development of microfinance is a strategic step that cannot be circumvented. Currently about 70% of the economic sector in Indonesia, which has a population of over 250 million is dominated by the informal sectors; this is a great opportunity for the development of micro-finance. So many agencies are targeting the micro-finance, which formally commanded by BRI with a very broad scope, and added more than 50,000 microfinance institutions (MFIs) are listed, but unfortunately there are still very few MFIs actually targeting the segment "the poor "and" the poorest". As a result, to date 51% of the total population yet to get access to formal financial institutions and earn US \$ 2 per day⁸².

⁸⁰ Masyita, Dian and Habib Ahmed, 2010, Why is Growth of Islamic Microfinance Lower than Conventional? A Comparative Study of the Preferences and Perceptions of the Clients of Islamic and Conventional Microfinance Institution's in Indonesia, 8th International Conference on Islamic Economics and Finance, Qatar

⁸¹ Tjahyadi, Harry. (2013). Microfinance in Indonesia : Challenges and Opportunities

⁸² Tjahyadi, Harry. (2013). Microfinance in Indonesia : Challenges and Opportunities

There are two things that make microfinance becomes an important role, first, as an instrument in order to overcome poverty. Poor people generally have micro enterprises. Terminology of the World Bank, they are referred to as economically active poor or micro entrepreneurs. In the configuration of the Indonesian economy, more than 90% of business units are micro enterprises. Developing micro enterprises is a strategic step because broad bases will realize development or development through equity. They need capital to develop their business capacity. With increased effort (to small-scale enterprises), will effectively address the poverty suffered by themselves and should help people in the poor category. On the other hand, micro-finance scheme is in accordance with the needs of low-income people. Secondly, to move the economy society that has a positive impact on the Indonesian economy. For example, if in one village there are 70 groups with a total of 1500 heads of households earn an average loan of IDR 1 million, there will be fresh funds amounting to IDR 1.5 billion, which is then spent as a commodity, then the economy of the village will turn the wheels of the economy moving which will have a multiplier effect to the economy of Indonesia.

Banks are required to distribute 20% of the loan portfolio for small business loans (KUK), the volume of bank loans extended to small businesses and cooperatives increased from year to year, even exceeding the provisions required by Bank Indonesia. But in reality, not all of these loans in accordance with the goals and objectives KUK. Sometimes, KUK distribution based solely on the efforts of banks to avoid sanctions if it cannot meet the provisions of the KUK. Some things that cause this condition, the first, banks are more interested in channeling credit to medium and large scale businesses, which generally have better management and credit guarantee definite. Second, many banks have limited human resources trained specifically to deal with small-scale borrowers in very much.

Cooperatives and small businesses often do not obtain financial support from the government and the more difficult to grow and compete in the market competition at both urban and rural. On the other hand, cooperative efforts and micro finance institutions to raise capital in society are often hampered by a lack of public trust in these institutions. As a result, traders or small entrepreneurs are always in a state of lack of working capital, resulting in a business they cannot develop as expected.

As the bank with the mission of development of cooperatives and small businesses as well as the majority-owned by the cooperative movement, Bank Bukopin deeply understand this condition and seeks to pave a new breakthrough concept, which is based on modern banking management and cutting-edge technology. The concept of partnership built Bank Bukopin with cooperatives or microfinance institutions is known as Swamitra..

Thus, Swamitra is actually the name of a form of partnership between Bank Bukopin with cooperatives or microfinance institutions that utilize the network technology in conducting financial transactions through outlets Swamitra. The word Swamitra itself comes from the Jawi language, "Swa" meaning themselves, and "Mitra" which means cooperation. So Swamitra means of cooperation on their own (without compulsion) with

the principles of togetherness and mutual benefit. As for the goals to be achieved by Swamitra are as follows:

1. Develop a savings and loan business among cooperative members and clients of microfinance institutions in order to spur business growth in order to improve the welfare of its members and the surrounding community.
2. Opening up opportunities for cooperative access to capital and microfinance institutions that have faced many difficulties in working with banks or other financial institutions.
3. Creating networks among Swamitra outlets throughout Indonesia to produce:
 - High efficiency
 - Greater transparency and control in the management of funds
 - Security transactions
 - Greater monetary transactions.

Since the beginning of the formation, existence Swamitra program seems to get a positive response from the public. The principle of solidarity and mutual benefit in Swamitra actually applied. This is evidenced by the ease and directly lead its consumer awareness (SMEs) so Swamitra has much to contribute in developing the social economy. In simple terms the extent to which the benefits provided by the Swamitra can be seen from the increasing number of branches Swamitra established in these areas and the number of its members are constantly increasing. Please note that until the end of December 2014, the number of office has reached 387 outlets across Indonesia. To see the increase of growth Swamitra itself can be seen from the development of the total assets, customer deposits, Time Results of Operations (SHU), the number of debtors, and the number of customers. In the following table are presented Swamitra development in Indonesia⁸³.

Table 1.1 The Development of Swamitra

Explanation	Dec 2013	Dec 2014	Growth
Total Assets (IDR Million)	241.825	297.191	22,9% Δ
Member Loans (IDR Million)	200.609	229.349	14,3% Δ
Member Deposits (IDR Million)	118.142	145.163	22,9% Δ
Business Results (SHU) (IDR Million)	3.103	9.481	205,5% Δ
Total Debtor	29.933	32.600	8,9% Δ
Total Customer	104.466	116.017	11,1% Δ
BDR	29,46%	24,20	-5,26%

⁸³Annual report, Bank Bukopin, Swsys pgs. 124-167

Source: Swasys Bank Bukopin, 2014

According to data from Bank Indonesia (2005) of 42 million micro, small, and medium enterprises, only about 13% who have access to banking, while 87% still rely on their own capital. Of the 13% that, generally classified as medium-sized businesses with business conditions are relatively better, both in terms of management, business prospects, and quality of human resources and technology. In addition, the levels of financing needs are also relatively large, so it is quite economical to get financing from banks. For this reason the existence of a financial institution is urgently needed by small micro-enterprises. Actually, the financial institution that already exists and has long been familiar with the small micro businesses in the villages, in the form of Micro Finance Institutions (MFIs). Various types of MFIs which have been growing and developing in society such as rural banks (BPR), Sharia Rural Banks (BPRS), Credit Unions (KSP), Baitul Maal wa Tamwil (BMT), and various types of Self Help Groups (KSM). Various types of MFIs that have proven ability and toughness to help finance micro, small scattered villages (Al-Jufri, 2005). In Table 1.1 and Table 1.2 below will be presented an overview of national SME loans and credit needs of SMEs unserved.

Table 1.2 Indonesian SMEs Credit Data

No	Remarks	2013 (IDR trillion)	2014 (IDR trillion)	Developments
1	SME loans	213,7	282,8	32,34% Δ
	a. Micro-enterprise Credit	101,3	127,6	25,96% Δ
	b. Small-enterprise Credit	50,7	72,4	42,80% Δ
	c. Medium-enterprise Credit	61,7	82,8	34,2% Δ
2	Total Banking Loans	437,9	553,6	26,42% Δ
3	The share of Micro Credit to Total Credit	23,13%	23,05%	-0,08%
4	Growth (%)			
	a. SME loans	31,8	32,5	2,20% Δ
	b. Banking loans	18,0	26,4	46,67% Δ

Source : Bank Indonesia (2014)

From table 1.2 above can be explained that SME loans increased from 101.3 trillion to 127.6 trillion. Growth of SME loans increased from 31.8% to 32.5% and for bank credit rose high enough from 18.0% to 26.4%. From these data we can conclude that lending to SMEs actually has great potential and is very promising.

Table 1.3 Needs of SMEs Loans Not Served

	number of SMEs	Loan average (IDR)	Total Loan (IDR)
The needs of SME Loans	42 million	5-6 million	210-252 trillion
Have Borrowing from Bank:			
- BRI Unit Desa	3,2 million	5,4 million	17 trillion
- Non-BRI Unit Desa	2,4 million	4,4 million	11 trillion
Needs of un-served Loans	36,4 million		182-224 trillion

Source : Bank Indonesia (2014)

Meanwhile, from Table 1.2 it is known that the loan need not reach USD 182-224 billion. Data obtained from Bank Indonesia shows that of the approximately 42 million SMEs in Indonesia, only 14% new who has access to the bank and the balance of 87% has not been served by the bank. Such data can be seen in Table 1.3 below.

Table 1.3 SMEs in Indonesia which has had access to the bank

Number of SMEs	Able to Access Bank	Debtor
42 million	a. 5.6 million SMEs (13%) has been borrowed in Bank b. 87% have not had access to bank loans	BRI Unit : 3,2 million debtor a. Since 1895 b. Commercialization of BRI since 1984 c. There +/- 4000 units in Indonesia Rural Bank (BPR) : 2 million debtor a. Since the 19th century (People's Credit Bank) b. Being Pakto BPR since 1988. c. There 2.157 offices in Indonesia BKK etc. : 0,4 million debtor

Source : Bank Indonesia (2014)

Behind the MFI superiority, must also be admitted that there are some disadvantages, among other things: first, lack of financial resources. For MFIs, funding is very important, not only to finance their activities, but also became a major commodity as a financial institution. During this time, the MFI has only two main sources of funding capital and public funds. Both capital and public funds raised from savings and deposits are limited. MFI capital generally only about IDR 500 million to IDR1 billion, while raising funds for the community, MFIs have to compete, both with each other MFIs or commercial banks (Bank Indonesia, 2014).

Second, the high overhead costs. Because customers are handled MFI is small customers, the operational cost is also high, which ultimately will have an impact on the interest rate of credit. Third, the high credit risk. Generally small customers are not enough professionals in managing their business, more so for those who are just starting a business. This is reflected in the administrative system that has not been regular; business knowledge is still limited, and sometimes too easy to move this type of business. Fourth, the low quality of human resources (HR) in MFIs, both manager and employee section. Though the success of a business is often determined by the ability of its human resources. In fact, MFIs sometimes still managed directly by the owners, who do not have adequate knowledge of banking. Quality employees are also low because MFIs are not able to hire employees who are highly educated or experienced (Al-Jufri, 2014).

In view of the above, shows the potential and the problems experienced by MFIs, as well as conditions such as increasing competition faced by Swamitra. Therefore, Swamitra required to be competitive in order to develop or at least maintain its market share and win the competition. This means Swamitra need to create the right business strategy in order to improve its performance. Without any attempt to formulate future strategies appropriately then it is not impossible the existence of Swamitra will not last long.

2. LITERATURE REVIEW

2.1. Business Strategy

There are many opinions among practitioners, researchers, and theorists of the strategy itself. The strategy can be interpreted simply as a means to an end. The strategy can also be seen as a direction or a view that will be implemented and work patterns to be applied by a company. The company strategy is the basis of reference in determining the next steps to meet the high level of competition. This is in line with the opinion of Porter (1992) which states that the strategy is a very important tool to achieve competitive advantage. Although the determination of strategy becomes an important key to the success of the company, but of making decisions about the company's strategy is not easy because it needs to pay attention to some of the underlying environmental conditions. Ferdinand (2002) also pointed out that the performance of a strategy is not solely determined by how the implementation of the strategy carried out continuously, but also by some good process that accompanies the development of the strategy..

Barner (1991) states that companies gain sustainable competitive advantage by implementing strategies that exploit the strengths, opportunities to respond to the environment, and at the same time neutralize external threats and minimize internal weaknesses. Most research on resource-resource of sustained competitive advantage has been focused on the efforts to identify and discuss the opportunities and threats of a company, describe the strengths and weaknesses, as well as analyze how all of this adjusted with strategy will be selected.

Many general strategies are defined as the core idea of how companies can compete as well as possible or a business unit means to protect themselves as well as possible to the

pressure of competition. Porter explains that there are three generic strategies that can create competitive advantage for the company overall cost advantage (low overall cost leadership), differentiation and focus. Overall cost advantage is the company's efforts to seek a lower cost than the competitors. Differentiation strategy used by companies to attract customers who are sensitive to certain attributes of a product. By giving the uniqueness of the product attributes, it is expected to create customer loyalty. The attributes can be shaped distribution network, customer service, technology and others. while the focus of the strategy is the concentration of activity in a group of buyers, segment specific product line or region. By applying the focus strategy, the company will be able to provide services more efficiently and effectively (Porter, 1992).

Research Hashim et al (2001) have shown that the effect on the business strategy in the performance of small-medium scale enterprises in Malaysia. The effectiveness and success of the business strategy depends on the type of business that they develop. Small and medium scale enterprises that run business strategies try to achieve better performance. Perusahaan small scale to develop new strategies to address the changing business environment that is visible from increased competition, both nationally and internationally, increased internationalization of the market, and new global competitors. Furthermore, Hashim et al (2001) also explains that small and medium enterprises (entrepreneurs) who adopt a strategy of focus and differentiation will be able to run the company and gain increased performance better than companies that do not use these strategies.

2.2. Intensity of Competition

Almost all business sectors, competition becomes unavoidable. Competition arises due to the establishment of other companies that become competitors. Intensity of competition refers to the level of competition faced by the company should be in the global market so that the necessary models contingency approach. Specifically, the intensity of competition related to the number of local competitors, the frequency of the use of marketing techniques to gain market share, the number of competitors who use such techniques, and the intensity of the use of such techniques (Homburg et al, 2002).

Jayachandran et al (1999) also has a similar view to defining the intensity of competition aggressiveness speed of action and reaction that they show to compete on the market. The intensity of competition is reflected dal; am changes that often occur and aggressiveness in the activities of the marketing mix, for example, price and advertising affect (profit margin). Intensity of competition arisen as a consequence of the increasing number of competitors-competitors are emerging to compete for market share there.

Research Homburg et al. (2002) shows that the intensity of competition affect the company's business strategy. In the face of competition affect the company's business strategy. in the face of increasingly tough competition, companies need to formulate a new strategy that leads to a service oriented where the service element into the key. Previous research by Baird et al (1994) which examines the small firms in entering the international strategy also found that the intensity of the competition which is indicated

by the number of new competitors and the level of industry development affecting the company strategy. Other studies such as Hashim et al (2001) also states that the fiercer competition affects companies to create a more innovative company strategies and integrative.

Based on the description and the results of the above study, the proposed hypothesis is:

Ha : The intensity of competition has positive and significant effect on business strategy

Ho : Intensity of competition has no effect and no significant effect on business strategy

2.3. Human Resource Quality

To survive and win the competition in the business environment, a company must be able to develop a new strategy that is different from the strategy in the past. This can only be created if these companies are able to develop its human sumber. Company or organization basically consists of a set of individuals working together to achieve a certain goal. The ability of the company's human capital in the form of the company's employees determine the success of the company. Therefore, it is no exaggeration when the resources in the form of the employees is an important asset of competitive advantage for the organization at this time. Pfeffer (in Wilberforce, 200) adds that since technology, finance, marketing and other resources discussed, there is another crucial factor that is often overlooked by companies, namely the employees of the company. The element of human capital is an asset that should be looked at seriously by the company.

The ability of service companies to adopt business strategies for the service industry depends on the human resources available in the company. Companies that support the product with the service must have personnel capable in dealing with customers. Research Homburg et al. (2002) explains that the company's human resources can be divided into full-time and part-time employees. Full-time employees are better than part-time employees to provide more consistent and more commitment than part-time employees. While, part-time employees are less able to meet their requirements in service interactions. Part-time employees difficult to build strong customer relationships, because fewer contacts with them. Part-time employees are usually paid less so as to make, motivation part-time employees become less. Based on this Homburg et al. (2002) concluded that the type and number of employees (full time and part time) would lead to an influence on the business strategy of the company developed service orientation.

Meanwhile, Walker (1998) stated that the integration of HR strategies, processes, and human resources functions with business is needed for maximum impact on business. HR processes are no longer owned or controlled by their inherent human resources staff in business management. HR staff functions merged within the framework of business management to achieve the necessary impact. HR activities within the company must directly support the business strategy and satisfaction of customer needs. HR functions must be sufficiently responsive to management, customer-oriented, or even defined as a partner with management. Its function is an integral part of management and direct and

implement the needed changes. SDM is central processes in implementation change its business strategy. Therefore, the process of recruitment, selection, appointment and other staffing program is essential in adjusting the quality of the resources.

Based on the description and the results of the above study, the proposed hypothesis is:

Ha : The quality of human resources has positive and significant effect on business strategy

Ho : The quality of human resources is not positive and not significant influence on business strategy

2.4. Corporate Culture

Corporate culture is a set of values and the elements that determine the identity and behavior of an organization. Deshpande et al (1993) states that organizational culture is a pattern of shared values and beliefs that help a person to understand the functioning of the organization and then provide them with the norms perilaku within the organization. Kohli and Jaworski (1990) explains that market orientation is also an organizational culture can be used as a tool to face the competition. Research shows the positive influence between corporate culture (market orientation) and corporate performance.

Cameron and Freeman (1991) in Deshpande et al (1993) explains that because the culture is defined by the values, assumptions, and intepetasi of members of the organization, and because it is generally of the dimensions set these factors at the level of psychology and organizational model of the type of culture can be obtained. In the view of this information in the organization culture interpreted by individuals in the context that they understand. More specifically, the model values show four types of cultural competition in which the accepted belief associated with the dominant organizational attributes, leadership styles, organizational linkage mechanism, and overall strategic emphasis.

Four classifications developed culture Deshpande et al (1993) and Brown and Dodd (1998) show varying levels of business performance in a competitive market. Culture market, characterized by its emphasis on competitive advantage and suprioritas market, is likely to produce the best business performance. At the other extreme, we expect a hierarchical culture, with its emphasis on predictability and tidy operation in bureaucratic organizations, to contribute to business performance is relatively unsatisfactory. Provide a focus on culture adhokrasi on innovation, entrepreneurship, and risk-taking, hopes will have a better market performance than the clan culture, where loyalty, tradition and emphasis on internal maintenance can lead to a lack of attention to changing market needs.

Research conducted by Bates et al (1995) showed that the culture has a reciprocal relationship with the company strategy. Culture in which the company will be used as a guide in completing the task at hand and used to achieve company goals. This means that culture as a pattern of values and beliefs that propagated that help individuals understand

the function of the organization and thus giving them norms of behavior within the organization. For executives struggle to manage change in corporate culture has become an important tool. They are aware that the strategy or structural rearrangement can not occur significantly if it is not driven by organizational values and norms of behavior. This is due to the culture as a set of habits and ways of thinking that has been done for generations, feelings and responses, the character of how a given society find their problems at a particular moment.

Based on the description and the results of the above study, the proposed hypothesis is:

Ha : Corporate culture has positive and significant effect on business strategy

Ho : Corporate culture has no positive and no significant effect on business strategy

2.5. Product Quality

Product quality is often defined as the perception of superiority or perfection of the product compared with competitors' products from the market perspective. Garvin (in Sethi, 2000) states that there enmpat dimension of the quality of the product that is aesthetic, performance, life, workmanship. The first dimension is aesthetic emphasizes how far the product is memmiliki interest in appearance (outer shape attractive product). Customers will quickly perceive that the product that bad appearance means indicates poor product quality as well. The second dimension is a performance emphasis on how well the usefulness of the product in accordance with the expected functions. Customers buy a product because of the functions inherent in the product. When the customers assume that the products bought in accordance with the expected functions, then the product will be called quality. The third dimension, namely life emphasizes on how long the rest of the product can be used before the refurbishment. A quality product will be said if customers perceive that the product has durability in use. The fourth dimension, workmanship emphasis on how well the product is made. This dimension emphasizes the manufacturing process.

Tjiptono (1997) explains that the actual products and services is difficult to distinguish because of the purchase of a product is often accompanied by specific services. In general, there are four characteristics that differentiate products with services, namely services are intangible, services are inseparability, variability is services, and services are perishability.

One of the most important things that need to be considered by the company at the time of planning to make a product is that the product should have the advantage. Advantages of a product must not only be compared with competitors but should be synergized with customer needs. Cooper and Kleinschmidt (1990) states that the benefit of a product is determined by the uniqueness of the product and the unique benefits it can give the product to the customer. Furthermore, Cooper and Kleinschmidt also stated that in addition to the uniqueness of the product and the benefits, advantages of the product is also determined by the level of continuous product innovation, product capabilities to

meet customer needs, the ability of the product to reduce customer costs, technological sophistication of products, and the design of the product itself.

Liu (2000) in his study explains that financial institutions have a variety of products and services that can be offered, and it will provide its own strategy to introduce products and services to market. Strategies undertaken include service strategy, promotion strategy, and the strategy of the bank rate.

Based on the description and the results of the above study, the proposed hypothesis is:

Ha : Product Quality has positive and significant effect on business strategy

Ho : Product Quality has no positive and no significant effect on business strategy

2.6. Company Performance

The main objective of the management of a company is to achieve improved performance. The company's performance indicates the size of the achievements obtained by a company after the company doing various activities of the company's overall process. From various literature review on the company's performance can be seen that the discussion about the performance of companies in general emphasis on profitability is the best indicator to identify the company has to do something with it benar.selain, profitability is also seen as one measure of the success of the company. The next Hashim et al (2001) also explains that the profit margin, return on assets, return on equity, return on sales is common indicators used in measuring financial profitability. These indicators will make companies easier to measure performance.

Shane and Kolvereid (1995) suggested that there were four corporate performance measurement, namely (1) the average annual growth in the number of full time employees since the company was founded, (2) growth in sales and revenues during the last financial year, (3) financial growth during fiscal year from a year earlier, and (4) the profitability of the company relative to competitors. Employee growth can be measured by reducing the number of employees at the moment with the amount at the time the company was founded and averaging the number was over the years the company operates. The annual profitability growth was measured by asking what percentage up or down and the loss or profit before taxes recorded in the past year. The relative profitability is measured by asking the current performance relative to its competitors.

Research Baird et al (1994) proved that the company's business strategy will have a direct impact on the performance of companies that can be seen in the return on sales and sales growth. The strategy included therein means or methods used to win the competition, is a tool that can be used to improve the performance of the company. The same view was stated Oleg Ferdinand (1999), which explains that the company's performance is a factor commonly used to measure the impact of a company's strategy. The company's strategy has always aimed to produce the performance of the company such as sales volume, market share, and the rate of sales growth and financial performance.

Based on the description and the results of the above study, the proposed hypothesis is:

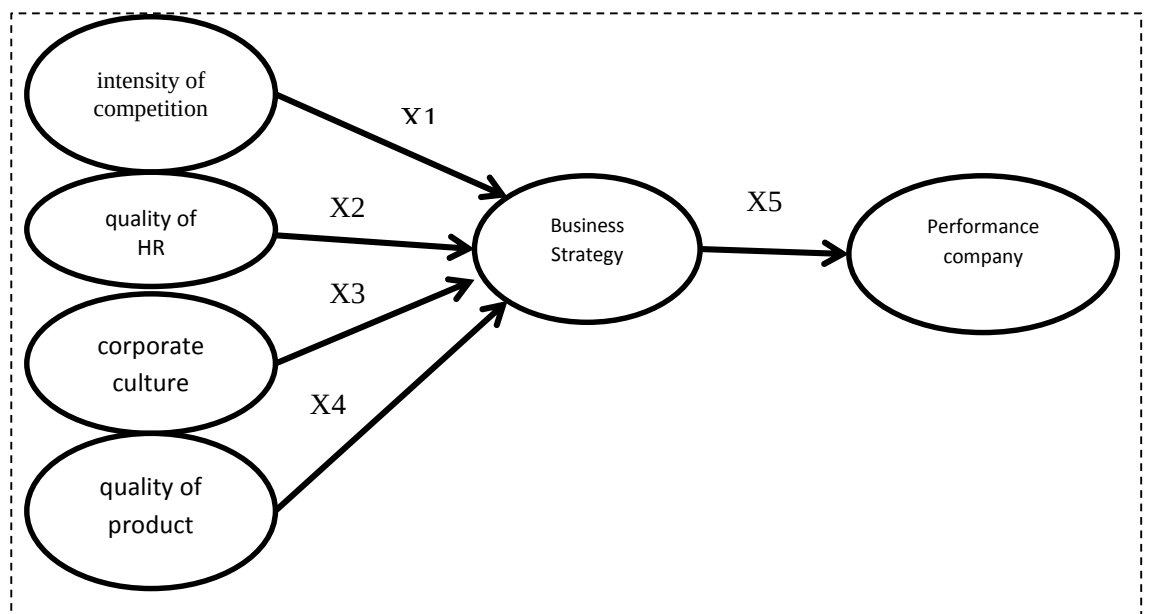
Ha : Company performance has positive and significant effect on business strategy

Ho : Company performance has no positive and no significant effect on business strategy.

3. CONCEPTUAL FRAMEWORK

In this conceptual framework, this is intended to address the problem, the proposed four variables that influence business strategy Integration, the intensity of competition, the quality of human resources, corporate culture, and the quality of the product. Relationship between the four variables with the business strategy is based on previous studies such as **Cooper** (1994), **Slowikowski et al** (1997), **Homburg** (2002), and **Walker** (1998). In addition, this research also proposed the relationship between business strategy and corporate performance based on the research Hashim et al (2001) and Homburg (2002). Furthermore, the conceptual framework in this study is as shown in figure 1.5.

Figure 1 Conceptual Framework



Source : Cooper (1994), Slowikowski dkk (1997), Hashim dkk (2001), Homburg (2002), Walker (1998)

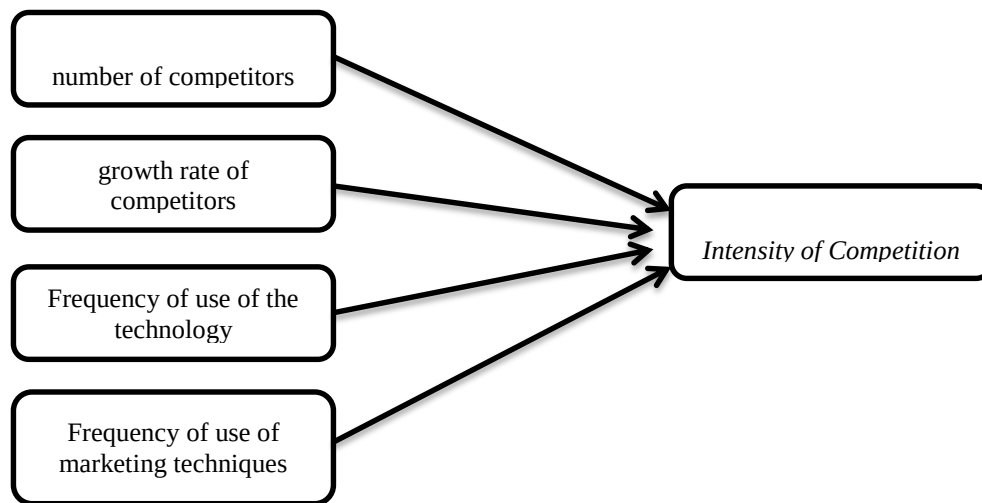
4. VARIABLE INDICATORS

4.1. Intensity of Competition

The intensity of competition is the level of competition faced by the company in the area of the region and shares the same market (Homburg et al, 2002). Indicators of the intensity of Competition are:

1. The number of competitors is the number of competing companies who play in market share and the same region.
2. The growth rate of competitors is the level of growth and development of the company's competitors who play in market share and the same region.
3. Frequency of use of the technology by a competitor is a competitor in the rate applying technology.
4. Frequency of use of marketing techniques is how often a competitor using marketing techniques to face competition.

Figure 2 Competition Intensity Variable Indicators



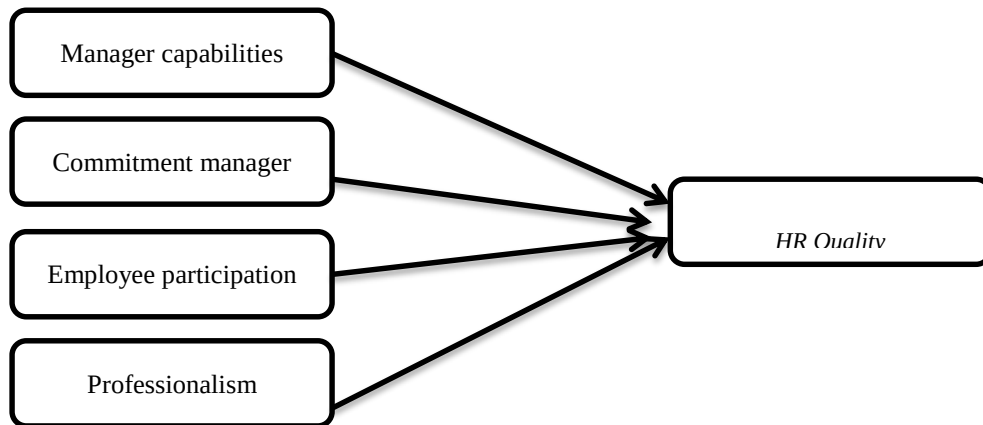
Source : Homburg (2002), Baird et al.

4.2. Human Resources Quality

Corporate human resources is a human resources company in this study is represented by the manager. Indicators of the quality of human resources are:

1. Manager capabilities are the skills, knowledge, and ability of the manager who give economic value to the company.
2. Commitment manager is a manager's commitment to the organization and their ability to deliver results for companies.
3. Employee participation is the participation of employees of the company in providing input for the formulation of corporate strategy.
4. Professionalism is the professional attitude of the employees of the company with regard to the work that must be lived.

Figure 3 Variable indicator of HR Quality



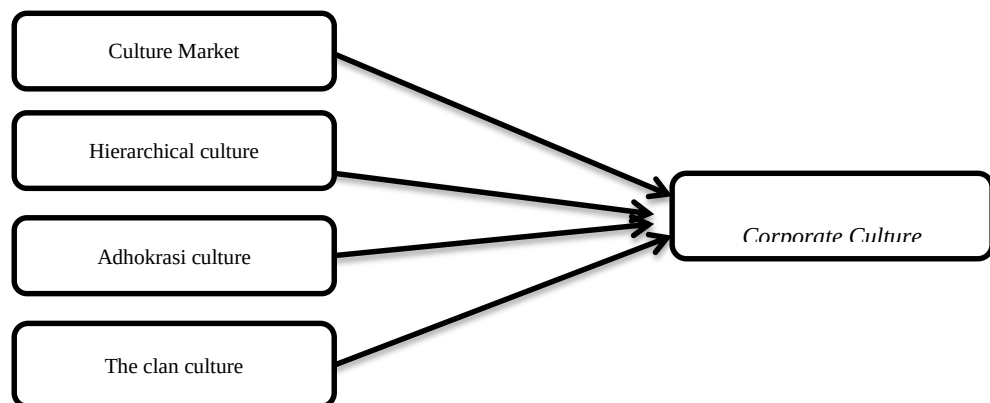
Source : Wilberforce (2000), Walker (1998)

4.3. Corporate Culture

Corporate culture is a set of values and the elements that determine the behavior of an organization's identity daan (Despande et al, 1993). Indicators of corporate culture are:

1. Culture market marked a corporate culture that emphasizes the effort or commitment of the company to win the competition.
2. Hierarchical culture is a corporate culture that is more emphasis on predictability and tidy operation in a bureaucratic organization.
3. Adhokrasi culture is a corporate culture that gives focus on innovation, enterprenuership, and risk-taking in order to produce a better market performance.
4. The clan culture is loyalty or closeness between employees of the company to jointly meet the needs of the market.

Figure 4 Variable Indicators of Corporate Culture



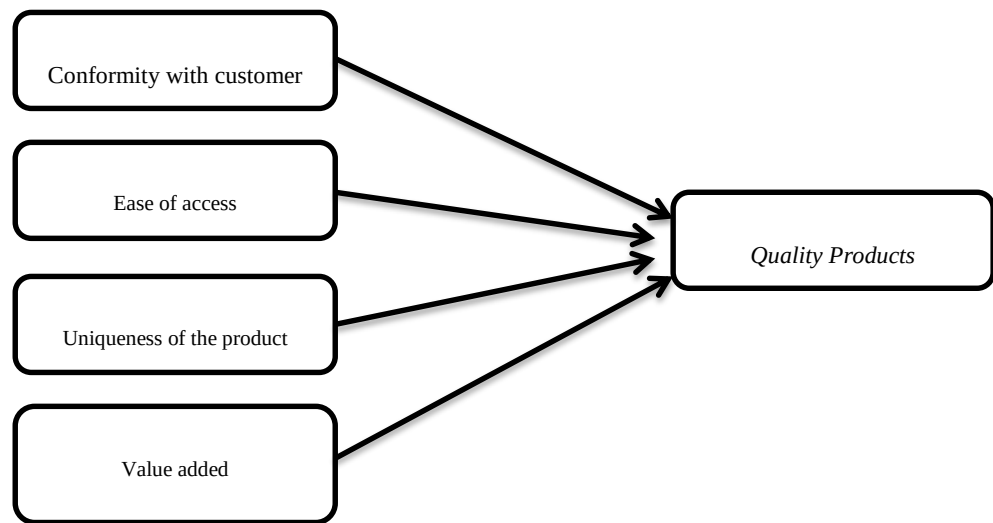
Source : Deshpande dkk (1993), Brown and Dodd (1998)

4.4. Product Quality

Product quality is a relative choice of products and services offered by the company. This refers to the difference between the company and the most important competitors of various products offered. Indicators of the quality of the product are:

1. Conformity with customer expectations is a match between the benefits provided these products with customer expectations for such products.
2. Ease of access is the ease in accessing or using the existing benefits in the product.
3. The uniqueness of the product is a better value of the product when compared to other products in the market.
4. Value added is the added value provided by the product without reducing its main benefits.

Figure 5 Variable indicator of Quality Products



Source : Sethi (2000)

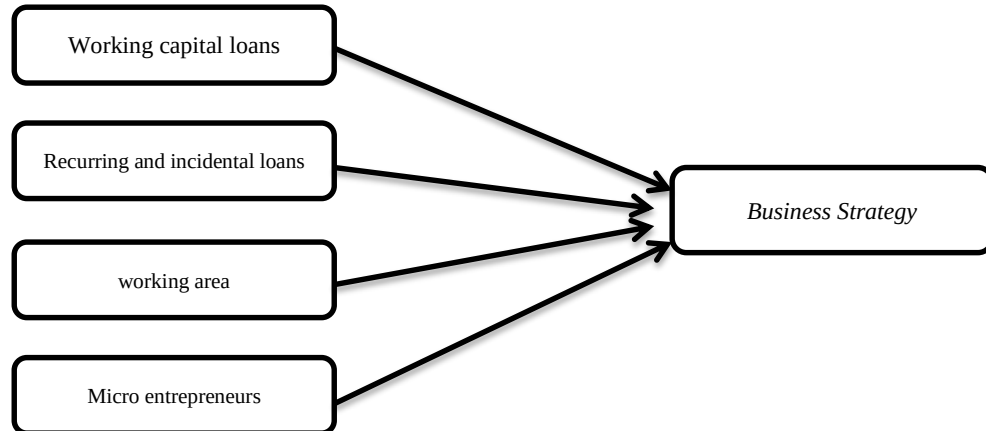
4.5. Business Strategy

Business strategy is a strategy that is used as a reference for fundamental steps are planned to be made in accordance with the objectives of the company (Porter, 1980). Indicators of the company's business strategy are:

1. Working capital loans are Swamitra strategy to offer working capital loans to clients.

2. Recurring and incidental loans are Swamitra strategy to issue loans that can be paid in installments every 3 or 4 months in accordance with the schedule of harvesting farmers, fishermen, or farmers.
3. The working area is Swamitra strategy to serve its customers in the scope of its working area within a radius of 5km from office Swamitra.
4. Micro entrepreneurs are Swamitra strategy to serve the customers who come from small entrepreneurs.

Figure 6 Variable indicator of Business Strategy



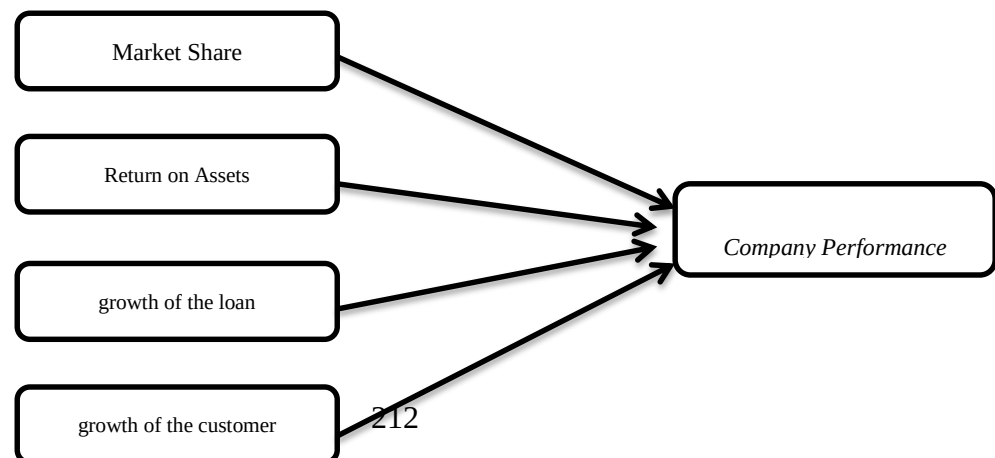
Source : Porter (1980)

4.6. Company Performance

Performance of the company is a factor commonly used to measure the level of success of the company (Ferdinand, 2000). Indicators of the performance of the company are:

1. Market share is the level of market coverage successfully developed the company.
2. Return on assets is the total return divided by total assets.
3. The growth of the loan is a loan growth rate compared to previous years.
4. The growth of the customer is the customer growth rate compared to previous years.

Figure 7 Variable Indicators of Company Performance



Source : baird et all (1994), Ferdinand (2000)

5. OPERATIONALIZATION VARIABLE

Operationalization variables to be used in this research can be seen in Table 5.1 below.

Table 5.1 Operationalization Variables

Variables	Indicators	Scale
The intensity of competition is the level of competition faced by the company in the area of the region and share the same market	The indicator used is X1: Number of competitors X2: Growth competitor X3: Frequency of use of technology X4: Frequency of use of marketing techniques	Scale of X1 : 1-10 Scale of X2 : 1-10 Scale of X3 : 1-10 Scale of X4 : 1-10
The quality of human resources is human resources company in this case is the manager	The indicators used are X5: Capability Manager X6: Commitment manager X7: Participation of employees X8: Professionalism	Scale of X5 : 1-10 Scale of X6 : 1-10 Scale of X7 : 1-10 Scale of X8 : 1-10
Corporate culture is a set of values and elements that determine the identity and behavior of an organization	Indicators used are X9: Kultur market X10: hierarchical culture X11: culture adhokrasi X12: clan culture	Scale of X9 : 1-10 Scale of X10 : 1-10 Scale of X11 : 1-10 Scale of X12 : 1-10
The quality of products is relative choice of products and services offered by the company	Indicators used are X13: compliance with customer expectations X14: ease of access X15: the uniqueness of the product X16: value added	Scale of X13 : 1-10 Scale of X14 : 1-10 Scale of X15 : 1-10 Scale of X16 : 1-10
Business strategy is a strategy that is used as a reference in order to achieve the company's goals	Indicators used are X17: working capital loans X18: revolving loan and incidental X19: working area X20: micro-entrepreneurs	Scale of X17 : 1-10 Scale of X18 : 1-10 Scale of X19 : 1-10 Scale of X20 : 1-10
The company's performance is a factor that is used to measure the success of the company	Indicators used are X21: market share X22: return on assets X23: loan growth X24: customer growth	Scale of X21 : 1-10 Scale of X22 : 1-10 Scale of X23 : 1-10 Scale of X24 : 1-10

6. RESEARCH METHODOLOGY

The target of this research is Swamitra microfinance institutions (inter-firm partnership with Bank Bukopin). In this study the data obtained directly through a mail survey in which respondents Swamitra managers by questionnaire. Via mail survey questionnaire is compiled in a list of closed questions. Statement of the questions in the questionnaire was made by using a scale of 1-10 to obtain data that is interval strongly disagree-strongly agrees. The sampling technique used in this study is that the whole population census method was used as a sample. The analysis technique used in this research is the analysis of the Structural Equation Modeling (SEM) with AMOS software.

7. RESULTS

The population used in the study of 150 respondents who are managers Swamitra Se-Java. To test the model of this study, the researchers distributed 150 questionnaires to all managers Swamitra in Java. The overall results of the questionnaires returned to the researchers. But of 150 questionnaires were returned, only 123 questionnaires that can be used as a data input next. This is because as much as 27 questionnaires are not answered in full. Furthermore, of the 123 questionnaires will be grouped to determine the identity of the people who responded to the questionnaire. Based on the research results, obtained the identity of respondents ranging from the proportion of respondents by age, educational level and length of employment of the respondents.

Table 7.1 Distribution of Respondents by Age and Sex

Age	Sex		Total	Percentage
	Male	Female		
<30	47	0	47	38,21%
31-40	51	4	55	44,72%
41-50	17	3	20	16,26%
>50	1	0	1	0,81%
Total	116	7	123	100%

Source: Primary data processed (2015)

Table 7.2 Distribution of Respondents by Education Level and Gender

Education Level	Sex		Total	Percentage
	Male	Female		
Senior High School	2	0	2	1,63%
Diploma	56	2	58	47,15%
Degree	58	5	63	51,22%
Total	116	7	123	100%

Source : Primary data processed (2015)

7.1. Confirmatory Factor Analysis Variable Intensity of Competition and Quality of Human Resources

Confirmatory factor analysis aimed at testing unidimensionalitas of dimensions forming respective latent variables.

Table 7.3 Results of testing the feasibility of the model
Competition Intensity Variable construct and Human Resources Quality

Criteria	Cut of Value	Result	Evaluation
Chi-Square	Small, χ^2 with df : 19=30,144	19,802	good
Probability	$\geq 0,05$	0,407	good
GFI	$\geq 0,90$	0,961	good
AGFI	$\geq 0,90$	0,926	good
TLI	$\geq 0,95$	0,996	good
CFI	$\geq 0,95$	0,997	good
CMIN/DF	$\leq 2,00$	1,042	good
RMSEA	$\leq 0,08$	0,019	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.407 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrix of the covariance matrix of the estimated population dpaat accepted.

7.2. Confirmatory Factor Analysis Variable Quality HR and Corporate Culture

Table 7.4 Results of testing the feasibility of the model
The construct of Quality of Human Resources and Corporate Culture

Criteria	Cut of Value	Result	Evaluation
Chi-Square	Small, χ^2 with df : 19=30,144	28,001	good
Probability	$\geq 0,05$	0,083	good
GFI	$\geq 0,90$	0,948	good
AGFI	$\geq 0,90$	0,901	good
TLI	$\geq 0,95$	0,959	good
CFI	$\geq 0,95$	0,972	good
CMIN/DF	$\leq 2,00$	1,474	good
RMSEA	$\leq 0,08$	0,062	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.083 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrixes of the covariance matrix of the estimated population is acceptable.

7.3. Confirmatory Factor Analysis Variable Culture Company and product quality

Table 7.5 Results of testing the feasibility of the model

Culture Company constructs and product quality

Criteria	Cut of Value	Result	Evaluation
Chi-Square	Small, χ^2 with df : 19=30,144	23,007	good
Probability	$\geq 0,05$	0,237	good
GFI	$\geq 0,90$	0,959	good
AGFI	$\geq 0,90$	0,922	good
TLI	$\geq 0,95$	0,985	good
CFI	$\geq 0,95$	0,990	good
CMIN/DF	$\leq 2,00$	1,211	good
RMSEA	$\leq 0,08$	0,042	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.237 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrixes of the covariance matrix of the estimated population is acceptable.

7.4. Confirmatory Factor Analysis Variable intensity of competition and Business Strategy

Table 7.6 Results of testing the feasibility of the model

Construct the intensity of competition and business strategy

Criteria	Cut of Value	Result	Evaluation
Chi-Square	Small, χ^2 with df : 19=30,144	24,306	good
Probability	$\geq 0,05$	0,091	good
GFI	$\geq 0,90$	0,925	good
AGFI	$\geq 0,90$	0,857	quite good
TLI	$\geq 0,95$	0,995	good
CFI	$\geq 0,95$	0,998	good
CMIN/DF	$\leq 2,00$	1,332	good
RMSEA	$\leq 0,08$	0,073	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.091 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrixes of the covariance matrix of the estimated population is acceptable.

7.5. Confirmatory Factor Analysis of Variable Quality of Human Resources and Business Strategy

Table 7.7 Results of testing the feasibility of the model

The construct of Quality of Human Resources and Business Strategy

Criteria	Cut of Value	Result	Evaluation
Chi-Square	Small, χ^2 with df : 19=30,144	19,661	good
Probability	$\geq 0,05$	0,415	good
GFI	$\geq 0,90$	0,963	good
AGFI	$\geq 0,90$	0,929	good
TLI	$\geq 0,95$	0,997	good
CFI	$\geq 0,95$	0,998	good
CMIN/DF	$\leq 2,00$	1,035	good
RMSEA	$\leq 0,08$	0,017	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.415 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrixes of the covariance matrix of the estimated population is acceptable.

7.6. Confirmatory Factor Analysis of the corporate culture and Variable Business Strategy

Table 7.8 Results of testing the feasibility of the model

Construct corporate culture and Business Strategy

Criteria	Cut of Value	Result	Evaluation
Chi-Square	Small, χ^2 with df : 19=30,144	19,960	good
Probability	$\geq 0,05$	0,397	good
GFI	$\geq 0,90$	0,963	good
AGFI	$\geq 0,90$	0,931	good
TLI	$\geq 0,95$	0,996	good
CFI	$\geq 0,95$	0,997	good
CMIN/DF	$\leq 2,00$	1,051	good
RMSEA	$\leq 0,08$	0,020	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.397 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrixes of the covariance matrix of the estimated population is acceptable.

7.7. Confirmatory Factor Analysis Variable Variable product quality and Business Strategy

Table 7.9 Results of testing the feasibility of the model

Construct quality products and Business Strategy

Criteria	Cut of Value	Result	Evalution
Chi-Square	Small, χ^2 with df : 19=30,144	25,446	good
Probability	$\geq 0,05$	0,146	good
GFI	$\geq 0,90$	0,952	good
AGFI	$\geq 0,90$	0,909	good
TLI	$\geq 0,95$	0,977	good
CFI	$\geq 0,95$	0,984	good
CMIN/DF	$\leq 2,00$	1,339	good
RMSEA	$\leq 0,08$	0,053	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.146 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrix of the covariance matrix of the estimated population is acceptable.

7.8. Confirmatory Factor Analysis Variable Variable business strategy and corporate performance

Table 7.10 Results of testing the feasibility of the model

Constructs Business Strategies and performance of the company

Criteria	Cut of Value	Result	Evalution
Chi-Square	Small, χ^2 with df : 19=30,144	29,616	good
Probability	$\geq 0,05$	0,057	good
GFI	$\geq 0,90$	0,949	good
AGFI	$\geq 0,90$	0,903	good
TLI	$\geq 0,95$	0,958	good
CFI	$\geq 0,95$	0,972	good
CMIN/DF	$\leq 2,00$	1,559	good
RMSEA	$\leq 0,08$	0,068	good

Source: Primary data processed (2015)

Results in the table show the results have met the criteria for goodness of fit. Probability value indicates a value above the limit of significance that is equal to 0.057 or above 0.05. This means that the null hypothesis that there is no difference between the sample covariance matrix of the covariance matrix of the estimated population is acceptable.

7.9. Analysis of Structural Equation Model (SEM)

Results of data processing for SEM analysis shown in the following figures and tables.

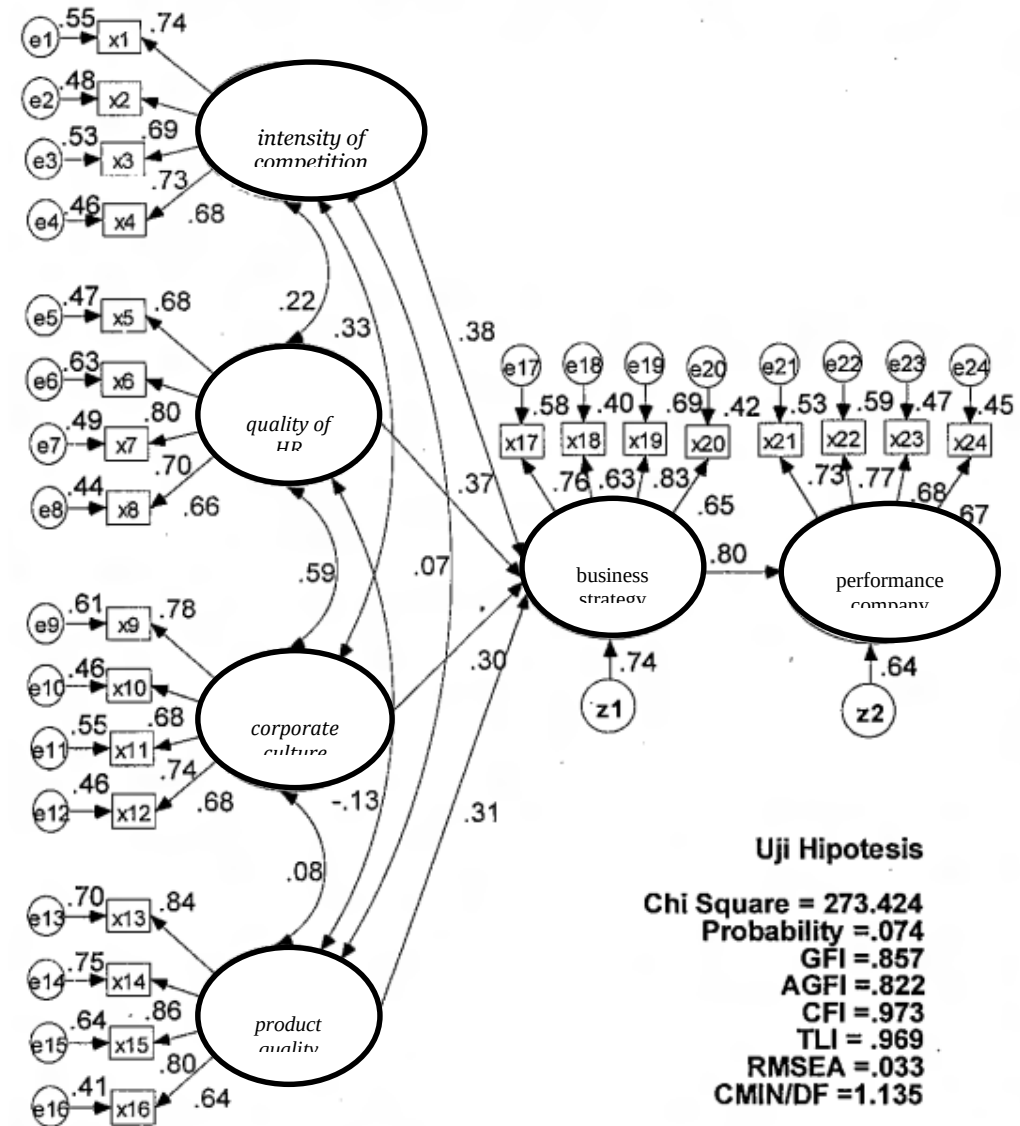


Table 7.11 Eligibility Test Result Analysis Model Research for SEM

Criteria	Cut of Value	Result	Evaluation
Chi-Square	Small, χ^2 with df : 241=278,213	273,424	good
Probability	$\geq 0,05$	0,074	good
GFI	$\geq 0,90$	0,857	quite good
AGFI	$\geq 0,90$	0,822	quite good
TLI	$\geq 0,95$	0,969	good
CFI	$\geq 0,95$	0,973	good
CMIN/DF	$\leq 2,00$	1,135	good
RMSEA	$\leq 0,08$	0,033	good

Source: Primary data processed (2015)

Results of testing the feasibility of the research model for SEM analysis in Table 7.3 shows that all the criteria for goodness of fit is acceptable although there is quite a good value (marginal) at GFI and AFGI. In more detail the results of the confirmatory evaluation exogenous construct is a chi-square of 273.424 (< 278.213), a probability of 0.074 (> 0.005), GFI amounted to 0.857 ($0.9 > 0.857 > 0.80$), AFGI amounted to 0.822 ($0.9 > 0.822 > 0.80$), TLI amounted to 0.969 (> 0.95), CFI of 0.973 (> 0.95), CMIN / DF amounted to 1,135 (< 2.0), and RMSEA of 0.033 (< 0.08).

Table 7.12 Regression Testing Results Weights for SEM analysis

	Std. Estm	Estimate	S.E.	C.R.	P
Business_strategy <- intensity_of_competition	0.378	0.460	0.116	3.955	0.000
Business_strategy <- corporate_culture	0.299	0.294	0.110	2.678	0.000
Business_strategy <- quality_of_HR	0.373	0.301	0.093	3.231	0.000
Business_strategy <- product_quality	0.309	0.352	0.091	3.847	0.000
Company_performance <- business_strategy	0.801	0.599	0.092	6.529	0.000
X7 <- quality_of_HR	0.701	1.000			0.000
X6 <- quality_of_HR	0.797	0.848	0.113	7.473	0.000
X5 <- quality_of_HR	0.682	0.718	0.112	6.437	0.000
X17 <- business_strategy	0.759	1.000			0.000
X18 <- business_strategy	0.630	0.745	0.109	6.845	0.000
X19 <- business_strategy	0.828	1.026	0.114	9.007	0.000
21 <- Company_performance	0.730	1.000			0.000
X22 <- Company_performance	0.765	1.054	0.136	7.730	0.000
X23 <- Company_performance	0.683	0.883	0.134	6.609	0.000
X3 <- intensity_of_competition	0.726	1.000			0.000
X2 <- intensity_of_competition	0.690	0.903	0.133	6.808	0.000
X1 <- intensity_of_competition	0.744	1.111	0.163	6.818	0.000
X11 <- corporate_culture	0.740	1.000			0.000
X10 <- corporate_culture	0.681	0.801	0.116	6.901	0.000
X9 <- corporate_culture	0.783	0.952	0.124	7.706	0.000
X15 <- product_quality	0.802	1.000			0.000
X14 <- product_quality	0.864	1.070	0.102	10.464	0.000
X13 <- product_quality	0.839	1.092	0.113	9.653	0.000
X4 <- intensity_of_competition	0.677	1.010	0.163	6.196	0.000

X8 <- quality_of_HR	0.662	0.673	0.107	6.305	0.000
X12 <- corporate_culture	0.675	0.906	0.136	6.656	0.000
X16 <- product_quality	0.642	0.831	0.116	7.149	0.000
X20 <- business_strategy	0.647	0.698	0.102	6.878	0.000
X24 <- Company_performance	0.673	0.870	0.130	6.677	0.000

Source: Primary data processed (2015)

From the pictures and the table above shows that the indicator forming latent variables showed results that meet the criteria above CR value of 1.96 with P less than 0.05 and the value of lambda or loading factor greater than 0.4. From these results, it can be said that the indicators forming the latent variables significantly an indicator of latent factors are formed. Thus, the model used in this study can be accepted.

7.10. Discussion of Hypothesis Testing

Based on testing hypothesis above, it is known that the entire hypothesis can be accepted. This is evident from the results of testing hypothesis 1 (CR = 3.955 > 1.96 and P = 0.000 < 0.05), hypothesis 2 (CR = 3.231 > 1.96 and P = 0.001 < 0.05), the hypothesis 3 (CR = 2.678 > 1.96 and P = 0.007 < 0.05), hypothesis 4 (CR = 3.9847 > 1.96 and P = 0.000 < 0.05), and hypothesis 5 (CR = 6.529 > 1.96 and P = 0.000 < 0.05). All of the test results showed that the results have met the requirements for the acceptance of the hypothesis that the value of CR > 1.96 and a probability of < 0.05. With the receipt of all these hypotheses, it can be concluded that there are four factors that affect the business strategy that is the intensity of competition, corporate culture, quality of human resources, and product quality. Further test a result of each hypothesis has been done above will be presented briefly in the table below.

Table 7.13 Conclusion hypothesis

	Hypothesis	Results	Conclusion
H1	The intensity of competition has positive and significant effect on business strategy	CR=3,955 > 1,96 P=0,000<0,05	Accepted
H2	The quality of human resources has positive and significant effect on business strategy	CR=3,9231 > 1,96 P=0,001<0,05	Accepted
H3	Corporate culture has positive and significant influence on business strategy	CR=,678 > 1,96 P=0,007<0,05	Accepted
H4	Product quality has positive and significant effect on business strategy	CR=3,847 > 1,96 P=0,000<0,05	Accepted
H5	Business strategies has positive and significant effect on company performance	CR=6,529 > 1,96 P=0,000<0,05	Accepted

Source: Primary data processed (2015)

8. CONCLUSION

Research problems to be addressed is how microfinance institutions Swamitra strategy to improve its performance. Analysis of the model developed in this study shows that microfinance institutions Swamitra strategies to improve performance include strategies for coping with the intensity of competition, strategies to improve human resources, corporate culture streamline strategies, and strategies to improve the quality of products.

The results showed that among the four factors, the intensity of competition is the biggest factor affecting the business strategy. This shows that the number of competitors, the growth of competitors, technology usage frequency, and frequency of use of marketing techniques are the elements that must be considered by the company to support the success of its business strategy.

The second biggest factor affecting the business strategy is the quality of human resources. This shows that the capability of managers, manager commitment, employee participation, and professionalism are the elements that also need attention the company to support the success of its business strategy.

A third factor affecting the business strategy is the quality of the product. It is show that the issue of compliance with customer expectations, ease of access, the uniqueness of the product, and value added are the elements needed to support the success of the company's business strategy. The final factor affecting the company's business strategy is culture. This shows that the culture market, hierarchical culture, adhokrasi culture, and culture clan also require attention in building the company's business strategy.

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CAN ISLAMIC MICROFINANCE PROVIDE SOLUTIONS TO FINANCIAL CONSTRAINT ISSUES IN REACHING THE MILLENNIUM DEVELOPMENT GOALS?

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ABSTRACT

This study provides a critical review of the literature on the issues of financial constraint in Islamic microfinance especially to the people at the Bottom of Pyramid in order to reach millennium development goals and gives solutions to the issues. In methodology, this paper used an in-depth literature review and conducts a meta-analysis to highlight the issues related to financial constraint challenges and find suitable solutions to these issues. The study finds that Islamic microfinance faces several issues in giving funding to the poor people. First is the issue of sustainability in which the Islamic MFIs need to maintain the subsidy from external donor in order to maintain their financial sustainability. Second is the ethical issues in operation which come in the form of mission drift, commercialization and high cost borrowing. The third is the issue of collateral required by the Islamic MFIs from the poor and the impact of joint liability financing to solve the collateral problem. Last, is the issue of ineffective roles of zakah and awqaf in Islamic microfinance. Several solutions have been offered to answer the financial constraint challenges. The paper adds to the literature on Islamic microfinance by enabling researchers and practitioners to understand the issues in financing constraint in Islamic microfinance and contributes towards enriching the knowledge in the Islamic microfinance area.

Keywords: Financial constraint, issues, solution, Islamic microfinance, critical review

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1. INTRODUCTION

Microfinance institutions identify as an institution to improve economic aspect and living condition of people at the bottom of pyramid. It also defines as a tool to access poor borrowers. In practice, microfinance institutions has a major impact in improving financial accessibility to the poor in the world which is started in 1976 since Mohammed Yunus distributed lending to the poor people in Bangladesh (Roy & Goswami, 2013; Waweru & Spraakman, 2012; Zeller & Johannsen, 2008; Ghosh, 2013). This institution can develop economy and living standard of people at the bottom of pyramid because it creates microloans and saving (Boehe & Cruz, 2013). Based on the first design and mission, it is initially design micro credit delivery system to the poor by removing collateral requirement and creating micro-banking system which based on accountability, creativity, participation, and mutual trust (Roy & Goswami, 2013).

Moreover, one of the major issues highlighted in microfinance institutions is an issue of credit when it is not channeled to the target of the society which is people at the bottom of pyramid that separate to three major issues: ethical issue and mission drift, funding constraint and commercialization. Several characteristics/conditions of costumers in bottom of pyramid are low income, geographical dispersion, heterogeneous culture, poor infrastructure, poor infrastructure, lack of education, different lifestyles, lack of affordability and availability (Bharti, Sharma, Agrawal, & Sengar, 2014). Many researches focus on this issue (Copestake, 2007; D’Espallier, Hudon, & Szafarz, 2013; Ebrahim, Battilana, & Mair, 2014; Epstein & Yuthas, 2010, 2011; Ghosh & Van Tassel, 2011; Kleynjans & Hudon, 2014; Mersland & Strøm, 2010; Montgomery & Weiss, 2011; Schwittay, 2011; Serrano-Cinca & Gutiérrez-Nieto, 2014) but no one study about issues and solution of financial constraint aspects in Islamic microfinance.

The first issue is ethical and mission drift which defines as unplanned or hidden change in microfinance institutions mission from providing financing unbanked wealthier individuals to wealthier individuals because of more profitable (Copestake, 2007; Serrano-Cinca & Gutiérrez-Nieto, 2014b). Microfinance institutions have drifted their mission because bottom of pyramid market is not very attractive in the case of high administrative costs, low revenues and lack of deposits. This first issue leads to the second issue which is commercialization in microfinance institutions. This problem has been arisen since 1990s (the commercialization of microfinance institutions). More funds are being pushed into microfinance institutions either from internal or external sources. As a result, microfinance institutions started to become profit oriented. Because of commercialization, several microfinance institutions have drifted from their mission to give funding to the poor. This problem happened because of high administrative cost in microfinance institutions. *“In each dollar lent, about half dollar is spent in operating cost”*. (Serrano-Cinca & Gutiérrez-Nieto, 2014b). Due to high administration cost, microfinance institutions directly charges high interest rate to borrowers. That condition occurred because of the economies of scale principle on which microfinance institutions only deal with small amount of loan size. As a result, microfinance institutions costumer deal with higher interest rate than commercial bank (Hermes & Lensink, 2011). Furthermore, the last issue comes from microfinance institutions condition which most of all face funding constraint to the poor people (Agur, 2012; Caudill, Gropper, & Hartarska, 2012; Morduch, 1999). This condition defines as many microfinance

institutions cannot fulfill all funding request from their borrowers because of lack of fund even though they have another source fund from subsidy.

As a consequence of these three issues, microfinance institutions required a collateral or higher interest rate to the people at the bottom of pyramid. Sometimes, microfinance institutions require valuable collateral that crates risk for the borrowers to lend. They also limit the amount of funding to the poor people. As a result, poor people tend to lend money from local moneylenders. To cover this problem, microfinance institutions must offer collateral free loans often at subsidized interest (Sanyal, 2009). In several Islamic microfinance, they have joint liability scheme as a solution. Practitioners of microfinance institutions must build a system that client able to repay and they are not trap in continuous debt (van Rooyen, Stewart, & de Wet, 2012). The requirement of collateral and high margin will create financial constraints for the poor people in accessing Islamic microfinance institutions.

The above problems will inhibit the growth of Islamic microfinance if they are not quickly addressed. Easy access to Islamic microfinance institutions also targeted as a focus in designing and implementing a poverty alleviation strategy that can create sustainability (Obaidullah & Latifn f, 2008). This study focuses on Islamic microfinance and aims to know the issues and challenge related to financing constraint of the people at the bottom of pyramid and giving some solution. This study employs critical literature review by Meta analysis around 108 journal articles both from conventional and Islamic view. This paper is structured as follows. The next section will discuss the challenges and solution of financial constraint in Islamic microfinance. The last section concludes and highlights future research of the study as a way forward.

2. FINANCIAL CONSTRAINT CHALLENGING ISSUES IN ISLAMIC MICROFINANCE

There are several issues and challenges related to financial constraint faced by Islamic microfinance (ethical, sustainability, collateral based financing, accountability and joint liability lending).

2.1. Ethical Issues

There are several ethical issues faced by Islamic microfinance, namely mission drift, profiting from poverty and high cost as a consequence. First is mission drift. Microfinance has a mission to reduce poverty by lending money to the poorest (Cinca and Nieto, 2014), offering saving account to the people at the BOP, empowering women marginalized groups, creating jobs, and developing borrowers business which is usually small and medium enterprises (SMEs) or poor households (Hosen and Muhari, 2013). However, the practices in Islamic microfinance showed that they have dual mission, first is social mission through distributing *zakah*, *infaq* and *shadaqah* and second is economic mission through distributing financing (Nasution, 2013). When economic mission placed as the first mission than social mission, it is the signal of mission drift.

Mission drift is a condition of change in mission to fit unplanned outcome of performance. This mission changes because of weakness in goal setting, performance assessment, and management

system. Several conventional MFIs see this mission drift as an improvement in goal setting and strategic planning or some view this as an accelerating in innovation and growth (Copestake, 2007). Others see mission drift as a gap between organization agreement and perceived level (Pischke, 2012). This term is also defined as ex post changes in stated preferences to fit unplanned performance outcomes or pursuing different approaches to poverty alleviation by changing stakeholder interest (Copestake, 2007). Mission drift sometimes caused negative impacts to MFI that change their mission from nonprofit organization to commercial based which also called ethical dilemma (Pischke, 2012). Moreover, this drift pressures MFI from spreading social impact to create financial self sustainability that benefit to capital accessibility and increase the ability to serve many clients even they are not poor people. This can cause bias in poverty alleviation mission. Attention to poverty alleviation is important to avoid mission drift in order to improve the wealth of the people at BOP (Epstein and Yuthas, 2011). Other cause of mission drift is transforming into for-profit financial institution from non-profit financial institution (Epstein and Yuthas, 2010).

Akram and Routray (2013) found that even conventional MFI lent money to the poorest but their tendency is funding to profitable customers. It means that MFI is trying to expand to wealthier targeted group (Pischke, 2012). This will lose social characters and becomes as a character of social failure. Based on the condition of high operating expense, lack of deposit and uncertain donation, the best way of microfinance success is charge high fees (Cinca and Nieto, 2014). This fee can cause poverty trap because of continuous debt. Every microfinance focus on profit orientation by selecting the best clients and maximizing margin (Akram and Routray, 2013).

It can summarize that mission drift occurred because MFI loose from their poverty alleviation purpose. The effect is MFI tends to be more commercial. The solution to this problem are building a comprehensive systems, careful in action, and building a warning sign to stay focus on vision (Epstein and Yuthas, 2010). Improving goal setting and strategic planning with routine monitoring of clients poverty status are also the solutions for Islamic microfinance to be succeeded. This approach can reach and serve the poorest customers at a massive scale (Cull et al., 2014). Providing qardhul hassan scheme or financing without margin in Islamic MFI will conduct as another solution to reach the people at the BOP and prevent mission drift in Islamic MFI (Rahim and Rahman, 2010).

Further ethical problem is commercialization that arises because of mission drift. Commercialization becomes the primary ethical concern in MFI especially in conventional microfinance (Cinca and Nieto, 2014). Commercialization arises because of high transaction cost in MFI and donor uncertainty in MFI. The best way of MFI to be sustained is conducting commercialization to cover all cost and get many clients.

Although MFI conducts social mission, it also must conduct in commercial way to achieve profitability. As a practice in Islamic microfinance, high operating cost is an issue to be handled. This occurred in order to maintain financial sustainability due to lack of economy of scale. High margin in financing will be implemented to cover high cost (Hosen and Syukriyah, 2012). Moreover, high margin will reflect the problems of high transaction cost. and conduct as a road block in financial inclusion areas (Cinca and Nieto, 2014).

Taking a sample in Indonesia, BPRs usually characterized by smaller funding amount with the same cost as other bigger financial institutions. As a consequence, MFI will charge higher margin to the borrowers than other commercial banks. BPRs has higher operational efficiency ratio (20%) compared to conventional one (15%) (Kent and Dacin, 2013). As a consequence, higher repayment rates will occur and create spiraling debt among the BOP borrowers. They will ask for more funding to repay their previous financing (Dhumale and Sapcanin, 2013). It is the challenge to Islamic MFI to give better services to the people at the BOP and enhance financial accessibility.

As a solution, a good MFI mentions that higher transaction cost must be replaced by lower cost of administration and monitoring (Hermes and Lensink, 2007). Monitoring and screening must be adjusted to local tradition (Nalini and Mariappan, 2012). Gathering more costumers also another solution to reduce the cost (Hermes and Lensink, 2007). Furthermore, Islamic MFI must offer *qardhul hasan* scheme to the people at the BOP in order to solve spiraling problems because of high administration cost. Establishing network of branches will also reduce administration cost in Islamic MFI (Jain, 2014).

2.2. Subsidy and Sustainability Issue

Sustainability is creating positive flow of benefits as long as poor people need. Sustainability also implies the continuance of microfinance production to alleviate poverty. This concept helps MFI to balance social value with financial goal. There are three levels of sustainability: financial, organizational and benefit sustainability (Sama and Casselman, 2013). First is financial sustainability which is the operational cost of lending retrieved by mix income from MFI income and subsidy or grants. Second is the organizational sustainability which defined as capabilities to back up programs which additional social values. Third is the benefit sustainability that explained as benefit that available to clients in the form of income generation (Hermes and Lensink, 2011).

In conventional aspect, the issue of financial sustainability becomes important aspect in microfinance since poverty lending approach focused on distributing credit to the people at the BOP with lower margin (Doshi, 2010). Subsidy is an approach which contributes to sustainability because it is important to cover high operating costs in the MFI (Ghosh and Tassel, 2011). It is also associated with better social performances (D'Espallier et al., 2013). Moreover, subsidy from donors usually targeted to the biggest MFI because donors provide subsidy based on performance record (internal control existence, efficient staffing, response to market condition, and good IT system) (Hartarska, 2009). There are two types of MFI view related to subsidy : type A and type B. Type A or commercial views subsidy as a compulsory thing for start-up microfinance while type B or non-profit views subsidy as an important thing for sustainability (Pischke, 2012).

In reality, many financial subsidies from external to MFI are unstable because it usually depends on MFI performance. This unstable subsidy will create a problem to sustainability. Beside unstable subsidy, MFI over subsidization can also create counterproductive problem (Hudon and Traca, 2011). It caused an increase of loan write-off in MFI (Chakravarty and Pylypiv, 2015). In contrast, the lacks of subsidy will worsen social performance because it found more suitable and

profitable to target wealthier clients (D'Espallier et al., 2013). The challenge in MFI is how to maintain the optimal subsidy in order to create MFI financial sustainability.

On the one hand, the practice in the biggest conventional MFI, such as: Grameen bank shows that they got a lot of funding from the Bangladesh Bank (Central Bank of Bangladesh) (Murdoch, 1999). The sources of the microfinance funding mostly come from donor grants and soft loans with limited amount. As a consequence, this condition will create financial sustainability problem when facing a condition of lack of donor grants (Citi Foundation, 2009). In practice, donor can protect weak MFI from being crushed by market forces but they cannot protect young MFI for too long because it can create dependability. Funds from donor sources must create MFI to be sustained in the future even without donor fund (Schreiner, 2000; Becchetti and Pisani, 2010).

However, the practice in Islamic MFI shows that subsidy from external source also conducts as a source to maintain sustainability. The existence of *awqaf* and *zakah* fund take a role to guarantee sustainability of assets and as a source of income generating in Islamic microfinance (Obaidullah, 2008). Islamic microfinance should concentrate on enhancing financial efficiency and reducing reliance of subsidies (Monzur et al., 2009).

The funding sources in Islamic MFI come from five sources: donation, management fee, participant repayment, subsidy and financial asset (Citi Foundation, 2009). Moreover, CGAP identify MFI has three sources of funding : formal banking institution, donor or NGO and village saving (Wilson, 2006). Similar with Citi Foundation (2009) and Wilson (2006), *Baitul Maal wa Tamwil* (BMT) as semi formal Islamic MFI in Indonesia has six funding sources. First is donation or *tabarru* from the participants which no need to be repaid. No financial return need from donation or *tabarru* fund. The practice of *tabaru* or donation in Islamic microfinance especially BMT is difficult. It is because almost all of BMT customers are poor people who do not have additional money to share donation.

Second is management fee (*ju'ala*) which explained as a fee to cover administrative cost and this concept is not interest based. The issue that appears in BMT is high fee for the people at the BOP to cover the high cost. Third is financial source comes from participant repayment with no diminishing value. Fourth is subsidy from non government organization (NGO) or called donor agency. In the case of Indonesia BMT, international donor like Muslim aid has funded many Islamic MFIs to alleviate poverty. There are two kinds of funding by non government organization in BMT (without repayment and with repayment). Other subsidy comes from corporation like Chevron. Fifth source is from *zakah* which usually given to the poorest of the poor in the form of *qard al hasan* funding. *Zakah* takes a part in BMT since the concept of BMT conducts a mix function between *Baitul Maal* and *Baitul Tamwil*.

The last funding source is from government using ministry of social collaborated with ministry of cooperatives and small medium enterprises. Government of Indonesia has special program to distribute funding to poor people using *Kredit Usaha Rakyat* (KUR) scheme. But, in practice its margin is similar to conventional so many BMT did not use this funding scheme. Other scheme from government is LPDB funding which specialize funding to traders, farmer and fishermen. The problem that arose from government funding is unstable policy which can cause unstable

funding. The last scheme come from Social ministry by building BMT Kube (87 BMT around Indonesia) and creating collective saving. Collective saving scheme is a scheme of financing in Sulawesi Selatan on which has special requirement if poor people have saving Rp 500.000/US\$ 35 in BMT, they can get financing 100% more than their saving. This program proposes to motivate poor household saving. Ideally, funding which comes from Government usually in the form of zero percentage of interest rate or small interest rate (the government used interest rate in its funding). The above subsidy aims to cover cost because of smaller size in financing (Samad, 2014). If BMT can maintain the amount of subsidy in the long term, it can reduce financing cost and lower the margin of the consumer (no charge of high margin to the poor people) (Alaeddin and Anwar, 2012).

2.3. Collateral Issue

Collateral is the value of asset or valuable items that can conduct as a guarantee for a specific amount of financing (Masyita and Ahmed, 2013). Collateral requirement is mentioned as a major obstacle in credit accessibility (Godlewski and Weill, 2010). Microcredit bank usually uses a combination between guarantees and collateral in the loan award. The practice of collateral requirement also occurred in Islamic MFI. Islamic MFI give funding only for real transactions with underlying asset and any debt created must be backed by collateral. As a result, only well-performing clients are financed by Islamic MFI (Masyita and Ahmed, 2013).

In conventional practice, Turvey et al. (2011) study the relationship between collateral and interest rate. This research found that collateral has an impact on interest rate with opposite direction. The use of collateral will mitigate credit rationing and high interest rate will be erased. Furthermore, this means that price rationing constraints will be reduced. In credit rationing term, the use of collateral is related with higher risk borrowers and information asymmetry. The difference in collateral requirement depends on the advantage of information availability about the clients characteristics.

Based on Islamic practice, Islamic microfinance must have a purpose that everyone in the economy is entitled with economic justice (believe that every consumer is creditworthy) and must offer collateral free loans (Masyita and Ahmed, 2013). Yet, this practice is difficult to be implemented because it needs alternative risk management aspect to cover collateral. Other solution to collateral is creating third-party guarantees for poor people on which poor people can used this as their collateral (Hong and Zhou, 2013; Menkhoff et al., 2012). Choosing borrower screening approach rather than collateral approach may also the solution even though it is more expensive in implementation (Hainz et al., 2012). Lastly, authorities must provide better quality of financial information and create information-sharing institutions (Godlewski and Weill, 2010).

2.4. Joint Liability Issue

Joint liability is a mechanism in the case of asymmetric information that involves local information to reduce credit market failure. In the case of imperfect information, lenders may be able to utilize joint liability contracts as a mean of screening agent types by inducing endogenous group formation and self selection among the borrowers (Tassel, 1999). Moreover, joint liability can conduct as a solution when dealing with credit rationing related to collateral requirement for

the poor people even they still need group of collateral in some region. This mechanism can be utilized to give solution to borrower which have asymmetric information (Ghatak, 2014). Furthermore, it can improve efficiency compared to standard debt contracts in the existence of asymmetric information (Gangopadhyay et al., 2005).

Group lending scheme both in conventional and Islamic MFI practices involves sequential financing or combination between lender monitoring and joint liability. The feasible one is group lending schemes with sequential financing without joint liability. In contrast, if the default is not serious, group lending schemes should also involve joint liability (Chowdhury, 2005).

Moreover, factor that influence success in group lending performance is social cohesiveness between members with peer monitoring which can be used as insurance substitutes. If the borrowers know each other, group lending implies an efficient lending. As a consequence, it is really difficult to measure group lending in rural areas since borrowers are more individualistic and did not familiar with each other (Tassel, 2000). Poor borrower will prefer joint liability/group lending because the cost of loan is cheaper than individual loan and faster in loan processing time. But, the amount is smaller than individual loan for wealthy people (Madajewicz, 2011).

As a result, group lending is an effective way to alleviate poverty in developing countries which face a problem of asymmetric information. Group lending is effective in the area where social ties between member are strong (Tassel, 2000). Many microcredit lenders offer joint liability loans as an access of poor borrower to MFI funding (Gangopadhyay et al., 2005).

Joint liability is a group of borrower who propose loan because of lack of individual asset which can be used as collateral. The repayment system is conducted together by the people around the group. In this group, one member must be chosen as a liaison officer between group and lender. The uniqueness of this group is the member will get financing in different amount because each member has different needs and ability to repay (Al-Shami et al., 2013).

This model called *Tanggung Renteng* in Indonesia Islamic microfinance practice. Only small percentages of BMT prefer to implement this model while other prefer collateral asset as risk management aspect. In the case of one member default, other member will take responsibility on it (Gangopadhyay et al., 2005). If a member is not able to repay the loan, other members will pay. If the other member in the group are also not able to pay, the group members will loss an access to the future loan (Waweru & Spraaakman, 2012).

The process of member screening on this group is generally based on trust and familiarity (Gangopadhyay et al., 2005). When social ties in a community enhance borrowers' incentives to exert effort, a profit-maximizing financier chooses a group of limited size. Borrowers that would be fundable under moral hazard but have insufficient social ties will not receive funding (Bourjade and Schindele, 2012). In another research, social ties showed no significant effects on borrowing group behavior and unnecessary for group lending to yield high repayment rates (Wyduck, 1999). Joint liability also substitute a perfect screening which is really expensive to do in microfinance (Tassel, 1999). Moreover, the function of this group is to substitute individual collateralized asset (Mukherjee, 2014). In many studies, this concept called social collateral.

Each member will provide mutual insurance among borrowers. Moreover, partners will share market information and transfer resource in the case of default (Mukherjee, 2014).

The benefit of poor people using this group is no need to show individual collateral since they usually do not have collateral to show. After poor people become member in this group, fund will be distributed. The repayment process is sharing responsibility (risk) between members (Dixon et al., 2006). Other benefit for lender is earning a higher profit by offering joint liability compared to individual liability contract because lender does not need to conduct screening process (Paal and Wiseman, 2011).

There are basic procedures of group loan in Islamic microfinance. First is a group of 3 to 10 individual who are given a loan and collectively guarantee loan repayment. Second is selecting group members and leader. Third is deciding the amount of loans needed. Furthermore, group members also set up several rules for all members like sanction for members who are not able to pay. Besides that, lender also provides basic business training for record keeping and collection. Fourth is peer guarantee will act as social collateral with high mutual trust between them (Obaidullah and Latiff, 2008).

The impacts of joint liability are its effectiveness and low cost compared to individual loan. Performance of group lending is influenced by debt repayment performance (Madajewicz, 2011). If many case of loan default (bad performance) occurred in this group and cannot cover by another member, this group will be categorized as bad group and will be blacklisted. While if only one member (bad debt performance) occurred in this group, the member will be given sanction by other.

In practice, joint liability contains several disadvantages. Since the members of the group get different amount of loan (which usually the older the person join in the group, the higher the amount), the younger (the smaller amount) did not want to take the responsibility of the older. In this case, default cannot be prevented because no one is responsible for debt repayment. Moral hazard also occurred by using this model that one member depends on other member (Hermes and Lensink, 2007). This condition resulted in many microfinance choose to leave the model of joint liability lending and used collateral as risk management aspect. Free riding monitoring also occurred in joint liability scheme on which one member reduces hers or his level of monitoring if other increases her monitoring effort. Group leader will conduct more monitoring efforts than other (Eijkel and Hermes, 2011).

Many clients did not like the pressure among peer in group lending scheme. The tendency of joint liability/group lending situation is older clients borrow more money than newer clients. This condition will cause high tension among members because newer clients did not want to take responsible of larger loans (Karlan et al., 2009). Social capital is a solution of group lending program that offers not only joint liability lending but also community building, infrastructure improvement and lower transaction cost. This concept is being made for microfinance sustainability that purpose to improve welfare of the people at the BOP (Kropp et al., 2009). Islamic microfinance has adopted social capital in their daily funding activities.

Solving this problem, good Islamic microfinance practice will create positive matching by borrower clustering (good borrowers with good borrowers and bad borrowers with bad borrowers). But the applicability of this concept is really difficult since group lending is effective when every member familiar with each other and usually random between good and bad (Karlan et al., 2009). Collective action through Islamic MFI groups will help to increase environmental awareness, economic betterment of the members and fruitful management of local common resources (Hassan, 2014). Another solution is by creating peer monitoring cost among borrowers (Karlan et al., 2009). Group members must impose social sanctions which usually costly to make group lending works better (Bhole and Ogden, 2010). A combination between lender monitoring and joint liability will create a success factor in this practice (Chowdhury, 2005). Screening and active monitoring also conducted as success factors in joint liability financing (Hermes and Lensink, 2007). In addition, intensive peer monitoring will improve repayment rates in group lending (Wydick, 1999). The practice in Malaysia Islamic MFI shows that group lending will influence loan repayment behavior. Islamic Bank should consider to choose Islamic MFI-based groups as partners in the realization of their linkage program for the people at the BOP and poverty alleviation program can be optimally implemented (Sanrego and Antonio, 2013).

2.5. Roles of Voluntary Sectors in Islamic Microfinance

Many people (around 40%) in the world are now dealing with poverty on which world bank described as a condition on which people will live with income less than US\$ 2 per day. As a solution, Islam has been equipped with multiple weapons to fight poverty through *zakah*, *awqaf* and interest-free loan (*qardhul hasan*). Moreover, (Raimi et al., 2014) described the problems and consequences of poverty in muslim majority nations and integrate corporate social responsibility, *awqaf* system and *zakah* system as faith-based intervention tool for poverty reduction in Muslim majority nations. The challenge for Islamic microfinance is how to integrate this concept to microfinance practice in order to alleviate poverty.

The current approach to alleviate poverty is using corporate social responsibility. But the practice is still questionable because many companies sometimes conduct diffused mission when they are conducting corporate social responsibility (Raimi et al., 2014). There are several alternative models to curb poverty. Faith based model is a solution for Muslim majority nations. Since Islamic finance system grow rapidly, Islamic financial institutions dealing with ethical business. As a solution, institutions will pay *zakah*, *waqf* and conduct CSR programs to alleviate poverty (Raimi et al., 2014). Corporate social responsibility, *zakah* and *waqf* must be integrated in faith based system to alleviate poverty in the Muslim majority nations. There are three components of faith based system: corporate social responsibility, *zakah* and *waqf*.

2.5.1. Corporate social responsibility

Corporate social responsibility is a voluntary obligation like the practice of *zakah* in Islam (Raimi et al., 2014). It is an action of a company to the society and involves five areas: social, environment, voluntary, economics and stakeholder. Moreover, the common form of corporate social responsibility is charity and how to save environment. Furthermore, helping the people at the BOP is also conducted as a part of corporate social responsibility. The applicability of this concept can be used both ethicality and socially (Kamla and Rammal, 2013).

2.5.2. Awqaf

Awqaf is a tool that has been developed to fulfill crucial needs like education, transportation, health care, etc (Mohsin, 2013). It also refers to valuable property or tangible assets as a gift to God. In practice, it could be monetized as leasing facility but cannot be sold (Raimi et al., 2014). Moreover, *awqaf* is a charity to hold specific property for sustainability (Hassan, 2010). There are two classification of *awqaf*: *awqaf al-ahli* and *awqaf al-khayri*. The term “*Awqaf al-Ahli*” is an endowment set aside for the family of the person making an endowment (*waqif*”). While, “the *Awqaf al-Khayri* on the other hand refers to endowment set aside for general wellbeing of the people at the BOP, widows, orphans and other economically disadvantaged people” (Raimi et al., 2014).

Furthermore, there are three kinds of *awqaf*: religious *awqaf* (focus on building and maintenance religious institutions), philanthropic *awqaf* (providing support for the people at the BOP like health service) and family *awqaf* (given to family first) (Hassan, 2010). Nowadays is the era of cash *awqaf* by using several amount of money to build property in order to create the welfare of the society (Mohsin, 2013). Several *awqaf* integrated with microfinance. *Waqf*-based Islamic MFI will facilitate wealth construction of the poor. It can reduce financing cost which can create wider access to the people at the BOP (Ahmed, 2007).

2.5.3. Zakah

Zakah is a necessary donation to be pay by wealthy Muslim at 2.5% from taxable amount (*nisab*) equals to 20 dinar (gold) or 200 dirham (silver) (Raimi et al., 2014). It is a unique instrument for poverty alleviation. It can be used on eight purposes. Five are meant for poverty eradication such as the people at the BOP, the needy, the debtors, the slaves (to free them from captivity), and the travelers in need. Others are the administrative cost of *zakah*, 'those whose hearts are made inclined' (to Islam), and in the way of Allah. They are called *asnaf* (Hassan, 2010).

Zakah usually integrated with Islamic MFI like the case in Indonesia. *Zakah* and Islamic charities can be used as microfinance's source of fund. Moreover, it is targeted to people at BOP and conducted as a tool for alleviate poverty especially extreme poverty. They usually given *qardhul hasan* financing scheme (without interest and margin) (Yumna and Clarke, 2009). *Zakah* is compulsory while *awqaf* is voluntary. It is usually fixed rate and spent only once in a year and it is only applied to Muslims (Hassan, 2010).

Islamic MFI must conduct ethical role to strengthen the Islamic MFI character. Measuring the Corporate Social Responsibility disclosure level of Islamic MFI is compulsory. Corporate Social Responsibility disclosure by Islamic MFI will increase the degree of monitoring within Islamic MFI. Moreover, it can handle un-uniform financial statement problem in Islamic MFI (Farook et al., 2011).

Islamic MFI uses *zakah*, *infaq* and *sadakah* as corporate social responsibility to alleviate poverty and fulfill the needs of the poor people. This concept is applied by using the concept of *qardhul hasan*. To appropriately conduct the concept of corporate social responsibility, Islamic MFI should learn from social banking to provide the development needs (Nor and Hashim, 2014).

The applicability of corporate social responsibility in Islamic MFI will create a platform of microfinance structure embedded with values and religiosity. Islamic MFI must put aside their profit to provide *qardhul hasan* financing for the people at the BOP. The practice in Indonesia Islamic MFI like BPRs shows that the customers usually opted to pay their *zakah*, *infaq* and *sadakah* in BPRs then BPRs has specific division to handle *zakah*, *infaq* and *sadakah* and distribute to poor people. Moreover, BPRs also used non-*halal* income which comes from its operation to distribute to the poor people. Although, this practice is controversial, many BPRs get approval from Islamic scholar to do so. This noticed that Islam is not only religion but also a way of life (Koku and Savas, 2014).

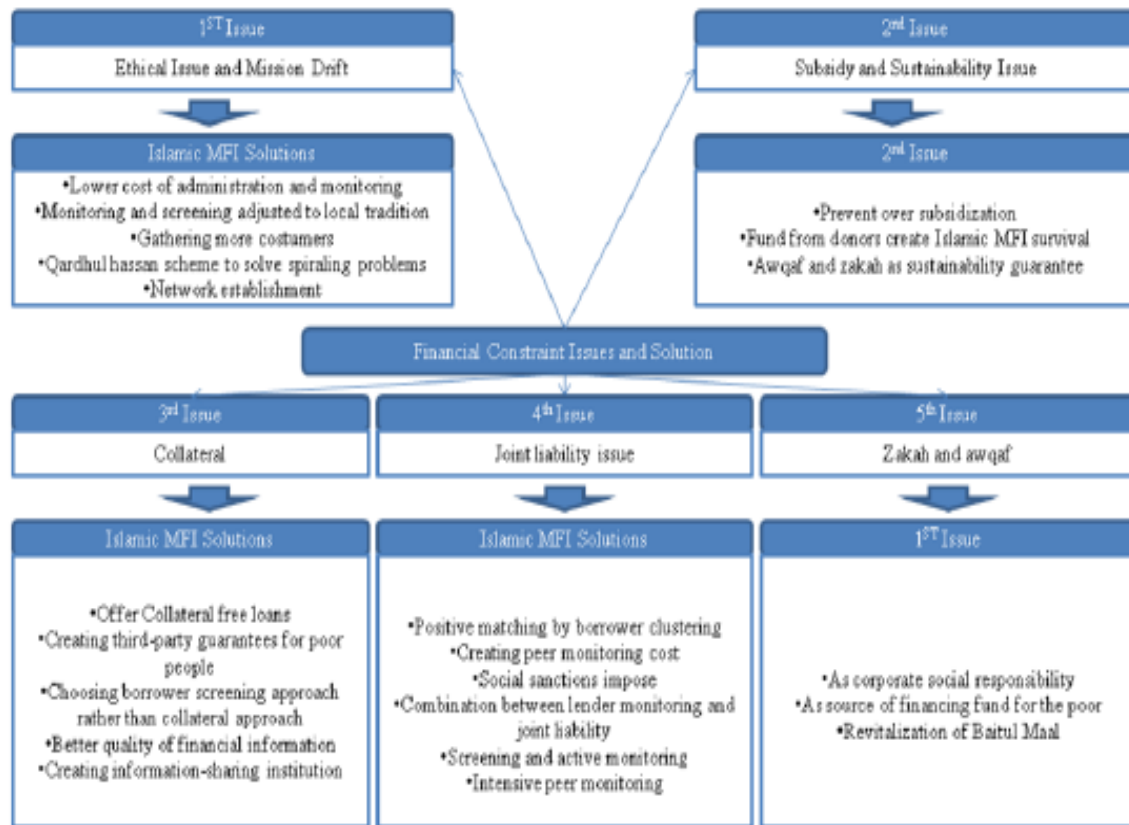
Islamic MFI allowed charity funds like *zakah*, *infaq* and *sadakah* as a source of financing fund (Samad, 2014). These tools will help the poorest of the poor to have access to Islamic MFI. Moreover, by using these charity fund MFI can increase the level of people at the BOP creditworthiness and minimize unequal distribution (Effendi, 2013). Islamic MFI can reach higher number of poor individual compared to conventional because these charity fund is distributed under *qard al hasan* scheme (Effendi, 2013).

On the other hand, the practice in semi formal Islamic MFI like BMT performs two functions: *Baitul Maal* (managing *zakah*, *infaq* and *sadakah*) and *Baitul Tamwil* (managing saving and funding). BMT can manage charity fund by collecting *zakah*, *infaq* and *sadakah* donation. The main purpose of BMT is not only providing funding but also engaging the borrowers in a community development program by cutting the role of money shark in community (Kamla and Rammal, 2013).

BMT distributes *zakah*, *infaq* and *sadakah* in the form of *qardhul hasan* financing. *Qardhul hasan* financing is financing without collateral with zero margin. Poor borrowers have obligation to pay. BMT never stated to poor borrowers that the source of fund comes from *zakah*, *infaq* and *sadakah* to prevent moral hazard. Other form of BMT used *zakah*, *infaq* and *sadakah* as source in the case of borrowers default. Furthermore, *zakah*, *infaq* and *sadakah* can increase the welfare of the people at the BOP because it will be given to the people at the BOP in order to alleviate poverty by creating additional income (Junaidi and Rizkiyah, 2013). *Zakah*, *infaq* and *sadakah* will also create social value for the society (Kamla and Rammal, 2013). Revitalization of the *Baitul Maal* concept is really important since donor fund is not unlimited. Then, Islamic microfinance can continuously give cheap fund for the people at the BOP and *qardhul hasan* for the poorest of the poor.

3. CONCLUSION & THE WAY FORWARD

Figure 1: An Innovative Model as a Solution to Financial Constraint Issues in Reaching the Millennium Development Goals



From the review of the literature, Islamic microfinance poses several challenges. First, several ethical issues occurred in Islamic microfinance which include mission drift, poverty and high cost of borrowing. Hence, several literatures suggest that Islamic microfinance must implement participatory scheme of the poor people on financing by involving them in every financing given. Several measurements of social action, focus on values, improved goal setting and strategic planning, routine monitoring by conducting literature review, careful attention to poverty alleviation and transparency with uniform rules are also solution to several ethical problems in Islamic microfinance.

Second, Islamic microfinance also face challenge in subsidy and sustainability issues. The problems of subsidy are how to maintain optimal continuous subsidy to reach sustainability. Thus, Islamic microfinance must avoid over subsidization that can caused counterproductive. Moreover, Islamic microfinance also needs to reduce reliance on subsidies. Creating Islamic microfinance that can survive in the market without funds from donors is also a solution.

Third, collateral issue also conducts as a big road block for poor people to access Islamic microfinance. Islamic microfinance can enforce collateral free loans through third party guarantees and relationship lending. Monitoring by the collateral institution is also a solution. Other tool, microfinance can choose to screen the borrower although it is more expensive than collateral but it can create more market share of poor borrowers.

Fourth, the implementation of joint liability financing in the form of social capital is other challenge in Islamic microfinance but this model of financing create several problems like moral hazard. Islamic microfinance must conduct screening and monitoring by peers in group based. Collective action through joint liability financing will help to increase environmental awareness, economic betterment and fruitful management.

Last, integrating zakah and awqaf in Islamic microfinance as faith based model for helping the poor is important. It can reduce financing cost and improve the viability of institution. It also conducts as additional fund to provide social services for the poor. Proper mechanism is important to be implemented in Islamic microfinance by conducting good monitoring procedure by zakah institution. These solutions will support the success of Islamic microfinance institution to give funding to the poor.

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THEME: ISLAMIC ENTREPRENEURSHIP AND SOCIAL ENTERPRISE

WAQF MODEL IN ENHANCING THE DEVELOPMENT OF SOCIAL ENTERPRISE AMONG WOMEN IN NIGERIA

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ABSTRACT

This paper has identified six major challenges facing women's social enterprise development in Nigeria based on the review of literature in the related field of study. The study contributes to the overall body of knowledge by addressing the dearth of research in the context of issues related to poor development of women's entrepreneurship in Nigeria: some extent comparisons were made with other countries to portray an overall picture of the current situation of women entrepreneurs in Nigeria as well as justify the issues identified. The six issues highlighted shows that lack of funding, literacy issues, issues with social norms, lack of social and business networking, gender bias and lack of electric power supply are part of the many challenges faced by women entrepreneurs. Despite support from government and private organizations to address these issues through the provision of funding, business development support and skills training initiatives, the poor growth and participation of women in entrepreneurship signify that the six issues deserve more serious attention. Hence, this study proposes the use of cash Waqf to address the issues identified. This is supported by literature that has proven that cash Waqf has shown remarkable impact in enhancing the socio-economic wellbeing of individuals, society and nations across the world.

1. INTRODUCTION

Nigeria as a country is blessed with abundant human as well as natural resources. It has a population of over 170 million people, and is also the seventh largest exporter of oil in the world (UNDP, 2007). Notwithstanding this, the quality of life of an average Nigerian keeps on declining by day (Dele and Isiaka, 2009). They further mentioned that the enormous amount of money accrued to Nigeria from the oil sector from 1960 was never transformed into socio-economic developments, which perhaps leads to poverty, economic backwardness, unemployment and social vices. The wide spread poverty among the Nigerian citizens despite its abundant natural resource has become a major concern to the ordinary citizens, development scholars, and researchers. Though, as the incidence of poverty in Nigeria seems pervasive and cuts across all social divides, women represent the greater part of the victims of poverty (Anayo, 2008). Traditional belief in Africa that women should stay at home and take care of the house has further aggravated the incidence of feminization of poverty among women (Anayo, 2008). Apparently due to these reasons, the majority of these women are forced into informal businesses to reduce the incidence of high rate of poverty on them. Despite the enrolment of these women in business activities, there have been no significant changes in their daily livelihood possibly due to the overwhelming challenges they face in their daily business operations (Daphne et al., 2011). Barriers to growth in women-owned businesses can be traced to financial and other socio-economic factors (Rajesh and Avanika, 2010).

This paper reviews the development factors associated with business growth among women entrepreneurs, particularly among those who are involved in small and medium enterprise (SMEs) and informal businesses in Nigeria, a country with the largest economy and population in Africa. Based upon the review, constructive strategies are proposed through the use of cash Waqf to enhance women's participation in business as well as improve the existing ones, through implementation of appropriate developmental plans. It is envisage that, with the strength of Muslim population in Nigeria, successful mobilisation and implementation of Waqf will address the issues highlighted, thus improve the living standard of women generally. This paper concludes with the information gaps identified as a result of this review and issues related not covered in this study with the aim of fostering future research in this field.

2. WOMEN ENTREPRENEURSHIP DEVELOPMENT IN NIGERIA: AN OVERVIEW

Entrepreneurship is being recognized as an engine of economic growth, through job creation, revenue generation, poverty alleviation and wealth creation. This concept is now identified as the central element in the theory of economic development (Schumpeter, 1934). Entrepreneurship makes up the largest business sector in various economies. It is the driver of employment and economic growth according to (Culkin & Smith, 2000)

To ensure adequate development and competitiveness in entrepreneurship, considerable research has examined the participation of both male and female in

venturing into business activities, particularly those reported to have personal dreams of entrepreneurship. This category of people has rapidly joined hands together to achieve success in business and enterprise development (Gelin, 2005). Women therefore are becoming increasingly important in the socio-economic development of both developed and developing economies as they account for significant percentage of the operators of Small and Medium Enterprises (SMEs) (Josiane, 1998).

Women entrepreneurs make a remarkable contribution to national economies through their participation in start-ups and their growth in small and medium businesses (United Nations, 2006). The Global Entrepreneurship Monitor (GEM, 2005) confirmed that women participate in a wide range of entrepreneurial activities across the 37 GEM's and their activities in different countries have paid off in the form of many newly-established enterprises for job and wealth creation. They further noted women represent more than one-third population of all people involved in entrepreneurial activity.

According to Kwaido (2010) women in Africa produce 80 percent of the food, in Asia 60 percent and 40 percent in Latin America. She further noted that in Nigeria, the presence of women in socio-economic development is largely witnessed in the areas of fisheries in the riverine area, Cassava and dye process in the West, farming and petty trading in the East. They also contribute in the areas of retail, garments and in services such as hotel and restaurant industry. Women perhaps dominate this sector because they involve traditional female activities like fashion and food preparation. This nature of business also requires less start-up capital and could be less efficient due to constraints they face in both business environment and in other domains. These constraints include accessing capital, credit, networking as well as competing demand on their time due to family responsibilities (Larossi and Clarke, 2011). To enhance the performance of women entrepreneurs in Nigeria, the federal government, state government and non-governmental agencies has initiated several program to support this sector of entrepreneurs. For instance, the Women's Development Initiative (WDI), is a non-profit organization initiated to support women professionals in the North, it has economically and socially empowered over 3,000 women and has led to the establishment of over 50 women's groups both in the rural and urban communities (The Nigerian Microfinance Newsletter, 2009). Family Economic Advancement Program (FEAP) and Family Support Program (FSP) are aimed at promoting the social and economic wellbeing of women. Another prominent program is the Country Women Association of Nigeria (COWAN) whose aim is to enhance the role of women in agricultural and economic decision-making, so as to incorporate self-reliance and sustainable development (Iheduru, 2002). The Women's Entrepreneurship Development Program (WEDP) is a gender based program aimed to transform women into successful entrepreneurs. The program seeks to economically empower the Nigerian women through conscious engagement and development of their entrepreneurial capacities. Over the years, SMEDAN has assisted in the economic empowerment of women which today has yield to many business enterprises owned and managed by women (National Bureau of Statistics, 2010).

Notwithstanding, the high achievement of women entrepreneurs across the globe, and government support for women in Nigeria, there is still concern over the trend of women becoming entrepreneurs. In another development, record shows that Nigeria

despite being the largest economy in Africa has one of the lowest shares of female entrepreneurial participation in Sub-Saharan Africa (Larossi and Clarke, 2011). According to the World Bank 2007 Enterprise Survey, only 20% of Nigerian women are recorded in female participation in ownership records while only 25% are recorded in the sole proprietors record which is lower by far from the almost gender balanced rates of Botswana and Ghana. The Nigerian government and several non-governmental agencies have put in efforts to increase women's participation in entrepreneurship and enhance the growth of the existing ones to produce quality women entrepreneurs. However, there are certain factors which limit the development and progress of women entrepreneurs as discussed in the following sections.

3. RESEARCH METHODOLOGY

This paper is conceptual in nature, in which analytical method was employed to identify challenges facing women social enterprise development in Nigeria. The approach of this study is through library study research. Information and Data are collected via libraries, recognized journals both local and international. This paper has identified six major challenges facing women social enterprise development in Nigeria. The six issues highlighted are lack of funding, literacy issue, issues with societal norm, lack of social and business networking, gender bias and lack of electric power supply are those challenges faced by women entrepreneurs. Thus, the literature review analysis enable us to understand women entrepreneurs' needs and challenges to outline structural plan on how to solve the problem via implementation of Waqf and the way forwards.

4. CHALLENGES FACING NIGERIAN WOMEN ENTREPRENEURS: LITERATURE REVIEW ANALYSIS

4.1. Lack of Funding

Business funding is viewed as the total amount of money invested in business by the owner. (Kyambalesa, 1994). Funding is one of the major factors that influence growth performance in small businesses (Shariff and Peou, 2008). According to Mannan (1993) shortage of finance is an impediment to business growth. Hence, business owners need to invest in their business activities by obtaining finance from various sources. It is evident that women entrepreneurs in Nigeria are often faced with threat of failure due to lack of external funding, and limited alternatives to invest excess funds. To support this Koko (2013), reveals that the failure of the current financing strategy employed for and by women entrepreneurs in Sokoto state, Nigeria, has an adverse effect on their business performance. These strategies include finance from self, family and friends. However, to prevent the wreck of their business operations, there is an urgent need for an alternative source of external finance that requires less hassles and is corruption free. The nature of such finance can be traced to the Islamic finance system, Waqf to be precise. This could be argued in the sense that the concept of Waqf referred to as Fisabilillah "for the sake of Allah" or sadaqah jariyah or "continual sadaqah" whereby the donor does not require any returns, thus the Waqf has an element of perpetuity. Additionally, to support the need for finance among entrepreneurs in Nigeria Larossi and Clarke (2011) noted that finance is one of the

major constraints faced by both female and male entrepreneurs in Nigeria. According to Otunaiya et al. (2013) the non-availability of long-term finance is ranked among the major constraints faced by women entrepreneurs in Nigeria. According to Ifelunini and Wosowei (2013) access to finance by women entrepreneurs in Nigeria still remain a daunting task despite the pivotal role of women in the nation's economic development.

4.2. Literacy issues

While the field of entrepreneurship continues to grow, entrepreneur education and training has also become a necessity to business owners, especially female entrepreneurs, whose educational and literacy levels are mostly basic or at levels below higher education. Lack of education could be a barrier to entrepreneurship. For instance, in the United State, high importance is placed on education as a means to increase the performance levels of entrepreneurs in the long run (Denis et al., 2013).

Female participation in education in some parts of Nigeria, especially in the Northern States, is still an issue of ongoing concern. This is because parents still practice the habit of keeping their female children at home till they reach maturity and then arrange to get them married. This perhaps has led to the low percentage of female enrolment in school compared to their male counterparts. To support this, UNICEF (2007) noted given the fact that 70 per cent of the Nigerian population live below the poverty line, often girls are sent to work in the markets or hawk petty items on the streets. Early marriage and teenage pregnancy also prevent girls from going to school and great number of girls drop out of school before reaching primary class six. Ekpe (2011) in his study finds that the majority of women entrepreneurs in Nigeria have only a secondary school certificate.

Demographic and health surveys conducted in 2008 show that males are better educated than females across all age groups in Nigeria. Among the population aged 15 and above, 27 percent of men and 43 percent of women have little or no education. Only 10 percent of the population aged 15 years old and above have post-secondary education. Fifteen percent of men and 25 percent of women who are between 15-19 year old have never attended school. This analysis no doubt describes the decadent situation of female children in Nigeria, which has done more harm to them than good in terms of achieving their career ambitions i.e. business or paid jobs. To address this serious issue, there is an urgent need for the society to shift focus towards redressing female child education. Among the immediate strategies that could be employed is the building of free female only primary and secondary schools, creating child education awareness, and most importantly, inculcating entrepreneurship activities into the school curriculum. Entrepreneurship activities could involve 3 week apprentice activity for senior students during their term break at any women's owned SMEs. For those females who would like to further their studies at the tertiary level, finance should be readily available for them. These development strategies could be achieved via proper implementation of Waqf. The success of this strategies will increase literacy levels among females in Nigeria as well as enhance their ability to identify business opportunities which will increase their confidence in their personal skills for their own business establishments.

4.3. Lack of Social and Business Networking

A social network consists of a set of actors (“nodes”) and the relations (“ties”) between these actors. The nodes can be individuals, groups, societies or organizations while the ties describe the nature of relationship existing between the nodes. These relationships, for example, can be individual to individual ties or individual to group ties (Nancy, et al., 2004). Network affiliation from entrepreneurship perspective can facilitate information sharing, and opportunities among aspiring entrepreneurs.

Entrepreneurs who are engaged in trade associations will likely be exposed to a wide range of information and business ideas as compared to those not involved in any business organisation or association. Thus, networking plays a crucial role in any business growth and can be considered a vital human capital resource of the entrepreneur. Business women in Nigeria do maintain the traditional business network which most time’s comprise a few individuals in the same type of businesses having weekly meetings. But it is not gain saying that business women in Nigeria do not fully utilise wide available business networking resources such as mentors and business advisors to enhance their business or assist them in developing business plans and perhaps, most importantly, guide them on how to secure external finance.

Additionally, social media network i.e. Facebook and Twitter have great positive impact on business in today’s world, but due to limited literacy, these women might not be able to benefit from such avenues. Hence there is need for basic training and workshops to teach business women how to take advantage of the aforementioned resources. According to Johannisson (1991) the ability of the entrepreneur to maintain strong and wide personal networks is the most important resource of the firm.

Daphne et al (2011) noted that there is need for women in Nigeria to understand the importance of joining business networks, which can be used as a tool to enhance their businesses. Furthermore, in a study conducted by Satwinder et al (2011) their findings reveal that women in Nigeria do not see networking (accessibility to networking/Association) as an important factor which could motivate them to become entrepreneurs. According to Larossi and Clarke (2011) scarcity of information networks is one of the major constraints facing women entrepreneurs in Nigeria.

4.4. Lack of Electric Power Supply

Electricity remains amongst the most important basic infrastructure needed for any meaningful development to take place (Ohajianya et al, 2014). Both large, medium and small manufacturing, including service industries heavily rely on continuous supply of electricity to function efficiently and maintain low cost of production. In the absence of electricity, they will need to rely on power supply from generators which in turn means high cost of production due to fuel consumption. Nigeria with a population of over 170 million has power generation capacity of only around 3,600 megawatts out of the installed capacity of about 6,000 megawatts. This is very low when compared to that of other countries like Brazil with a generation capacity of 100,000MWs of grid-based electric power for a population of around 204 million people, South Africa generates 40,000MW of electricity for population of over 50

million citizens, and even our neighbouring Ghana was able to generate 2,111 megawatts for a population of 23.84million people (Ohajianya, 2014).

According to Larossi and Clarke (2011), lack of electricity is one of the major constraints facing women entrepreneurs in Nigeria. Women entrepreneurs require electricity for production as well as for running their daily business operations. Electricity plays an important role in supporting women entrepreneurs operating small scale businesses in South East Asian countries like Malaysia, Indonesia and Thailand. For instance, in Malaysia local business people operate street night markets (Pasar Malam) which operate in the evening, usually around residential neighbourhoods, once or twice a week. During the night market, small scale entrepreneurs sell locally made products such as clothes, shoes, clocks, fruits, snacks, vegetables, raw and cooked food. Majority of the sellers are women who sell their goods at low prices to earn extra income for their families. This helps women especially those who are not engaged in government work, and widows to earn a living, thus, reducing the level of poverty in the community in the long run. This traditional and productive idea of night markets is largely supported by the availability of constant electric power supply which provides security and allows free movement of people as well as smooth running of business activities in the night.

4.5. Issues with Societal Norms

Social norms can be defined as social attitudes of approval and disapproval, specifying what should be done and what should not to be done (Cass, 1996). Certain norms are regarded as an acceptable behaviour in a group or society, while other rules are used to distinguish appropriate from inappropriate values, attitudes, behaviours and beliefs. These rules can be explicit or implicit and failure to obey them may result in punishment. It is a normative standard of behaviour that is generally enforced by informal social sanctions (Ernst and Urs, 2004). The social norms can sometimes have adverse effects on business women in Nigeria. It is arguable that misinterpreting the action of women to venture into business in certain societies could impact their business performance or rather misperception of the social norms may assume or believe women should not venture into business may have negative impact on women's business performance. According to Abdul Salam (2015) some factors that affect women's participation in the labour force in Nigeria are based on societal norms and stereotypes, such that the women are then discriminated in certain jobs because of their weakness and the traditional belief that women should remain at home and take care of the kitchen rather than engage in paid jobs.

According to OECD (2004), the default role attributed to women in society and culture from historical times is said to be the possible reason why women entrepreneurs lag behind men, which has gone a long way to impact negatively on their entrepreneurial confidence and success. Social culture and tradition plays a very important role in business growth of any entrepreneur, as it sets the platform for a peaceful working environment which in turns enables business growth and opportunities to be fully exploited. Global Entrepreneurship Monitor (GEM) identifies social and cultural barriers as among the three major barriers to entrepreneurship development, the other barriers being lack of education and financial capital (GEM, 2005).

4.6. Gender Bias

Another issue related to societal norm is the gender bias, which has put women in Africa generally in a disadvantaged position for a long period of time. This is in terms of paid jobs, job security, access to business capital and even their general social wellbeing. The notion is that women are weak, hence should stay at home and take care of the children and the houses while the husband (men) who is presumed to be strong should go out and earn a living to feed the family through paid jobs or entrepreneurship. According to Anayo (2008), traditional belief in Africa that women should stay at home and take care of the house has aggravated the incidence of feminization of poverty among women. Apparently some of these women have no choice but to venture into informal businesses to earn a living to and reduce their total dependence on their husbands. However, even with that, there has been no noticeable changes in their daily lives and possibly due to the low performance in their business operations (Daphne et al., 2011).

5. ROLE OF WAQF IN ADDRESSING WOMEN'S ENTERPRISE ISSUES

5.1. Definition of Waqf

Waqf is also referred to as perpetual charity which means holding certain property and preserving it for the benefit of certain philanthropic purposes. It applies to non-perishable properties like as land, buildings and fixed property but can also be applied to cash, books, shares, stocks, and other assets (Alkali and Sani, 2015). Waqf is also referred to as “sadaqah jariyah” or “continuous sadaqah”: It is created by bequeathing assets that have features of perpetuity on a permanent basis (Ahmed, 2007). According to Kahf (1998) Waqf can be defined as holding a mal (an asset) and preventing its consumption so that its usufruct is optimised for the sake of righteousness and philanthropy.

In the history of Islam, the first philanthropic Waqf came into existence when Prophet Muhammad (peace be upon him) instructed his companion Uthman bin Affan (R.A) to buy the well of "Rumah" in Madinah and make a Waqf of the same. Its purpose was to ameliorate the difficulties that the poor in the city were facing in having access to fresh drinking water. Waqf can be in two form, property or cash. In this study we refer to cash Waqf, although there is still ongoing debate on the use of cash as Waqf. Thus, this study suggest that it is necessary to use cash Waqf due to the current situation of the society in which not everyone has the means to donate property such as land, houses or livestock but are willing to donate cash as Waqf. Another factor is the convenience of donating cash as Waqf as compared to property which comes with a lot of hassles in the process of acquisition and transfer. Ridhwan et al (2014) are of the view that the al-Waqif (donor) who endows cash instead of real estate, supported by contemporary jurist, as long as it is in interest of the Waqif (the donor), its beneficiaries and society. According to Chowdhury et al. (2011) studies have found cash Waqf to be beneficial in the practice of modern Islamic financial system, leading to more productivity when compared to donation of land, books, and livestock.

5.2. Categories of Waqf

Waqf can be classified into three categories. The first category is the religious Waqf: this refers to mosques and properties where the benefits are confined to providing revenues on their maintenance and recurring expenses.

The second category is philanthropic waqf: this category of waqf is aims at providing benefits to the less privileged in society. Activities such as provision of education, microfinance, training, health care, and environmental protection are classified under philanthropic waqf.

The third category is the family waqf: under this category, only the children and descendants of the endower (Waqif) have first right on the benefits and revenues of the Waqf. Only the surplus, if any, is given to the poor (Alkali and Sani, 2015).

5.3. Problems of Waqf (cash) development in Nigeria

- Awareness: individuals in the society still mistake zakat for Waqf.
- Acceptance of cash Waqf: Some individual are still reluctant to pay cash as Waqf.
- Low income: less earning power among individuals (minimum wage N18, 000/USD 90).
- Neglect of poor by the rich in the society: The rich are less concern about the less privileged in the society.
- Unemployment: less paid jobs in the society resulting to high unemployment rate.

5.4. Advantage of cash waqf

Amuda and Bin Baung (2015) summarised the advantags of cash waqf as follows:

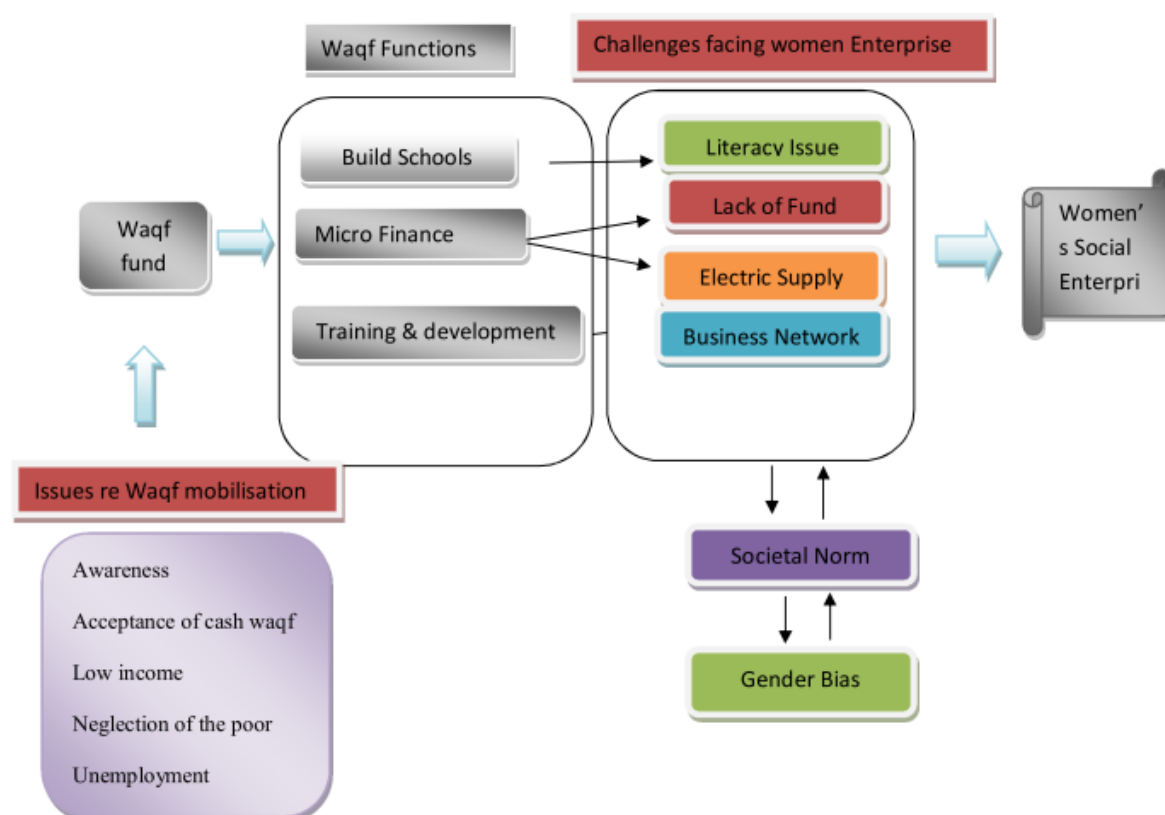
- More Individuals have cash to offer compared to immovable property.
- Cash *waqf* can be used for financing large projects via *waqf mushtarak* or *waqf juma'i*.
- Cash *waqf* enables investment in diverse economic activities, hence greater returns can be expected.
- The versatility of Cash *waqf* since it can be used for any objective or social purpose.
- Cash *waqf* provides higher chance of growth.

5.5. Mobilisation of waqf (cash)

Another issue related to the problem of Waqf development in Nigeria is the mobilisation of the Waqf beside the voluntary philanthropist contribution. Waqf mobilisation in Nigeria, if success full will yield numerous amount of money which will be beneficial to the poor and less privileged in the society. For, instance Muhammad Salleh (2009) noted that cash Waqf has the potential to promote the development of Ummah in Malaysia. He argued that the estimated cash Waqf collection in Malaysia could yield up to RM 4bil (USD 1.137 bil) a year if each Malaysia Muslim adult contributed RM 1 daily or RM 30 monthly to cash the Waqf fund .In this regard with an estimated 50 Million Muslim adults in Nigeria, if each adult contributed Naira 100 a month (USD 0.50 cent), up to Naira 5 bill (USD 25

million) could be mobilised on a monthly basis. Putting this amount together for a year will yield up to 60 billion (USD 301 million). This amount is sufficient to improve the lives of the poor for the better via micro financing and as well as building world class educational institutions.

Figure 1.0: Waqf Model in Enhancing the Social Enterprise Development among Women



6. DISCUSSION

This study envisages that cash Waqf can be channelled towards tackling issues identified as impediments to women's social enterprise development as shown in figure 1.0. For instance in education, the Waqf fund can be used to establish girls only primary or secondary school to be made free. This will increase the percentage of female literacy in the community. For, instance, the famous Al-Azhar university in Cairo was built through cash Waqf , and this has enabled the poor move up the economic ladder via education and obtain high levels of economic and political power (Danna ,2007)).

According to Muhammad Ridhwan (2012) the island of Sicily had 300 elementary schools under the Islamic rule built by Waqf, which also covered the payment of teachers' salaries and school supplies. According to Alkali and Sani (2015) cash Waqf was used to build ten Nizamiyyah Schools for enrolment of orphans and less privileged in Zamfara state, Nigeria, and it was also utilise to sponsor education of the

orphans at the higher education level. Additionally, Waqf can also be used to sponsor female children who seek to further their studies at higher education institutions. This is in line with view of Ridhwan et al (2014) who in their studies suggested the use of cash Waqf to finance education, they argued that education is important for the development of human capital and the achievement of economic well-being for oneself, society and the nation at large.

Their study proposed the establishment of Waqf banks as a means to finance education, stating that it will ease the burden of parents and motivate students to study being made free education. In a study conducted by Pitchay et al (2014) found that cash Waqf donors in Malaysia are more willing to donate to education sector development than others, perhaps this could be due to challenges currently related to limited public university and high fees charged by the private universities which have affected the affordability of poor students to further their studies. However, these efforts, if successful, will gradually prepare the women for future employment opportunities and as well as those who will like to start up their own businesses.

Besides, Waqf fund can also be used to support women entrepreneurs who need finance to grow their businesses (project financing) as well as those who are interested in starting their new businesses. For instance, the fund can be used to build business shops at good locations and lease them to the women entrepreneurs at reasonable prices. The money realised from the lease can be used for maintenance of the property and some part of it can also be used for other beneficial purposes. Amuda and Buang (2015) view that Waqf management can be used to create micro-finance from donated cash to support needy and skilful less privileged citizens across Nigeria. They maintain that creation of micro-finance will enable needy citizens to have access to capital for small businesses through profit and loss sharing (PLS) instruments such as Mudarabah and Musharakah. According to Ahmed (2007) cash Waqf can be used as micro finance tool to finance the poor and those small entrepreneurs who cannot access loans from the banks, he further argues that using Waqf to finance MFI operations can reduce the financing costs and improve the viability of these institutions. Furthermore, in the case of beginners it is advisable to select those with viable and sound business proposals but those that do not meet the standard may be required to revise their business proposals. This can be achieved by the use of business advisors, mentors and by attending seminars and business development workshops. Thus, this will enhance the women's business network and will give them wider experience on how to use business networks as a strategy to achieve business objectives. With regard to the electric power supply, through the Waqf cash, women entrepreneurs can gain access to solar energy equipment's, and this will enhance their business productivity in terms of having longer duration of market activities and as well provide security for those engaged in night markets.

Another important issue is the societal norm and gender bias, this study views that by adequately providing adequate funds towards development of women's social enterprise and providing more avenue's for them to become educated and future employees, it will gradually diminish the notion that women's role is in the kitchen and change the mind-set of the society towards believing that women could actually be successful in their own businesses as well as attain the highest educational qualifications. Thus, it will also assist to reduce the gender bias towards women

which has for long placed them in disadvantaged positions in terms of securing paid employment and venturing into their dream businesses.

7. CONCLUSION

The development of women's social enterprise is vital to Nigeria's economy. This will ensure gender equality and the full utilization of the country's human capital resources towards development of a more dynamic economy. This paper attempts to identify issues that impede the development of women social enterprise in Nigeria and how Waqf can be beneficially used in solving this issues. It is envisaged that solving this issues will not only promote gender equality but will also assist in poverty reduction and support the growth of the national economy in the long run.

Future research should focus on what factors motivate individuals to contribute toward development of cash waqf and what factors hinder them from doing same? And what challenges do women face as potential beneficiaries of cash Waqf?

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ANALYSIS THE DETERMINANTS OF MICRO ENTERPRISES GRADUATION*

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ABSTRACT

Micro Enterprises (MEs) account for 55.86 million or 98.9% of total enterprises in Indonesia employing more than 90% of its people, but almost all MEs never graduate to Small Enterprises (SEs). This study aims to analyze the determinants and design the model of MEs graduation using field survey, Structural Equation Modeling (SEM) and Strategic Assumption Surfacing and Testing (SAST) methods. Survey results reveal that MEs and SEs (MSEs) are home/shop operated informal business in manufacturing or trade sectors, which is easy to enter/exit with simple technology; operated by low educated and lack experience people, or by educated entrepreneurs; financed by their own capital; and knowledgeable about their products but having problems to win the market. Unstable macroeconomic conditions and lack of external supports could not stop them to survive. They are in dire need of any kind of assistances, especially managerial, financial, technical, marketing, entrepreneurship, leadership and mindset change. SEM results show that the main determinants of ME graduation are Standard Operating Procedure and Information Technology (MANAGEMENT Know-how), Market (BUSINESS Characteristics), Infrastructure and Macroeconomic Condition (EXTERNAL), and Family Support (SUPPORT). Other important determinants are Visionary, Entrepreneurship and Business Experience (OWNER of Business) and Skilled Human Resources (RESOURCES). Most MSEs do not have the main key factors to success and graduate. Religious Islamic characteristics, do not emerge as the main key success factors of ME graduation. However, they are necessary factors, such as Spiritual uplift, Trustworthy (Amanah), and Truthful (Siddiq). SAST results show that the most important policies needed by MSEs are price stability and infrastructure (EXTERNAL), capital and financing support (SUPPORT), easy & cheap way of doing business and strategic location (BUSINESS Characteristics), easy & cheap access to finance & raw material and availability of appropriate technology (RESOURCES).

JEL Classification: G21, G28, O17

Keywords: Micro enterprise, Small Enterprise, Graduation, Microfinance, Islamic Entrepreneur

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1. INTRODUCTION

1.1. Background

Micro Enterprises (ME) in Indonesia have always been playing an important role in Indonesian economy. After 1998 Asian crisis, especially in rural area, ME considered as a safety valve in the process of national economic recovery in enhancing economic growth, reducing unemployment rate and alleviating poverty. Number of ME accounts for 98.8% (or 55.9 million) of total enterprises in Indonesia in 2012.

Several data show the significance of ME's contribution towards Growth Domestic Product for about 34.7% in 2011 and 35.8% in 2012. It is just below the contribution of large enterprises towards GDP. ME sector could absorb for about 96.0 million labors (90.8%) in 2011 and 99.9 million labors (90.1%) in 2012.

Table 1.1: Statistics of Micro, Small and Medium Enterprises in 2012

	Number		GDP	Labor		Export*
Micro	55.856.176	98.79%	35.81%	99.859.517	90.12%	1.51%
Small	629.418	1.11%	9.68%	4.535.970	4.09%	3.45%
Medium	48.997	0.09%	13.59%	3.262.023	2.94%	11.48%
Large	4.968	0.01%	40.92%	3.150.645	2.84%	83.56%
MSMEs	56.534.592	99.99%	59.08%	107.657.509	97.16%	16.44%

Source: Ministry of Cooperation and SMEs; * 2011 data.

With its specialties – especially with its low financial capital –, ME could produce in the short-term process. Having simple management and huge unit volume scattered in the whole nation, brought about ME to have better resistant toward the fluctuation of business cycle.

Despite historical success of ME, there exist unresolved issues that need to be further discussed whereby ME have always been in difficulties to access loan or financing from the banking industry (conventional as well as Islamic financial institutions) for a number of reasons.

According to Ascarya (2014), there are several models of microfinance institutions (MFI), conventional as well as Islamic MFI, that specifically serve poor people and ME, such as Baitul Maal wa Tamwil (BMT).

Meanwhile, several financing models to empower and develop ME through BMT have been growing, including commercial, non-commercial and mixed models. These models include direct and indirect linkage models between Islamic bank and BMT. Some models utilize zakat and/or waqf, as well as donors as their secondary/primary source of funds. In sum, there exist several financing models (with or without TA) which were developed to target specific customers of poor people and ME, with or without social funds.

Nevertheless, the percentage of ME in the 15-year span has not been changed significantly. The data showed only a slight increasing trends of Small Enterprises (SE) and Medium Enterprises (ME) in the period of 2006-2012.

Table 1.2: Percentage of Micro, Small, Medium and Large Enterprises in Indonesia

	1997	1998	2002	2004	2006	2008	2010	2012
Micro	99.84%	99.85%	99.78%	99.78%	98.95%	98.90%	98.85%	98.79%
Small					0.96%	1.02%	1.07%	1.11%
Medium	0.15%	0.14%	0.20%	0.21%	0.07%	0.08%	0.08%	0.09%
Large	0.01%	< 0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%
MSMEs	99.99%	99.99%	99.99%	99.99%	99.99%	99.99%	99.99%	99.99%

In a country dominated by Micro Enterprises employing more than 90% of its people, it is imperative to understand the determinants of ME graduation and to develop these ME to improve the wellbeing of their owners and employees. However, there is a gap between the capability of Islamic financial institution and the need of ME, as well as a lack of ME capability and capacity to step up and graduate to SE.

1.2. Objective

The objective of this study is to analyze the determinants of Micro Enterprises (ME) to improve gradually to be able to graduate to Small Enterprises (SE). This study will cover two groups of MSEs which are customers of Islamic and conventional financial institutions. Moreover, this study will design ME Graduation model suitable for ME to evolve from low ME to high ME, and eventually graduate to SE.

1.3. Methodology

This study will apply several qualitative methods. Structural Equation Modeling (SEM) will be applied to analyze the determinants of ME graduation. In addition, Strategic Assumption Surfacing and Testing (SAST) will be applied to help in designing Islamic ME Graduation model.

2. LITERATURE REVIEW

2.1. Micro and Small Enterprises

The smallest scale of business are known as Micro Enterprises (MEs), which have micro scale operations and relatively few or no permanent employees. Since MEs are not registered formally, they have no access to formal services. In general, the definition of MSMEs can be classified by number of employee, total asset, annual sales and capital size. According to Aziz and Rusland (2009), the various classifications of MSMEs could be caused by differences in market structure, production structure, market power, policy as well as legal system in each country.

Criteria of MSMEs vary widely, even among multilateral institutions such as World Bank, European Union (EU), Multilateral Investment Fund (MIF) – Inter-American Development Bank (AfDB), Asian Development Bank (ADB), and United Nations Development Program (UNDP). In general, they defined MSMEs by number of employees, total assets and annual sales. According to AfDB, enterprises with more than 50 employees were classified to be large enterprises. Meanwhile World Bank and EU classified enterprises with 299 and 249 employees as medium enterprises. These differences are dominantly caused by different level of each region's economy.

Table 2.1: MSMEs Criteria Used by Multilateral Institutions

Multilateral Institutions	Micro Enterprises		Small Enterprises		Medium Enterprises	
	Employee	Total Assets/ Annual Sales	Employee	Total Assets/ Annual Sales	Employee	Total Assets/ Annual Sales
World Bank	< 11	TA:<\$10.000 AS:<\$100.000	< 50	<\$3Mil	< 300	<\$15Mil
EU	< 10	<€2Mil	< 50	<€10Mil	< 250	TA:<€43Mil AS:<€50Mil
MIF – IADB	n/a	n/a	n/a	n/a	<100	AS:<\$3Mil
AfDB	n/a	n/a	n/a	n/a	<50	n/a
ADB	No official definition					
UNDP	n/a	n/a	n/a	n/a	<200	n/a

Source: UNDP; DCED (Donor Committee for Enterprise Development); Gibson & Vaart (2008); modified by Authors

Criteria of MSMEs also vary amongst countries. In Chile, MSMEs were defined based on annual sales. MSMEs in India were currently defined as their capital investment. Some countries classified MSMEs based on number of employee, such as Jamaica, Albania, Australia, Oman, and Saudi Arabia. Specifically, China categorized total employees based on economic sector.

Some countries have combined benchmark in defining MSMEs. Some of them use various standards to define MSMEs regarding their different regulator policies. Peru and Dominican Republic used the number of employee and annual sales to define MSMEs. Philippines, Cambodia and Nigeria combined the number of employee and total assets for MSMEs classification. The indicators of the number of employee, annual sales, and total assets were used by Costa Rica and Bolivia.

Besides, economic sector was further considered to be used as benchmark in defining MSMEs. For instance, South Africa sets different definition of MSMEs in the sector of mining, electricity, manufacture and construction. Argentina used different level of annual sales to classify the enterprises in the sectors of industry, retail, services and agriculture. Malaysia distinguished MSMEs in the sector of service and manufacture based on number of employee and annual sales.

In Indonesia, several institutions and act regarding MSMEs define different criterias for MSMEs classification. Statistics Indonesia defines MSMEs according to number of employee. Enterprises which hire less than 5 employees are classified as MEs, SEs have 5 to 19 employees, while Medium Enterprises have 20 to 99 employees. These classifications are merely based on number of employee without considering total assets and annual sales. MSMEs Act No. 28/2008 defines MEs based on assets and annual sales, as shown in table 2.2.

Table 2.2: Criteria MSMEs

Type of Business	Criteria (MSMEs Act No.20/2008)
MICRO	- Assets < Rp50 million (real property excluded) - Annual sales is < Rp300 million
SMALL	- Assets Rp50 million – Rp500 million (real property excluded) - Annual sales Rp200 million – Rp2.5 billion
MEDIUM	- Assets Rp500 million – Rp 10 billion - Annual sales Rp2.5 billion – Rp10 billion

2.2. Business Life Cycle Framework

The business life cycle model explains that a business needs to undergo a number of stages for its development process. Each model represents different characteristics and various number of stages. Table 2.3 shows taxonomy of business life cycle models by number of stages.

Table 2.3: Taxonomy of Business Life Cycle Models by Number of Stages

No. of Stage	Authors
3	Lippitt and Schmidt (1967); Downs (1967); Scott (1971); Katz and Kahn (1978); Smith, Mitchell and Summer (1985)
4	Chandler (1962); Steinmetz (1969); Lyden (1975); Kimberly (1979); Quinn and Cameron (1983); Kazanjian and Drazin (1989)
5	Penrose (1952); Greiner (1972); Galbraith (1982); Miller and Friesen (1984); Scott and Bruce (1987); Jansen and Chandler (1993); Lester and Parnell (1999)
6	Churchill and Lewis (1983); Hanks, <i>et al.</i> (1993)
8	Torbert (1974)
10	Adizes (1979)

Source: Quinn and Cameron (1983 p.35-37); Perényi, *et al.* (2011 p.144); Lester, *et al.* (2003 p.341); modified by Authors

Many studies on business life cycle framework have been conducted. The framework could be applied not only for organization, but also for public company and corporate. Table 2.4 shows taxonomy of life cycle models by unit of analysis.

Table 2.4: Taxonomy of Business Life Cycle Models by Unit of Analysis

Units of Analysis	Authors
General	Chandler (1962); Downs (1967); Torbert (1974); Katz and Kahn (1978); Galbraith (1982); Lester and Parnell (1999)
Organizations	Greiner (1972); Adizes (1979); Hanks, Watson, Jansen and Chandler (1993); Kimberly (1979); Quinn and Cameron (1983); Smith, Mitchell and Summer (1985)
Public Organizations	Lyden (1975)
Firms/Companies/ Industry	Lippitt and Schmidt (1967); Miller and Friesen (1984); Penrose (1952); Porter (1980)
Large Enterprises	Channon (1968); Salter (1970)
Small and Medium Enterprises	Mahar and Coddington (1966); Steinmetz (1969); Barnes and Hershon (1976); Bruce (1978); Scott and Bruce (1987); Churchill and Lewis (1983); Kazanjian and Drazin (1989)

Source: Scott and Bruce (1987 p.46); Perényi, *et al.* (2011 p.144); modified by Authors

Many authors have proposed the stages of the life cycle of an organization or a company. Each author categorized life cycle stage differently. Although there are differences in each model's life cycle, there are similarities in these models. Most of these models categorized business life cycle from the establishment (birth) to maturity. However Adizes (1979) made the most complete categories, where he classified business life cycle into 10 stages, starting from courtship (initial creation) to its death.

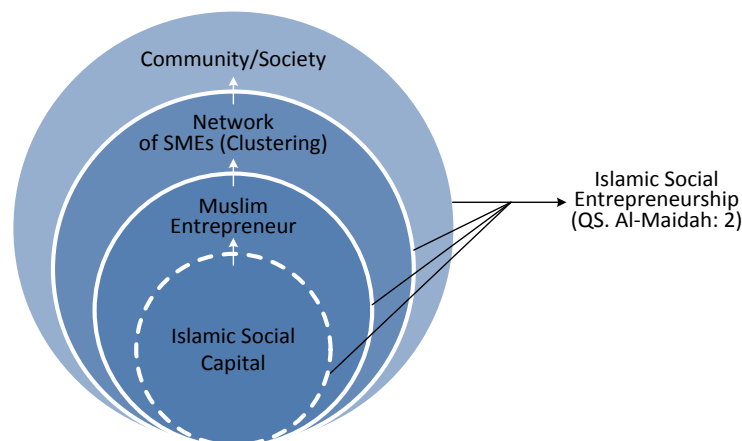
2.3. Determinants of MEs Graduation in Islamic Perspective

Islamic entrepreneurship can be referred to entrepreneurship in Islamic perspective. Conventional entrepreneurship is started as for profit, while Islamic entrepreneurship naturally can be possible in a well-balanced way, making business profit and at the same time targeting spiritual rewards. Muslim scholars have suggested a number of characteristics to be implemented by Muslim entrepreneurs (Faizal, *et al.*, 2013; Hoque, *et al.*, 2014; Oukil, 2013; Abdullah and Hoetoro, 2011; Kayed, 2006; Kayed and Hassan, 2010; Hassan and Hippler, 2014).

Faizal, *et al.* (2013) explain that the basic framework of Islamic entrepreneur is *taqwa* (faith) and *'ibadah* (worship) to Allah SWT. Based on this basic framework, there are other elements that will complement the characteristics of Islamic entrepreneurship. The *taqwa* (faith) to Allah SWT can be raised by performing the mandatory and voluntary worship of *fardhu 'ain* (personal) and *fardhu kifayah* (community). It includes prayer, fasting on Ramadan, hajj and umrah (pilgrimage), zakat, and charity. It also needs to be supported by some other values, such as the high moral value, trustworthy, community care and environment care.

Hoque, *et al.* (2014) develop a model of entrepreneurship based on Al-Quran and Sunnah in the modern business world. The salient traits are knowledge, initiative, risk taking, customer orientation, employee involvement, strategic thinking, fear of Allah, hardworking, innovativeness, excellence, honesty and truthfulness, morality, vision, optimism, patience, social welfare, Halal earnings and economical. The model would be used for developing entrepreneurship from Islamic perspective by performing various types of activities relating to the phases of enterprise development.

Moreover, in the context of small and medium enterprises empowerment, Abdullah and Hoetoro (2011) proposed Islamic social entrepreneurship as a model in empowering SMEs to operate in a Muslim society. Basically, this model utilized a stock of Islamic social capital and cooperation among Muslim entrepreneurs that are very commonly found in Al-Qur'an and Sunnah. The primary purpose of this SMEs model to operate within Islamic social entrepreneurship is producing jobs and value to the communities, not to owner's profitability. The mechanism of this model is described in the figure 2.1.



Source: Abdullah and Hoetoro (2011)

Figure 2.1: A Model of Islamic Social Entrepreneurship

However, every Islamic entrepreneurship model is acceptable as long as it stands on the concept unity of God and obeys the Islamic principles. Along to this concept, a Muslim Entrepreneur will have a strong social responsibility. It is in line with the main purpose of human and world creation. Table 2.5 shows the summary of Islamic entrepreneurship characteristics.

Table 2.5: The Summary of Islamic Entrepreneurship Characteristics

Islamic Entrepreneurship Characteristics	Faizal, <i>et al.</i> (2013 p.192-195);	Hoque, <i>et al.</i> (2013 p. 132-138)
Fear of Allah (Taqwa)	Taqwa as a framework (Al-Saff, 61:10-11)	Fear of Allah (Al-Hujarat, 49:13)
Halal Earning	Halal is a top priority (Al-Maidah, 5:88)	Halal Earning (Al-Baqarah, 2:188)
Economical	Do not waste (Al-A'raf, 7:31; HR. Muslim)	Economical (Al-Isra, 17:26-27)
Worship	Worship to Allah is a Priority (Al-Hijr, 15:67)	
Morality	Practicing High Moral Values (Al-Baqarah:275)	Morality (HR. Bukhari; Al-Qalam, 68:4)
Trustworthy & Truthfulness	Trustworthy (Al-Tirmidhi: 1213)	Honesty & Truthfulness (HR. Bukhari)
Social Welfare	Concern for the Welfare (Al-Hajj, 22:77)	Social Welfare (Ali Imran, 3: 92 & 110)
Knowledgeable	Knowledgeable (Al-Alaq, 96:1-5)	Knowledge (Thaahaa, 20:114)
Caring for Society & Environment	Caring for the Society & Environment (Al-Qashash, 28:77; HR. Abu Dawud:2542)	Customer Orientation (Hud, 11:85); Employee Involvement (Ibn Majah)
Initiative		Initiative (Al-Baqarah, 2:42 & 149)
Risk Taking		Risk Taking (Al-Maidah, 3:159)
Strategic Thinking		Strategic Thinking (Al-Anfal, 8:22)
Hard Working		Hard Working (An-Najm, 53:30)
Innovativeness		Innovativeness (An-Najm, 53:39)
Visionary		Vision
Optimism		Optimism (Az-Zumar, 39:53)
Patience		Patience (Al-Qalam, 68:48)
Excellence		Excellence (HR. Muslim)

In the context of enterprise graduation, Islamic entrepreneurship should differ from other entrepreneurship in their motives and aims. The aim of micro enterprises is to be successful in their business. In the conventional perspective, MEs scholars define

success from various aspects. The common indicator to measure the successfulness of small firm is employment growth (Mead and Liedholm, 1998), profit, annual sales, assets (McPherson, 1996) and personal income (Kayed, 2006).

However, for a Muslim, the success is measured beyond that. MEs Graduation in Islamic perspective does not necessarily translate into firm growth, but it is more qualitative aspects or innovation. According to Hoque (2014), the innovativeness of entrepreneurs in the Qur'an says "*We do not change the circumstances of people until they do not change what is within themselves*" (QS. Ar-Ra'd, 13:11). In fact there is no room for an indolent and idle brain in Islam. According to Islamic teachings, *a man can have nothing but what he strives for* (QS An-Najm, 53:39).

In the Islamic perspective, Siddiqi (1979: p.141 & 151) as cited in Kayed (2006: p.112) defines the aims of the Muslim entrepreneur in terms of realizing (satisfactory) halal profits and rendering social services to the wider community. Islam considers the profit motive to be legitimate and moral as long as it is kept free of interest (*riba*), greed, speculation and exploitation and as long as it is not considered the ultimate goal of the entrepreneur.

2.4. Previous Studies

There are plenty of studies focusing on the key success factor of small and medium enterprises (SMEs). Some of these studies include, among others, Chittithaworn, *et al.* (2010), Hassanali (2012), Philip (2010), Jasra, *et al.* (2011), as well as Elster and Phipps (2013).

Key success factors of small and medium enterprises (SMEs) according to Chittithaworn, *et al.* (2010) include SMEs characteristic, management and know-how, products and services, customer and market, the way of doing business and cooperation, resources and finance, strategy, and external environment. Hassanali (2012) stated the key success factors of SME were strategic framework on business and operational, including strategic implementation and strategic leadership.

Philip (2010) concluded that these factors are characteristic of SMEs, management and know-how, products and services, the way of doing business and cooperation, resources and finance, and external environment. Jasra, *et al.* (2011) mentioned that the key success factors of SME were financial resources, marketing strategy, technological resources, government support, information access, business plan, entrepreneur skills. Meanwhile, Elster and Phipps (2013) stated that the key enablers of SME success were 1) internal capacity and capability; 2) the external environment; and 3) the vision of the owner.

However, there are only few studies focusing on the micro and small enterprise upgrading. Some of these studies are part of a three-country research project in Egypt, India and Philippines carried out by the Department of Competitiveness and Social Development of the German Development Institute or Deutsches Institut für Entwicklungspolitik (DIE).

The determinants of ME graduation from these studies could be summarized in six groups, namely: 1) OWNER of Business, including fear of Allah, trustworthy,

truthful, visionary, entrepreneurship, leadership and business experience; 2) BUSINESS Characteristics, including halal earnings, product, service, market, customer, cost of business, competition and location; 3) MANAGEMENT know-how, including transparency, professional, Standard Operating Procedure, Standard Operating Management, information technology, innovation and networking; 4) RESOURCES, including spiritual capital, skilled human-resource, owned capital, access to finance, technology resource, raw material and social capital. 5) EXTERNAL Environment, including regulation-policy, infrastructure, macroeconomic, Muslim-majority, corruption, crime, bureaucracy and tax/retribution. 6) SUPPORT, including Central Government, Local Government, social fund, technical support, managerial support, spiritual uplift and family support. Moreover, ME Graduation could be represented by sales increase, wealth-capital increase, employee increase, market expansion, profit increase and financing limit increase. Summary of these studies can be seen in table 2.6.

Table 2.6: Literature Summary of ME Graduation

VARIABLE	REFERENCES
OWNER of Business	
1.Fear of Allah	Faizal, <i>et al.</i> (2013 p.192); Hoque (2014 p.138);
2.Trustworthy (<i>Amanah</i>)	Hoque (2014 p.137); Faizal , <i>et al.</i> (2013 p.193); Roomi (2006 p.15-17);
3.Truthful (<i>Shiddiq</i>)	Hoque (2014 p.136); Roomi (2006 p.15-17); Faizal (2013 p.193);
4.Visionary	Ghosh and Kwan (1999 p.9); BIS (2013 p.16); Hoque (2014 p.1); Olawale and Garwe (2010 p.731); Daily, <i>et al.</i> (2002); Benzing, <i>et al</i> (2009 p.61); Pillay (2006 p.36);
5.Entrepreneur-ship	Jasra, <i>et al.</i> (2011 p.278); Benzing, <i>et al.</i> (2009 p.61); Chittithaworn, <i>et al.</i> (2011 p.182); Tahir, <i>et al.</i> (2011); Temitope (2013 p.1404); Soini and Veseli (2011 p.15);
6.Leadership	Stefanovic, <i>et al.</i> (2010b p.262);
7.Work Experience	Garoma (2012); Loewe (2013 p.24); Reeg (2013a p.21); Reeg (2013b); Rafiki (2014 p.176); Pillay (2006 p.32);
BUSINESS Characteristics	
1.Halal Earning	Hoque (2014); Faizal, <i>et al.</i> (2013 p.193); Oukil (2013 p.5);
2.Product	Chittithaworn, <i>et al.</i> (2011 p.182); Ghosh and Kwan (1999 p.8-9); Brink (2003 p.5);
3.Services	Chittithaworn, <i>et al.</i> (2011 p.182); Ghosh and Kwan (1999 p.8-9); Brink (2003 p.5);
4.Market	Ghosh and Kwan (1999 p.8-9); Olawale and Garwe (2010 p.731);
5.Customer	Hoque (2014 p.133); Brink (2003 p.4);
6.Cost of Production	Olawale and Garwe (2010 p.731);
7.Competition	Loewe (2013 p.35); Reeg (2013a p.82); Sefiani and Bown (2013 p.305); Soini and Vaseli (2011 p.19);
8.Location	Garoma (2012 p.114); Reeg (2013a p.92); Loewe (2013 p.69); Soini and Veseli (2011 p.19); Olawale and Garwe (2010 p.731);
MANAGEMENT Know-how	
1.Transparency (<i>Tabligh</i>)	Khalique, <i>et al.</i> (2015 p.226); Zain (2014 p.63);
2.Professional (<i>Fathonah</i>)	Zain (2014 p.63); Khalique, <i>et al.</i> (2015 p.226);

3.Std. Op. Procedure	Zain (2014 p.72); Khalique, <i>et al.</i> (2015 p.226);
4.Std. Op. Mgt.	Chittithaworn, <i>et al.</i> (2011 p.182); Zain (2014 p.72);
5.Information Tech.	Jasra, <i>et al.</i> (2011 p.278); Olawale and Garwe (2010 p.731); Temitope (2013 p.1404);
6.Innovation	Soini and Veseli (2011 p.17); Hoque (2014 p.134); Pillay (2006 p.37);
7.Networking	Loewe (2013 p.24); Reeg (2013a p.29); Reeg (2013b p.36); Ghosh and Kwan (1999 p.9); Olawale and Garwe (2010 p.731);
RESOURCES	
1.Spiritual Capital	Khalique, <i>et al.</i> (2015 p.226); Hendrawan (2009 p.101)
2.Skilled H-Resource	Loewe (2013 p.134); Benzing, <i>et al.</i> (2009 p.61); Ghosh and Kwan (1999 p.9);
3.Owned Capital	Garoma (2012 p.117);
4.Access to Finance	Loewe (2013 p.154); Reeg (2013a p.37); Reeg (2013b); Sefiani and Bown (2013 p.302); Olawale and Garwe (2010 p.731); Ghosh and Kwan (1999 p.9); Ahmad, <i>et al.</i> (2012); Soini and Veseli (2011 p.49); Pillay (2006 p.35);
5.Tech. Resource	Ghosh and Kwan (1999 p.9); Temitope (2013 p.1404); Soini and Veseli (2011 p.17); Brink (2003 p.3);
6.Raw Material	Temitope (2013 p.1404);
7.Social Capital	Garoma (2012 p.177); Loewe (2013 p.24); Farooqi (2006 p.113); Reeg (2013 a p.31); Milagrosa (2014 p.22); Loewe (2013 p.24)
EXTERNAL Environment	
1.Regulation-Policy	Reeg (2013a p.35); Loewe (2013 p.34); Stefanovic, <i>et al.</i> (2010 p.103); Olawale and Garwe (2010 p.732); Temitope (2013 p.1403); Soini and Veseli (2011 p.52); Pillay (2006 p.42);
2.Infrastructure	Reeg (2013a p.34); Sefiani and Bown (2013 p.304); Olawale and Garwe (2010 p.732); Ahmad, <i>et al.</i> (2012 p.521); Temitope (2013 p.1403)
3.Macro-economic	Reeg (2013a p.32); Loewe (2013 p.34); Ahmad, <i>et al.</i> (2012 p.520); CGAP (2011 p.11); Brink (2003 p.3);
4.Muslim-majority	Oukil (2013 p.2); Cooney, <i>et al.</i> (2011, 6)
5.Corruption	Reeg (2013a p.171); Loewe (2013 p.36); Olawale and Garwe (2010 p.732); UNIDO and UNODC (2007 p.10); Soini and Veseli (2011 p.51); Brink (2003 p.3);
6.Crime	Olawale and Garwe (2010 p.732); UNIDO & UNODC (2007 p.10); Soini and Veseli (2011 p.51); Pillay (2006 p.42-43); Brink (2003 p.3);
7.Bureaucracy	Ahmad, <i>et al.</i> (2012 p.521); Papzan, <i>et al.</i> (2008 p.600);
8.Tax/Retribution	Olawale and Garwe (2010 p.732); Pillay (2006 p.69);
SUPPORT	
1.Central Government	CGAP (2004 p.2);
2.Local Government	CGAP (2004 p.2);
3.Social Fund	Fehlinger and El-Nemr (2010, p.4)
4.Technical Support	DPbS (2006 p.8);
5.Managerial Support	DPbS (2006 p.7); Soini and Veseli (2011 p.15)
6.Spiritual Uplift	DPbS (2006 p.3); Khalique, <i>et al.</i> (2015 p.226); Oukil (2013 p.4);
7.Family Support	Roomi (2006 p.15-17); Benzing, <i>et al.</i> (2009 p.61); Rose (2006 p.75)
GRADUATION	

1.Sales Increase	Kayed (2006); Garoma (2012 p.25); Munizu (2010 p.35); Ascarya and Sanrego (2007 p.11);
2.W-Cap Increase	Kayed (2006); Munizu (2010 p.35); Ascarya and Sanrego (2007 p.11);
3.Employee Increase	Mead and Liedholm (1998); Garoma (2012 p.25); Temitope (2013 p.1405); Munizu (2010 p.35); Soini and Veseli (2011 p.15);
4.Market Expansion	Munizu (2010 p.35); Ascarya and Sanrego (2007 p.11); Soini and Veseli (2011 p.15);
5.Profit Increase	McPherson (1996); Garoma (2012 p.25); Temitope (2013 p.1405); Munizu (2010 p.35); Soini and Veseli (2011 p.15);
6.Fin. Limit Increase	Bank Indonesia Regulation

2.5. Conceptual Framework

Based on the above literature reviews, the conceptual framework of this study can be seen in figure 2.2. There are four latent endogenous variables, namely: 1) OWNER Business; 2) BUSINESS Characteristics; 3) MANAGEMENT; 4) RESOURCES, as well as two latent exogenous variables, namely: 5) EXTERNAL Environment; and 6) SUPPORT. Moreover, ME Graduation could be represented by sales increase, wealth-capital increase, employee increase, market expansion, profit increase and financing limit increase.

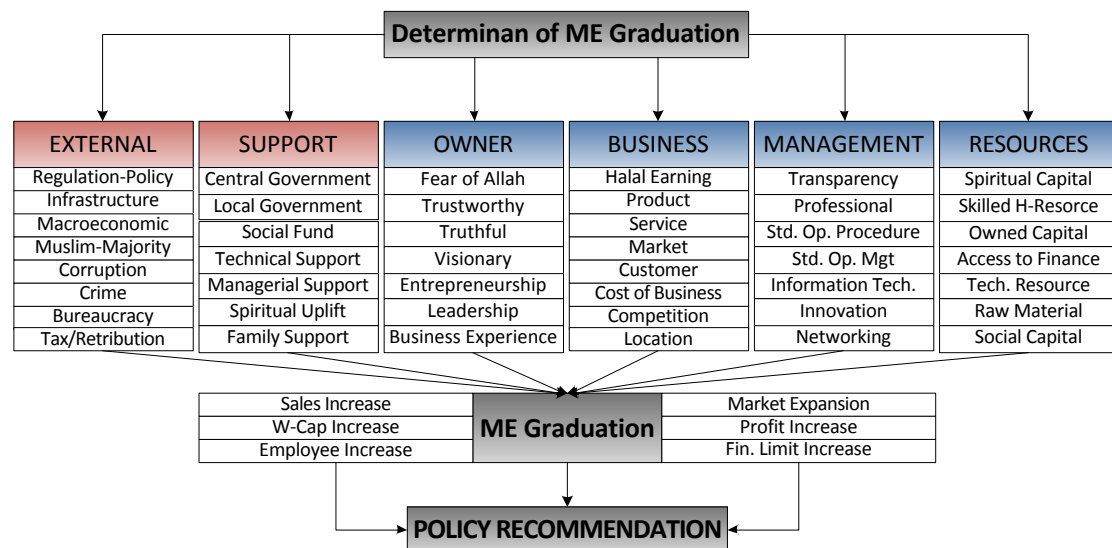


Figure 2.2: Conceptual Framework of Determinants of ME Graduation

3. RESEARCH METHOD

3.1. Data

This study applies qualitative methods, namely, Structural Equation Modeling (SEM) and Strategic Assumption Surfacing and Testing (SAST), which need qualitative data. SEM method is applied to analyze the determinants of Micro Enterprises (ME) to improve gradually to graduate to Small Enterprises (SE). Moreover, SAST is applied to help in designing Islamic ME Graduation model. The primary data needed in this

study are obtained from field survey in Yogyakarta, Bandung and Greater Jakarta, where 120 MSEs are selected from customers of Islamic and Conventional financial institutions, including those who receive loan from conventional financial institution and financing from Islamic financial institution, as well as those who do not receive any loan or financing.

3.2. Structural Equation Modeling (SEM)

Structural Equation Modeling (SEM) is a model originally developed by Karl Jöreskog (1973) which is combined with a model developed by Keesling (1973) and Wiley (1973) so that it is called as JKW model, also known as 'Linear Structural Relationship' (LISREL) model.

SEM is developed from simultaneous equation in econometrics (which uses measured/observed variables), by using variables which are not measured directly (also known as latent variables). The supporting computer software is developed by Jöreskog and Sörbom called LISREL (interactive and user friendly) program.

SEM consists of two main components, namely: 1) structural model, which describes structural relationships among latent variables or unobserved variables or constructs or factors (based on theories) which are measured or estimated indirectly by their respective indicators; and 2) measurement model, which describes indicator variables or measured variables reflecting or measuring or estimating their respective latent variables using the concept of 'Confirmatory Factor Analysis' (CFA) or 'Exploratory Factor Analysis' (EFA). Note that indicator variables cannot be combined arbitrarily to form latent variables. They are selected based on underlying theories.

3.2.1. Structural Model

Structural model shows potential direct causal relationships between latent exogenous (denoted by ξ 'Ksi') and latent endogenous (denoted by η 'Eta') or between two latent endogenous variables which are necessary to understand the real phenomena. Exogenous variables are independents with no prior causal variable(s). Endogenous variables are mediating variables or pure dependent variables. Causal relationship between exogenous variable and endogenous variable is usually depicted by straight line with single headed arrow denoted by γ 'gamma', while causal relationship between two endogenous variables is usually denoted by β 'beta'.

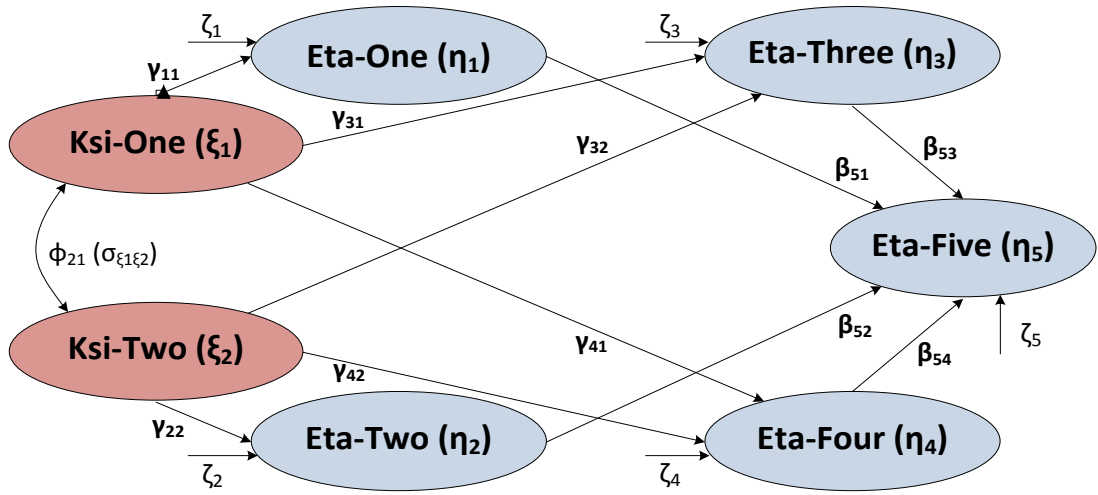


Figure 3.1: Structural Model of SEM

Moreover, correlation between two exogenous variables is depicted by curved line with double headed arrow denoted by ϕ 'Phi', while error in structural equation of endogenous variable is usually denoted by ζ 'zeta', which shows portion that cannot be explained. Example of structural model can be seen in figure 3.1. Structural equations of the above structural SEM model can be written as follows.

$$\eta_1 = \gamma_{11} \xi_1 + \zeta_1 \quad (3.1)$$

$$\eta_2 = \gamma_{22} \xi_2 + \zeta_2 \quad (3.2)$$

$$\eta_3 = \gamma_{31} \xi_1 + \gamma_{32} \xi_2 + \zeta_3 \quad (3.3)$$

$$\eta_4 = \gamma_{41} \xi_1 + \gamma_{42} \xi_2 + \zeta_4 \quad (3.4)$$

$$\eta_5 = \beta_{51} \eta_1 + \beta_{52} \eta_2 + \beta_{53} \eta_3 + \beta_{54} \eta_4 + \zeta_5 \quad (3.5)$$

3.2.2. Measurement Model

Measurement model shows causal relationships between latent variable and its indicators or observed/measured variables, which is used to estimate or predict the value of latent variable through several measured variables. Measured variable of exogenous latent variable is usually denoted by X_n , with causal dependency denoted by λ_{Xn} 'lambda' and measurement error δ_n 'delta', while measured variable of endogenous latent variable is usually denoted by Y_n , with causal dependency denoted by λ_{Yn} 'lambda' and measurement error ϵ_n 'epsilon'. Example of measurement models of the previous latent variables can be seen in figure 3.2.

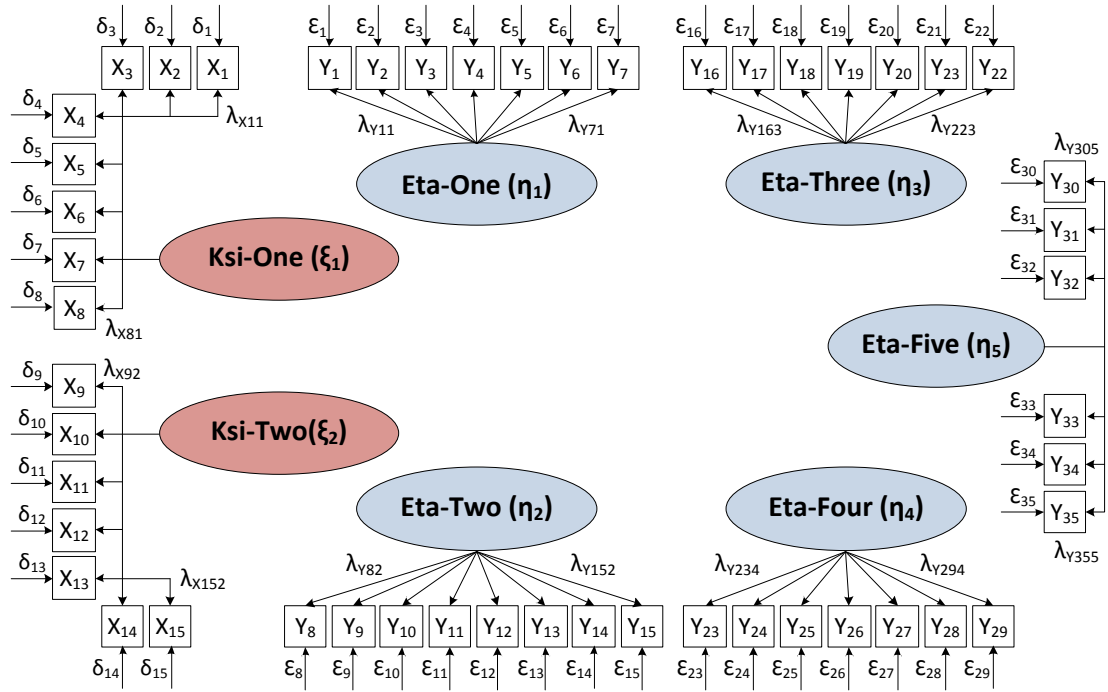


Figure 3.2: Measurement Model of SEM

Measurement equations of the above measurement SEM model can be written as follows.

- Latent exogenous ξ_1 :
 $X_1 = \lambda_{X11} \xi_1 + \delta_1$; $X_2 = \lambda_{X21} \xi_1 + \delta_2$; $X_3 = \lambda_{X31} \xi_1 + \delta_3$; (3.6-3.8)
 $X_4 = \lambda_{X41} \xi_1 + \delta_4$; $X_5 = \lambda_{X51} \xi_1 + \delta_5$; $X_6 = \lambda_{X61} \xi_1 + \delta_6$; (3.9-3.11)
 $X_7 = \lambda_{X71} \xi_1 + \delta_7$; $X_8 = \lambda_{X81} \xi_1 + \delta_8$; (3.12-3.13)
- Latent exogenous ξ_2 :
 $X_9 = \lambda_{X92} \xi_2 + \delta_9$; $X_{10} = \lambda_{X102} \xi_2 + \delta_{10}$; $X_{11} = \lambda_{X112} \xi_2 + \delta_{11}$; (3.14-3.16)
 $X_{12} = \lambda_{X122} \xi_2 + \delta_{12}$; $X_{13} = \lambda_{X132} \xi_2 + \delta_{13}$; $X_{14} = \lambda_{X142} \xi_2 + \delta_{14}$; (3.17-3.19)
 $X_{15} = \lambda_{X152} \xi_2 + \delta_{15}$; (3.20)
- Latent endogenous η_1 :
 $Y_1 = \lambda_{Y11} \eta_1 + \varepsilon_1$; $Y_2 = \lambda_{Y21} \eta_1 + \varepsilon_2$; $Y_3 = \lambda_{Y31} \eta_1 + \varepsilon_3$; (3.21-3.23)
 $Y_4 = \lambda_{Y41} \eta_1 + \varepsilon_4$; $Y_5 = \lambda_{Y51} \eta_1 + \varepsilon_5$; $Y_6 = \lambda_{Y61} \eta_1 + \varepsilon_6$; (3.24-3.26)
 $Y_7 = \lambda_{Y71} \eta_1 + \varepsilon_7$; (3.27)
- Latent endogenous η_2 :
 $Y_8 = \lambda_{Y82} \eta_2 + \varepsilon_8$; $Y_9 = \lambda_{Y92} \eta_2 + \varepsilon_9$; $Y_{10} = \lambda_{Y102} \eta_2 + \varepsilon_{10}$; (3.28-3.30)
 $Y_{11} = \lambda_{Y112} \eta_2 + \varepsilon_{11}$; $Y_{12} = \lambda_{Y122} \eta_2 + \varepsilon_{12}$; $Y_{13} = \lambda_{Y132} \eta_2 + \varepsilon_{13}$; (3.31-3.33)
 $Y_{14} = \lambda_{Y142} \eta_2 + \varepsilon_{14}$; $Y_{15} = \lambda_{Y152} \eta_2 + \varepsilon_{15}$; (3.34-3.35)
- Latent endogenous η_3 :
 $Y_{16} = \lambda_{Y163} \eta_3 + \varepsilon_{16}$; $Y_{17} = \lambda_{Y173} \eta_3 + \varepsilon_{17}$; $Y_{18} = \lambda_{Y183} \eta_3 + \varepsilon_{18}$; (3.36-3.38)
 $Y_{19} = \lambda_{Y193} \eta_3 + \varepsilon_{19}$; $Y_{20} = \lambda_{Y203} \eta_3 + \varepsilon_{20}$; $Y_{21} = \lambda_{Y213} \eta_3 + \varepsilon_{21}$; (3.39-3.41)
 $Y_{22} = \lambda_{Y223} \eta_3 + \varepsilon_{22}$; (3.42)
- Latent endogenous η_4 :
 $Y_{23} = \lambda_{Y234} \eta_4 + \varepsilon_{23}$; $Y_{24} = \lambda_{Y244} \eta_4 + \varepsilon_{24}$; $Y_{25} = \lambda_{Y254} \eta_4 + \varepsilon_{25}$; (3.43-3.45)
 $Y_{26} = \lambda_{Y264} \eta_4 + \varepsilon_{26}$; $Y_{27} = \lambda_{Y274} \eta_4 + \varepsilon_{27}$; $Y_{28} = \lambda_{Y284} \eta_4 + \varepsilon_{28}$; (3.46-3.48)
 $Y_{29} = \lambda_{Y294} \eta_4 + \varepsilon_{29}$; (3.49)
- Latent endogenous η_5 :
 $Y_{30} = \lambda_{Y305} \eta_5 + \varepsilon_{30}$; $Y_{31} = \lambda_{Y315} \eta_5 + \varepsilon_{31}$; $Y_{32} = \lambda_{Y325} \eta_5 + \varepsilon_{32}$; (3.50-3.52)
 $Y_{33} = \lambda_{Y335} \eta_5 + \varepsilon_{33}$; $Y_{34} = \lambda_{Y345} \eta_5 + \varepsilon_{34}$; $Y_{35} = \lambda_{Y355} \eta_5 + \varepsilon_{35}$; (3.53-3.55)

3.2.3. SEM Model of the Study

SEM model of this study comprises of two latent exogenous variables, namely External Environment (ξ_1) and Support (ξ_2), as well as five latent endogenous variables, namely Owner Business (η_1), Business Characteristics (η_2), Management Know-How (η_3), Resource-Fin (η_4) and ME Graduation (η_5). The corresponding structural equations are exactly similar to equations 3.1 – 3.5.

Meanwhile, the detailed indicators of each latent variable (X_n is indicator of exogenous variable ξ and Y_n is indicator of endogenous variable η) can be read in Table 2.8. The corresponding measurement equations are exactly similar to equations 3.6 – 3.55

Table 3.1: Indicators of Latent Variables

EXTERNAL-Env (X ₁)	OWNER-Bus (Y ₁)	MGT-KnowHow (Y ₃)
X ₁ : Regulation-Policy X ₂ : Infrastructure X ₃ : Macroeconomic X ₄ : Muslim-Majority X ₅ : Corruption X ₆ : Crime X ₇ : Bureaucracy X ₈ : Tax/Retribution	Y ₁ : Fear of Allah Y ₂ : Trustworthy (<i>Amanah</i>) Y ₃ : Truthful (<i>Shiddiq</i>) Y ₄ : Visionary Y ₅ : Entrepreneurship Y ₆ : Leadership Y ₇ : Business experience	Y ₁₆ : Transparency (<i>Tabligh</i>) Y ₁₇ : Professional (<i>Fathonah</i>) Y ₁₈ : Std. Op. Procedure Y ₁₉ : Std. Op. Mgt. Y ₂₀ : Information Tech. Y ₂₁ : Innovation Y ₂₂ : Networking
SUPPORT (X ₂)	BUSINESS-Char (Y ₂)	RESOURCES-Fin (Y ₄)
X ₉ : Central Government X ₁₀ : Local Government X ₁₁ : Social Fund X ₁₂ : Technical Support X ₁₃ : Managerial Support X ₁₄ : Spiritual Uplift X ₁₅ : Family Support	Y ₈ : Halal Earnings Y ₉ : Product Y ₁₀ : Service Y ₁₁ : Market Y ₁₂ : Customer Y ₁₃ : Cost of Business Y ₁₄ : Competition Y ₁₅ : Location	Y ₂₃ : Spiritual Capital Y ₂₄ : Skilled H-Resource Y ₂₅ : Owned Capital Y ₂₆ : Access to Finance Y ₂₇ : Tech. Resource Y ₂₈ : Raw Material Y ₂₉ : Social Capital
GRADUATION (Y ₅)		
Y ₃₀ : Sales Increase Y ₃₁ : W-Cap Increase	Y ₃₂ : Employee Increase Y ₃₃ : Market Expansion	Y ₃₄ : Profit Increase Y ₃₅ : Fin. Limit Increase

Therefore, the complete SEM model of this study can be illustrated as figure 3.3. Determinants of Micro Enterprises (ME) to improve gradually to be able to graduate to Small Enterprises (SE) are caused by External Environment, Support, Owner Business, Business Characteristics, Management Know-How, and Resoure-Fin.

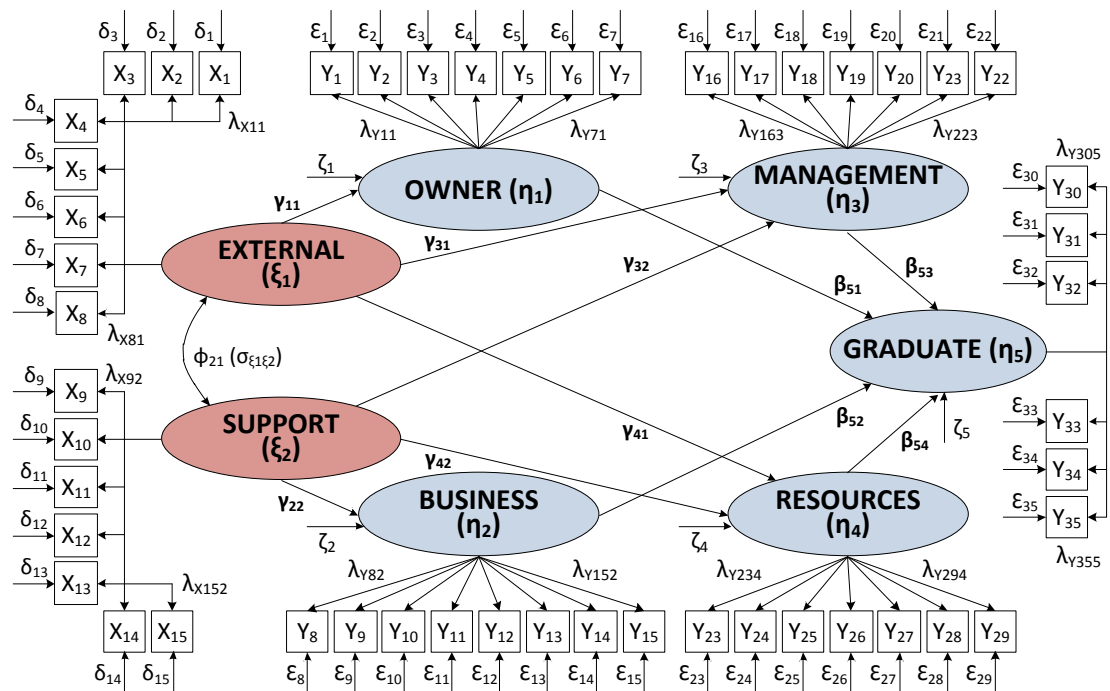


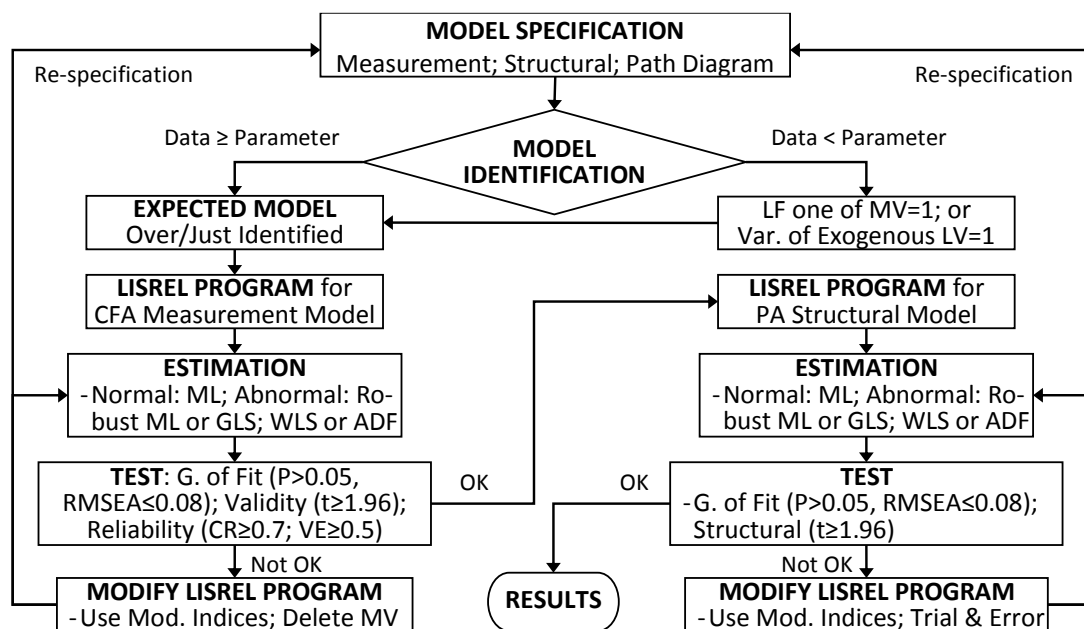
Figure 3.3: SEM Model of Graduation Model

3.2.4. SEM Procedure

SEM procedure comprises of several steps, namely: 1) model specification; 2) model identification, 3) Confirmatory Factor Analysis for measurement model (including, programming, estimation, test and modification, as well as re-specification if needed), 4) Path Analysis for structural model (including, programming, estimation, test and modification, as well as re-specification if needed), and 5) interpretation and communication of the results. The summary of SEM procedure can be seen in figure 3.4.

a. Model Specification

The first step in performing SEM analysis is to specify measurement model, structural model and path diagram. Specification of measurement model defines latent variables 'LV' (exogenous and endogenous) and their measured variables 'MV', as well as the relationship between each LV and its respective MVs. Specification of structural model defines causal relationships among latent variables. Finally, hybrid (complete) Path Diagram is drawn based on measurement model and structural model previously specified.



Note: LF: Loading Factor; SLF: Standardized Loading Factor; MV: Measured Variables; LV: Latent Variables; RMSEA: Root Mean Square Error of Approximation; CR: Construct Reliability, $CR = (\sum SLF)^2 / ((\sum SLF)^2 + \sum e_j)$; VE: Variance Extracted, $VE = \sum SLF^2 / (\sum SLF^2 + \sum e_j)$; CFA: Confirmatory Factor Analysis; e_j : measurement error for each indicator or measured variable, $e_j < 0.75$; ML: Maximum Likelihood; GLS: Generalized Least Square; WLS: Weighted Least Square; MI: Modification Index; No. of Data = $(p+q)*(p+q+1)/2$, p = no. of measured variables from all endogenous variables; q = no. of measured variables from all exogenous variables. No. of Parameter = $\beta + \gamma + \lambda_x + \lambda_y + \theta_\delta + \theta_\epsilon + \zeta + \Phi$.

Figure 3.4: SEM Procedure

b. Model Identification

The second step is to investigate the identification of the structural model whether it is *over-identified* or *just-identified*, which is expected, or *under-identified*, which is not expected and has to be adjusted. The identification formula is as follows: $t < s/2$; where t is the number of parameter to be estimated. Moreover, s is the number of known data or the number of variance and covariance of observed data, which is equal to $(p+q)*(p+q+1)$, where p is the number of indicators from endogenous variables and q is the number of indicators from exogenous variable. It is expected that $\text{data} \geq \text{parameter}$, meaning that the model is *over-identified* ($\text{data} > \text{parameter}$) or *just-identified* ($\text{data} = \text{parameter}$). When the model is *under-identified* ($\text{data} < \text{parameter}$), it can be resolved by constraining the model by:

- Assign loading factor $LF=1$ for one of the measured variables MV ; or
- Assign all variance of exogenous latent variables $\Phi = 1$.

In this model, the total number of parameter t is 111 ($\beta = 4$; $\gamma = 6$; $\lambda_x = 15$; $\lambda_y = 35$; $\theta\delta = 15$; $\theta\epsilon = 35$; $\zeta = 5$; $\Phi = 1$), while, the total number of data s is 1056 ($p = 35$; $q = 15$, so that $(p+q)*(p+q+1) = 2550$), so that $t < s/2$, or $\text{data} > \text{parameter}$, which means that the model is *over-identified*.

c. Model Estimation

The third step is to estimate the model (measurement model first and then structural model) in LISREL using appropriate estimation method with the characteristics of the data.

- Maximum Likelihood 'ML' is selected if the data is normal ($p\text{-value } z_{\text{kurtosis}}$ and $z_{\text{skewness}} > 0.05$) with sample size between 100 – 200, and it will produce the best estimation parameter;
- Robust ML or Generalized Least Square 'GLS' is selected if the data is abnormal with sample size between 200 – 300; or
- Weighted Least Square 'WLS' is selected, when the model has only 10 – 15 variables, if the data is abnormal with sample size between 2000 – 3000.

In this model, estimation method used is Maximum Likelihood 'ML', since the data of 120 samples satisfies multivariate normality, where the data is normally distributed and most indicators (9 out of 50) have $p\text{-value } z_{\text{kurtosis}}$ and $z_{\text{skewness}} > 0.05$.

d. Model Testing

The fourth step is to test the model fit (test measurement model first before test the structural model), which according to Hair, *et al.* (1998) comprises of three tests, namely:

- 1) Overall model fit (for both measurement and structural models) using goodness of fit (GoF) to determine the degree of fitness between the data and the model, which

includes, among others, $\chi^2/df \leq 3.0$, $P > 0.050$ and RMSEA (root mean square error of approximation) ≤ 0.08 . The model has perfect fit if $\chi^2/df = \infty$ (0.0/0), $p = 1.0$ and RMSEA = 0.0. The model has close fit if $\chi^2/df \leq 3.0$, $P > 0.050$ and RMSEA ≤ 0.05 . The model has good fit if $\chi^2/df \leq 3.0$, $P > 0.050$ and $0.05 < \text{RMSEA} \leq 0.08$.

- 2) Measurement model fit using validity and reliability tests to evaluate each measurement model fitness. The model is considered valid if $t \geq 1.96$, while the model is considered reliable if *construct reliability* 'CR' = $(\sum \text{SLF})^2 / ((\sum \text{SLF})^2 + \sum e_j) \geq 0.7$ and *variance extracted* 'VE' = $\sum \text{SLF}^2 / (\sum \text{SLF}^2 + \sum e_j) \geq 0.5$. Moreover, each indicator is considered as very significant if the value of *standardized loading factor* ≥ 0.5 .
- 3) Structural model fit using significance t-test to evaluate each causal relationship and overall coefficient of determination ' R^2 '. Causal relationship between latent variable is considered significant if $t \geq 1.96$.

e. Model Modification

When tests results (of measurement or structural model) are not satisfactory, LISREL program should be modified. In the case of measurement model, modification could be done by using modification indices and/or by deleting unqualified measured variables (indicators). In the case of structural model, modification could be done by using modification indices and/or by trial-and-error.

3.3. Strategic Assumption Surfacing and Testing (SAST)

The Strategic Assumption Surfacing and Testing (SAST) method is originally developed by Mitroff and Emshoff (1979) and Mason and Mitroff (1981) as an extension of inquiring systems design from Churchman (1971). Mitroff and Emshoff (1979) define SAST as an adversarial problem forming methodology which is suited to treating intensely ill-structured problems. The term of ill-structured problem is complex mixtures of highly interdependent important problems which involve more than one person in their formulation, solution, implementation, and evaluation. Easton (1988) describe SAST as a process which uses assumptions in policy making or planning to help decision makers a better decision map. Thus, SAST has been found to be helpful in uncovering the critical assumptions that underlie policies, plans, and strategies.

In detail, there are four principles on SAST method as follows: (i) adversarial – the premise to test an assumption through its opposite assumption; (ii) participative – the premise to distribute the knowledge and resources on a group of individual; (iii) integrative – the premise to create a unified set of assumptions and action plan from the adversarial and participative elements; and (iv) managerial mind supporting – the premise to deepen the manager's insight based on the exposure to assumption.

To begin the SAST process, it is necessary for the organization to provide an issue or policy and a decision making group. Adapted from some literatures, SAST procedure can be simplified into four phases (Mitroff and Emshoff, 1979; Easton, 1988; Córdoba-Pachón, 2010). First, group formation strategy is applied to separate a large

group into opposing homogenous groups. The formation of small homogenous groups is chosen because it tends to perform better than large groups on problem-solving tasks (Easton, 1988).

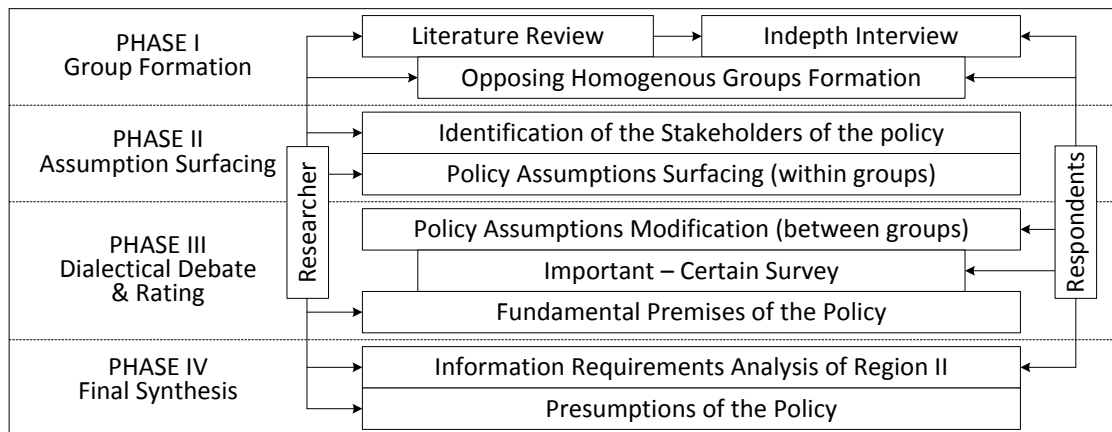


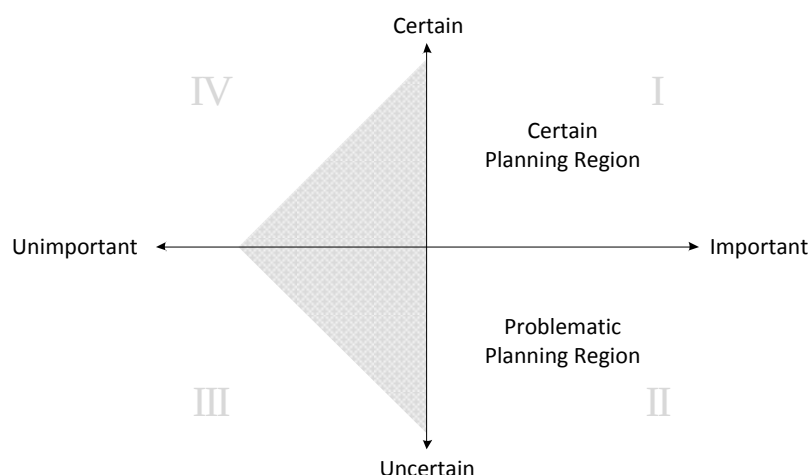
Figure 3.5 SAST Procedure

Second, the assumption surfacing phase involves two distinct steps. First step is to identify the stakeholder of the policy. After the stakeholders have been identified, the second step is to generate policy assumption performed by each of the group. Córdoba-Pachón (2010) define the assumption as an affirmation of organization and their stakeholders behave in current and future situations.

Third, the dialectical debate phase proceeds the evaluation of those assumptions from each group. The purpose of the dialectical debate is to show why each group views the situation as it does and what its viewpoint entails. Dialectical debate is then performed between the groups who oppose each other. Then, they should consider adjusting its assumptions. This process of assumption modification should continue for as long as progress is being made (Mitroff and Emshoff, 1979; Córdoba-Pachón, 2010).

After policy assumption modification, each group should have justification on the plotting of rating assumptions. The step of assumption rating must be tested to get level of importance and certainty on each assumption. Importance means the significance of assumption on the outcome of the selected policy, while certainty means that the assumption should be as self-evident and certain-to-be true as possible (Easton, 1988).

Different rating scales have been used, including pairwise comparisons between assumptions and simple ordinal scales. As shown in Figure 3.7, four groups of assumptions are: quadrant (i) certain and important; (ii) important and uncertain; (iii) uncertain and unimportant; and (iv) certain and unimportant. Those falling in the quadrant I (certain planning region) are important so that they directly represents fundamental premises of policy. In contrast, the assumptions on the extreme left are little significance for effective planning or problem solving.



Source: Mitroff and Emshoff (1979), modified by Authors

Figure 3.6 Rating Assumptions with SAST Methodology

Lastly, final synthesis involves the list of common assumptions for all groups, as well as those being re-formulated. Those assumptions in the quadrant II (problematic planning region) are the most critical because they need further analysis (for example, using information requirements analysis). The final assumptions from the entire process is the presumptions of the policy.

4. RESULTS AND ANALYSIS

4.1. Respondent Profile

There are three groups of respondents profiles, viewed from: 1) Graduation performance: Micro Enterprise which remain micro (81 respondents); Micro Enterprise which graduated to Small Enterprise (16 respondents); and Small Enterprise which remain small (23 respondents); 2) Source of financing: MSE which receive financing from conventional bank (54 respondents); MSE which receive financing from Islamic bank (24 respondents); and MSE which do not receive any loan/financing (42 respondents); and 3) Sales performance: MSE which past sales increase (72 respondents); MSE which past sales stagnant (25 respondents); and MSE which past sales decrease (23 respondents).

Table 4.1: Grouping of Respondent Profile

FINANCING	ME	ME to SE	SE	TOTAL		Decrease	Stagnant	Increase	TOTAL
Conventional	36	7	11	54	ME	16	19	46	81
Shariah	18	3	3	24	ME to SE	2	2	12	16
No Financing	27	6	9	42	SE	5	4	14	23
TOTAL	81	16	23	120	TOTAL	23	25	72	120

According to summary of association (Chi-Square) tests, table 4.2 shows that MSEs are very diverse business enterprises, which has almost no specific significant association revealing their business pattern.

Table 4.2: Summary of Respondent Profile's Association (Chi-Square) Tests

	Owner's Gender	Owner's Education	Business Sector	Length of Business	Business Permits	Initiative	Motivation	No. of Employee
Source of Financing	0.053	0.905	0.368	0.201	0.832	0.386	0.746	0.760
Grad. Performance	0.663	0.741	0.284	0.363	0.513	0.093	0.329	0.059
Sales Performance	0.975	0.782	0.142	0.476	0.419	0.068	0.299	0.094

	Skills of Employee	Place of Business	Source of Capital	Target Customer	Marketing Strategy	Source of Financing	Graduation Performance	Sales Performance
Source of Financing	0.761	0.661	0.081	0.570	0.680	-	0.906	0.482
Grad. Performance	0.478	0.209	0.509	0.408	0.043	0.906	-	0.710
Sales Performance	0.307	0.154	0.718	0.209	0.840	0.482	0.710	-

The performances of MSEs, either graduation or sales performance, mostly, have no association with their characteristics or their source of financing. Only marketing strategy has significant association with MSE Graduation Performance ($0.043 < 0.05$). Moreover, some MSEs characteristics have almost significant association, such as: 1) Gender and Source of Capital with Source of Financing; 2) Number of Employee and Start of Business Initiative with Graduation Performance; and 3) Start of Business Initiative and Number of Employee with Sales Performance.

The survey shows that the owner of MSEs almost split in half between male (53%) and female (47%). However, ME that graduate to SE mostly owned by male (63%). Meanwhile, viewed from Source of Financing, figure 4.1 (left) shows that Male owner prefers conventional loan (63%), while Female owner prefers Islamic financing (67%). Moreover, chi-square results ($0.053 > 0.05$) show that there is no association between Source of Financing and Owner's gender. However, there is a strong tendency that Female owner corresponds with Islamic financing, while Male owner corresponds with conventional loan.

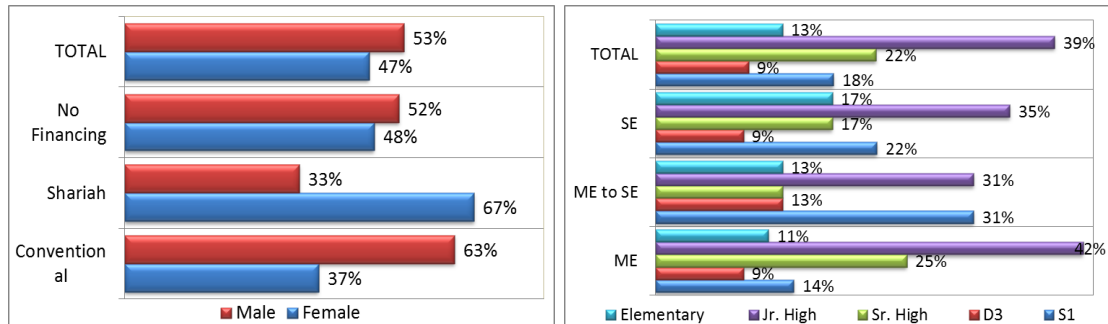


Figure 4.1: Gender and Education of Owner

Moreover, based on owner's education, figure 4.1 (right) shows that most owners of MSEs graduated from Junior High School (39%) and Senior High School (22%), especially owners of MEs where 42% graduated from Junior High School and 25% graduated from Senior High School. Meanwhile, most owners of graduated MEs graduated from Junior High School (31%) and undergraduate (31%).

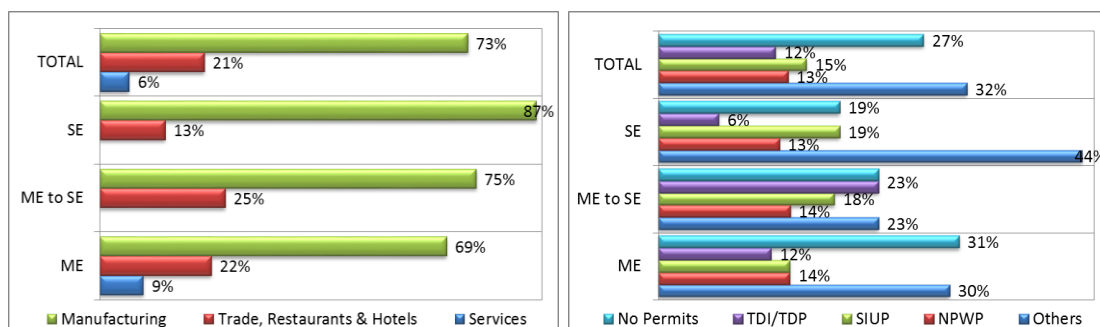


Figure 4.2: Sector of Business and Business Permits

Viewed from sector of business, figure 4.2 (left) shows that most MSEs entered into manufacturing sector (73%), and only ME entered into services sector (9%). Moreover, in term of business permits, figure 4.2 (right) shows that there is only small number of MSEs that hold business permits (TDI/TDP and SIUP) and NPWP. Most MSEs (32%) have some kind of local permits or no permit at all (27%).

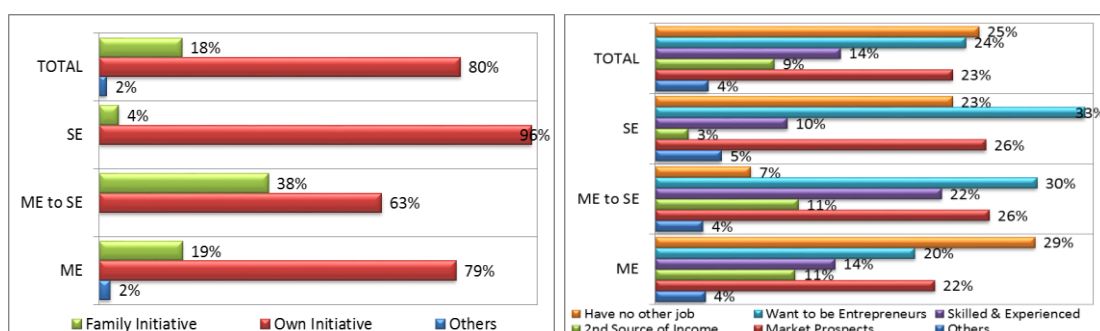


Figure 4.3: Start of Business Initiative and Business Motivation

Based on start of business initiative, figure 4.3 (left) shows that most MSEs (80%) started their business by the owner initiative, especially SEs (96%). Meanwhile graduated ME contribute the biggest proportion that they started their business by family initiative (38%). Chi-square results ($0.093 > 0.05$ and $0.068 > 0.05$) show that there is no association between who initiated the business and MSE graduation performance as well as sales performance. However, there is a strong tendency that graduated ME corresponds to family initiative, while ME corresponds to owner's initiative. Moreover, owner's initiative corresponds to sales increase. Figure 4.3 (right) shows that the main motivation of respondents to enter into MSE is to become entrepreneurs. Most SEs (33%) and graduated ME (30%) wanted to be entrepreneurs, while most ME (29%) just did not have other job, when they started their business.

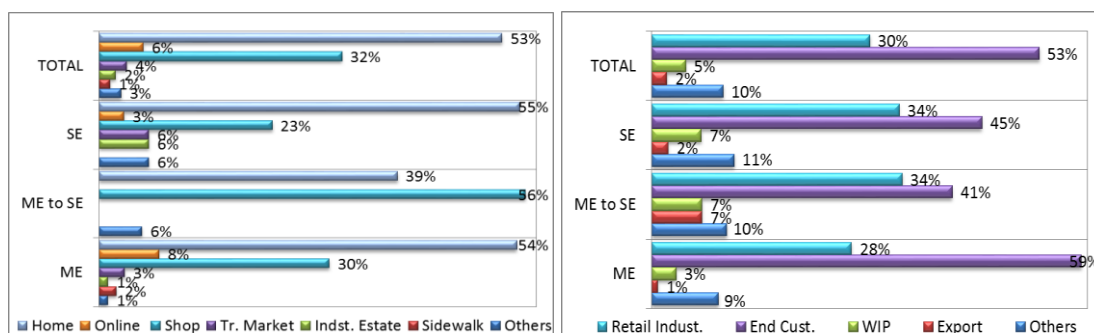


Figure 4.4: Place of Business and Target Customer

Viewed from place of business, figure 4.4 (left) shows that most MSEs open their business at home (53%), especially ME and SE, as well as at shop (32%), especially graduated ME. Only small part of them chooses online (6%), traditional market (4%), industrial estate (2%), and sidewalk (1%) as their place of business. Moreover, based on target customer, figure 4.4 (right) shows that most MES conduct direct marketing to their end customer (53%), especially ME (59%), as well as to retail industry (30%), especially SE (34%) and graduated ME (34%). The main marketing destination area of MSMEs is mostly local market, within the same township, municipality, or city. Only small part of their market is oriented toward export (2%).

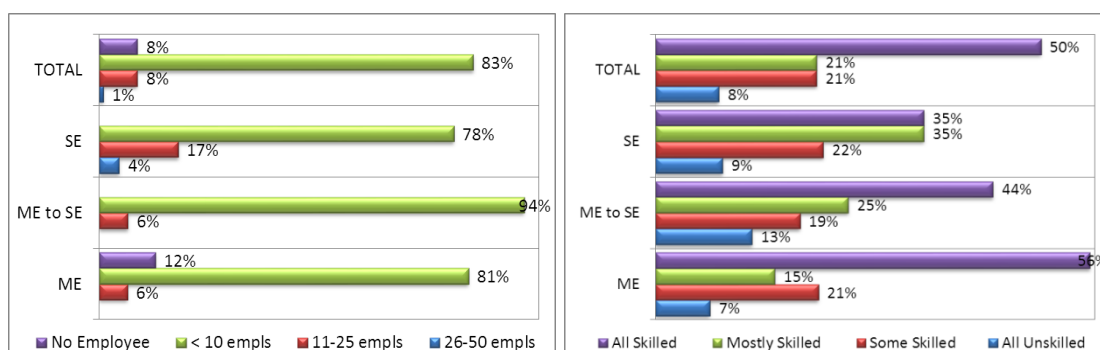


Figure 4.5: Number of Employee and Skills of Employee

In term of number of employee, figure 4.5 (left) shows that most MSEs (83%) have less than 10 employees, especially graduated ME (94%). Chi-square results ($0.059 > 0.05$ and $0.094 > 0.05$) show that there is no association between number of employee and MSE graduation performance as well as sales performance. However, there is a strong tendency that ME and graduated ME have < 10 employees, while SE has 11-25 employees. Moreover, having no employees corresponds to stagnant and sales decrease. Viewed from skill of employee, figure 4.5 (right) shows that most MSEs (50%) have all skilled employees, especially ME (56%). Only small part of their employees are unskilled (8%) because most MSE are personally owned and managed by them selves.

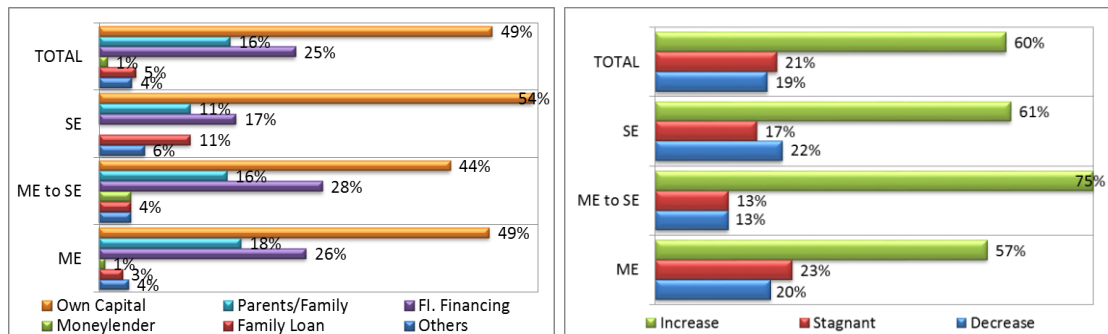


Figure 4.6: Source of Capital and Sales Performance

Based on source of capital, figure 4.6 (left) shows that most MSEs (49%) started their business with their own capital, especially SE (54%). Moreover, viewed from past sales performance, figure 4.6 (right) shows that most MSEs (60%) experienced increase in sales, especially graduated ME (75%). Chi-square results ($0.710 > 0.05$) show that there is no association between past sales performance and MSE graduation performance.

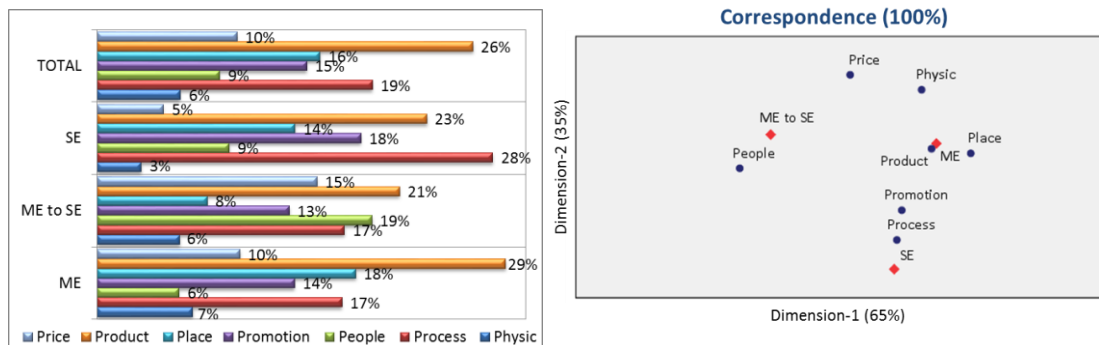


Figure 4.7: Marketing Strategy

Figure 4.7 (left) shows that most MSEs (26%) focused on product strategy, especially ME (29%), while SEs (28%) focused on process strategy. Moreover, chi-square result ($0.043 < 0.05$) in figure 4.7 (right) shows that there is significant association between marketing strategy and MSE graduation performance. MEs focused on product strategy, graduated MEs focused on people, while SE focused on process. Graduated MEs more focused on people strategy.

Viewd from MSEs business experience, figure 4.8 (left) shows that most MSEs owner (62%) regularly attend religious study, and some of them (28%) provide comfortable prayer room. Most MSEs owner lack of business experiences. However, most of MSEs owner (51%) have followed standardized recording of financial reports. Some MSEs experienced comparative study (33%), received soft loan/financing (25%), participate in self improvement training (24%), participate in product innovation seminar/expo (23%).

Meanwhile, figure 4.8 (right) shows that most MEs owner (60%) regularly attend religious study, and some of them (22%) provide comfortable prayer room. Most MEs owner lack of business experiences. However, almost half of MEs owner (47%) have followed standardized recording of financial reports. Some MEs experienced

comparative study (30%), received soft loan/financing (27%), participate in self improvement training (19%), participate in product innovation seminar/expo (19%).

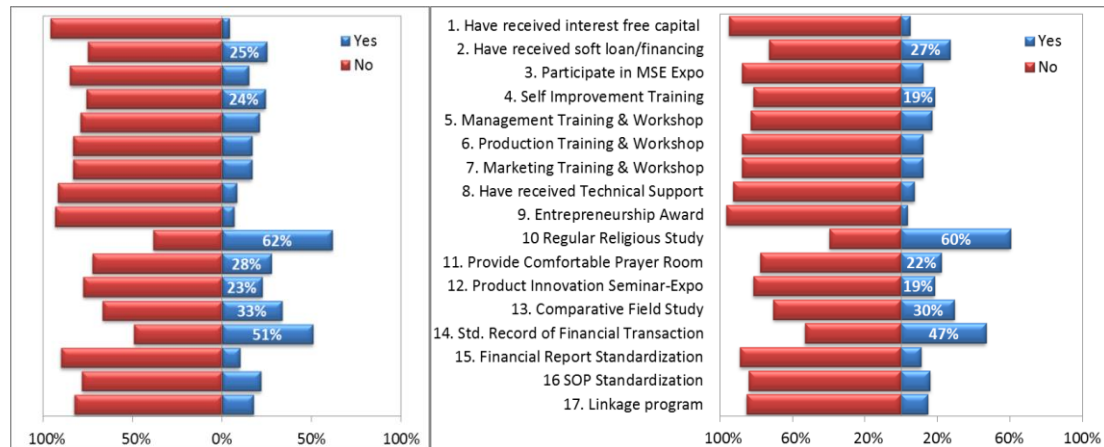


Figure 4.8: Business Experience

The survey shows that most of them have relation with bank as depositor, debtor or both, where: 1) Depositors and Debtors (57%); 2) Depositor only (28%); 3) Debtor only (8%); and 4) Non bank customer (7%).

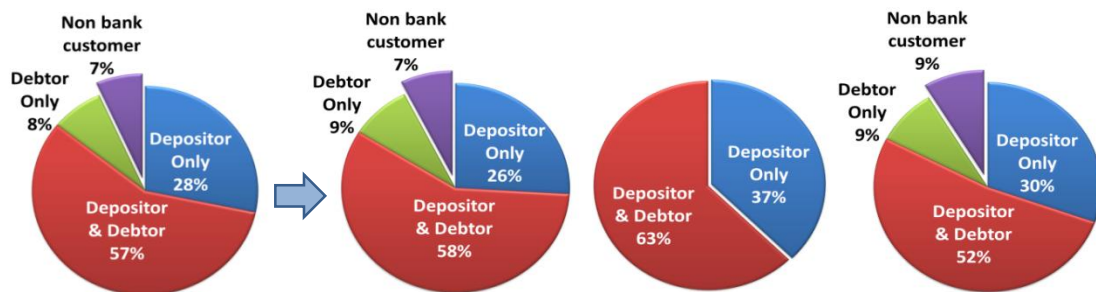


Figure 4.9: Bank Mindedness of ME, ME to SE and SE

Figure 4.9 reveals that all graduated ME have relation with bank as depositor and debtor (63%) or as depositor only (37%).

4.2. SEM Results

The SEM results presented in this section are the final process of several SEM procedure started from specification, identification, estimation, testing, and final results. The complete results of all SEM procedures can be obtained from the authors.

4.2.1. Measurement Model

The results of seven measurement models comprise of two exogenous latent variables (EXTERNAL and SUPPORT) and five endogenous latent variables (OWNER, BUSINESS, MANAGEMENT, RESOURCES and GRADUATE) will be discussed.

a. External

Measurement model of latent exogenous variable EXTERNAL satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (19.47/12), $P > 0.050$ (0.08) and $RMSEA \leq 0.08$ (0.07). All goodness of fit (GoF) measures is fit, so that we may conclude that measurement model of EXTERNAL is a good model with close fit (AGFI = 0.97).

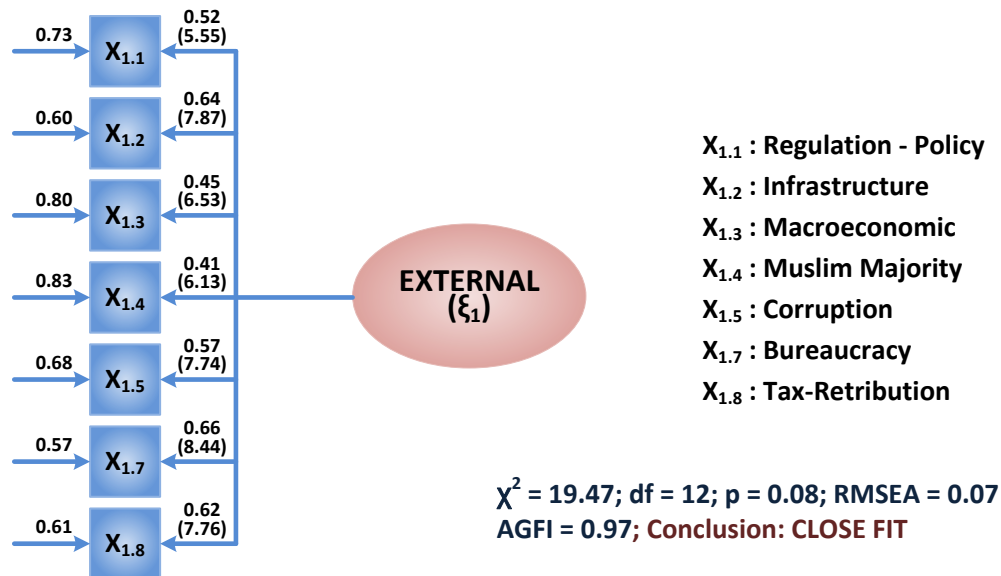


Figure 4.10: Measurement Model of EXTERNAL

All measured variables (X1.1– X1.8) significantly explain EXTERNAL. Bureaucracy (X1.7) and Infrastructure (X1.2) have the highest loading factors (0.66 and 0.64), followed by Tax-Retribution (X1.8) and Corruption (X1.5).

b. Support

Measurement model of latent exogenous variable SUPPORT satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (12.13/8), $P > 0.050$ (0.15) and $RMSEA \leq 0.08$ (0.07). All goodness of fit (GoF) measures is fit, so that we may conclude that measurement model of SUPPORT is a good model with close fit (AGFI = 0.98).

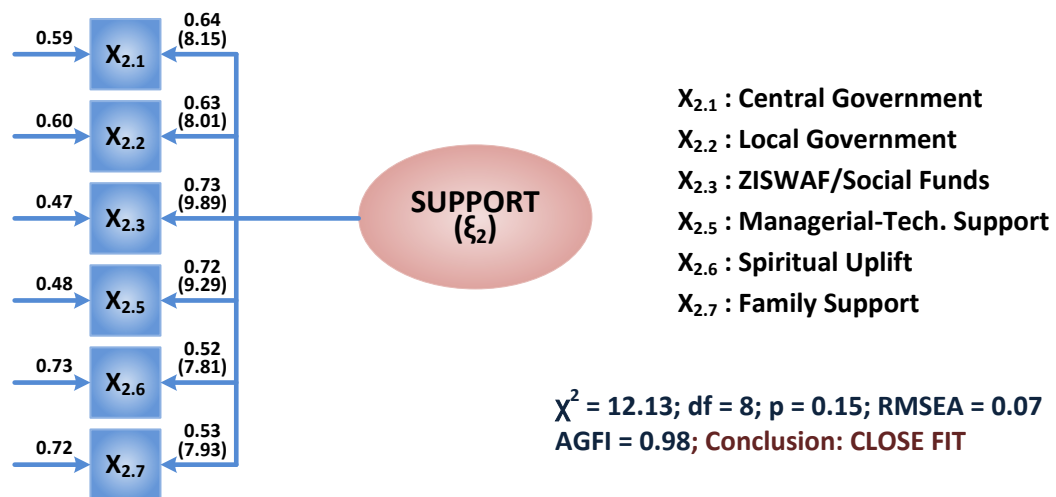


Figure 4.11: Measurement Model of SUPPORT

All measured variables ($X_{2.1}$ – $X_{2.7}$) significantly explain SUPPORT. ZISWAF/Social Funds ($X_{2.3}$) and Managerial-Tech. Support ($X_{2.5}$) have the highest loading factors (0.73 and 0.72), followed by Central Government ($X_{2.1}$) and Local Government ($X_{2.2}$).

c. Owner

Measurement model of latent endogenous variable OWNER satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (14.13/12), $P > 0.050$ (0.29) and $RMSEA \leq 0.08$ (0.04). All goodness of fit (GoF) measures is fit, so that we may conclude that measurement model of OWNER is a good model with close fit (AGFI = 0.98).

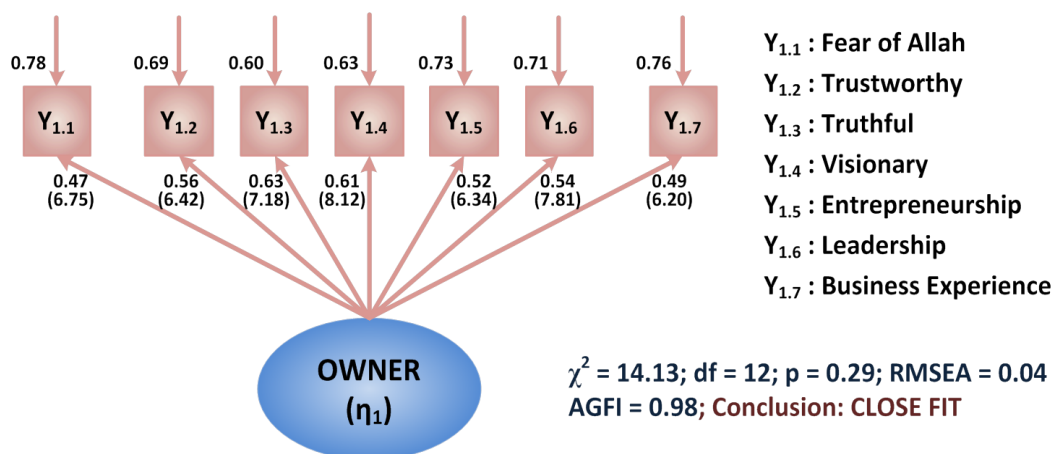


Figure 4.12: Measurement Model of OWNER

All measured variables ($Y_{1.1}$ – $Y_{1.7}$) significantly explain OWNER of BUSINESS. Truthful ($Y_{1.3}$) and Visionary ($Y_{1.4}$) have the highest loading factors (0.63 and 0.61), followed by Trustworthy ($Y_{1.2}$) and Leadership ($Y_{1.6}$).

d. Business

Measurement model of latent endogenous variable BUSINESS satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (28.16/19), $P > 0.050$ (0.08) and $RMSEA \leq 0.08$ (0.06). All goodness of fit (GoF) measures is fit, so that we may conclude that measurement model of BUSINESS is a good model with close fit (AGFI = 0.95).

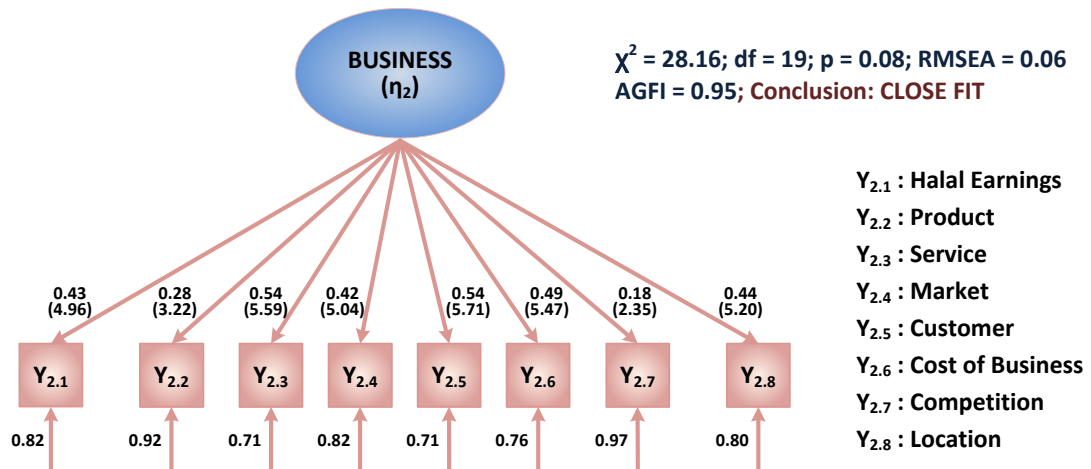


Figure 4.13: Measurement Model of BUSINESS

All measured variables (Y_{2.1} – Y_{2.8}) significantly explain BUSINESS CHARACTERISTICS. Customer (Y_{2.5}) and Service (X_{2.3}) have the highest loading factors (0.54), followed by Cost of Business (Y_{2.6}) and Location (Y_{2.8}).

e. Management

Measurement model of latent endogenous variable MANAGEMENT satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (6.20/8), $P > 0.050$ (0.62) and $RMSEA \leq 0.08$ (0.00). All goodness of fit (GoF) measures is fit, so that we may conclude that measurement model of MANAGEMENT is a good model with close fit (AGFI = 0.98).

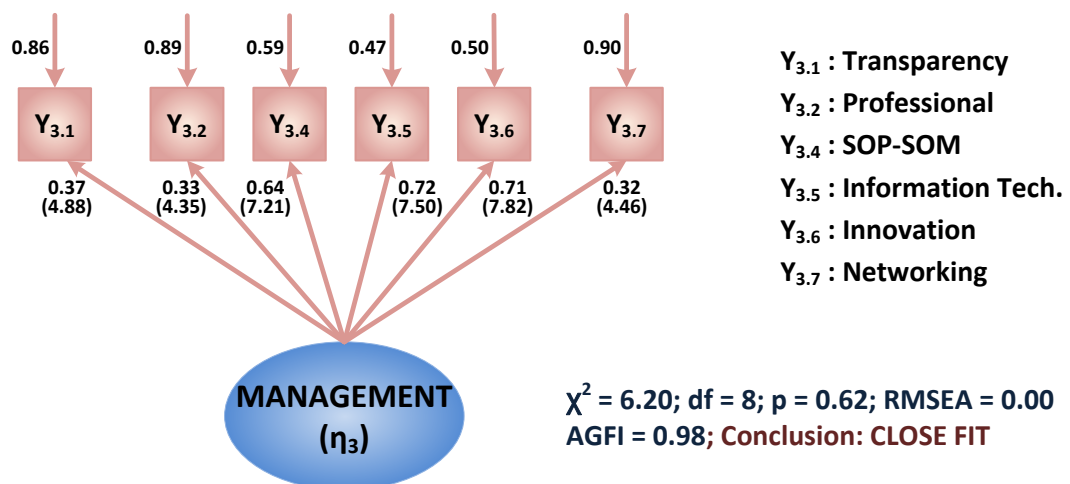


Figure 4.14: Measurement Model of MANAGEMENT

All measured variables (Y3.1– Y3.7) significantly explain MANAGEMENT KNOW-HOW. Information Technology (Y3.5) and Innovation (Y3.6) have the highest loading factors (0.72 and 0.71), followed by SOP-SOM (Y3.4) and Transparency (Y3.1).

f. Resource

Measurement model of latent endogenous variable RESOURCE satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (18.12/14), $P > 0.050$ (0.20) and $RMSEA \leq 0.08$ (0.05). All goodness of fit (GoF) measures is fit, so that we may conclude that measurement model of RESOURCE is a good model with close fit (AGFI = 0.97).

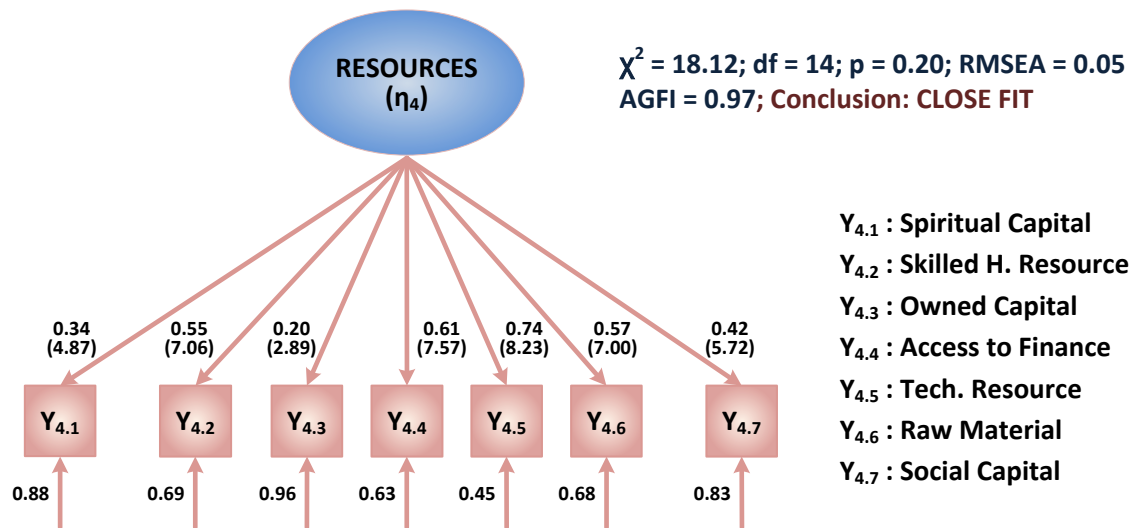


Figure 4.15: Measurement Model of RESOURCE

All measured variables ($Y_{4.1}$ – $Y_{4.7}$) significantly explain RESOURCES. Technological Resource ($Y_{4.5}$) and Access to Finance ($Y_{4.4}$) have the highest loading factors (0.74 and 0.61), followed by Raw Material ($Y_{4.6}$) and Skilled Human Resource ($Y_{4.2}$).

g. Graduation

Measurement model of latent endogenous variable GRADUATION satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (5.66/4), $P > 0.050$ (0.23) and $RMSEA \leq 0.08$ (0.06). All goodness of fit (GoF) measures is fit, so that we may conclude that measurement model of GRADUATION is a good model with close fit (AGFI = 0.99).

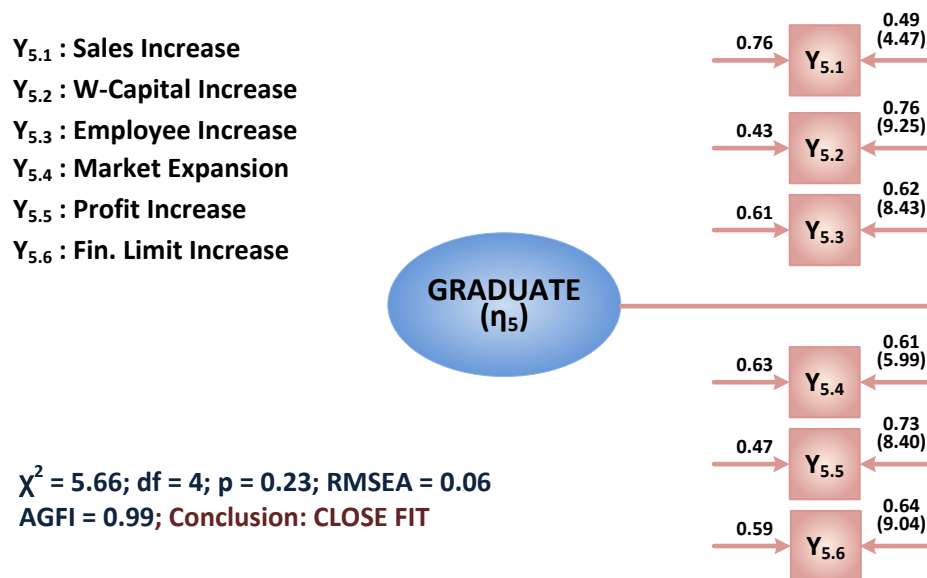


Figure 4.16: Measurement Model of GRADUATION

All measured variables ($Y_{5.1}$ – $Y_{5.6}$) significantly explain GRADUATION. Working Capital Increase ($Y_{5.2}$) and Profit Increase ($Y_{5.5}$) have the highest loading factors (0.76 and 0.73), followed by Financing Limit Increase ($Y_{5.6}$) and Employee Increase ($Y_{5.3}$).

4.2.2. Structural Model

Structural model of Micro Enterprises Graduation satisfies three main conditions, namely, $\chi^2/df \leq 3.0$ (39.88/45), $P > 0.050$ (0.69) and $RMSEA \leq 0.08$ (0.00). All goodness of fit (GoF) measures is fit, so that we may conclude that structural model of Micro Enterprises Graduation is a good model with close fit ($AGFI = 0.93$).

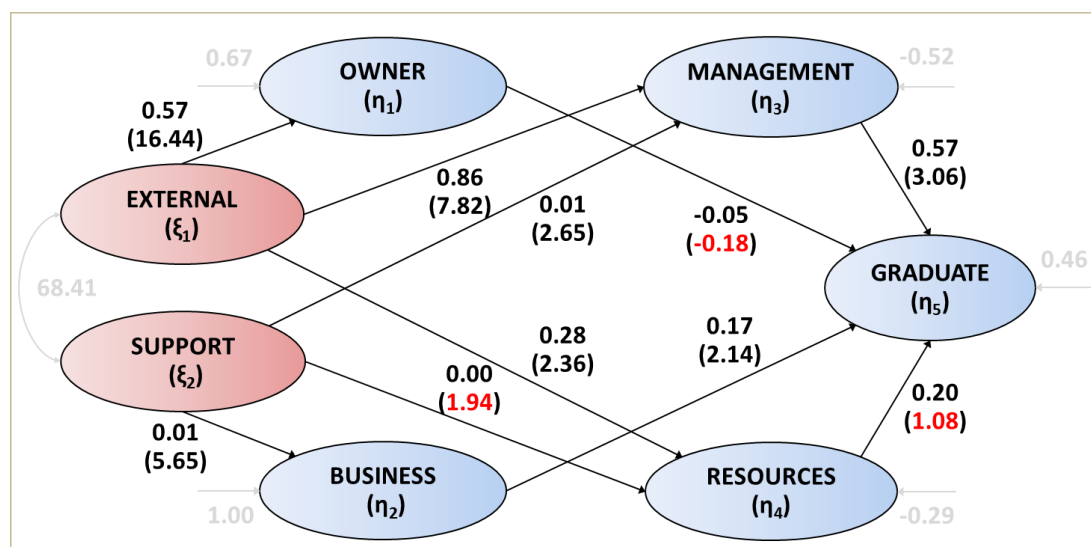


Figure 4.17: Structural Model of ME Graduation

Factors affecting ME graduation include OWNER of business, BUSINESS characteristics, and MANAGEMENT Know-how (endogenous latent variables), as

well as EXTERNAL factors and SUPPORT from various parties (exogenous latent variables).

Directly, the most important factors determining ME graduation are MANAGEMENT know-how (0.57) and BUSINESS characteristics (0.17), as well as EXTERNAL factors and SUPPORT (indirectly). The most important variables determining ME graduation are SOP and Information Technology (MANAGEMENT) and Market (BUSINESS), as well as Infrastructure and Macroeconomic condition (EXTERNAL) and Family Support (SUPPORT).

Successful ME must have good MANAGEMENT know-how especially in its business process utilizing information technology optimally, and have good understanding and capability to win the MARKET. Moreover, business environment with good infrastructure and stable macroeconomic condition, as well as continues support from families are essential for ME to succeed. In addition, other factors should not be neglected, since they are necessary (but not sufficient) for ME to operate and succeed, especially owner's visionary, entrepreneurship and business experience, as well as skilled human resource.

4.3. SAST Results

SAST results of EXTERNAL factor in figure 4.18 (left) shows that X_{131} – Price stability, especially basic needs, raw material, and energy (Macroeconomic), X_{121} – Infrastructure improvement, especially road, bridge, electricity, transportation, clean water, etc. (Infrastructure) and X_{181} – Tax Reliev (Tax-Retribution), lie on Certain Planning Region (Region I). Meanwhile, X_{111} – Government policies, such as tax relief and easy licencing, directed towards the betterment of usiness climate (Regulation and Policy), X_{153} – Elimination of illegal fees to MSEs (Corruption), X_{182} – Tax breaks for low revenue MSEs (Tax-Retribution), X_{171} – Fast and cheap/free one-stop licensing service (Bureaucracy), lie on Problematic Planning Region (Region II).

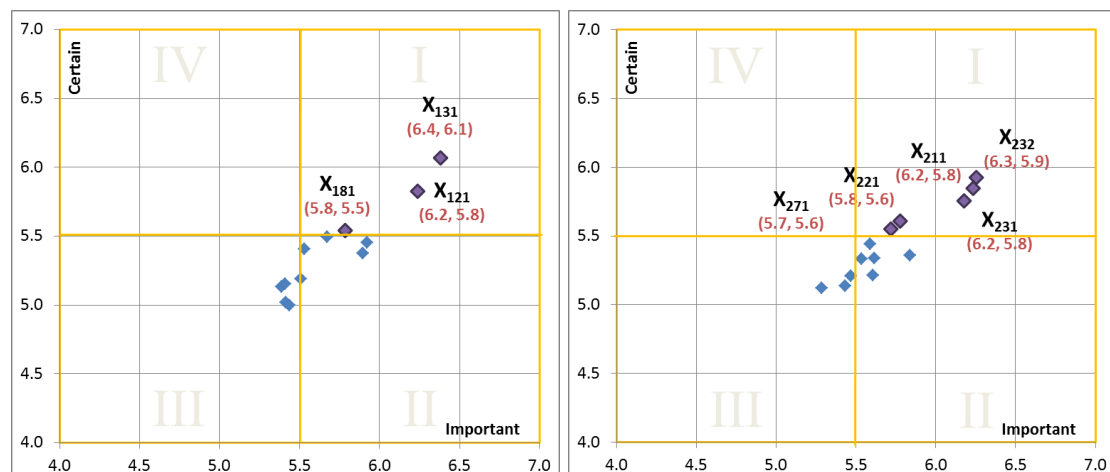


Figure 4.18: SAST Results of External and Support Factor

SAST results of SUPPORT factor in figure 4.18 (right) shows that X_{232} – Capital participation support (interest free) (ZISWAF/Donor), X_{211} – Soft loan/financing for working capital (Central Govt.), X_{231} – Revolving fund program (ZISWAF/Donor),

X₂₂₁ – Availability of market information on MSEs’ products (Local Government), X₂₇₁ – Motivational support for owner/employee in operating the business (Family Support), lie on Certain Planning Region (Region I). Meanwhile, X₂₂₃ – Availability of additional capital (interest free) for MSEs (Local Government), X₂₇₂ – Inculcating good character for owner and employee (Family Support), X₂₆₁ – Religious training, such as Islamic leadership and entrepreneurship (Spiritual Uplift), X₂₅₁ – Availability of managerial training and mentoring (Managerial Support), lie on Problematic Planning Region (Region II).

SAST results of OWNER of Business factor in figure 4.18 (left) shows that there is no policy that lie on certain planning region (Region I). Meanwhile, Y₁₁₁ – Attending religious studies, such as regular *halaqah* (Fear of Allah), Y₁₂₁ – Attending Spiritual/Islamic Entrepreneurship Training (Trustworthy) and Y₁₆₁ – Attending Spiritual/Islamic Leadership Training (Leadership), lie on Problematic Planning Region (Region II).

SAST results of BUSINESS Characteristics factor in figure 4.19 (right) shows that Y₂₆₁ – Price stability, especially basic needs, raw material, and energy (Cost of Business), Y₂₆₂ – Infrastructure improvement, especially road, bridge, electricity, transportation, clean water, etc. (Cost of Business), Y₂₈₁ – Strategic business location (Location), Y₂₄₂ – Technical Support for MSEs to promote their products (Service), Y₂₅₁ – Customer Satisfaction and Loyalty Training for MSEs (Customer), Y₂₂₂ – Product Quality Improvement Training for MSEs (Product), Y₂₃₁ – Technical Support for MSEs on Service Quality Improvement (Service), Y₂₄₁ – Easy market access for MSEs to enter mini market, super market or modern market (Market) and Y₂₅₂ – Improvement on MSE consumer protection (Customer), lie on Certain Planning Region (Region I). Meanwhile, Y₂₁₁ – Waivers on MSE products halal certification (Halal Earning) and Y₂₇₁ – Enhancement of market supervisory agency to ensure fair market competition for MSEs (Competition), lie on Problematic Planning Region (Region II).

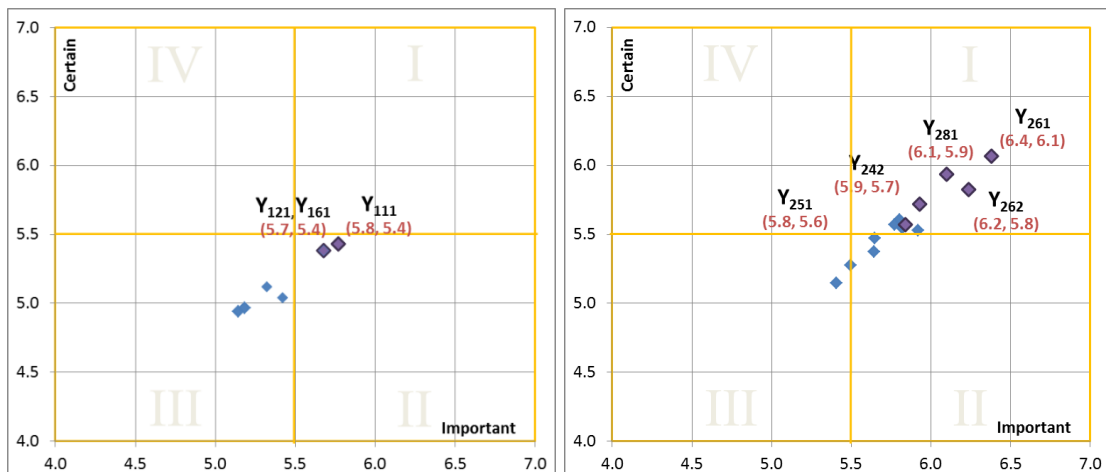


Figure 4.19: SAST Results of Owner and Business Factor

SAST results of MANAGEMENT factor in figure 4.20 (left) shows that Y₃₇₁ – The partnership program between SMEs and wholesalers, suppliers, distributors, financial institutions or other relevant agencies (Networking) and Y₃₆₁ – Regular product

development training for SMEs (Innovation) lie on certain planning region (Region I). Meanwhile Y_{321} – Regular training on MSEs professionalism (Professional) and Y_{311} – Regular meeting with all stakeholders (Transparency), lie on Problematic Planning Region (Region II).

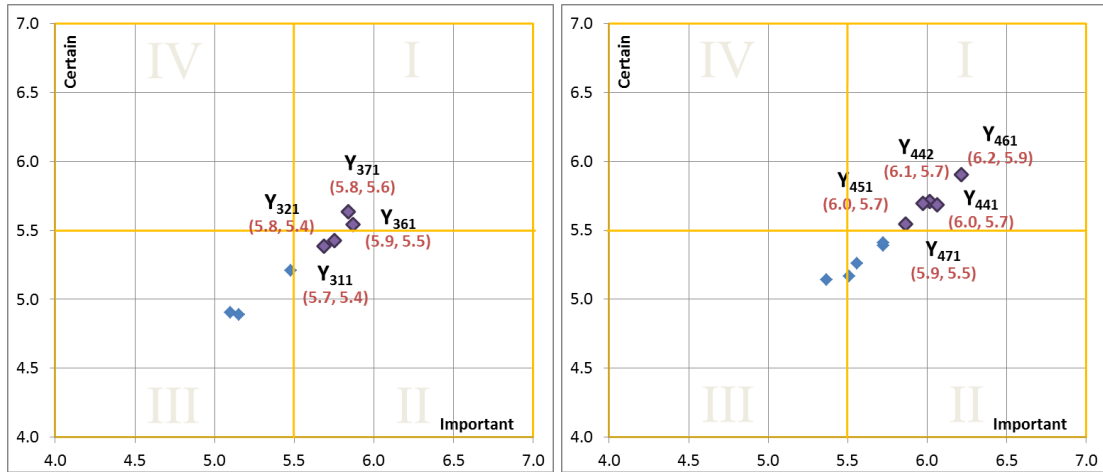


Figure 4.20: SAST Results of Management and Resources Factor

SAST results of RESOURCES factor in figure 4.20 (right) shows that Y_{461} – Availability of raw material with affordable price (Raw Material), Y_{442} – Availability of cheap loan/financing facilities (Access to Finance), Y_{441} – Easy access to loan/financing (Access to Finance), Y_{451} – Availability of appropriate technology to improve product quality (Tech. Resource) and Y_{471} – Developing togetherness with the surrounding community (Social Capital), lie on Certain Planning Region (Region I). Meanwhile, Y_{411} – Improvement of employee spirituality through religious activities (Spiritual Capital), Y_{431} – Financial planning training for MSEs (Owned Capital) and Y_{443} – Availability of appropriate financing schemes for MSEs, such as revolving fund and join responsibility (Access to Finance), lie on Problematic Planning Region (Region II).

Finally, overall SAST summary results of ME Graduation can be seen in figure 4.21. The most important policies needed by MEs to excel their businesses are External, Support, Business Characteristics and Resources policies.

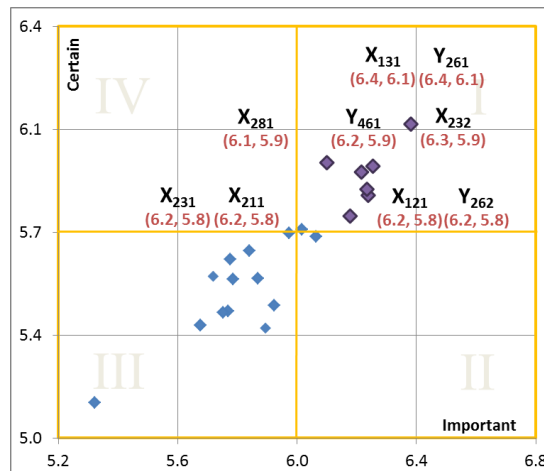


Figure 4.21: Overall Assessment of the Importance and Certainty Summary Result

The most important EXTERNAL policies needed by MEs are X_{131} – Price stability, especially basic needs, raw material, and energy (Macroeconomic) and X_{121} – Infrastructure improvement, especially road, bridge, electricity, transportation, clean water, etc. (Infrastructure).

The most important SUPPORT policies needed by MEs are X_{232} – Capital participation support or interest free (ZISWAF/Donor); X_{211} – Soft loan/financing for working capital (Central Govt.); and X_{231} – Revolving fund program (ZISWAF/Donor).

The most important BUSINESS Characteristics policies needed by MEs are Y_{261} – Price stability, especially basic needs, raw material, and energy (Cost of Business); Y_{262} – Infrastructure improvement, especially road, bridge, electricity, transportation, clean water, etc. (Cost of Business); and Y_{281} – Strategic business location (Location).

The most important RESOURCES policies needed by MEs are Y_{461} – Availability of raw material with affordable price (Raw Material); Y_{442} – Availability of cheap loan/financing facilities (Access to Finance); Y_{441} – Easy access to loan/financing (Access to Finance); Y_{451} – Availability of appropriate technology to improve product quality (Tech. Resource).

5. CONCLUSION AND RECOMMENDATION

5.1. Conclusion

5.1.1. Characteristics of MSEs

MSEs are very diverse business enterprises (mostly in manufacturing, trade-restaurant-hotel and services sectors), which should not be generalized and should be treated accordingly. However, MSEs (in this sample) have some common features, such as:

1. Most MSEs Owners hold Junior High (39%) and Senior High (22%) degrees, while most graduated MEs Owner hold Junior High (31%) and Undergraduate (31%) degrees.

2. Most MSEs entered into manufacturing sector (73%), and only ME entered into services sector (9%).
3. Most MSEs do not have formal business permits or SIUP (85%). They only hold local permit (32%) or no permit at all (27%). Moreover, most graduated MEs also have TDI/TDP (23%).
4. Most MSEs started their business by the owner initiative (80%), especially Ses (96%).
5. Most MSEs motivated by unemployment (25%), entrepreneurship (24%) and market prospects (23%), while graduated MEs (30%) and SEs (33%) motivated more by entrepreneurship.
6. Most MSEs open their business at home (53%) or shop (32%), while most graduated MEs open their businesses at the shop (56%) or at home (39%).
7. Most MSEs have less than 10 employees (83%), especially graduated ME (94%), and they have all skilled employees (50%), especially ME (56%).
8. Most MSEs (49%) started their businesses with their own capital, and only 25% of them received loan/financing to start their businesses.
9. Most MSEs sell their products/services to end customer (53%) or retail industry (30%).
10. Most MSEs (60%) experienced increase in sales, especially graduated ME (75%).
11. Most MSEs, especially MEs, lack of business experiences. However, most of them have followed standardized recording of financial reports (51%).
12. Most MSEs are bank's customers (93%), as depositor and debtor (57%), or as depositor only (28%). Moreover, financial services they mostly use are ATM, transfer and debit card.

Meanwhile, MSEs have different marketing strategies. ME focused on product, graduated ME focused on people, while SE focused on process.

The only religious characteristics revealed in this study is that most MEs owner regularly attend religious study (60%), and some of them provide comfortable prayer room (22%). Moreover most female owners of MSEs prefer to obtain financing from Islamic financial institution (67%).

Overall, MSEs in the sample are home/shop operated informal business in manufacturing or trade sectors, which is easy to enter and easy to exit with simple technology; operated by low educated and lack experience people to survive, which are easily satisfied with their achievement, as well as by educated entrepreneur wanabe; financed by their own capital because they are unbankable or view debt as uncommon practice; and knowledgeable about their products but having problems to win the market. Unstable macroeconomic conditions and lack of external supports could not stop them to survive. They are in dire need of any kind of assistances, especially managerial, financial, technical, marketing, entrepreneurship, leadership and mindset change.

5.1.2. SEM

SEM results show that the most important factors of ME Graduation are MANAGEMENT Know-how and BUSINESS Characteristics (directly), followed by EXTERNAL Factors and SUPPORT (indirectly). However, other factors, such as

OWNER of Business and RESOURCES should also be taken into account, as they are all necessary.

The main determinants of ME graduation are Standard Operating Procedure and Information Technology (MANAGEMENT Know-how), Market (BUSINESS Characteristics), Infrastructure and Macroeconomic Condition (EXTERNAL), and Family Support (SUPPORT). Other important determinants are Visionary, Entrepreneurship and Business Experience (OWNER of Business) and Skilled Human Resources (RESOURCES).

These findings suggest that most MSEs in the sample do not have the main key factors to success and graduate. Most MSEs do not have standard SOP (78%), especially ME (84%). Most MSEs never participated in marketing training and workshop (83%), especially ME (88%). Most owners of MSEs have low education level (73% have Senior High degree or below), especially owners of MEs (78%). Most owners of MSEs did not want to be entrepreneurs in the first place (76%), especially owners of MEs (80%). Most owners of MSEs lack of business experiences, especially owners of MEs.

Moreover, business environments of MSEs in the sample, such as macroeconomic conditions and infrastructures, do not considered as supportive to ME graduation. Most MSEs complained about increasing price of raw material, energy and basic needs. Essential infrastructures, such as road, electricity, transportation and clean water, are still lacking.

Religious Islamic characteristics, such as Muslim majority (EXTERNAL), Religious uplift (SUPPORT), Trustworthy '*Amanah*' and truthful '*Shiddiq*' (OWNER), Halal earnings (BUSINESS), Transparency '*Tabligh*' and Professional '*Fathonah*' (MANAGEMENT), as well as Spiritual capital and Social capital (RESOURCES) do not emerge as the main key success factors of ME graduation. However, they are necessary factors with high loading factors (> 0.50), such as Spiritual uplift (0.52), Trustworthy (0.56), and Truthful (0.63).

5.1.3. SAST

Some important policies surfaced in the study are coincide with SEM results, such as X_{131} – Price stability, especially basic needs, raw material, and energy (Macroeconomic) and X_{121} – Infrastructure improvement, especially road, bridge, electricity, transportation, clean water, etc. (Infrastructure), as well as Y_{241} – Easy market access of MSEs products to enter mini market, super market or modern market (Market), which lie on Certain Planning Region (Region I). Most MSEs do not realize the need of policies to improve their management know-how, especially SOP and IT, as well as owner's quality, especially in education, business experiences and market vision.

Therefore, the most important policies needed by MSEs are price stability and infrastructure (EXTERNAL), capital and financing support (SUPPORT), easy & cheap way of doing business and strategic location (BUSINESS Characteristics), easy & cheap access to finance & raw material and availability of appropriate technology (RESOURCES).

These findings suggest that most MSEs feel satisfied with their own internal conditions and they have not realize that they need some internal improvements to excel and graduate their businesses. On the other hand, most MSEs agree that some external conditions need to be improve to provide conducive business climate to grow their businesses.

Moreover, some policies related to religious Islamic characteristics, such as X_{261} – Religious training, i.e. Spiritual Leadership & Entrepreneurship Training (Spiritual Uplift), Y_{111} – Attending religious studies, such as regular *halaqah* (Fear of Allah), Y_{121} – Attending Spiritual/Islamic Entrepreneurship Training (Trustworthy), Y_{211} – Waivers on MSE products halal certification (Halal Earning), Y_{321} – Regular training on MSEs professionalism (Professional or *Fathonah*), Y_{311} – Regular meeting with all stakeholders (Transparency or *Tabligh*), and Y_{411} – Improvement of employee spirituality through religious activities (Spiritual capital), do not regarded as priority and they only lie on problematic planning region (Region II).

6. RECOMMENDATION

Internally, most MSEs, especially MEs, lack of important determinants of ME graduation which they must have, such as standardization of SOP, utilization of IT and clear market vision. They understand their products, but they do not fully understand their markets. It seems that they have satisfied with what they already accomplished and that there is no urgent need for development, improvement and expansion.

State Minister for Cooperatives Small and Medium Enterprises and other related government institutions have done many things to address these problems through education, workshop and training, technical and managerial assistance, standardization and certification, marketing and networking assistance, soft loan/financing, etc. However, since the number of ME so large, almost 56 million MEs, the impacts have only been enjoyed by a few of them. For example, people's business credit (Kredit Usaha Rakyat – KUR) is estimated to reach Rp30 trillion at the end of 2015, with credit limit of Rp25 million for each SME. This means that KUR would reach 1.2 million SMEs, or only 2.1% of SMEs.

Most MSEs, especially MEs, do not have any formal business permits. Therefore, government should provide easy and free one door integrated business permit services. Recently, Ijin Usaha Mikro Kecil (IUMK) or MSE Permit has been launched in response to President Decree No. 98 of 2014, where MSEs could apply IUMK to the Village Head for free with minimal requirements. With this IUMK, MSEs could received several benefits, such as, certainty of doing their businesses, access to financing, business assistance and empowerment program. However, up to now, only 38 out of 510 cities or districts have released necessary regulation, i.e Peraturan Daerah or Local Regulation.

Therefore, government should give more attention (including political will and support) to MSEs, such as develop standard SOP for various ME businesses, provide ME with training, workshop and funding to install IT, provide various marketing linkage between ME and Industry or user. More importantly, there should be

continuous efforts to switch MSEs' mindset to move forward with innovation and change.

External environment, such as price stability and infrastructure are not in favor of MSEs to grow their businesses. Therefore, stable and low inflation, and infrastructure acceleration should become government top priority.

Most MSEs, especially MEs, owners have low education level (Junior High) and lack of work and business experiences, while according to Reeg (2013), entrepreneur should have quality education and quality work experience. Therefore, government should support MSEs for education and business experience improvements, such as improve the quality of SMK and Politeknik, established more BLK, provide facilities for MEs to participate in Expo, Workshop, Conference, Comparative study, motivational workshop, etc.

MSEs are so diverse with almost no specific pattern. Therefore, further studies should be conducted for each specific business subsector, since most of MSEs businesses are unique.

Finally, if we want to design MEs graduation, there should be three group of components, namely:

1. Minimum Requirements: Internal ME and External Environment & Support;
2. Necessary internal factors: Internal ME; and
3. Necessary external factors: supporting policies.

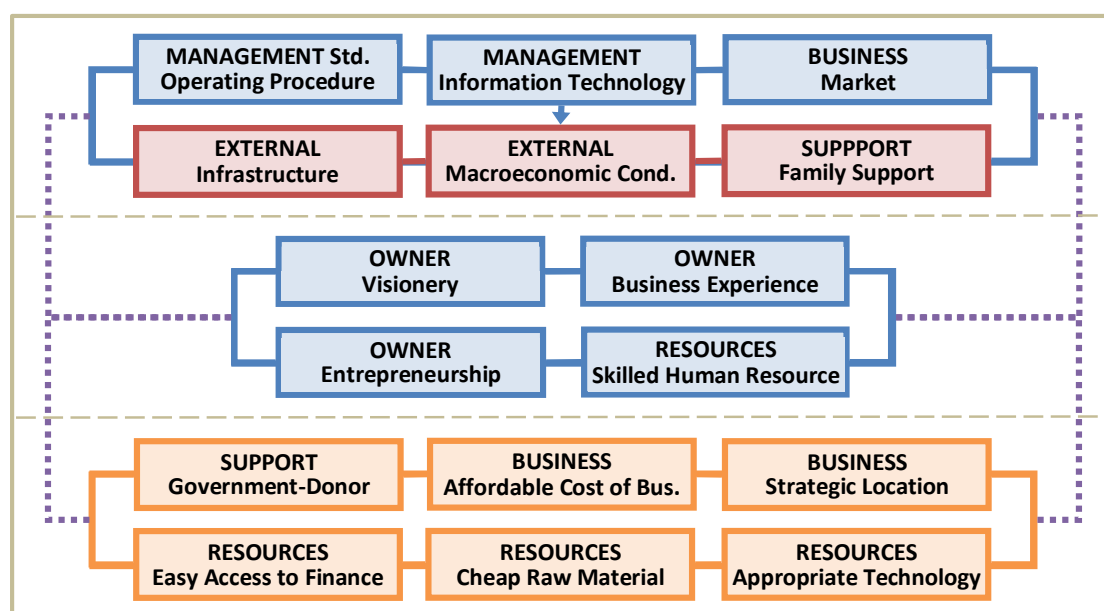


Figure 5.1: Design ME Graduation

First, internal ME must develop SOP and IT, as well as understand its market, while external environment, such as macroeconomic condition and infrastructure, as well as family support, must be conducive for MEs to grow their business. Second, ME should have visionary and educated Owner with entrepreneurship and business experience, as well as skilled human resource. Third, ME should be supported by

government policies, such as availability of cheap financing, tax relief, stable price, free/minimum charge for permits and certificates, availability of cheap raw material and energy, and availability of appropriate technology. Moreover, financial support from ZISWaf/Donor funds are most welcomed.

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Zain, M.A. (2014). Menyongsong Era Masyarakat Ekonomi Asean (MEA) 2015 dengan Berhijrah pada Syariah Kaffah Menuju Terwujudnya Baldatun Thoyyibatun wa Rabbun Ghafur.

EXPLORING THE DETERMINANT FACTORS OF ISLAMIC NEW VENTURE PERFORMANCE: A STUDY AMONG MUSLIMPRENEURS IN MALAYSIA.

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ABSTRACT

This study aims to explore the determinant factors of Islamic new venture performance. An exploratory interviews among Muslimpreneurs formed the performance construct that defines success as *al-Falah*. It consists of monetary and non-monetary measures of success based on the Islamic principles and values. *Al-Falah* is conceptualized to represent the ultimate end of an economic activities in terms of social wellbeing and not mainly for personal profit motives. The theory and model captured the behaviour of the firms in practising *shariah* compliance principles in achieving their targeted performance. This study employs qualitative methods in developing the theory and test the model empirically through multiple regression analysis. Hypothetical deductive approach is used for determination tests. The findings show that Islamic firm's orientation, innovation, Islamic business practices, Muslimpreneurs motivation and Islamic ethics have positive relationship with *al-Falah*. However, Islamic ethics could not explain its significance with *al-Falah* though positively related. These outcomes would serve as a guidance to the principal framework for the Islamic entrepreneurship knowledge and policy.

Key words: New venture, Islamic business practices, *al-Falah*.

1.0 INTRODUCTION

Is nowadays firms really running business activities based on the public interest or selfish interest? Can Islamic Entrepreneurship thrive in conventional economic system? These are issues that have not been properly dealt with in entrepreneurship literature. Today, people are concerned about what they buy and how much benefits they gain in it. The sellers are bounded with the perception that “customers are always right”. Giving what the customers want is not necessarily the right decision; unless the customers are well informed and knowledgeable enough. Conventionally, business are profit driven run by entrepreneurs who commercialise innovation in the market. However, the Muslimpreneurs are concerned with the principles of *hallalan tayaiibun* as given in the al-Quran and Sunnah. Businesses are *shariah*-based, driven by the *maslahah* (well-being of the society) and regarded as *ibadah* (good deeds). This shows that it is very paramount to have an Islamic model that can guide Islamic firm to measure performance for survival and growth. Kayed and Hassan (2011) proposed that Islamic entrepreneurship as the principles of practice and the body of knowledge is needed for both academic and policy interests of the firms.

The main thrust that is based on Islamic injunctions for firms’ functions and system (*Shariah* compliance) should not be mainly to generate financial profits from the business activities. It should involve interest of the employees, protect the right of the customers, protect and conserve the environment and strongly involve the role of *khalifah* who should take the responsibility of the trustee on this world.

Carswell and Rolland (2004) found that religious value systems are positively associated with business start-up rates. Adnan and Mohamed (2002) suggest that Islamic entrepreneurship would only be materialised in an Islamic economic systems. The elements of the conventional entrepreneurship cannot be used for Islamic value system as it does not include *tawheed* and *muamalat* transaction and the principles of halal compliance as the trust of Islamic entrepreneurialism. This study explores the concept of innovation, motivation, ethics, orientation and process in Islamic perspectives. This study trying to explore and investigate the observable and non-observable factors that link Islamic principles, practices and values with firms’ performance.

1.1. Research Objectives

The main aim of the study is to formulate the Islamic new venture performance models as the thrust of the Muslimpreneurs principles. The specific objectives of the study are:

1. To investigate whether Islamic innovation influences firm performance
2. To investigate whether Islamic motivation influences firm performance
3. To determine whether Islamic entrepreneurial orientation influences firm performance
4. To examine whether Islamic process influence firm performance
5. To determine Islamic work ethics influence firm performance

1.2. Theoretical Framework

The theoretical framework of this study is adopted from various empirical and non-empirical work found in the entrepreneurship literature. Most studies use both monetary and non-monetary measures to gauge firm performance as formulated by Storey (1994). In his work Storey found three factors that determine firm performance mainly firm characteristics, entrepreneur characteristics and strategies the firm deployed. Firms and entrepreneurs are synonymous entity as outlined by Hall (1995). Thus the entrepreneurs' motivation and objectives are identical to the firms' motivation and objectives. The entrepreneurial elements namely; innovation, proactive, risk taking propensity, competitiveness and autonomous are drawn from Covin and Lumpkin (2011). Al-Falah concept developed by Kalsom and Ahmad (2014) is included in the framework of this study. Nonetheless, to gain the most workable validity and reliability of the model, in-depth interviews are employed to see the consistency and inclination of the constructs of the model. The Islamic elements are included in the interviews to get the Islamic dimensions and values. The study basically developed five construct namely; Islamic innovation, Islamic motivation, Islamic entrepreneurial orientation, Islamic process and Islamic work ethics as independent constructs. *Al-falah* (success) is used as a dependent construct. All these factors are further reexamined as depicted in Figure 1.

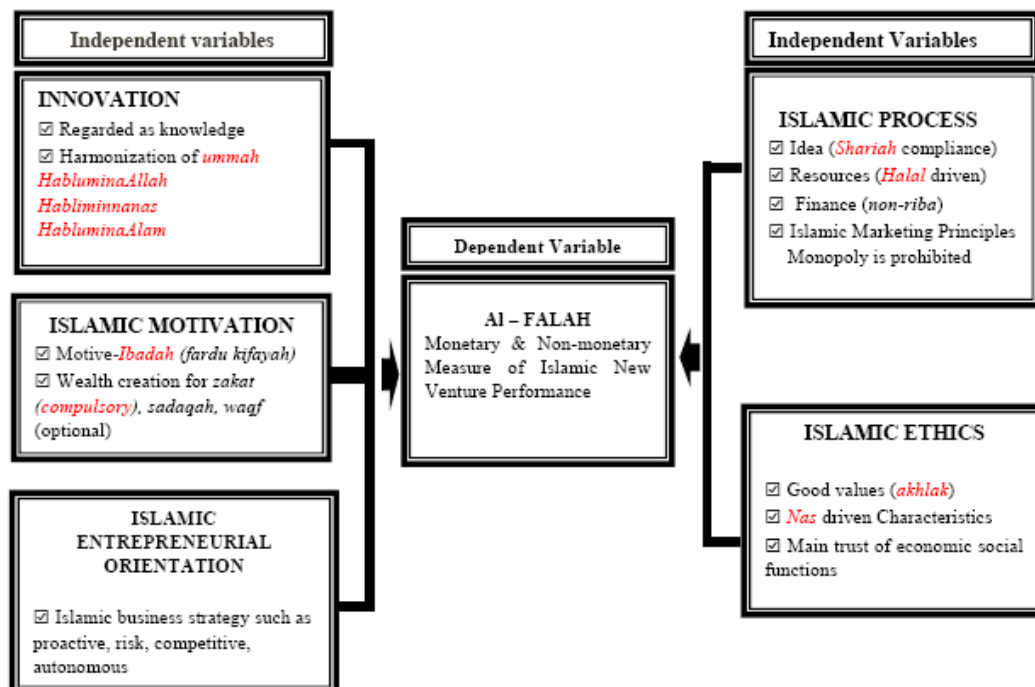


Figure I: Entrepreneur's *Al-falah* Model

1.3 Literature Review and Hypothesis Development

1.3.1. Firm Performance -*Al-falah*

Conventionally, success in firm performance is more of increase in profit, rise in turnover, and investment growth since the initial set up of the firm (Gelderan, et al., 2000). To most Islamic firms, achievement of *al-falah* is neither related to profit maximization nor to the size of business enterprise, but it can be achieved only through a moral approach to human affairs (Kalsom and Ahmad, 2014). Using data from Northern Sumatra, Indonesia, Kalsom and Ahmad found that Islamic business practices positively related to *al-Falah*.

“To each is a goal to which Allah turns him; then strive together (as in a race) towards all that is good. Wheresoever ye are, Allah will bring you together. For Allah Hath power over all things.”

(Al-Baqarah, 2:148)

Allah commands mankind and owners of firms, encourage them to possess good business value through motivation. This good business activities do not pertain only to this world. It pertains both to this worldly activities and the hereafter. Rahim (2007) further explained that achievement of *Al-falah* can be described as desire to achieve success in the world and hereafter. This kind of motivation is associated with their ability to concentrate in core business, and to use that strength to compete.

1.3.2. Islamic Innovation

There are various dimensions of innovation that that have been examined in the past. These are discussed as follows:

Innovation is regarded as knowledge

Innovation is the essential part of entrepreneurship. Ireland et al. (2006) described innovation as the process of creating something new which is central to the entrepreneurial process. Schumpeter (1993) describes an innovative firm as organization that can identify opportunity in order to open up new territory in the market place and turn dreams into reality. Schumpeter (1994) posed five types of innovation namely, product innovation, technology innovation (methods of productions), markets innovation, management (system) and organisational innovation. Therefore, any organisation that embark on these various types of innovation are regarded as an enterprise entrepreneurial venture.

Kuran (2010) argues that the Middle Eastern culture see innovation as *ibtikar* or exploring new thing. Thus, the lag in Islamic entrepreneurship compared to conventional ones are rooted from this phenomenon. Islam is not against identifying new business opportunity through innovation. Based on Islamic perspective, innovative firms has the creativity to create an idea and generates new way of looking at issues and opportunities (Suherman, 2008). This innovative firms cannot just be based on something new but must also have the mindset and ability to provide added

value on existing products using the latest method in order to meet up with current market demand (Abdullah, 2013).

In essence, new firms need to be constantly alert and use available opportunity in accordance with *shariah* and public interest. This view is supported by the holy Qur'an which says:

"It is He who has made the earth It is He Who has made the earth manageable for you, so traverse ye through its tracts and enjoy of the Sustenance which He furnishes: but unto Him is the Resurrection." (Al-Mulk, 67:15)

Allah calls on people to be innovative and take advantage of the opportunity around them with public interest. Faltin (2001) gives more details about this verse that if new firms are not innovative, the existing businesses in the market place will have a competitive edge. The existing businesses already have customers; experience with suppliers; nitty-gritty of the product itself and are well conversant with in such environment, whereas the proposed business, as a newcomer, is not.

Harmonisation of Ummah

Robert (2008), pointed out that harmonisation of ummah goes beyond religious perspective. Harmonizing ummah will add value to the performance business activities among the Islamic world. Smith (1991) conceives of the ummah harmonization as a human population with a popular culture that seeks equality for all its members in the economic activities, legal, and political milieu.

1.3.3. Islamic Motivation

Profit motive

Yusuf and Amin (2007) pointed out that the main objective of new firm is not only to maximize profit, but also to attain social optimality as requested by the accountability and leadership axioms of Islamic economic system foundational principles. In addition, the study by Rizk (2008) and Samad (2008) show that many Islamic countries have been integrated into the global capitalist system and also many Muslim business scholars have been exposed during their studies to various concepts, terminologies and models developed by the westerners, hence they tend to accept the premise of profit maximization uncritically. This is supported by Kayed and Hassan (2011a, b) that most private sectors in Saudi Arabia kingdom are driven by profit maximization rather than Islamic prescriptions. From the views above it is very important for Islamic businesses to follow Islamic perspectives in order to escape from the wrath of Allah.

Wealth creation of zakat

Wealth creation is one of the role of firm. As an Islamic firm, it is necessary for the firm to perform the forth pillar of Islam that is zakat payment. Apart from wealth creation, firms are expected to give out of their profit in order to perform their corporate social responsibility on the community.

Abu Huraira related that the Prophet said:

“When someone is made rich but he does not pay Zakat for his wealth, then on the Day of Judgment his money will be turned into a poisonous snake with two black spots on its head. It will coil around his neck and bite his cheeks and say: ‘I am your wealth, I am your treasure’. Then the Prophet recited verse Al Imran: 180.” [Sahih al-Bukhari]

“And establish prayer and give zakat and bow with those who bow [in worship and obedience].” (Al-Baqarah 2:43)

The importance of zakat payment are emphasized in the following hadith and verse of the holy Qur'an. Part of the ways to perform social functions by firms are through sadaqah, waqf, donation, zakat, scholarship and various community developmental projects (Salmah et. al., 2013). According to Kriger and Seng (2005), performing corporate social responsibility is line with the Islamic perspectives that stressed more on community development or collective responsibility.

1.3.4. Islamic Entrepreneurship Orientation

EO Business strategy

In the previous study the entrepreneurial orientation practices are found to be essential for the survival, growth and profitability of firms. Nabila and Kalsom (2013b) results revealed that innovativeness and risk taking affect firm performance positively but proactiveness did not. However, when business environment is not that friendly, proactiveness affects firm performance positively. In the other study by Nabila and Kalsom (2013a) the findings showed that innovation, proactiveness, and corporate venturing were positively related with firm performance while risk taking showed no significant relationship with firm performance.

Another result indicates that proactiveness plays a significant role in improving business performance during the recession (Ebrahim and Bahram, 2013). Zulkifli and Rosli (2013) explained that the firm Entrepreneurship Orientation (EO) has significant impact on firm performance. Therefore, the study concluded religiosity is positively moderates the relationship between Entrepreneurship Orientation (EO) and firm performance. This is in line with the majority of previous studies which had shown positive and significantly relationship of implementing the entrepreneurial orientation processes in enhancing the business success.

Collective Power Decision (Fatwa)

In Islamic perspective collective decision making (Fatwa) have impact on firm performance. Ailawadi, et al. (2001) explained that although firms make corporate-level strategic decisions regarding their business activities, achieve greater power than channel members and can deter significantly contribute to firm performance. Samy and Chris (2010) findings show that business transactions, internal policies; issuing of religious decisions (fatwas) before the release of products through Shariah supervision processes will legitimate profits (halal) and improve firm performance. Shariah supervision is materially derived from the social power of Shari'a scholars.

1.3.5. Islamic Entrepreneurship Process

The term “Process” involves everything from discovering opportunities to solving unexpected problems while running a new venture (Baron and Ward, 2004). Based on Islamic view, entrepreneurship process is perceived as an economic activity of profit oriented with encouragement of prosperity and strong foundation of religiosity, ethics and socially acceptable factors by using resources given by Allah (Al-Habtoor, 2001). Yousef (2001) further explained that the essence of Islamic entrepreneurship process should be viewed as the accomplishment of entrepreneurs to perform the duties of *an Ibadah* and ability to carry out the role of responsible leader (*khalifah*) in firm. The following are the various determinants of entrepreneurship process:

Business strategy

In the study of Gibcus and Kemp (2013), the selected strategy does not influence firm performance. In eight out of nine regressions, the selected strategies do not have any significant impact on the absolute value of the objective performance indicators (employment, sales and net profit). Also on the growth in employees or sales, strategy does not have any influence. The previous did not find a clear relationship between strategy and performance as well (Spanous and Lioukas, 2001; Pelham; 2000 and Kemp and Verhoeven; 2002). Islamic strategy is an essential element in business activities. Islamic strategy is based on harmonising these activities in the world and the hereafter rather than survival and growth only as it is in conventional strategy. This statement is established in the following verse:

“O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.” (Al-Nisa’ 4:29)

Both management and administration strategy should be based on the values of Islam, since Islamic management strategy contains work ethics and moral values (Puteh, 2006).

Non-riba finance

The Qur’an prohibits the taking and receipt of interest (riba) in all financial dealings (see: Q2:275) and also, wealth creation by means of investment in legally allowed as long as it is not in unlawful areas such as gambling (maysir) or speculative/uncertainty-gharar (Adelabu, et. al., 2011).

“Those who consume interest cannot stand [on the Day of Resurrection]... That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest... But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein” (Al-Baqarah, 2:275).

Almoharby (2011) stated that it is apparent that Islam has given the solution for ethical problems and the religion of Islam teaches about good morals and ethics in a business life. The ethical behaviour of every firms in the market place is indeed a crucial condition to the stability of firm in the market.

Islamic Marketing Principles

According to Moorhead and Griffin (1992), the Islamic marketing strategy of firms is quite distinct due to its absolute in term, transcendental and value-maximization rather than selfish pursuit of profit maximization. Islamic marketing principles of firms have superior influences particularly on its consideration as a form of submission to Allah compare to the conventional practices (Arham, 2010).

Rice (2001) stated that the marketing principles of every organisation in Islam cannot be separated from the concept of tawheed (The Unity of God) which is the most crucial element in commerce where both the consumers and the marketers must build their connection with their creator in line with shariah principles. Jabnoun (2012) explained that abstaining from haram and doing good business practices deeds also enhances tawheed.

Monopoly is prohibited ---Azeez , could you please realign accordingly...

Monopoly (ihtikar) according to scholars of Islamic jurisprudence is an effort to hoard goods to anticipate price increase. In a hadith of the Prophet Muhammad, a lot of muhtakir (monopolist) is a sinner. Hamdan (2012), explained in his findings that Majority of the scholars of Islamic jurisprudence agree that monopolistic practices are strictly prohibited in Islamic context. Imam Muslim reports in his Sahih from Muammar bin Abdullah that the Prophet said that hoarding is practiced only by a sinner (wrong-doer). A hoarder is a person who buys the grains that are most needed by people with a view to putting them out of their reach so the price will rise.

1.3.6. Islamic Work Ethics (IWE)

Shukri and Musa (2012) stated that the concept of work ethics is part and parcel of the Islamic tradition when properly analyzed, especially through the Hadith traditions, and it can serve its purpose in the work place. In the empirical study of Wahibur (2010), the testing indicates that Islamic work ethic has positive effects on both job satisfaction and organizational commitment; whereas there is no significant evidence of the effect of Islamic work ethic on turnover intention.

Result of the regression analysis by Abdi, et al. (2014) discovered that job performance was significantly associated with Islamic work ethics but on the other hand the organizational commitment was not significantly associated with Islamic work ethics. The empirical testing indicates that Islamic work ethics has positive impact on both job satisfaction and organizational commitment. Results also indicate strong positive relationship between job satisfaction and organizational commitment (Marri, et. al., 2012).

In addition, the study by Ali and Al-owaihan (2012) shows that Islamic Work Ethics has economic as well as moral and social dimensions. These along with basic elements of Islamic work ethics (IWE) seem to provide the faithful with a sense of worthiness and strengthen organizational commitment and continuity. That is, work is viewed not as an end in itself, but as a means to foster personal growth and social relations. Adopting Islamic work ethics improves organizational commitment, level of motivation and thus is likely to reduce the number of staff wanting to leave the organization i.e. quitting the job hence resulting improvement in firm performance (Ahmad, 2011)

1.3.7. Hypothesis Development

On the basis of these discussions the following hypotheses are developed:

H1: There Is Positive and Significant Relationship between Islamic Innovation and Firm Performance

H2: There Is Positive and Significant Relationship between Islamic Motivation and Firm Performance

H3: There Is Positive and Significant Relationship between Islamic Entrepreneurship Orientation and Firm Performance

H4: There Is Positive and Significant Relationship between Islamic Entrepreneurship Process and Firm Performance

H5: There Is Positive and Significant Relationship between Islamic Work Ethics and Firm Performance

2. MATERIALS AND METHODOLOGY

2.1. Method Design

The purpose of the study is exploratory and hypothesis testing. The unit of analysis is at firm level. An exploratory interviews among Muslimpreneurs formed the performance construct of *Al-falah*. It consists of monetary and non-monetary measures based on the Islamic principles and values. This study employs qualitative methods in developing the theory and test the model empirically through structured questionnaires. Hypothetical deductive approach is used for the study. The time horizon is cross sectional. The survey design is quantitative and deductive in approach. The sampling design is probability sampling design (simple Random sampling). Survey was carried out as the primary data collection method. All questions involves descriptive and 5-point likert scale. The respondents of this research paper are restaurants in Malaysia. The restaurants were used in order to test the venture performance among new firms in Malaysia. The minimum sample size is 230. The sampling frame involves firms from three regions such as southern, Eastern and Northern Malaysia. This study used two analysis techniques for the data. The Statistical Package for the Social Sciences, (SPSS) version 21.0 is used to determine the descriptive analyses such as percentage and frequencies. The data is also cleaned through SPSS in order to identify and assess the percentage of the missing items. The second statistical techniques used is Multiple Regression Analysis approach through SPSS 21.0. The measurement model such as the validity, reliability and regression model is used to test the hypotheses of the study.

2.2. Descriptive statistics

Owners Characteristics

Out of 230 respondents, 57.0% of the business owners are females and 43% are males. The age of the business owners ranges from 34 to 76 years. All the business

owners are Muslims. 181 firms (78.7%) attended Islamic business training. The business education achievement of the owners are secondary 30.4%; Certificate 33.9%; diploma 10.0%; degree 12.6%; master/PhD 2.6% and none 9.1%. 42.6% (98 firms) have been certified by JAKIM with halal certificate.

Business Profile

53.5% (123) businesses registered with Suruhanjaya Syarikat Malaysia (SSM) and 46.5% (107) have not yet registered. The type of businesses that registered with SSM were sole proprietorship 29.1% (67); Partnership 10.0% (23) and limited liability company 14.3% (33). Majority of the firms have been in business for 6 years (13%, 30 firms); 5 years (8.3%, 19 firms); 7 years (6.1%, 14); 8 years (5.7%, 13years); 14 years (6.1%, 14 firms) and others businesses below 5 years (below 5%). The activities and business sector are categorized into manufacturing (99.1%, 228 firms) and retail (0.9%, 2). 85.7% of the firms employed between 1 to 15 employees. The type of products being marketed by the 230 firms is food product. 32.5% firms were created as an act of Ibadah (75 firms); 5.7% set up their business for freedom and independence purpose; 1.7% firms for wealth purpose; 22.2% for satisfaction purpose; 28.7% firms were set up for societal benefits and 35.7% for ownership purpose. 118 firms (51.3%) were member of Islamic business association. 112 firms (48.7%) use non-riba Islamic finance to run their business activities. 136 firms (59.1%) get involved in governmental programme from time to time.

Corporate Social Responsibility

As part of the corporate social responsibility of the firms, 157 firms (68.3%) pay zakat; 202 firms (87.8%) give sadaqah; 69 firms (30%) give waqf; 0.9% firms give scholarship, 1.7% firms engage in environmental care, 3% engage in foster care and 23% engage in other forms of social activities.

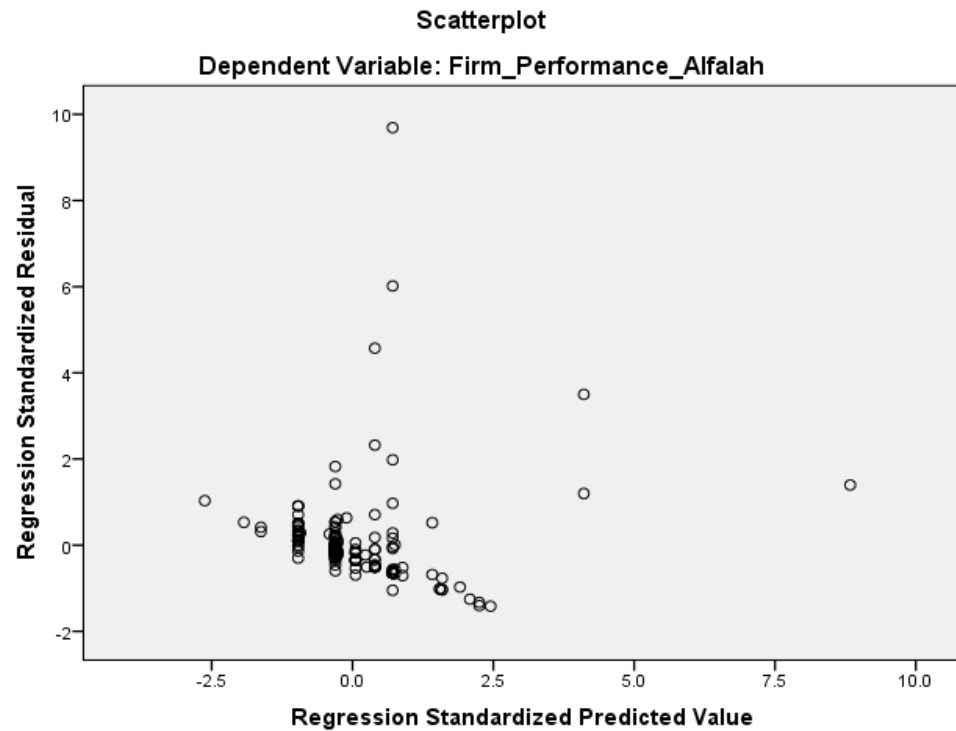
2.3. Correlation Matrix

Table 1. Correlation and Discriminant validity results for the model

Constructs	Innovation	Islamic Ethics	Islamic Process	Islamic Motivation	Islamic Orientation
Innovation	1				
Islamic Ethics	.368**	1			
Islamic Process	-.104	-.062	1		
Islamic Motivation	.021	-.065	-.129	1	
Islamic Orientation	-.306**	-.367**	.117	-.058	1

***. Correlation is significant at the 0.01 level (2-tailed).*

The table 1 presents Pearson Correlation Matrix of the Independent Variables. All the correlations are less than 0.01 level of significance. All the correlation estimates are below the 0.85 estimates stated by Zainudin (2012). This shows that all the constructs are normally distributed and are independent of one another. The cronbach Alpha of the 22 items is 0.886. The scatter plots show that the constructs are normally distributed.



3. RESULTS AND DISCUSSIONS

In the Table 2, the findings depict that there is positive relationship between Islamic firm performance and the five independent variables. Menard (1995) suggested that tolerance level less than 0.1 indicates a serious collinearity problem. Also a VIF value greater than ten is a cause for concern. For this model observed VIF values which range from 1.029 to 1.273 and the Tolerance value are all well above 0.7, hence the values are free from multicollinearity problem.

Table 2: Multiple Regression Analysis of New venture performance (<i>Al-falah</i>)							
Model	Unstandardized Coefficients		Standardized Coefficients	T	Sig.	Collinearity Statistics	
	B	Std. Error	Beta			Tolerance	VIF
(Constant)	-.068	5.647		-.012	.990		
Islamic Innovation (X1)	2.043	.415	.330	4.921	.000	.827	1.210
Islamic Motivation (X2)	1.122	.391	.177	2.871	.004	.972	1.029
Islamic Orientation (X3)	2.597	1.236	.141	2.101	.037	.821	1.218
Islamic Process (X4)	.727	.289	.156	2.518	.012	.966	1.035
Islamic Ethics (X5)	.773	.452	.117	1.708	.089	.785	1.273

R Square = .168	Adjusted R Square = .150	F = 9.054	Durbin-Watson = 2.081	Sig.(F)= .000b

The direct effect regression is shown thus:

$$Y = -.068 + 2.597X_1 + 2.043X_2 + 0.773X_3 + 0.727X_4 + 1.122M + 5.649$$

In Table 2, all the items used such as Islamic firm's Orientation (t=2.101, sig=.037); Innovation (t=4.921, sig=.000); Islamic Process (t=2.518, sig=.012); Islamic Motivation (t=2.871, sig=.004), are all positive and significantly supported at 5% while Islamic Ethics (t=1.708, sig=.089) is positive but not significant. The findings support all the hypotheses *H1, H2, H3, and H4* except *H5*.

4. DISCUSSION

From the model above the findings revealed the determinant factors that can influence new venture performance are Islamic firm's Orientation; Islamic Innovation; Islamic Entrepreneurship Process; Islamic Motivation are all positive and significantly supported while Islamic work Ethics remains only the non-significant variable. Islamic work ethics is consistent with previous studies such as Wahibur (2010) and Abdi, et al. (2014) that there is positive evidence of the effect of Islamic work ethics on firm performance (increase in revenue).

Islamic entrepreneurship innovation is consistent with Faltin (2001) and Abdullah (2013) that taking advantage of available opportunity in halal way will have significant impact on performance of firms. In addition, Islamic motivation result is consistent with the study of Gelderan, et al., (2000); Kalsom and Ahmad (2014) and Rahim (2007) that firm success is neither related to profit maximization nor to the size of business enterprise, but it can be achieved only through a moral approach.

Islamic EO result is supported by Zulkifli and Rosli (2013) that the firm EO has significant impact on firm performance. Islamic Entrepreneurship process result is also supported by Yousef (2001) that its essence should be viewed as the accomplishment of entrepreneurs to perform the duties of an *Ibadah* and in turn this will affect the running and growth of the firm.

In addition, the study has implications for the various stakeholders in the firm. The firms should improve more on their corporate social responsibility because the impact of their social functions have not been felt significantly by most Muslims. Therefore, given the nature of the model in this study, it would be appropriate to conduct qualitative research study so that open ended questionnaire and interview can be performed on the components of Islamic new venture performance.

5. CONCLUSION

The purpose of this study is to ascertain the determinant factors that can affect Islamic firm performance. Using Islamic new venture performance as the dependent variable, the findings show that the five independent variables are positively and significantly affect firm performance. In conclusion, every firms should fear Allah and aim to achieve more success of the hereafter through business creation. Islamic firms should

be certified and operate within the tenet of shariah; identify ethical business opportunity, utilized available resources, improve their investment initiatives knowledge and seek Allah blessings for the success of the business to have higher impact on the society.

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SCOPE OF ISLAMIC ENTREPRENEURSHIP-LED SOCIAL ENTERPRISE ECONOMICS FOR DEVELOPMENT WITH EQUITY AND SOCIAL JUSTICE*

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ABSTRACT

The basic goals of economics are allocative efficiency, distributive efficiency, social justice, and balanced development for all. However, it is observed that in countries which follow fundamentally a market economic system based on self-centric commercial entrepreneurship, income gap between rich and poor is widening and poverty is deepening. On the other hand, like the social entrepreneurship, Islamic entrepreneurship, which is basically a community-centric mode of business initiative, has the motivation for enhancing community wellbeing and earning reasonable (normal) profit for survival of the entrepreneur and normal growth of the enterprise. As a result, it appears a viable alternative mode of economic operations for ensuring development for social wellbeing. It is a natural model for solving economic inequity, wealth concentration, and social divides. Therefore, it can be used as a most effective strategy for promoting, extending, and mainstreaming social enterprise economics. This paper aims at investigating the potentials of Islamic and Islamic-style social entrepreneurships to be used for promoting and mainstreaming social enterprise economics to operate side by side with the private enterprise economics for ensuring development with equity and social justice particularly in developing countries. The paper is based on the PhD research proposal submitted to USIM by the primary author. Since the empirical data for the research are yet to be collected, this paper for now will be basically an analytical paper based on descriptive analyses of contents.

Keywords: Islamic entrepreneurship, Community-centric, Economic & social dualism, Not-for-profit business, Social enterprise economics, Social justice.

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1. INTRODUCTION

Ensuring efficiency in resource allocation and income distribution through broader participation of all economic agents both in production and consumption processes with a view to achieving socio-economic justice is the main goal of any economy.

Modern economic system is pursued through basically two forms of economic approaches: the market/private sector economics known as *first sector economics* relying on commercial entrepreneurships (self-interest-centric) and the state/public sector economics known as *second sector economics* relying on state entrepreneurships (public wellbeing-centric) for achieving the economy's fundamental goal of 'societal-wellbeing'. But, both kinds of economics have been found to be seriously inadequate for the task of ensuring the wellbeing of societies as well as nations. Due to its materialist worldview, characterized by social Darwinist outlook, **market economics** fails to specify the necessity of individual behavior to serve the public interest. It is founded on the assumption of self-interest as the fundamental human motivation for behavior and action. It ignores the multifaceted nature of human motives. Thus it suffers from lack of concern for societal wellbeing based on equity & social justice. Traditional mainstream businesses are profit driven that ignores the need of the disadvantaged people of the society and thereby they are highly deficient and unable to meet these normative goals of equity and social justice (Ko, S., 2012). Although the goal of Adam Smith's market economics has been the wellbeing of mankind and for that the ideal condition is marked to be the perfectly competitive market in which the average cost of production is the lowest and the entrepreneurs earn the normal (minimum) profits only. But in reality, it has failed to do so. This is because; there are built-in contradictions and paradoxes in the market competition concept itself. To remain competitive and enjoy competitive advantages, the motivating strategies in the market competition are product and price differentiations which in turn transform the market imperfect giving way to excess profit earning and skewed distribution of income in the society. This built-in contradicting and opposing forces in the invisible hand itself has made it impossible to reach the ideal condition of perfect competition where only normal/minimal profit is earned by the entrepreneurs to survive and their business growth to continue. (Molla 2014). **Public sector economics** fails basically because state is never a good manager of commercial and economic ventures. Various attempts made to remedy the shortcomings of this model, such as reducing the size of the public sector via transferring many public sector enterprises to the private sector, known as privatization, did not yield the expected results.

The excessive emphasis placed on self-interested and competitive behavior has weakened feelings of social unity, and thus the social bonds among people. It has diminished relations built on trust and cooperative behavior. Such negative developments heighten people's sense of vulnerability and fears for the future (Borzaga, 2009). The increased economic growth thus has not been matched by increased wellbeing and happiness. Therefore, both private and public sector economics have been found seriously inadequate for the task of ensuring wellbeing of societies and nations. The significantly increasing income inequalities eventually

became so obvious and embarrassing that the 2001 report put out by the UN High-Level Panel on Financing for Development lamented by saying that:

Sadly, increasing polarization between the haves and have-nots has become a feature of our world. Reversing this shameful trend is the preeminent moral and humanitarian challenge of our age (United Nations, 2001).

This situation has given rise to the emergence of the 3rd sector economics led by social enterprise economics adopting the principles akin to the principles of Islamic entrepreneurship. Based on critical analysis of the circumstances, this study expects to find the Islamic mode of entrepreneurship as the most suitable and effective for widening and mainstreaming the third-sector economies, more particularly in the developing countries.

2. RESEARCH METHOD

This paper is basically an analytical paper based on descriptive analyses of contents. The authors reviewed available published literatures, research articles, journals and magazines and newspapers related to the subject. The study has been structured in the light of the research objective.

3. DISCUSSION AND FINDINGS

3.1 Emergence of Social Enterprise Economics (Third Sector Economics)

The two-sector economic model with private and public sectors has long been established as the mainstream framework in the modern economy. This model, however, has a lot of shortcomings and has been unable to sustain the overall developmental agenda of nations to ensure equity and social justice. Poverty, inequality, economic crises, environmental and value degradations are among the common issues resulting from the two-sector model. As a result Blaug (1980) and Balogh (1982) observed that all were not well in the house economics had built; they emphasized the need for a new paradigm to effectively serve its purpose and goal. Stiglitz (2009) found it necessary to find a new balance between markets, governments, and other institutions, including not-for-profits and cooperatives, with the objective of building a plural economic system with several pillars. Other scholars like (Chapra, 1996, Borzaga et al.2009) fully support that position. Borzaga and his colleagues see cooperatives and social enterprises as better suited to coordinate collective action and promote collaboration, enhance trust, and increase freedoms. In response to such a situation, a number of organisations in the form of cooperatives, social enterprises, *waqf*, foundations, and other non-profit institutions together called the *third-sector economics* have emerged (Molla and Alam, 2013) with social welfare as their main agenda and altruism as their main driving value. According to Rajendran (2006), the third-sector emerged usually to function as complementary and at times as an alternative system for promoting development.

Cooperatives and social enterprises are the two main movements of third sector economics. A *cooperative* can be defined as a voluntary organization (e.g., a farm or a firm) that is owned and managed jointly by its members for a common goal and for sharing benefits among themselves; and serving the community is only incidental

(International Co-operative Alliance, 2014). Social entrepreneurship, which includes social business, is a “*social mission driven*” business organization. Operationally, it is ‘a profession for a mission’. Filipe Santos (2009) defines it as *an activity that focuses primarily on value creation rather than value appropriation. These are business-like operations, but their main concern is not business; rather it is to satisfy a social need while being economically sustainable*. Commonly it is viewed as a complementary economic approach that is based on predominantly value creation. It may be described as *any for-profit or non-profit organization that applies capitalistic strategies to achieve philanthropic goals without any ulterior motive*. It can be, therefore, described as “doing charity by doing trade,” rather than “doing charity *while* doing trade.” However, Muhammad Yunus (2007) promotes *social business* differentiating it with other social enterprises by the element that in it there is no additional dividend or capital return; the investors can receive back at best their original investment. But a social enterprise is allowed to earn reasonable/normal profit for sustainability and normal growth. Therefore, in terms of concept and goal social business is included in social enterprises. It means that all social businesses are necessarily social enterprises, but not the other way. Social business is necessarily a non-profit enterprise in which the investor is not entitled to get any dividend, but at best can get back his original investment gradually from out of the profit/surplus earned by the enterprise. In that sense, the capital invested by the entrepreneur will be in the nature of Islamic *Kard-e-Hasan* to the enterprise.

Social enterprises, thus, can be classified in a variety of ways as a) in terms of, Islamic, Islamic style, and non-Islamic, b) in terms of, for-profit, not for-profit., c) in terms of, government organizations (GO), non-government organizations (NGO), and d) in terms of, social businesses, non-social businesses, etc. (Molla, 2014).

Some recent theoretical developments have helped strengthening the academic and analytical arguments for the social enterprise economics (European Research Institute on Cooperative and Social Enterprises, 2014). Firstly, new theories have shifted away the emphasis from viewing the firm as an entity centered on profit maximization to one of working as a coordinator with the goal of solving society’s problems via production of goods or services. This has broadened the firm’s role to include productions of both private-interest goods and public/collective-interest goods. Similarly new theories on human behavior and action suggest that every human action and, in particular, every economic action is not governed exclusively by self-interest. Secondly, the Behaviorist School maintains that human actions spring from a mix of motivations (e.g., intrinsic, extrinsic, self, others) and are influenced by a general ethical factor of inclination to help each other and uphold justice and equity. These theoretical developments clearly point to the truth that human beings are fundamentally ethical social beings and, secondarily, economic beings. In fact, this is the message of Islam and all other revealed religions. These two theoretical developments have helped explain why the objective of an enterprise is, or can be, to solve a collective problem. These provide the rationale for social enterprise economics.

3.2 Similarities with the goals and objectives of Islamic economics

In terms of its objectives of collective benefit, balanced and just economic development, equitable distribution of income and wealth, narrowing the income gaps, closer understanding and trust among nations and societies, increased quality and standard of living of all, etc., the third sector is similar to Islamic economics (Molla 2012).

Islam's commitment to cooperation and justice makes the wellbeing (*falāh*) of all human beings its principal goal. Given that this wellbeing is achievable by the balanced realization of humanity's material and spiritual needs (Chapra, 1993), the mere maximization of total output cannot be the goal of a society. It needs, in addition, simultaneous efforts to ensure the persons' spiritual health at the inner core of human consciousness and interactions. In fact Islamic economics and entrepreneurship are geared towards that direction.

Islamic economics is founded on the principle of goal realization rather than profit maximization, as ethics dominate economics. This "ethical factor" fundamentally sets the Islamic system apart from all other economic systems (Naqvi, 1981), because ethics epitomize a society's common values and determines its members' preference structures. The separation of economics from ethics is not practicable, because *ethics set the tone for economics and thus the rules of economic behavior* based upon Islam's ethical norms. Therefore it is a value-driven system fundamentally to meet the ethically determined and demanded normative goals for the society's wellbeing; a just and balanced social system – "a social environment that brings a sense of community and fellowship in human relationships" that demands for the official recognition of justice, human dignity, and compatibility among humanity, technology, and the natural environment. Such a social environment requires far more than economic growth and prosperity, and more than the so-called efficient allocation of resources. For that reason, this system supports the view of economic development, described by Myrdal, as an *upward movement of the entire social system, or simply growth plus change in the redistribution of income in favour of the lower income groups* so that economic dualism is avoided. In Islam economic development is viewed as only one element of social wellbeing. It is important, but only as a contributor to the spiritual, material, and social uplift of human beings. Thus entrepreneurship is geared for expansion of production that benefits and improves everyone's quality of life. To the extent the entrepreneurs' focus and driving force are community (as opposed to individual) benefit, social enterprise economics and Islamic economics have a great deal in common.

3.3 Islamic Entrepreneurship and its Societal Role

Entrepreneurs are the economy's initiators and drivers. They are indispensable for the progress of human civilization and effectively exploring and exploiting existing and potential resources for wellbeing of humanity. They are essential human resource in any economy. Islam considers the role of entrepreneurs as *fardekifia* (obligatory upon the society, i.e. it has to be performed at least by some members in the society (Molla and Alam 2013). Entrepreneurship is meant for expansion of production for improving everyone's quality of life, and at the same time earning a reasonable profit

for the enterprise. Similarly, according to Nobel Laureate economist Muhammad Yunus, social entrepreneurs will set up social businesses not to achieve limited personal gain but to pursue specific social goals (Yunus, 2008). However, in the contemporary capitalist model entrepreneurship is mainly driven by the prospect of material rewards for himself.

Islamic entrepreneurship, which is basically a community-centric mode of business initiative, is an antidote to the problem of intolerable economic and social dualism in the economies. It is a natural strategy against all forms of capitalist exploitations, such as European colonialism in the past and now American-led terrorism to control resources (Molla and Alam 2013). Accordingly, it is the natural model for solving the problems of economic inequity, concentration of wealth, and social divides. Muslim entrepreneurs perform entrepreneurial activities not solely for profit, but above all, to fulfil the *fardul kifayah* (Vargas-Hernández et al. 2010). Islam promotes a unified society in a brotherhood imbued with social responsibility. Allah says:

“The believers are but brothers, so make settlement between your brothers. And fear Allah that you may receive mercy” (Al-Hujurāt 49: 10).

The Prophet Mohammad (SAW) said: "God love the people whom help the poor and needy mankind" (Bukhari and Muslim).

Islam is a complete way of life. There is no separation between business and religion. Islam has its own entrepreneurship culture and guiding principles based on the Al-Quran and Hadith to guide business operation. Islam regards entrepreneurship as essential and indispensable for progress of human civilization and effectively exploring and exploiting existing and potential resources to benefit mankind. In Islam, engaging in business activities is like performing a duty that is obligatory upon the community (*fard-al-kifāyah*) as opposed to the individual. This obligatory duty must be performed by at least one or some on behalf of the entire community. According to Abu Said, the Prophet said: The truthful and trustworthy businessman will be in the company of Prophets, saints and martyrs on the Day of Judgment. (Darimi, Tirmidhi). This is how seriously Islam perceives and encourages entrepreneurship, and why it has made this activity a societal, as opposed to a personal, obligation. Islam endorses entrepreneurship, regardless of whether it is driven by opportunity or necessity, as long as it is based upon a solid moral and ethical ground and conforms to Islam's code of conduct. Entrepreneurship in western societies is mainly driven by the prospect of material rewards. Islamic entrepreneurship is not against seeking a reasonable profit, but it does put ethical consideration and community interest first. Given that, Islam aspires to create high quality entrepreneurs and productive Islamic entrepreneurship. Islam views entrepreneurial success as not confined to merely the bottom-line principle of earning profit and material wealth. In fact, entrepreneurship is considered an integral part of Islam, which encourages its members to engage in business as part of *ibadh* i.e. doing good deeds guided by the ethics and values prescribed by the Qur'an and the prophetic Sunnah.

3.4 Need for Broadening and Mainstreaming Social Enterprise Economics and the Role of Islamic Entrepreneurship

Unfortunately, at the beginning, social enterprise economics was conceptually, structurally, and functionally meant and designed as special programs to deal with primarily the economy's peripheral areas: poverty alleviation, rural development, and agricultural development. This gave the two other models a free hand to operate in all of the economy's dominant and growth-generating sectors. Moreover, there was a widespread belief that social enterprise economics were best suited to providing personal- and community-care services. This reflects the tendency of even donors and international agencies to promote cooperatives and social enterprises only as tools to reduce poverty and generate employment (UNDP, 2008). Asia is fortunate to be the birthplace of several successful and large social enterprises (SEs) such as the Grameen Bank and Bangladesh Rural Advancement Committee (BRAC), JITA Bangladesh, Association of Social Advancement (ASA) in Bangladesh, and the Population and Community Development Association (PDA), in Thailand. The social enterprise is, rather, treated as a peripheral activity and side-lined in the management of the national economic sphere. Therefore, if it is to emancipate to play its envisaged and expected role as a leading economic system, it must be broadened and mainstreamed in terms of social enterprise economics.

Islam calls upon people to resist all sorts of oppression and exploitation and work constantly for social betterment and development. Entrepreneurs in the Islamic mould are guided by Islamic ethics in their search for the best way to serve humanity. The unique ethical and motivational structure of Islamic entrepreneurship gives first priority to community considerations, and only then to individual benefits. *It locates the community as the primary stakeholder* of the output of any entrepreneurial action. It is guided by religious and moral codes and regulations and enjoys orderliness. It is predominantly for societal welfare. Islamic entrepreneurship, therefore, fits very well for social enterprise economics model with highest potential for success. Applying the principles of Islamic entrepreneurship, it can grow, expand, and attract large numbers of enterprises that are currently operating in the mainstream and growth sectors of the economy.

Under the circumstances the social enterprise economics (third sector) led by Islamic entrepreneurship is now seen as the most viable and needed economic model for ensuring realization of economics' fundamental goal: humanity's wellbeing at the national and global levels.

However, many entrepreneurs may not be so committed to Islamic convictions and spirituality. This is particularly true among non-Muslims, who obviously cannot be expected to conform fully to all the aspects of Islamic norms discussed above. Under these circumstances, any business that falls short of fully conforming to these norms but does conform reasonably well to all of its material aspects and community-centric spirit may be called an 'Islamic-style' social enterprise. *In this, output maximization, profit maximization, employee benefits, etc. issues are subject to community wellbeing considerations. Profits for the equity holders and benefits for employees are seen as residual matters.* (Molla 2014)

4. CONCLUDING REMARKS

Capitalist market economics has failed because it is founded on the artificially formulated fundamental assumption that self-interest is the sole motive of human behavior and actions. This is not tenable. Human nature cannot be conditioned to follow any artificial assumption formulated based on convenience and emotions without reflecting the reality. Thus the market-state entrepreneurship has failed to ensure the wellbeing of people and society. Social enterprise economics (third sector) comprising cooperatives and community-centric not-for-profit social entrepreneurs emerged as a make-up strategy to meet the minimum unmet requirements for social wellbeing. However, a broadly based social enterprise economics with both not-for-profit and for-profit businesses blended with social justice needs to go mainstream so that it can have significant impact on the poverty alleviation and bridging the existing economic and social divides through economic growth.

Islamic entrepreneurship is a community-centric mode of business initiative and a natural strategy for solving the problems of economic inequity, the concentration of wealth, and social divides. Therefore, this study finds Islamic entrepreneurship as a highly suitable and effective approach for broadening and mainstreaming the social enterprise economics, primarily in developing countries. Nations and societies that are interested in expanding, developing, and mainstreaming their social enterprise economics may profitably promote this model, which ***approves seeking of a reasonable profit but puts ethical considerations and community interest above everything else***. Further research based on empirical data from the entrepreneurs and business people may be conducted in order to strengthening the justification of the sustainability of the Islamic mode of entrepreneurship mentioned in the study.

Note:

The contents of the paper were earlier read and presented in various conferences and published in conference proceedings and journals.

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THEME: CORPORATE WAQF, BUSINESS MODEL AND INNOVATION

ISU-ISU SYARIAH BERKAITAN PELAKSANAAN WAKAF KORPORAT DI MALAYSIA: SATU TINJAUN

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ABSTRAK

Kertas kerja ini akan membincangkan mengenai isu-isu syariah yang berkaitan dengan pelaksanaan wakaf korporat di Malaysia. Wakaf korporat ini merupakan salah satu wakaf kontemporari yang merupakan idea inovasi wakaf gaya terkini. Tujuan utama penulisan ini adalah untuk mengupas sejauhmanakah sistem wakaf korporat ini berjalan dengan baik mengikut landasan syariah seiring dengan perkembangan semasa supaya dapat memenuhi matlamat amalan wakaf dalam Islam. Pengkaedahan kajian adalah menerusi kaedah perpustakaan dengan merujuk kepada artikel-artikel dan buku-buku yang berkaitan. Hasil kajian mendapati masih terdapat kelompongan dan kekangan yang menyebabkan institusi wakaf kurang efektif kerana peranannya bukan hanya terhad untuk urusan peribadatan, malah ia dianggap sebagai institusi ekonomi yang mendatangkan impak kebaikan kepada ekonomi Ummah. Isu pertama yang dibincangkan adalah berkaitan dengan konflik bidangkuasa mahkamah sivil dan Syariah. Isu ini membincangkan mahkamah manakah yang perlu dirujuk sekiranya berlaku pertikaian. Selain itu, isu berkaitan dengan pembayaran cukai juga dikupas dalam penulisan ini. Secara umumnya tujuan wakaf adalah untuk beribadah dan mendekatkan diri kepada pencipta. Tetapi dengan kewujudan cukai yang berat akan membebankan kepada nazir. Di dalam isu ini turut mengupas siapakah yang bertanggungjawab untuk membayar cukai tersebut kerana wakaf korporat mengikat perjanjian dengan MAIN. Di samping itu, penulisan ini juga membincangkan mengenai status *non-muslim* sebagai ahli jawatan tinggi korporat. Isu kadar upah kepada nazir juga diketangahkan dalam penulisan ini.

Kata kunci : wakaf korporat, wakaf saham, Johor Corporation,

1. PENGENALAN

Wakaf merupakan salah satu amalan kebajikan yang terpuji dan dituntut dalam Islam. Ia telah wujud sejak zaman Rasulullah s.a.w berfungsi sebagai pemangkin ekonomi dan pembangunan umat Islam. Institusi ini juga merupakan tunjang kepada kejayaan sistem jaminan sosial Islam, selain mekanisme zakat, sedekah dan lain-lain. Wakaf bermaksud sebarang harta yang ditahan oleh pewakaf daripada sebarang urusan jual beli, pewarisan, hibah dan wasiat di samping mengekalkan sumber fizikalnya. Pendapatan dan perolehan atau manfaat daripada harta wakaf tersebut akan dibelanjakan untuk tujuan kebaikan dan kebajikan oleh badan yang diamanahkan. Dengan sebab itu harta wakaf tersebut tidak boleh menjadi milik pewakaf, tidak boleh diambil kembali dan tidak boleh dimiliki oleh sesiapa.

Walaupun istilah wakaf tidak dinyatakan dengan jelas didalam al-Quran, namun terdapat galakan di dalam ayat al-Quran yang menyatakan tentang amalan kebajikan seperti sedekah jariah, hibah, derma dan sebagainya.¹ Menurut Mazhab Shafie, wakaf ialah menahan suatu harta seseorang yang bermanfaat untuk dimanfaatkan kepada orang lain dengan perkara-perkara yang diharuskan bagi mendekatkan diri kepada Allah s.w.t dan terputus hak milik pewakaf ke atas harta tersebut.² Pada pandangan beliau, harta pewakaf akan terputus daripada pemilik asal dan menjadi hak milik Allah s.w.t selama-lamanya dan manfaat daripada harta wakaf tersebut akan digunakan oleh orang ramai tanpa suatu tempoh masa tertentu.

Sejajar dengan arus pemodenan di Malaysia, berlaku penambahbaikan ke atas beberapa elemen pelaksanaan ibadah wakaf. Kemajuan ini memberi implikasi yang positif terhadap perkembangan wakaf yang membawa kepada pelaksanaan wakaf korporat. Menurut perspektif Siyar Ekonomi, wakaf korporat merupakan salah satu tanggungjawab sosial korporat yang berlandaskan Islam kerana harta yang diterima adalah amanah dan penggunaannya dapat digunakan bersama oleh masyarakat bagi memastikan keadilan sosial dan hubungan sesama masyarakat bertambah erat. Oleh itu, konsep wakaf korporat harus di ketengahkan di negara-negara Pertubuhan Persidangan Islam (OIC) khususnya berkaitan dengan peranan korporat dalam pembangunan antarabangsa.³ Bagi membezakan wakaf korporat berbeza dengan badan wakaf yang lain, proses mendefinisi dan menyusun kriteria bagi melayakkan sesuatu organisasi diiktiraf sebagai wakaf korporat perlu diperinci, dihalusi, dibincang dan disuarakan untuk diterima.

Salah satu wakaf korporat yang telah di amalkan di Malaysia adalah Johor Corporation Berhad (JCorp) dimana pelaksanaan wakaf korporat JCorp dilakukan dengan mewakafkan sejumlah RM200 juta (Nilai Aset bersih) saham dalam anak syarikat yang tersenarai dan RM 50.27 juta (Nilai Aset Bersih) saham dalam anak

¹ Abd. Shakor Bin Borham. 2011. *"Pelaksanaan pembangunan Wakaf Korporat Johor Corporation Berhad (JCorp): satu tinjauan"*. (paper). International Conference on Humanities 2011. Universiti Tun Hussin Onn Malaysia.P.1

² Ibid. P.3

³ Afzah Abd Jalal. 2014. *"Wakaf korporat: Transformasi dalam Pembangunan Ekonomi"*. Malaysia. Maktab Koperasi Malaysia Cawangan Selatan. Bil 43/2004. P. 10

syarikat yang tidak tersenarai di Bursa Malaysia.⁴ Hasil daripada pengaplikasian wakaf korporat, ia berpotensi meningkatkan pemilikan ekuiti ekonomi umat Islam seterusnya memberi perubahan yang positif kepada ekonomi Negara. Hal ini secara tidak langsung membuktikan bahawa Islam adalah agama yang menerima arus kemodenan dan bersifat komprehensif.

2. KONSEP WAKAF KORPORAT

Wakaf korporat boleh didefinisikan sebagai wakaf saham melibatkan saham yang dimiliki oleh seseorang ataupun badan sebagai harta yang diwakafkan. Hal ini juga boleh berlaku pada saham-saham yang sedia ada atau saham yang dibeli untuk diwakafkan. Contoh yang terdekat bagi wakaf korporat ini adalah Johor Corporation Berhad. Setakat ini tafsiran wakaf saham hanya terdapat di negeri Johor dan Melaka sahaja. Kaedah-kaedah wakaf 1983 di Johor, wakaf saham di tafsirkan sebagai mewakafkan saham-saham syarikat perniagaan dengan belian atau saham-saham yang telah ada. Bagi Melaka pula, ia terletak di bawah tafsiran wakaf saham Enakmen Wakaf (Negeri Melaka) 2005 (No. 5 tahun 2005) iaitu saham-saham syarikat atau perniagaan atau saham-saham yang telah ada yang diwakafkan.

Dari sudut pelaksanaannya, JCorp telah merealisasikan dengan jenama wakaf korporat di mana sebanyak RM200 juta saham anak-anak syarikatnya yang disenaraikan di Bursa Saham Malaysia telah diwakafkan. Ia terdiri daripada kulim Berhad dengan 12.35 juta unit saham bersamaan 4.68 peratus terbitan ekuiti, KPJ Healthcare Berhad (18.60 juta unit saham bersamaan 4.32 peratus terbitan ekuiti) dan Johor Land Berhad (4.32 juta unit saham bersamaan 3.57 peratus terbitan ekuiti). Pewaqafan itu yang dipercayai pertama seumpamanya di dunia, disempurnakan pada 3 Ogos 2006 oleh Ketua Eksekutif JCorp, Tan Sri Muhammad Ali Hashim dan Mufti Johor, Dato' Nooh Gadut.

Disebabkan penubuhan wakaf korporat khususnya konsep wakaf korporat yang diperkenalkan oleh JCorp masih baru dan hanya JCorp yang tampil melaksanakannya, penulisan ini dapat merungkai persoalan bagi mengelakkan persepsi buruk yang bakal mencemarkan kredibiliti institusi wakaf dalam Islam.

⁴ Abd. Shakor Bin Borham. 2011. "*Pelaksanaan pembangunan Wakaf Korporat Johor Corporation Berhad (JCorp): satu tinjauan*". (paper). International Conference on Humanities 2011. Universiti Tun Hussin Onn

3. RUKUN-RUKUN WAKAF

Rukun	Syarat-syarat
Pewakaf	Beliau adalah seorang yang merdeka, baligh dan berakal. Wakaf seorang hamba tidak sah kerana hamba tiada hak milik, bahkan dirinya sendiri adalah harta yang dimiliki oleh tuannya. Wakaf kanak-kanak dan orang gila juga tidak sah walaupun ia dilakukan melalui penjaga mereka. Sekiranya seorang kanak-kanak (walaupun sudah mumaiyiz) atau seorang gila mewakafkan hartanya, maka wakaf tersebut batal walaupun dengan persetujuan penjaga mereka. Ini kerana perbuatan kanak-kanak dan orang gila tidak diiktiraf oleh syarak. Penjaga mereka juga tidak dibenarkan mengeluarkan sedekah menggunakan harta ini. Berkelayakan untuk bersedekah. Orang yang dihalang berbelanja (al-mahjur 'alaih) kerana tidak siuman atau kerana muflis tidak sah mewakafkan harta. Ini kerana mereka tidak dibenarkan membelanjakan harta mereka apatah lagi mewakafkan harta, dan tidak dibenarkan untuk diserahkan kepada mereka juga. Larangan ini adalah demi kepentingan diri orang yang tidak siuman itu sendiri, dan untuk si muflis kerana mengambil kira kepentingan pemiutang-pemiutang. Dibuat dengan sukarela. Tidak sah wakaf orang yang dipaksa kerana syarat sukarela adalah antara syarat taklif. Syarat lain bagi pewakaf : Wakafan pesakit yang nazak Pesakit yang berada dalam keadaan nazak hanya dibenarkan mewakafkan tidak lebih daripada satu pertiga (1/3) hartanya. Ini bertujuan memelihara kepentingan pewaris-pewarisnya. Sekiranya pesakit ini mewakafkan satu pertiga (1/3) atau kurang, wakafan ini dibenarkan bagi memelihara kepentingan dirinya sendiri untuk menerima ganjaran pahala selepas kematiannya. Wakafan orang kafir Ulama'-ulama' Mazhab Shafie berpendapat bahawa wakaf seorang kafir adalah sah walaupun ia disedekahkan untuk masjid. Walau bagaimanapun, ia bukan berniat taqarrub sebagaimana iktikad seorang Muslim. Golongan kafir termasuk dalam golongan yang layak bersedekah.
2.Penerima wakaf	Terdapat dua kategori penerima wakaf : Penerima khusus sama ada seorang ataupun lebih. Penerima tidak khusus, contohnya mewakafkan kepada golongan tertentu seperti golongan fakir.

	Syarat-syarat penerima khusus : Berkeupayaan memiliki harta ini ketika wakaf tersebut dilafazkan. Maksudnya dia hidup ketika itu. Oleh itu, tidak sah seseorang mewakafkan harta kepada anaknya sedangkan dia tidak pun mempunyai anak. Begitu juga sekiranya dia mewakafkan harta untuk anak-anak si fulan yang fakir sedangkan anak-anak si fulan tersebut tidak fakir. Wakaf seperti ini tidak sah. Wakaf juga tidak sah kepada janin, orang yang telah mati, kediaman dan sebagainya yang dianggap tidak berkeupayaan untuk memiliki harta wakaf ketika itu. Selain daripada itu, tidak sah juga mewakafkan mushaf al-Quran atau buku –buku Ilmu Islam kepada orang yang bukan Islam kerana mereka tidak harus memilikinya. Tidak sah juga pewakaf mewakafkan hartanya untuk dirinya sendiri kerana ia perbuatan sia-sia. Seolah-olah dia melakukan sesuatu yang telah sedia berlaku, kerana harta tersebut sememangnya miliknya dan tiada apa-apa yang berlaku dengan perbuatannya itu. Wakaf kepada orang kafir Ulama’-ulama’ mazhab Syafie berpendapat bahawa harus mewaakfkan harta kepada orang kafir sekiranya orang kafir itu adalah kafir zimmi yang tertentu, selagimana pewaakf tidak berniat jahat. Ini kerana memberi sedekah kepada orang kafir adalah harus, begitu juga dengan wakaf. Bagi kafir mu’ahid (yang membuat perjanjian damai) dan orang kafir musta’min (yang meminta perlindungan dengan kerajaan Islam), maka mereka ini dibenarkan menerima wakaf sebagaimana kafir zimmi. Keharusan ini adalah selagi mana mereka berada di dalam negara Islam dan berpegang kepada perjanjian mereka. Bagi orang kafir harbi atau orang yang murtad pula, adalah tidak sah mewakafkan harta kepada mereka. Ini kerana selagimana mereka berkeadaan sedemikian, mereka ini tidak akan kekal dan kekufuran mereka tidak boleh diakui. Syarat –syarat penerima tidak khusus : Wakaf tersebut tidak bertujuan jahat atau berbentuk maksiat kerana ia hanya membantu penerima melakukan dan mengekalkan maksiatnya. Wakaf disyariatkan untuk mendekatkan diri dengan Allah. Jadi, wakaf dan maksiat adalah dua perkara yang sama sekali tidak akan bersatu.

	Berdasarkan kepada syarat ini, adalah tidak sah mewakafkan harta kepada rumah-rumah ibadat orang kafir seperti gereja atau kuil. Sama ada harta ini diwakafkan untuk pengurusan, permaidani, lampu, atau pembinaan atau untuk keindahan dan sebagainya. Hal ini sama juga seperti mewakafkan senjata untuk pengacau-pengacau atau perompak adalah tidak sah. Harta ini hanya akan membantu mereka melakukan jenayah. Syarat-syarat lain bagi penerima harta wakaf Wakaf kepada orang kaya Harus mewakafkan harta kepada orang kaya sebagaimana sedekah juga diharuskan untuk mereka. Mewakafkan harta kepada mereka bukan bermakna menderhakai Allah. Wakaf bermaksud memberi hak milik dan golongan kaya berhak untuk memiliki
3.Harta wakaf	1. Harta yang diwakafkan mestilah berbentuk objek yang tertentu. Maka tidak sah hanya mewakafkan manfaat sesuatu harta tanpa mewakafkan objeknya, sama ada manfaatnya berbentuk sementara, seperti mewakafkan rumah untuk digunakan selama setahun ataupun dalam bentuk kekal seperti mewakafkannya untuk digunakan selama-lamanya. 1.1 Dalam hal ini, objek adalah pokok dan manfaat adalah sampingannya. Cabang akan sentiasa mengikut pokok. Oleh itu, selagi mana hak milik asal masih di tangan pewakaf, maka manfaatnya juga masih menjadi hak milik pewakaf. Kedua-dua aspek ini tidak dapat dipisahkan melalui wakaf. 1.2 Selain daripada itu, harta yang hendak diwakafkan hendaklah ditentukan terlebih dahulu. Sekiranya pewakaf mewakafkan salah satu daripada rumahnya atau salah sebuah kenderaannya tanpa menentukan yang mana satu untuk diwakafkan, maka tidak sah. Kerana beliau tidak menentukan apa yang diwakafkan seolah-olah beliau hanya bergurau dan tidak bersungguh-sungguh. Harta yang diwakafkan hendaklah milik pewakaf dan boleh dipindahmilikkan selain boleh memberikan faedah dan manfaat. Harta yang diwakafkan boleh digunakan selama-lamanya. Dalam hal ini, tidak sah mewakafkan makanan atau seumpamanya jika manfaat daripadanya hanya akan didapati setelah dimusnahkan harta tersebut. <i>Selama-lamanya</i> disini adalah relatif bukan bermaksud kekal selama-lamanya. Dengan kata lain, harta tersebut boleh kekal menjangkau suatu tempoh dimana ia boleh menghasilkan sesuatu atau hasilnya menyamai sesuatu upah. Tidak disyaratkan faedah harta tersebut perlu diperolehi serta –merta. Cukup sekadar ia boleh dimanfaatkan walaupun pada masa akan datang. Penggunaan harta wakaf tersebut mestilah diharuskan oleh syarak. Mewakafkan harta yang hanya boleh digunakan untuk perkara yang

	diharamkan seperti alat-alat hiburan dan sebagainya adalah tidak sah kerana tujuan Waqaf adalah <i>taqarrub</i> dan maksiat menafikan matlamat tersebut. Pembahagian harta terbahagi kepada dua : Wakaf harta tidak alih Adalah sah mewakafkan harta tidak alih sama ada dalam bentuk tanah, rumah, premis perniagaan atau perigi selagimana ia boleh mendatangkan faedah sama ada pada ketika itu juga atau kemudiannya. Wakaf harta alih Mewakafkan harta alih seperti haiwan, kenderaan, pakaian, peralatan perang, berus, bejana dan buku yang bermanfaat adalah sah.
4. Akad wakaf	1. Lafaz orang yang boleh bercakap atau tulisan orang yang bisu hendaklah jelas bermaksud wakaf. 2. Hendaklah lafaz tersebut tiada batasan masa. 2.1 Jika beliau berkata : “saya mewakafkan tanah saya untuk penuntut ilmu selama setahun,” terbatal wakafnya kerana lafaznya tidak sah dengan adanya jangka masa tertentu. Wakaf adalah memberi hak milik selama-lamanya dan sekiranya ad tempoh maka ia telah menafikan hak wakaf. 3. Hendaklah dinyatakan penerima wakaf. Jika beliau menyebut saya mewakafkan harta ini atau saya sedekahkan harta ini tanpa menyebut penerima wakaf, wakaf tersebut terbatal kerana tidak diketahui pihak yang bertanggungjawab untuk menguruskannya. 4. Tiada sebarang syarat tambahan. Wakaf telah menjadikan harta tersebut sebagai hak milik serta merta. Maka, tidak sah mengaitkannya dengan apa jua syarat. 4.1 Jika seseorang berkata : “saya mewakafkan rumah saya kepada fakir miskin dengan syarat Zaid datang,” atau “saya mewakafkan kereta saya untuk mereka dengan syarat isteri saya mempersetujuinya,” wakaf begini terbatal. Ini kerana tujuan wakaf tidak tercapai dengan adanya syarat-syarat ini 4.2 Walau bagaimanapun terdapat pengecualian pada perkara yang membabitkan pembebasan hamba dan seumpama dengannya. Jika pewakaf berkata : “Bila tiba bulan Ramadhan, saya akan mewakafkan rumah saya sebagai masjid.” Maka wakafnya adalah sah. 5. Tidak disyaratkan <i>Khiyar</i> (pilihan untuk meneruskan akad atau membatalkannya). Tidak sah <i>khiyar</i> syarat untuk dirinya atau untuk orang lain dan tidak sah juga <i>khiyar</i> majlis. Jika beliau berkata : “Saya mewakafkan haiwan saya ini kepada fakir miskin dan saya

	mempunyai <i>khiyar</i> selama tiga hari atau saya mempunyai <i>khiyar</i> untuk menjualnya jika saya mahu,” maka wakafnya terbatal kerana pelaksanaan wakaf tidak boleh dilaksanakan serta merta sebagaimana yang dikehendaki.

4. SYARAT-SYARAT LAIN BAGI PENGAWASAN HARTA WAKAF

Harta wakaf memerlukan pengawasan yang cukup bagi begi mengurus segala keperluannya di samping menjamin hasilnya untuk diserahkan kepada pihak yang ditetapkan oleh pewakaf. Orang yang paling berhak untuk mengawasi harta wakaf ialah orang yang ditetapkan sendiri oleh pewakaf. Jika pewakaf mensyaratkan pengawasannya dilakukan sendiri, maka dia adalah orang yang paling layak dan bertanggungjawab untuk mengawasinya. Jika dia mensyaratkan kepada orang lain sama ada dia menyerahkan ketika hayatnya atau melalui wasiatnya, maka syarat tersebut perlu dipatuhi kerana dia telah menjadikan sedekahnya untuk taqarrub kepada Allah. Jika pewakaf tidak mensyaratkan pengawasannya kepada sesiapa, maka pengawasannya diserahkan kepada al-Qadhi (hakim) kerana dia bertanggungjawab mengawasi semua perkara, dan dia orang yang paling layak untuk mengawasi wakaf ini. Bagi memenuhi pengawas untuk mgawasi harta wakaf ini, terdapat beberapa syarat yang perlu dipatuhi iaitu:

4.1. Adil

Bermaksud istiqamah dengan pegangan agama. Disyaratkan sifat adil ini kerana pengawasan adalah tanggungjawab dan tanggungjawab tidak boleh dipegang oleh orang yang tidak adil.

4.2. Berkemampuan

Mempunyai kekuatan dan keupayaan untuk menjalankan pengawasannya di samping membimbing ke arah penggunaan yang terbaik.

Sekiranya kedua-dua syarat ini tidak dipenuhi oleh pengawas tersebut maka pemerintah akan menarik balik dan mengawasinya sendiri untuk menyerahkannya kepada sesiapa yang dikehendakinya. Jika kekurangan ini telah diatasi dan dapat memenuhi syarat tersebut maka hak pengawasan boleh diserahkannya kembali. Segala tindakannya hendaklah demi kebaikan dan keperlua harta wakaf kerana dia bertanggungjawab mengawasi kepentingan orang lain sama seperti penjaga anak-anak yatim.

5. ISU PERTAMA: KONFLIK BIDANG KUASA MAHKAMAH

Persoalan yang wujud daripada pelaksanaan wakaf korporat adalah salah satunya termasuklah konflik bidang kuasa mahkamah. Suatu perkara utama yang wajar dinitikberatkan dari sudut perundangan mengenai wakaf korporat adalah perkara mengenai Hal Ehwal Pentadbiran Agama Islam dan Undang-undang yang berkaitan dengan hukum syarak ditadbir di bawah negeri dan tidak di peringkat persekutuan. Sepertimana yang diketahui, perkara wakaf dikategorikan sebagai urusan agama dan menjadi salah satu hal ehwal bidang kuasa negeri. Oleh itu, wakaf di kawal oleh

Majlis. Hal ini dapat dirujuk melalui Perlembagaan persekutuan dimana ia memperuntukkan di bawah seksyen 74(b) iaitu DUN berhak untuk menggubal undang-undang yang berkaitan yang telah disenaraikan dalam Jadual 9 Senarai kedua.⁵ Tetapi wakaf korporat adalah sebuah syarikat yang dilindungi dibawah Akta Syarikat 1965 (SSM), maka syarikat ini terletak dibawah Senarai Persekutuan dan Majlis tiada bidangkuasa keatasnya.

Walaupun terdapat peruntukan bagi wakaf, namun peruntukan yang sedia ada tidak memberi jaminan dan pengiktirafan sepenuhnya terhadap pentadbiran dan pengurusan harta wakaf. Hal ini disebabkan wujudnya halangan dan sekatan serta percanggahan bidang kuasa antara Badan Perundangan Negeri dengan bidang kuasa Persekutuan. Merujuk kepada beberapa peraturan yang diluluskan sejak bermula daripada tahun 1976 hingga kini, enakmen secara khusus berkaitan wakaf dan peraturannya belum diwujudkan bagi beberapa negeri.⁶ Dalam hal ini walaupun mahkamah syariah yang mempunyai bidang kuasa untuk mendengar kes tersebut, Mahkamah sivil juga berkompeten untuk mendengar pertikaian berkenaan. Oleh itu, keperluan kepada peraturan penting berkaitan wakaf korporat perlu diwujudkan selaras dengan peraturan lain supaya pengurusan dan pentadbiran wakaf korporat ini berjalan dengan lancar dan juga mencapai matlamatnya dalam membangunkan ekonomi ummah.

5.1. Kes-Kes Yang Diputuskan Berkaitan Dengan Bidangkuasa Mahkamah Bagi Kes Wakaf

Dalam kes Tengku Abdul Kadir Bin Tengku Chik Iwn Majlis Agama Islam Kelantan⁷. Kes tersebut adalah berkaitan dengan tanah wakaf dimana kes tersebut adalah di bawah bidangkuasa Mahkamah Syariah. Walau bagaimanapun, kes tersebut telah didengari di Mahkamah Tinggi Kota Bharu dan mahkamah tersebut yang mempunyai bidangkuasa untuk mendengar dan membuat perisytiharan ke atas keputusan kes tersebut. Sementara Mahkamah Syariah tidak mempunyai bidang kuasa mengisytiharkan sesuatu perintah yang dibuat oleh Mahkamah Tinggi Sivil atau lain-lain Mahkamah Sivil sebagai tidak sah walaupun sesuatu perintah itu tentang hukum syarak seperti wakaf. Dalam kes ini juga Mahkamah Tinggi Kota Bharu bertindak membatalkan Wakaf Khas keluarga secara tidak langsung mengetepikan institusi mufti dengan tidak merujuk terlebih dahulu kepada keputusan Jamaah Ulama Kelantan.

Hal yang sama juga dapat dilihat dalam penghakiman kes Commisioner of Religious Affairs Terengganu lawan Tengku Maryam.⁸ Di dalam kes ini, Pihak yang Menuntut telah memohon pengisytiharan daripada Mahkamah Tinggi Sivil bahawa wakaf yang dibuat oleh Pihak Yang dituntut adalah tidak sah dan tidak berkesan kerana ia

⁵ Malaysia.n.d. *Perlembagaan persekutuan*.

⁶ Mohd Afandi Mat Rani. n.d. *Pembangunan Tanah Wakaf di Malaysia : Isu dan Halangan*. n.pl.: n.pb.

⁷ Tengku Abdul Kadir Bin Tengku Chik Iwn Majlis Agama Islam Kelantan, 7 kanun (2); Jurnal Undang-Undang Malaysia, Jun 1995, DBP

⁸ [1970], 1 MLJ 222

diperuntukkan untuk faedah keluarga pewakaf. Perkara ini telah dirujuk kepada Mufti Terengganu dan telah memutuskan bahawa wakaf untuk keluarga selama-lamanya dan pemberian terakhir untuk kebajikan dianggap sebagai khayalan semata-mata. Kes tersebut telah dirujuk berdasarkan keputusan penghakiman di dalam kes *Abul Fata Mahomed Ishak And Ors. vs Rasamaya Dhur Chowdhuri And Ors*⁹ di mana hakim telah memutuskan wakaf telah batal dari awal lagi.

Sementara dalam *Isa Bin Abdul Rahman dan lain-lain lawan Majlis Agama Islam Pulau Pinang*¹⁰, peruntukan yang terdapat dalam undang-undang Pentadbiran Ugama Islam Pulau Pinang 1959 tidak memberi bidangkuasa kepada Mahkamah Syariah untuk mengeluarkan perintah injuksi kepada responden. Perkara injuksi hanya diperuntukkan dalam Bahagian iii Akta Relif Spesifik 1950 dan hanya diberikan kepada Mahkamah Tinggi Sivil sahaja. Undang-undang Negeri juga tidak boleh mengurangkan bidangkuasa Mahkamah Sivil yang diberikan oleh Perlembagaan Persekutuan dan undang-undang Persekutuan. Dalam kes ini Hakim telah merujuk kepada Jawatankuasa Syariah Pulau Pinang kerana tidak menemui hukum dalam isu yang dipertikaikan iaitu sama ada cadangan membina pejabat Bank Islam di tingkat tiga yang terletak di bawah masjid itu dibolehkan di dalam Islam.

Daripada beberapa kes yang telah dibincangkan, terdapat banyak kelompongan dalam enakmen yang berkaitan dengan wakaf. Hal ini telah mewujudkan kepincangan serta konflik dalam perundangan kerana campur tangan antara dua institusi kehakiman yang tidak dapat diselaraskan. Walaupun artikel 121(1A) dalam Perlembagaan Persekutuan telah memperuntukan menghalang mahkamah sivil dari mencampuri bidang kuasa Mahkamah Syariah.¹¹ Sepatutnya Mahkamah Syariah mestilah berbidang kuasa sepenuhnya dalam menentukan kesahihan sesuatu wakaf dan menentukan cara pentadbirannya serta pelaksanaannya. Hal ini disebabkan wakaf adalah berkait dengan agama yang terletak di bawah bidang kuasa negeri. Sebarang keputusan Majlis fatwa haruslah diambil kira kerana mereka lebih arif dalam soal penentuan hukum yang berkenaan dengan Agama Islam berbanding Mahkamah Sivil.

Sekiranya timbul keraguan atau ketidak puasan hati terhadap keputusan Mahkamah Rendah atau fatwa yang telah diputuskan, rayuan boleh dikemukakan di Mahkamah Tinggi Syariah dan fatwa yang dikeluarkan oleh Jawatankuasa fatwa negeri hendaklah mengikat keputusan hakim. Keputusan yang dibuat diperingkat rayuan haruslah muktamad dan tidak boleh dipersoalkan di mana-mana Mahkamah Sivil seperti apa yang berlaku pada hari ini. Akibat daripada kekangan Akta atau Enakmen yang khusus berkaitan wakaf ini, seolah-olah telah memberi ruang kepada Mahkamah Sivil untuk terus mencampuri bidang kuasa Mahkamah Syariah. Tambah-tambah lagi terdapat pelbagai konsep wakaf yang telah dilaksanakan dan pada hari ini telah wujud wakaf korporat yang dikenali juga sebagai salah satu institusi perniagaan yang telah melaksanakan tanggungjawab sosial mereka dalam bentuk wakaf. Oleh itu, wajar

⁹ [1891] ILR 18 Cal 399

¹⁰ [1996] 1 CLJ 283

¹¹ Malaysia.n.d *Perlembagaan persekutuan*

suatu Akta atau Enakmen yang lengkap dan menyeluruh perlu digubal secepat mungkin sekiranya kita mahu institusi wakaf hidup subur di Malaysia khususnya dan terhindar dari sebarang kesamaran dan kekaburan.¹² Persoalan utama yang akan wujud dalam wakaf korporat adalah dari segi pendaftaran kerana hal ini akan menyebabkan konflik bidang kuasa antara mahkamah syariah dan juga mahkamah sivil.

6. ISU KEDUA : PEMBAYARAN CUKAI

Isu kedua yang akan timbul adalah pembayaran cukai keatas saham wakaf yang telah diistibdalkan kepada aset pembangunan berbentuk material. Sebagai Pemegang Amanah atau badan yang menguruskan harta wakaf, tanggung jawab ini terletak di bahu MAIN sepenuhnya seperti yang telah diperuntukkan di dalam enakmen. Dalam situasi wakaf korporat, siapakah yang bertanggungjawab untuk membayar cukai ini sama ada MAIN, golongan eksekutif tersebut atau pun mutawalli yang telah diamanahkan untuk menguruskan harta wakaf tersebut. Dalam isu ini, timbul satu persoalan fiqh iaitu siapakah yang bertanggungjawab untuk menanggung segala kos pentadbiran dan penyelenggaraan yang berkaitan harta wakaf termasuk isu percukaian.

Wakaf korporat boleh merujuk kepada tafsiran wakaf saham di mana ia terletak dibawah tafsiran Kaedah-kaedah Wakaf 1983 di Negeri Johor sebagai “mewakafkan saham-saham syarikat perniagaan dengan belian atau saham-saham syarikat perniagaan dengan belian atau saham-saham yang telah ada”.¹³ Setakat ini tafsiran wakaf saham hanya terdapat di Negeri Johor dan Melaka sahaja. Dari sudut pelaksanaannya, didapati Johor Corporation (Jcorp) telah merealisasikan dengan jenama wakaf korporat di mana sebanyak RM 200 juta saham anak-anak syarikatnya yang disenaraikan di Bursa Saham Malaysia telah diwakafkan.¹⁴

6.1. Kaedah Pembayaran Cukai Berdasarkan Peruntukan Undang-Undang

Merujuk kepada seksyen 134 Akta Kerajaan Tempatan 1960 (Akta 171)¹⁵, pengecualian cukai hanya diberi bagi sesuatu pegangan hak milik hanya berlaku pada tempat peribadatan, pengkebumian, sekolah awam, dan tempat awam yang digunakan untuk tujuan kebaikan. Pengecualian ini tertakluk kepada budi bicara Pihak Berkuasa Negeri. Maka mana-mana harta wakaf yang terlibat dengan pembangunan yang berbentuk material tidak akan mendapat keistimewaan pengecualian cukai. Pengecualian cukai hanya diberi bagi sesuatu pegangan hak milik hanya berlaku pada tempat peribadatan, pengkebumian, sekolah awam, tempat awam yang digunakan untuk tujuan kebaikan. Manakala pembangunan yang melibatkan urusan perniagaan tetap akan dikenakan cukai seperti biasa.

¹² Mohd Afandi Mat Rani. n.d. Pembangunan Tanah Wakaf di Malaysia : Isu dan Halangan.n.pl.n.pb.

¹³ Siti Mashitoh Mahamood et al. 2007 “*Konsep wakaf sebagai Instrumen Pembangunan hartanah di Wilayah Pembangunan Iskandar*”. Jurnal Pengurusan JAWHAR. Penerbit JAWHAR.Vol 1. No 2. h.8

¹⁴ Ibid .h.9

¹⁵ Malaysia. 2006. Akta Kerajaan Tempatan 1969 (Akta 171). http://www.mppp.gov.my/png_mppp_theme/pdf/Akta_171.pdf.html>. accesses : 13 April 2015

Hakikatnya tujuan sesuatu harta diwakafkan adalah untuk kemaslahatan ummah akan tetapi sekiranya cukai dikenakan keatas setiap harta yang diwakafkan, hal ini akan membebankan pihak yang menguruskan harta wakaf dan berkemungkinan dengan pembebanan tersebut harta wakaf tidak dapat di laksanakan. Pembayaran cukai ini membebankan pihak pengurus untuk menguruskan saham wakaf yang telah diistibdalkan dengan projek pembangunan komersial. Maka pindaan dalam Seksyen 134 Akta Kerajaan Tempatan 1960 (Akta 171) perlu memandangkan hasil keuntungan yang diperoleh daripada harta wakaf adalah untuk diagihkan kepada kebajikan masyarakat Islam seluruhnya supaya matlamat wakaf sesuatu harta mencapai matlamatnya untuk kebajikan semata-mata bagi mendekatkan diri kepada Allah s.w.t.

6.2. Kaedah Fiqh Berkaitan Pembayaran Cukai Wakaf

Menurut Khatib As-Sharbini, segala kos wakaf boleh ditanggung daripada sama ada pewakaf sendiri atau dari harta wakaf tersebut atau dari hasil keuntungannya.

نفقة الموقوف ومؤن تجهيزه من حيث شرطها الواقف من ماله أو من مال الوقف و إلا فمن منافع

الموقوف

Kos penyelenggaraan harta wakaf boleh ditanggung seperti mana disyaratkan oleh pewakaf sama ada daripada harta pewakaf sendiri atau diambil dari harta wakaf atau diambil dari keuntungan harta wakaf tersebut¹⁶

Berdasarkan petikan diatas, pewakaf boleh menentukan dari awal tentang kos pengurusan harta wakaf dari mana perlu diambil daripada tiga sumber itu di dalam Surat Ikatan Amanah (Trust Deed) yang disyaratkan oleh pewakaf. Syarat ini wajib dipatuhi seperti yang disimpulkan dalam kaedah Fiqh :

شرط الواقف كنص الشارع

Syarat pewakaf adalah umpama nas dari Tuhan¹⁷

Namun begitu, sekiranya berlaku kekurangan dari segi keuntungan untuk menanggung kos pengurusan wakaf, kos itu boleh juga diambil dari modal wakaf dalam bentuk Qardh. Bayaran semula Qardh ini akan diambil oleh keuntungan akan datang.

Mengikut Hukum Fiqh, Mutawalli adalah seorang yang telah dipertanggungjawabkan untuk menguruskan harta wakaf maka beliau yang akan menguruskan harta dan

¹⁶ Ash-Sharbini Al-Khatib. Mughni Al-Muhtaj.1994. Beirut. Dar Al-Kutub Al-‘Ilmiyyah.j.4. p.137

¹⁷ Ibn Nujaim, Zainuddin Ibn Ibrahim Ibn Muhammad. *Al-Asybah wa An- Nazair*. 1999. Beirut. Dar Al-Kutub Al-‘Ilmiyyah. J.1. P.163

membayar cukai tersebut. Mengikut Syariah dan amalan sepanjang sejarah Umat Islam, sesiapa sahaja boleh dilantik menjadi pemegang amanah sekiranya berkecualan. Pemakaian prinsip wakaf bukanlah terhadap kerajaan atau jabatannya. Diriwayatkan bahawa Umar Ibn Khattab mewakafkan sebidang tanah yang diperolehinya di Khaibar. Universiti Al-Azhar di Mesir dan Universiti Cordoba di Sepanyol dibina di atas tanah wakaf. Di zaman pemerintahan Othmaniyah prinsip wakaf digunakan dengan begitu meluas hingga kapal membawa bijiran untuk bekalan jemaah haji juga diuruskan mengikut prinsip wakaf. Pada hari ini, di Turki lebih daripada 60 buah universiti adalah ditubuhkan, dibiayai dan dibantu oleh wakaf.¹⁸

Manakala mengikut undang-undang di Malaysia memperuntukkan di bawah seksyen 61 Akta pentadbiran Agama Islam (Wilayah Persekutuan) 1993 (Akta 505) dimana Majlis Agama Islam (Majlis) menjadi pemegang amanah yang tunggal bagi semua wakaf am dan wakaf khas setakat mana-mana harta tersebut terletak di dalam sesebuah negeri itu.¹⁹ Berdasarkan peruntukan tersebut ia menghalang sesiapa selain daripada Majlis untuk mewujudkan wakaf yang bebas daripada Majlis. Selain daripada itu ia juga menghalang sesiapa juga selain daripada Majlis untuk memakai prinsip wakaf dalam transaksi harta. Sementara itu, menurut laporan Tahunan Johor Corporation 2009, kaedah pengurusan harta iaitu saham-saham syarikat JCorp akan diwakafkan dengan saham-saham tersebut dan semua saham akan didaftarkan sebagai wakaf dengan MAIJ di atas nama WANCORP. Selaku nazir khas, WANCORP akan bertanggungjawab menguruskan semua urusan yang berkaitan dengan saham-saham tersebut.²⁰ Maka terdapat kecelaruan yang melibatkan antara agensi manakah yang lebih bertanggungjawab untuk membayar cukai terhadap harta wakaf yang telah dibangunkan sebagai contoh hospital-hospital KPJ yang merupakan syarikat penjagaan kesihatan di bawah Johor Corporation yang tersenarai di dalam Bursa Malaysia dan kini mengurus 21 cawangan hospital swasta di Malaysia dan dua di Indonesia.

¹⁸ Tun Abdul Hamid Mohamad. 2013. "*Meluaskan Pemakaian dan Perkembangan Prinsip Wakaf di Malaysia*" (paper). 31 Julai.

¹⁹ Walau apa pun apa-apa peruntukan yang bertentangan yang terkandung dalam mana-mana surat cara atau perisytiharan yang mewujudkan, mengawal, atau menyentuh perkara itu, majlis hendaklah menjadi pemegang amanah yang tunggal bagi semua wakaf, sama ada wakaf am atau wakaf khas, semua nazr 'am, dan semua amanah daripada segala perihal yang mewujudkan apa-apa amanah khairat bagi menyokong dan memajukan agama Islam atau bagi faedah orang Islam mengikut Hukum Syarak, setakat mana-mana harta yang tersentuh olehnya dan terletak di dalam Wilayah-Wilayah Persekutuan dan jika pemberi harta itu atau orang lain yang mewujudkan amanah, wakaf atau nazr 'am itu telah berdomisil di Wilayah-Wilayah Persekutuan, setakat semua harta yang tersentuh olehnya di mana-mana jua harta itu terletak.

²⁰ Abd Shakor bin Borham. 2011. *Pelaksanaan Pembangunan Wakaf Korporat Johor Corporation Berhad (JCorp): Satu Tinjauan*. (paper). International Conference on Humanities .UTHM. h.7

7. ISU KETIGA : ADAKAH DI BOLEHKAN AHLI LEMBAGA WAKAF KORPORAT BUKAN DARI KALANGAN ORANG ISLAM.

Pada asasnya JCorp menubuhkan WANCorp sebagai sebuah syarikat awam dengan jaminan JCorp. Keahlian juga turut dibuka terhadap orang awam. Orang awam menjadi ahli di bawah peruntukan M&A Syarikat dengan mewakafkan yuran (fee) keahlian mereka. Setiap ahli membayar fee masuk menjadi Ahli biasa (RM50) dan fee tahunan RM50 setahun yang mereka wakafkan kepada WANCorp. Mereka tidak mendapat apa-apa dividen. Semua ahli berhak mengambil bahagian dalam Mesyuarat Agung Tergempar (AGM/EGM). Namun hak mengundi diberi satu undi kepada setiap Ahli Kehormat yang membayar yuran melebihi RM1,000 seorang. Ahli biasa pula cuma membayar RM50+RM50 dan berhak ke AGM tanpa hak mengundi. Apabila bayaran yuran mereka genap RM1,000 Ahli Biasa boleh menjadi Ahli Kehormat yang memberikan mereka hak mengundi. Setiap RM1,000 melayakkan ahli mendapat 1 undi.

Persoalan yang akan timbul berdasarkan keahlian tersebut adakah dibolehkan orang bukan Islam untuk menjadi ahli lembaga wakaf korporat dan mewakafkan saham mereka dengan fee yang telah ditentukan. Di dalam hal ini, persoalan tersebut boleh diqiaskan dengan kriteria dan syarat seorang pewakaf. Adakah Islam menjadi syarat sah seorang pewakaf secara tidak langsung ia juga adalah ahli wakaf tersebut dan boleh tercalon untuk menjadi ahli lembaga wakaf korporat mengikut undian.

Tiada peruntukan dalam mana Undang-Undang Pentadbiran Agama Islam seluruh negara yang bertulis menjelaskan kelayakan seseorang yang hendak mewakafkan hartanya. Selama ini pentadbiran yang mengendalikan urusan harta wakaf belum memberikan panduan yang khas tentang syarat dan kriteria orang yang diharuskan oleh syara' untuk berwakaf. Kebiasaannya, Pejabat Agama Daerah akan dipertanggung jawabkan untuk menyiasat kelayakan seseorang yang hendak mewakafkan hartanya mengikut hukum wakaf dalam Islam. Setiap masalah hukum yang timbul akan dirujuk kepada *qaul* yang *mu'tabar* iaitu pendapat yang diterima ramai ulama' dalam kitab mazhab Imam Shafi'i. Sekiranya tidak didapati dalam *qaul* yang *mu'tabar*, maka masalah akan dirujuk kepada *qaul* yang *da'if* iaitu pendapat yang lemah. Sekiranya *qaul* yang *da'if* juga tidak dapat menyelesaikan masalah, maka bolehlah dirujuk masalah tersebut kepada pendapat dalam mazhab-mazhab *Ahlu al-Sunnah wa al-Jama'ah* yang lain seperti mazhab Imam Abu Hanifah, mazhab Imam Ahmad Ibn Hanbal dan mazhab Imam Malik. Bahkan sekiranya pelaksanaan hukum mengikut mazhab Shafi'i menimbulkan masalah besar yang tidak sesuai dengan kepentingan umat Islam, maka pendapat ketiga-tiga mazhab daripada *Ahlu al-Sunnah* itu boleh dipakai.²¹

Terdapat beberapa kriteria dan syarat –syarat seorang pewakaf. Tetapi beragama Islam tidaklah menjadi syarat seseorang pewakaf namun tidaklah bererti semua orang kafir itu diharuskan berwakaf. Apa yang diharuskan hanyalah orang-orang kafir zimmi sahaja, selama ia tidak bertujuan untuk qurbah itu bertujuan untuk jalan-jalan kebajikan yang dapat mendekatkan diri kepada Allah. Seperti ia bernazar

²¹ Osman Sabran. 2002. *Pengurusan Harta Wakaf*. Kuala Lumpur. Penerbit UTM. P . 77-78

mewakafkan hartanya, maka wakafnya tidak sah kerana nazar adalah sebahagian dari amalan qurbah.

7.1. Pendapat ulama' fiqh tentang pewakaf bukan Islam

Ulama Fiqh tidak berbeza pendapat sahnya wakaf orang yang bukan Islam dan sebaliknya kerana undang-undang wakaf tidak mensyaratkan orang yang memberi wakaf itu semestinya orang Islam. Walau bagaimanapun beberapa syarat telah ditetapkan dalam pemberian wakaf. Menurut ulama daripada golongan Syafi'i, mereka mengatakan bahawa orang yang memberi wakaf itu tidak disyaratkan seorang yang beragama Islam. Alasan yang dikemukakan oleh mereka ialah, kesahihan wakaf itu bukanlah berdasarkan kepada kepercayaan (iman). Contohnya, seseorang yang bukan Islam memberikan wakaf untuk masjid adalah sah sekalipun ia tidak mempercayai wakaf itu sebagai suatu amalan kebajikan untuk mendekatkan diri kepada Allah s.w.t.²² Selain daripada itu, wakaf yang diberikan oleh orang bukan Islam adalah sah jika wakaf itu dipergunakan untuk tujuan yang tidak bertentangan dengan Islam seperti digunakan untuk buat, gereja, biara dan sebagainya.²³

Daripada pandangan ulama Syafie hal ini menunjukkan bahawa orang bukan Islam boleh menjadi ahli pewakaf secara tidak langsung mereka juga boleh menjadi ahli lembaga korporat wakaf selagi mana ia tidak disalurkan kepada perkara-perakara yang bertentangan dengan syariah. Dalam erti kata lain, ia lebih berpendapat penggunaan kepakaran bukan Islam boleh digunakan dalam urusan pentadbiran tetapi tidak diberi kuasa untuk membuat keputusan. Manakala, pendapat Abu Hanifah mengharamkan jika orang kafir berwakaf untuk masjid.²⁴ Sementara menurut golongan Malikiyah berpendapat wakaf dari orang bukan Islam adalah harus selama mana tidak ditentukan untuk perkara maksiat sama ada kepada agama mereka atau agama Islam.²⁵

Di samping isu wakaf bukan Islam juga boleh menimbulkan isu wakaf ditujukan kepada bukan Islam. Secara umumnya, Jumhur ulama mengharuskan wakaf daripada bukan Islam²⁶ kerana orang Islam dan bukan Islam perlu melaksanakan hukum-hukum berkaitan muamalat yang sama di dalam negara Islam, kecuali di dalam masalah tertentu di kalangan sesetengah mazhab seperti hukum meminum arak dan memakan daging khinzir babi.²⁷ Begitu juga wakaf kepada bukan Islam, mazhab fiqh yang empat mengharuskannya.²⁸ Ini terutamanya berdasarkan dalil-dalil yang mengharuskan wakaf, telah diturunkan secara umum. Berdasarkan kaedah Usul Fiqh, nas yang am harus dikekalkan di dalam keadaan yang asal sehingga ada dalil yang mengkhususkannya. Begitu juga bagi kebanyakan ulama masa kini, mereka

²² Shamsuddin bin Ahmad Al-Khatib. 1377H. *Mughni al-Muhtaj*. n.pl: Dar al-kitab iLmiyyah. J.2. P.376

²³ *ibid* p.377

²⁴ Muhammad Nasir Naqvi's. 1968. *The Law of Waqaf*. Lahore. All Pakistan Legal Decision. P.27

²⁵ Ibn al-Humam. 1352H/1933. Fath al-Qadir. J.2. Mesir. Mustafa al-Babi al- Halabi. P. 376

²⁶ Shamsuddin bin Ahmad Alkhatib. 1377H. *Mughni al-Muhtaj*. n.pl: Dar al-kitab Ilmiyyah. J. 3. P. 523

²⁷ Al-jassas. 1325 H. Ahkam al-Quran.n.pl: Dar al-khilafah. J.2 . p.611

²⁸ Shamsuddin bin Ahmad Alkhatib. 1377H. *Mughni al-Muhtaj*. n.pl: Dar al-kitab Ilmiyyah. J. 3. P. 531

cenderung untuk mengharuskan wakaf kepada bukan Islam terutamanya untuk tujuan dakwah bagi mendekatkan mereka kepada Islam. Ini sebenarnya maqsad utama diturunkan syariah itu sendiri iaitu untuk memelihara agama. Oleh itu wakaf yang bersifat umum seperti hospital, sekolah, rumah orang tua dan yang seumpama dengannya boleh dimanfaatkan bukan sahaja oleh orang Islam bahkan orang bukan Islam juga dibolehkan dan ia tidak bertentangan dengan maqasid syariah.²⁹

8. ISU KEEMPAT : PENENTU KADAR UJRAH BAGI *NAZIR AL-WAQF* BAGI WAKAF KORPORAT

Nazir merupakan pemegang amanah pewakaf yang menguruskan harta wakaf dari aspek penjagaan, penambahbaikan, pembangunan, pengagihan manfaat dan sebagainya. Sebagai imbalan atas tugas tersebut, adakah nazir layak menerima upah dari keuntungan harta wakaf yang dibangunkan. Sekiranya dibenarkan oleh syarak, siapakah yang menentukan kadar ujrah tersebut dan berapakah kadar yang diizinkan di sisi hukum Islam. Dalam konteks pembangunan harta wakaf yang dilaksanakan oleh wakaf korporat, ia memberi pulangan yang sangat besar sehingga boleh menimbulkan kecenderungan untuk berlaku penyelewengan dan manipulasi. Monzer Kahf (2006) menyatakan bahawa, inilah antara perkara yang menjadi punca kepada penyelewengan pengurusan harta wakaf, akibat ketidakseimbangan antara keperluan atau tuntutan hidup semasa berbanding kemampuan material yang ada.

8.1. Konsep nazir (الناظر)

Al- Nazir (الناظر) bermaksud penyelia, penjaga, pengurus, dan pentadbir. (al-Ba'albaki, 1995). Ia merupakan satu gelaran khusus yang muncul pada Zaman Sahabat khususnya zaman Khalifah Umar al-khattab untuk mengurus harta wakaf. Selain gelaran al-nazir, ia juga turut di panggil al-mutawalli (المتولي), al-mudir (المدير), al-wali (الوالي) dan amil al-waqf (عامل الوقف), (Dr. Ikrimah Sa'id, 2011) ada menyatakan kerja pengurusan ini termasuklah menjaga , membaik pulih, menyelenggara, membangun, mengurus hasil, mengagih kepada penerima wakaf dan segala bentuk kerja dan usaha yang mampu mengekalkan sumber harta wakaf dan meningkatkan penghasilan manfaatnya kepada penerima. Antara tugas lain nazir ialah memenuhi tuntutan dan syarat yang telah ditetapkan oleh pewakaf terhadap pengurusan harta wakaf tersebut. Selagi ia selari dengan syarak dan maslahah, ia perlu dilaksanakan.

8.2. Syarat al-Nazir

Terdapat syarat asas nazir iaitu adil, berkemampuan dan muslim Adil ini merujuk kepada konsistensi individu dalam melaksanakan perkara yang dituntut agama dan menghindari perkara yang menjadi laranganNya (al-Zuhaily,1997). Nazir juga hendaklah berkemampuan dalam melaksanakan tanggungjawabnya meliputi kemahiran pengurusan. Disamping itu, nazir juga hendaklah 'aqil (waras akal) dan baligh. Kemahiran ini tidak dibatasi oleh jantina tertentu, malah Saidina Umar al-Khattab sendiri menyerahkan urusan wakaf kepada anaknya iaitu Hafsah selepas kematiannya.

²⁹ Mohamad Akram, Mek Wok & Mohd Fuad. n.d. *Kertas Kerja Maqasid Syariah dalam Pelaksanaan Waqaf*. http://rep.iium.edu.my/28549/1/Maqasid_Waqaf.pdf. n.pl: n.pb. p.14

Ujrah juga disebut sebagai al-‘Iwad iaitu ganti terhadap sesuatu dalam bentuk upah, ganjaran, bayaran, yuran, nafkah, caj, gaji, pampasan malah juga pahala (al-Ba’albaki 1995). Namun isu dalam wakaf korporat ini hanya tertumpu kepada maksud upah sebagai satu imbuhan terhadap kerja yang dilakukan. Alfazurrahman (1995) merumuskan bahawa upah ialah harga yang dibayar kepada pekerja atas tenaga dan sumbangannya kepada sektor pengeluaran atau penghasilan. Al-Zuhaily (1997) pula mengetengahkan komponen konsep ujrah iaitu *al-Ijarah* dan *al-Ujarah*³⁰ yang meliputi konteks manfaat barang ataupun manusia (pekerja). Upah kepada *nazir* ini boleh dibahagikan kepada beberapa bentuk berdasarkan kategori berikut iaitu pihak yang memberi upah, berdasarkan bentuk upah dan sumber upah.

8.2.1. Berdasarkan pihak yang memberi upah

Pihak pewakaf

Pewakaf adalah seseorang yang berhak menentukan upah seseorang nazir yang dilantiknya selagimana pewakaf tersebut berkeelayakan dan memenuhi syarat sah sebagai pewakaf. Segala bentuk syarat atau ketetapan yang tidak bertentangan dengan syara’ adalah diterima termasuk isu upah nazir (al-Zarqa,2010). Selain itu, pewakaf berhak menentukan kadar jumlah , item atau tempoh pemberian upah kepada nazir (Ikrimah Said, 2011). Kaedah Fiqh ada menyebut

شرط الواقف كنص الشارع

*Syarat pewakaf seumpama dalil syara’*³¹

Majikan

Institusi wakaf diberi mandat dari segi syar’ie (agama), siyasi (pentadbiran) dan qada’ie (perundangan) dalam menguruskan hal ehwal wakaf (Monzer Kahf, 2006). Berdasarkan situasi di Malaysia, Majlis Agama Islam Negeri-Negeri (MAIN) yang telah diberi kuasa dan berhak untuk menggubal keperluan pengurusan masing-masing di bawah perkenan Ketua Agama Islam negeri-negeri. Malah pada pandangan (al-Zarqa,2010) turut menyatakan kerajaan hendaklah menyediakan institusi dengan kakitangan yang amanah dan berdedikasi serta menjiwai tanggungjawab syarak dalam pengurusannya.³² Realitinya di Malaysia MAIN merupakan nazir rasmi bagi pihak kerajaan dan juga para pewakaf khususnya yang tidak melantik secara personel. Prinsip pengurusan kerajaan atai institusi adalah untuk mejaga masalah semua pihak sama ada pewakaf, harta wakaf, al-nazir sehinggalah kepada penerima manfaat wakaf. Masalah ini menjadi prioriti dalam setiap polisi pentadbiran, penetapan hukum dan sebagainya sepertimana kaedah Fiqh ada menyatakan

³⁰ Al-Zuhaili, Wahbah. 1999. *Fiqh al-Islami wa Adilatuhu*. Beirut. Dar al-Fikr. Juz 4. P. 760-762

³¹ n.a. 17 April 2015. “Ahkam al-Waqf.” <http://fatwa.islamweb.net>

³² Subari Ramli & Marlina Abdullah.n.d.”*Uruf sebagai penentu kadar Ujrah nazir al-waqf*”. (paper). Kolej Universiti Islam Antarabangsa Selangor. P.5

*sebarang tindakan pemimpin terhadap rakyatnya adalah berlandaskan kepada masalah*³³

Atas tanggungjawab ini, pihak kerajaan hendaklah bertindak wajar dalam meletakkan kadar mithly kepada kakitangan dan pekerjaanya termasuk nazir dalam usaha menguruskan kewangan secara berhemah dan saksama. Keadaan ini agak berbeza berbanding pewakaf yang mempunyai autoriti penuh dalam menentukan kadar upah nazir.

8.2.2. Berdasarkan bentuk upah

Gaji/elaun tunai bulanan

Suatu bayaran bulanan yang diterima oleh nazir sebagai upah kerja sama ada berdasarkan skim tertentu atau atas kadar yang ditentukan sendiri oleh pewakaf. Sebagai seorang kakitangan institusi wakaf, gaji yang diterima secara bulanan itu merupakan Ujrah *al-Nazir* dari sejumlah ujrah yang dikongsi bersama kakitangan atau nazir yang lain. Kebiasaannya, kadar ujrah kakitangan institusi adalah berdasarkan skim tertentu yang lazimnya digunakan oleh sektor kerajaan.³⁴

Peratus/nisbah daripada hasil

Upah juga boleh diberi dengan menetapkan peratus atau nisbah tertentu daripada hasil harta wakaf seperti sewaan, hasil tuaian, hasil jualan dan sebagainya (Ikrimah Sa'id, 2011). Tempohnya juga adalah fleksibel mengikut ketetapan pewakaf sama ada dikira per musim, bulanan, suku tahun dan sebagainya. Upah ini diberi sama ada dalam bentuk asal hasil harta wakaf seperti tuaian, barangan jualan atau pun dalam bentuk wang tunai.

Bonus/tambahan tunai

Monzer Kahf (2006) mencadangkan pemberian bonus prestasi kepada nazir yang menguruskan pembangunan harta wakaf khususnya dalam sektor pelaburannya. Melalui tahap pencapaian tertentu, nazir yang cemerlang layak dan perlu untuk dikekalkan pembangunan harta wakaf yang efisien serta penghasilan untung (*al-ghallah*) yang besar dari harta wakaf sangat memerlukan kepada kombinasi perancangan, kemahiran dan komitmen yang tinggi oleh nazir. Justeru, pemberian bonus ini merupakan satu galakan dan penghargaan yang signifikan terhadap

³³ Nasir Bin Muhammad al-Ghamidi. n.d. “تصرف على الرعية منوط بالمصلحة دراسة تأصيلية تطبيقية فقهية” (paper). Universiti Ummu al- Qura’ Mekah. P. 175

³⁴ Subari Ramli & Marlina Abdullah. n.d. ‘Uruf sebagai penentu kadar Ujrah Nazir al-Waqf. (paper). Kolej Universiti Islam Antarabangsa Selangor. P.6

pencapaian yang telah diraih di samping menghindari kecenderungan nazir untuk menyeleweng dan mengeksploitasi harta wakaf. (Monzer Kahf, 2006)³⁵

8.2.3. Sumber upah

Harta wakaf

Pada dasarnya, harta wakaf (al-mauquf) tidak boleh menjadi milik (termasuk upah) kepada nazir kerana ia akan mengurangi jumlah asas atau nilai harta tersebut. Akan tetapi sekiranya pihak pewakaf telah menetapkan kadar tertentu daripada harta wakafnya sebagai imbuhan atau milikan kepada nazir, ia dikira sah kerana pewakaf adalah pemegang autoriti (al- Kardy, 1999). Malah pihak kerajaan atau pihak ketiga juga tidak boleh mengubah syarat pewakaf ini selagimana ia tidak menimbulkan mudarat. Keadaan ini dikira sebagai pemberian ('atiyyah) kepada nazir dan ia perlu diasingkan daripada harta wakaf yang perlu dibangunkan untuk kepentingan penerima manfaatnya.³⁶

Hasil (ghallah/ray'i) harta wakaf

Al-Ghallah merupakan hasil pendapatan atau keuntungan daripada pembangunan sesuatu harta (al-Ba'albaki, 1995). Tiada khilaf ulama' terhadap pengambilan upah nazir daripada hasil harta wakaf ini sama ada ia berbentuk tunai, hasil tuaian, barangan, manfaat dan sebagainya. Semua hasil wakaf dikumpulkan secara kolektif dalam akaun hasil institusi sebelum dibahagikan mengikut syarat pewakaf atau agihan institusi kepada penerima manfaat wakaf. Sebelum keuntungan bersih dibahagikan, kos pembiayaan pengurusan dan pengendalian harta wakaf hendaklah diambil kira untuk menjamin harta wakaf tersebut dapat dikekalkan dan dibangunkan.

Dana luar

Berbentuk dana, geran, pemberian, hadiah atau sebagainya yang tidak bersangkutan dengan harta atau hasil wakaf. Situasi ini boleh berlaku di peringkat awal penubuhan institusi wakaf atau disebabkan wujudnya pihak yang membiayai atau menaja secara langsung keseluruhan kos operasi pengurusan wakaf.³⁷

8.2.4. Penentuan kadar ujrah *al-nazir* berdasarkan '*uruf*'.

Hukum hakam wakaf adalah berasaskan ijtihad keseluruhannya. Tiada dalil yang spesifik dari nas al-Quran, sebaliknya hanya berdasarkan al-Sunnah dan dalam bentuk yang umum dan asas.³⁸ Pemberian upah kepada nazir secara dasarnya telah disepakati oleh para ulama berdasarkan dalil al-Sunnah, amalan sahabat dan '*uruf* sejak

³⁵ Subari Ramli & Marliana Abdullah. n.d. 'Uruf sebagai penentu kadar Ujrah Nazir al-Waqf. (paper). Kolej Universiti Islam Antarabangsa Selangor. P.6

³⁶. Ibid.

³⁷ . Subari Ramli & Marliana Abdullah. n.d. 'Uruf sebagai penentu kadar Ujrah Nazir al-Waqf. (paper). Kolej Universiti Islam Antarabangsa Selangor. P.7

³⁸ Al-Zarqa' Mustafa ahmad. 2010. Ahkam al-Awqaf. Dar Ammar. P.

berzaman.³⁹ Namun ironiknya tiada penentuan khusus terhadap kadar atau jumlah upah ini. Garis panduan umum yang boleh digunakan ialah amalan Sahabat serta tindakan Saidina Umar al-Khattab dalam menguruskan wakafnya:

لا جناح على من وليها أن يأكل منها بالمعروف وأن يطعم صديقا غير ممنول منه

Tidak mengapa jika yang menguruskannya untuk memakan sebahagian daripadanya(hasil harta wakaf) secara ma'ruf, menjamu sahabat dengannya tanpa menjadikannya sebagai harta miliknya.

Penentuan kadar upah atau ujrah adalah berdasarkan 'uruf. 'Uruf yang boleh dikaitkan dengan isu ini termasuklah uruf berkaitan jumlah upah, uruf berkaitan bentuk upah dan uruf berkaitan tempoh terima upah.

'Uruf berkaitan jumlah upah

Kadar atau jumlah yang dikaitkan dengan 'uruf disebut secara relative dengan al-mithly(setara). Maksud al-mithly ini adalah suatu kadar yang memenuhi keperluan asas hidup dan setimpal dengan kerja dan tanggungjawab nazir tersebut. Hal ini berbeza-beza berdasarkan tempat, masa, saiz tugas atau kerja yang di lakukan.⁴⁰ Al-Zarqa' di dalam kitab Ahkam al-awqaf ada menyatakan al-mithly adalah kadar upah yang disanggupi oleh pekerja berdasarkan kerja yang dilakukannya ketika itu. Oleh kerana al-mithly merupakan suatu perkara yang subjektif, beberapa perkara boleh dipertimbangkan khususnya dalam konteks pengurusan di Malaysia hari ini.

Had al-Kifayah dan kos sara hidup semasa

Had al-kifayah bukanlah suatu istilah yang dikemukakan oleh al-Quran atau al-Sunnah tetapi ia merupakan istilah yang telah dirumuskan oleh para ulama' berdasarkan nas-nas yang berkaitan.⁴¹ Antara contoh nas yang boleh dijadikan rujukan berkenaan ketentuan had al-Kifayah ini adalah seperti hadith Rasulullah berikut :

³⁹ Ikrimah Said Sobry.2011. al-Waqf al-islamiy Bayn al- Nazariyyah wa al-Tatbiq. Jordan. Dar al-Nafais. P.

⁴⁰ Ikrimah Sa'id Sobry. 2011. al-Waqf al-Islamiy Bayn al- Nazariyyah wa al-Tatbiq. Jordan. Dar al-Nafais. P.

⁴¹ Mansor,Hasan, Ahmad Irfan, Noradilah & Saharudin. 2013. "Had al-Kifayah di kalangan masyarakat Islam : merungkai keperluan kaedah penentuan garis miskin dan kaya berasaskan sunnah di Malaysia". Seminar Antarabangsa Sunnah Nabawiyyah (Musnad 2) Realiti dan cabaran pada 3-4 Julai 2013. Akademi Pengajian Islam Universiti Malaya

ليس المسكين الذي يطوف على الناس ترده اللقمة واللقمتان و التمرة والتمرتان ولكن المسكين

الذي

لا يجد غني يغنيه ولا يفتن به فيتصدق عليه ولا يقوم فيسأل الناس (متفق عليه)⁴²

Bukanlah miskin itu seorang yang datang-datangi manusia, lalu diberikan kepadanya sesuap dua makanan dan sebutir dua buah kurma, tetapi miskin itu ialah seorang yang tidak memiliki sesuatu yang mengayakannya dan dalam masa yang sama tidak melakukan sesuatu yang membuatkan orang bersedekah kepadanya, dan tidak juga dia bangun di hadapan orang dan meminta-minta daripada mereka.⁴³

Hadith di atas menjadi dalil bahawa miskin itu bermaksud gabungan antara ciri tidak kaya dan tidak dilihat sebagai susah disebabkan sifat al-ta'afuf (menjaga diri). Hadith ini juga menunjukkan faqir lebih susah daripada golongan miskin. Dalil mereka ini adalah seperti berkenaan pemilikan sampan yang digunakan untuk mendapatkan sumber pendapatan oleh orang miskin sepertimana disebutkan di dalam al-Quran dalam ayat 79, Surah al-Kahfi. Menurut mazhab ini, orang miskin adalah mereka yang memiliki sesuatu tetapi tidak mencukupi manakala orang faqir pula adalah orang yang tidak memiliki sesuatu.⁴⁴

Al-Zuhaily mentakrifkan had al-kifayah sebagai keperluan atau kemudahan yang diperlukan oleh manusia untuk memudahkan kehidupan mereka serta menghindarkan daripada kepayahan hidup dan ketiadaannya akan menyebabkan hidup mereka ditimpa kesusahan dan kesulitan. Had al- Kifayah secara umumnya adalah kadar keupayaan ekonomi yang selayaknya bagi menjamin kelangsungan kehidupan seorang individu seriat mereka yang di dalam tanggungannya. Ia bukan sekadar penentuan had minimum semata-mata tetapi ia menjangkau persoalan tahap yang selayaknya bagi memastikan kelangsungan kehidupan seseorang serta tanggungannya (Uwais, 2004,j.l :334). (dirujuk oleh Mansor et al.2013). Elemen penting had al-Kifayah merangkumi keperluan perlindungan tempat tinggal, makanan, pakaian, kesihatan, pendidikan dan pengangkutan.

Peningkatan kos sara hidup bermakna meningkatlah kadar had *al-Kifayah* seseorang. Begitu juga kos institusi wakaf sebagai al-nazir. Keupayaannya perlu teguh untuk menjamin pelaksanaan yang efisien seterusnya dapat memberi impak yang positif

⁴² Al-Bukhariyy, Muhammad ibn Ismail. n.d. Bayrut. Kitab al-zakah. Abwab al-asnaf . juz' 1: P. 457. #1476.

⁴³ Mansor, Hasan, Ahmad Irfan, Noradilah & Saharudin. 2013. "Had al-Kifayah di kalangan masyarakat Islam : merungkai keperluan kaedah penentuan garis miskin dan kaya berasaskan sunnah di Malaysia". Seminar Antarabangsa Sunnah Nabawiyyah (Musnad 2) Realiti dan cabaran pada 3-4 Julai 2013. Akademi Pengajian Islam Universiti Malaya. Pp. 2

⁴⁴ ibid

kepada penerima manfaat wakaf. Bukan sekadar memenuhi had *al-Kifayah* semata-mata malah perlu kepada rizab simpanan yang mungkin menjadi perlindungan jika terdapat sebarang permasalahan pengurusan.⁴⁵

Kelayakan (pencapaian akademik dan pengalaman)

Penentu kadar upah atau gaji al-nazir juga boleh dinilai melalui elemen ini. Walaupun ia bukanlah suatu jaminan terhadap sifat amanah, jujur dan dedikasi dalam bekerja namun ia berkaitan dengan tahap profesionalisme pengurusan. Umumnya, jenis pekerjaan dapat dikategorikan kepada tiga jenis yang utama iaitu pekerja mahir, separa mahir dan tidak mahir. Pekerja mahir mempunyai kelulusan peringkat diploma ke atas iaitu tahap professional. Kelompok ini dianggap berpengetahuan kerana telah melalui dan menerima segala latihan secara formal yang dibekalkan oleh institusi-institusi berkaitan. Separo mahir pula berkelulusan teknikal pada peringkat sijil. STPM dan SPM serta belum mendapat latihan lengkap pula berpotensi dan mempunyai kualiti kerja baik,

Pekerja yang tidak mahir pula berkelulusan minima SPM dan ke bawah, malah terdapat sebilangannya yang tidak mempunyai sebarang kelulusan. Golongan ini juga masih belum mendapat sebarang latihan formal daripada institusi tempat bekerja. Selari dengan pencapaian akademik seseorang nazir, gred jawatan dan gaji yang ditawarkan juga berbeza-beza. Dalam konteks pengurusan institusi wakaf, kelayakan ini sangat signifikan dan perlu diambil kira kerana ia berkaitan kemaslahatan awam khususnya penerima manfaat wakaf. Tahap keyakinan masyarakat, pewakaf dan penerima manfaat terhadap institusi wakaf turut berkait dengan elemen ini.⁴⁶

Skim gaji standard- Perintah gaji minimum (PGM) 2012 dan sistem saran Malaysia(SSM)

Upah nazir juga boleh berpandukakan kepada skim gaji standard. PGM 2012 ini bertujuan untuk membantu golongan pekerja di peringkat bawahan mendapat pendapatan minimum yang mampu menyara kehidupan mereka iaitu RM900/bulan. Dasar ini dikenali sebagai Perintah Gaji Minimum yang dikuatkuasakan pada 1 Januari 2013. Manakala SSM pula berfungsi menentukan gaji minimum hingga maksimum bagi gred tertentu dalam perkhidmatan awam Malaysia. SSM merupakan sistem penggajian yang berlandaskan prinsip kadar upah mengikut kerja dan kelayakan untuk menarik dan mengekalkan individu yang berkebolehan dalam institusi. Individu inilah yang akhirnya akan dapat membantu institusi mencapai wawasan dan matlamat yang ditetapkan. Tanpa pengurusan penggajian yang adil dan cekap akan menyumbang kepada pelbagai masalah yang boleh menjejaskan operasi institusi. Berdasarkan skim gaji standard di bawah pekeliling perkhidmatan bilangan 36, *al-nazir* layak untuk diberi upah mengikut keupayaan dan kelayakan kakitangan

⁴⁵ Subari Ramli & Marliana Abdullah. n.d. 'Uruf sebagai penentu kadar Ujrah Nazir al-Waqf. (paper). Kolej Universiti Islam Antarabangsa Selangor. P.9

⁴⁶ Subari Ramli & Marliana Abdullah. n.d. 'Uruf sebagai penentu kadar Ujrah Nazir al-Waqf. (paper). Kolej Universiti Islam Antarabangsa Selangor. P.9

mengikut gred. Oleh itu, di dalam wakaf korporat *al-nazir* sebagai contoh WAN Corp layak untuk di beri upah mengikut garis panduan perintah gaji minimum 2012 (PGM) dan sistem saran Malaysia (SSM). Ini adalah suatu standard yang dimaklumi umum (uruf) antara pekerja-majikan dalam sektor pekerjaan.

8.2.5. Uruf berkaitan bentuk upah

Wang tunai

Walaupun pemberian barang diharuskan sebagai bentuk upah nazir, namun ralitinya ia tidak menjadi suatu ‘uruf’ yang praktikal. Urusniaga tunai lebih popular berbanding system tukaran barang dan ia lebih praktikal dalam sebarang bentuk transaksi hari ini seperti pembayaran bil, pembelian barang dan lain-lain termasuklah pemberian upah atau gaji kakitangan. Gaji ini merangkumi upah sebenar, elaun-elaun tertentu, sumbangan majikan kepada pihak tertentu untuk pekerja, tuntutan lebih kerja dan sebagainya.

Manfaat

Ia dikaitkan dengan skim gaji yang digunakan oleh institusi wakaf disamping ketetapan perundangan yang melindungi hak pekerja.⁴⁷ Antaranya ialah manfaat perlindungan insuran berkaitan keselamatan pekerja (PERKESO), caruman persaraan atau Kumpulan Wan Simpanan Pekerja (KWSP), manfaat kesihatan dan sebagainya. Begitu juga dengan manfaat sampingan dan peluang yang disediakan oleh pihak institusi seperti kenaikan pangkat, melanjutkan pengajian, kediaman pekerja dan sebagainya.

Bonus

Keadaan ini biasanya berlaku apabila peningkatan hasil dengan lebihan yang banyak selepas tolakan kos atau berlaku penjimatan yang signifikan. Monzer Khaf mencadangkan pemberian bonus berdasarkan prestasi nazir khususnya yang melibatkan produk pelaburan wakaf. Penghargaan ini sebagai satu motivasi untuk mengekalkan prestasi cemerlang yang secara langsung dapat member manfaat yang besar kepada penerima manfaat wakaf di samping pengekalan sumber dan harta wakaf yang ada. Hal ini juga merupakan suatu yang biasa diamalkan oleh pengurusan korporat di Negara ini.

8.2.6. ‘Uruf berkaitan tempoh terima upah

Secara dasarnya, upah akan diberi sebaik sahaja kerja yang dilakukan itu selesai. Ianya selari dengan sabda Rasulullah s.a.w. :

اعطوا الأجير حقه قبل أن يجف عرقه

Bayarlah upah kepada pekerja sebelum kering peluhnya

⁴⁷ Malaysia. 1982. Akta Pampasan pekerja 1952 (Akta 273). Seksyen 7. P.19

Namun atas persefahaman pekerja-majikan, gaji biasanya diberikan secara bulanan memandangkan kerja pengurusan adalah bidang tugas dan rutin hariannya. Pengurusan gaji juga lebih mudah secara bulanan khususnya apabila melibatkan institusi lain seperti bank panel majikan, KWSP, PERKESO dan lain-lain. Keadaan ini dimkalumi semua pihak sehingga ada istilah makan gaji. Walaupun begitu, sekiranya upah ditentukan sendiri oleh pihak pewakaf ia bergantung kepada tempoh yang dinyatakan tanpa boleh diubah kecuali berlakunya kemudaratannya di pihak nazir.

Berdasarkan perbincangan mengenai isu ini, dapat disimpulkan ‘uruf menjadi satu kaedah pengukuran yang syar’ie dalam enentukan kadar upah al-nazir. Pelbagai elemen semasa diambil kira bagi meletakkan kadar upah ini suatu yang harmoni dengan keperluan sara hidup semasa, sesuai dengan kelayakan dan tugas yang dilakukan serta memenuhi keperluan perundangan. Malah terdapat cadangan yang mengutarakan penambahan imbuhan sesuai dengan prestasi pengurusan wakaf.

Sekiranya diukur dalam konteks wakaf korporat, nazir khas yang telah dipilih oleh syarikat korporat layak mendapat upah atau imbuhan yang ditentukan sendiri oleh institusi wakaf tersebut. Hal ini perlu dipertimbangkan kerana tugas yang dilakukan adalah setimpal dengan kerja yang dilakukan kerana kerja yang dilakukan adalah berdasarkan kepakaran masing-masing. Unit wakaf hendaklah dikendalikan oleh seorang Pegawai Eksekutif yang berjawatan tinggi dan dibantu oleh beberapa pegawai dan penolong pegawai tadbir yang lain. Kakitangan yang diperlukan bagi menggerakkan dan melaksanakan tugas-tugas khas antaranya ialah pegawai ekonomi, pegawai perancang dan pembangunan, panel perundangan syariah, juruaudit, jurutera, akauntan, juruukur dan pegawai-pegawai lain yang diperlukan dari semasa ke semasa. Pegawai eksekutif yang mengetuai unit wakaf dicadangkan seorang yang bersifat keusahawanan yang mampu mentadbir harta wakaf untuk kepentingan umat Islam. Kombinasi antara pegawai profesional yang berstatus korporat dengan dibantu oleh pakar penyelidikan yang mengkaji dari aspek hukum fiqh dan perundangan membolehkan unit wakaf mampu membuat perancangan yang lebih berkesan.

Pertimbangan wajar dalam perkara ini akan membawa institusi wakaf ke tahap yang lebih profesional dan dinamik sepertimana pengurusan korporat yang lain. Ia tidak lagi dianggap sebagai pengurusan yang statik sebaliknya mampu menjana hasil yang dimanfaatkan umum. Malah juga menjadi sektor ketiga selain kerajaan dan swasta yang sama-sama membangun dan memajukan Negara.

9. KESIMPULAN

Berdasarkan kepada kajian yang dibuat, wakaf korporat merupakan suatu mekanisme yang baru dalam memacu pembangunan ekonomi dan sosial bagi sesebuah negara. Oleh sebab itu, terdapat beberapa kelompongan dari segi peruntukan perundangan dan juga pengurusan wakaf yang melibatkan isu syariah timbul daripada permasalahan dalam institusi ini. Namun, tidak dapat dinafikan bahawa wakaf korporat berupaya menjamin pertumbuhan yang adil lagi seimbang, sekaligus menolak kerakusan, kezaliman dan kerosakan yang banyak dilihat berlaku terbit daripada sistem ekonomi kapitalis acuan Barat.

Cadangan yang dikenalpasti sebagai penambahbaikan supaya institusi ini dapat berfungsi secara efektif adalah membuat pindaan dan meluluskan beberapa peraturan

husus berkaitan wakaf serta mewujudkan peruntukan khas berkaitan wakaf korporat. Selain daripada itu, tafsiran yang lebih meluas terhadap beberapa seksyen juga perlu didalam enakmen-enakmen setiap negeri. Ekoran daripada ketiadaan Akta atau Enakmen yang khusus berkaitan wakaf korporat, seolah-olah telah member ruang kepada Mahkamah Sivil sekiranya berlaku pertikaian berhubung kewujudan atau kesahihan wakaf. Di dalam wakaf korporat juga perlu mempunyai Jawatankuasa Syariah seperti yang dilakukan oleh Institusi kewangan Islam untuk menasihati dan memantau pematuan syariah khususnya dalam pembahagian dan pengagihan manfaat. Pemberian upah kepada nazir juga perlu selari dengan saranan agama dengan mengikut kepakaran ahli-ahli tersebut. Hal tersebut juga menjamin ketelusan dan amanah pengurusan wakaf korporat

Disamping itu, percukaian juga haruslah dikecualikan atau dikurangkan dalam institusi wakaf ini supaya ia tidak membebankan kepada nazir dalam menguruskan harta wakaf ini seimbang dengan matalamat wakaf iaitu mengumpul dana dan sumber yang kukuh serta manfaatnya dapat digunakan oleh masyarakat dengan berkesan. Pencapaian yang besar ini hanya akan diperolehi melalui penelitian yang mendalam, strategik dan sistematik.

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WAKAF KORPORAT: ANALISA TERHADAP PENGURUSAN WAKAF AN-NUR CORPORATION (WANCORP)

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1. PENGENALAN

Wakaf korporat merupakan antara amalan ekonomi yang sedang berkembang dengan rancak pada masa kini dan mampu memperkukuh ekonomi Islam pada masa akan datang. Waqaf korporat di Malaysia telah diasaskan oleh Y.Bhg. Tan Sri Muhammad Ali Hashim dengan penubuhan Wakaf An-Nur Corporation (WANCorp). Beliau telah mewarwarkan konsep wakaf korporat dalam amalan wakaf Islam di Malaysia. Impak dari ideologi berkenaan, beliau telah mengorak langkah dengan merealisasikan idea yang diciptanya untuk membangunkan ekonomi Umat Islam melalui wakaf korporat. Idealisme pembangunan wakaf korporat mungkin satu istilah yang telah dimodenisasikan oleh para pengamal wakaf, namun ia jelas sekali terbukti membawa banyak perubahan positif terhadap ekonomi umat islam terutama dalam meningkatkan ekonomi golongan berpendapatan rendah.

Konsep wakaf korporat yang perkenalkan oleh WANCorp adalah unik dan ia bukannya berkonsepkan tanggungjawab sosial yang biasa diamalkan oleh badan korporat malah ia mempunyai struktur organisasi tersendiri. Hal ini menjadikan WANCorp satu badan korporat autonomi berstatus wakaf yang diiktiraf sepenuhnya oleh Majlis agama Islam Johor (MAIJ). Matlamat jangka panjang wakaf korporat ialah menjadi organisasi berautonomi penjana harta kekayaan perniagaan dan korporat kekal berkembang bertambah nilai. Justeru, wakaf korporat wajib diurus secara profesional oleh barisan eksekutif iaitu ahli dalam perniagaan dan korporat. Apabila diurus secara profesional, wakaf korporat berprestasi tinggi boleh menjadi perbadanan waqaf antarabangsa satu hari nanti dengan menerajui strategik perniagaan untuk manfaat umat Islam khasnya dan kepentingan ekonomi negara Islam amnya.

2. OBJEKTIF PENYELIDIKAN

Kajian ini menganalisa pengurusan wakaf korporat yang dikendalikan oleh WanCorp sehingga tahun 2013.

3. KAEDAH PENYELIDIKAN

Kajian ini menggunakan kaedah kualitatif berdasarkan analisis dokumen rujukan daripada WanCorp.

4. KEPUTUSAN DAN PERBINCANGAN

Waqaf An-Nur Corporation Berhad (WANCorp) merupakan sebuah syarikat berhad dengan jaminan tanpa syer yang ditubuhkan untuk mengurus aset dan saham-saham syarikat dalam kumpulan Johor Corporation yang diwaqafkan. Selain daripada itu, ia juga berperanan sebagai 'Maukuf Alaihi' saham-saham dan lain-lain bentuk sekuriti syarikat perniagaan secara keseluruhannya. WANCorp mula beroperasi pada 25 Oktober 2000 dengan nama Pengurusan Klinik Waqaf An-Nur Berhad. Pengurusan Klinik Waqaf An-Nur Berhad pada awalnya ditubuhkan untuk menguruskan klinik-klinik waqaf dan pusat dialisis di bawah JCorp yang diuruskan oleh KPJ Healthcare Berhad. Syarikat ini kemudian ditukar namanya kepada Kumpulan Waqaf An-Nur Berhad pada 19 Julai 2005 dan seterusnya pada 21 Mei 2009 telah ditukar kepada Waqaf An-Nur Corporation Berhad yang mana peranan dan aspirasi yang lebih luas lagi dipertanggungjawabkan kepada syarikat ini.

Pembentukan struktur atau model pengurusan waqaf korporat yang memenuhi tuntutan syarak sangat dititikberatkan dalam usaha menuju ke arah amalan perbankan Islam yang adil dan sejahtera. Sepertimana konsep waqaf korporat yang ditampilkan oleh Johor Corporation (JCorp) dan masih diamalkan sehingga hari ini bahkan turut menjadi model waqaf terbaik kepada institusi korporat yang setaraf dengannya. JCorp yang melantik WANCorp sebagai pengurus tadbir urusan waqaf korporat telah menjadikan nama JCorp antara institusi korporat terulung di medan antarabangsa di bawah cabang perbankan Islam dan menjadi salah satu institusi waqaf korporat yang mendapat sokongan sepenuhnya dari dalam dan luar negara berikutan pembangunan pesat yang dibawa oleh syarikat ini ke arah merealisasikan hasrat wawasan 2020.

Terminologi waqaf korporat pertama kali digunakan oleh Johor Corporation (JCorp) yang melancarkan waqaf korporat pada tahun 2006 dengan mewakafkan saham miliknya yang bernilai RM200 juta di dalam anak syarikatnya yang tersenarai di dalam bursa saham Malaysia, iaitu Kulim (Malaysia) Berhad, KPJ Healthcare Berhad dan Al-Aqar Healthcare Reit. Sehingga tahun 2013, terdapat penambahan syarikat di bawah kumpulan JCorp yang turut mewakafkan sebahagian sahamnya namun tidak tersenarai di dalam bursa saham Malaysia iaitu Tiram Travel Sdn Bhd, Larkin Sentral Property Sdn Bhd dan Capaian aspirasi Berhad.

Kulim (Malaysia) Berhad merupakan salah sebuah syarikat di dalam kumpulan Johor Corporation yang tersenarai di pasaran utama Bursa Malaysia. Merujuk pada laporan tahunan JCorp bagi tahun 2013, sebanyak 49.39 juta saham yang telah diwakafkan oleh Kulim (Malaysia) Berhad. Aktiviti utama Kulim adalah perladangan kelapa sawit yang beroperasi di Malaysia, Papua New Guinea dan Kepulauan Solomon dan baru-baru ini Kulim telah melebarkan sayapnya ke Indonesia. Kumpulan Kulim turut terlibat dalam bisnes intrapreneur yang merangkumi operasi perkapalan dan logistic, pembekal teknologi maklumat, serta aktiviti sokongan untuk perladangan kelapa sawit seperti nursery sawit, jentera pertanian (Badang) dan penyelenggaraan kilang, dan bangunan serta aktiviti sokongan untuk sektor minyak dan gas.

Selama 33 tahun, KPJ Healthcare Berhad (KPJ) telah menyediakan penjagaan kesihatan berkualiti tinggi, teknologi perubatan yang inovatif dan pakar runding perubatan berpengalaman. KPJ juga menyediakan latihan penjagaan kesihatan professional berkualiti melalui saluran pendidikannya iaitu KPJ Healthcare University College (KPJUC). Pada tahun 2013 menyaksikan KPJ berterusan melabur dengan modal yang besar iaitu sebanyak 18.6 juta saham dalam projek yang memberi jaminan nilai jangka panjang kepada pemegang sahamnya.

Manakala Al-Aqar Healthcare REIT adalah sebuah amanah pelaburan hartanah yang merupakan REIT prisihatin berlandaskan Islam yang pertama di dunia. Ia ditubuhkan untuk melabur dan memiliki hartanah berlandaskan syariah yang terdiri daripada 21 buah bangunan hospital pakar, 2 kolej kejururawatan, 1 bangunan komersial dan 1 pusat penjagaan warga emas. Sehingga tahun 2013, saham yang telah diwakafkan oleh Al-Aqar Healthcare adalah sebanyak 12.62 juta saham.

Tiram Travel Sdn Bhd pula merupakan agen pengembaraan dan pelancongan merangkumi penjualan tiket penerbangan, pakej pelancongan (domestik dan antarabangsa) serta pakej haji dan umrah. Sehingga 2013 saham yang telah diwakafkan

adalah sebanyak 750 ribu saham dan peningkatan pendapatan syarikat berlaku sehingga Disember 2013.

Capaian Aspirasi Sdn Bhd (CASB) yang turut mewakafkan sebahagian sahamnya merupakan amil zakat korporat bagi Majlis Agama Islam Negeri Johor sejak 1 September 2005. Bermula pada tahun 2009, CASB juga menguruskan zakat korporat luar negeri Johor. Aktiviti syarikat telah dikembangkan dengan melibatkan program Mutawwif umrah dan haji serta aktiviti konsultasi bagi kursus, ceramah agama serta program motivasi. Syarikat ini juga telah dilantik sebagai wakil korporat amanah raya berhad pada tahun 2007 bagi memasarkan produk wasiat Amanah Raya Berhad. Sehingga tahun 2013, sebanyak 75 ribu saham yang telah diwakafkan.

Larkin Sentral Property Sdn bhd (LSPSB) dahulunya dikenali sebagai TPM Management Sdn Bhd (TPMMSB). Aktiviti utama syarikat adalah penyewaan lot-lot perniagaan dan lot-lot pasar awam serta tempat letak kenderaan. Sehingga tahun 2013, saham yang telah diwakafkan adalah sebanyak 50.33 juta saham. Ini menjadikan jumlah keseluruhan saham yang telah diwakafkan oleh keenam-enam syarikat setakat tahun 2013 telah mencecah 131.77 juta saham.¹

Berdasarkan jumlah keseluruhan saham-saham syarikat yang semakin meningkat pada setiap tahun secara tidak langsung telah menyediakan dana yang besar bagi menjayakan projek-projek wakaf yang akan dilaksanakan oleh WANCorp, ia jelas membuktikan bahawa instrument wakaf korporat mampu meningkatkan pembangunan dan menjamin kesejahteraan ummah untuk jangka masa yang panjang menerusi pentadbiran dan pengurusan yang cekap dan telus dari pihak WANCorp.

5. KESIMPULAN

Wakaf korporat telah diiktiraf sebagai satu instrument yang dapat membantu ekonomi dan sosial umat Islam sepertimana yang dilaksanakan oleh WANCorp. Antara projek yang dilaksanakan WANCorp menerusi hasil saham wakaf tersebut adalah mewujudkan klinik dan hospital di seluruh Malaysia, mampu menyediakan dana untuk menaja sekolah agama, rumah kebajikan anak yatim dan masjid. Selain itu, hasil wakaf juga turut menyumbang kepada pinjaman tanpa riba kepada peniaga kecil-kecilan. Oleh itu, jika wakaf korporat ini terus diusahakan dengan acuan ekonomi Islam yang telus, projek wakaf yang lebih hebat seperti membina kompleks perniagaan, penternakan dan ladang pertanian dapat dilaksanakan untuk membantu ekonomi dan masyarakat Islam.

Manfaat dari sudut kesihatan, pendidikan, dan keagamaan, jelas membuktikan bahawa anjakan wakaf korporat sedikitpun tidak menghilangkan nilai-nilai wakaf itu sendiri sebaliknya membawanya ke suatu dimensi baru yang lebih fleksibel. Hal ini menjadikan wakaf korporat sebagai instrument yang boleh diyakini oleh pihak yang mempunyai idea dan buah fikiran yang sama. Struktur wakaf korporat seperti ini diharap akan dapat dilaksanakan dengan lebih giat lagi oleh konglomerat-konglomerat

¹ Ibid. hh 18-24.

Islam yang lain kerana projek-projek wakaf korporat seperti ini menjadi harapan dan jaminan pada umat Islam pada masa akan datang.

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PERANAN INSTITUSI PERBANKAN ISLAM DALAM PELESTARIAN WAKAF

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ABSTRAK

Wakaf Tunai adalah salah satu instrumen wakaf yang sangat efektif dalam membantu masyarakat. Ia terbukti sebagaimana pelaksanaannya di zaman pemerintahan Kerajaan Othmaniah. Oleh itu, Bank Muamalat Malaysia Berhad (BMMB) dan rakan strategiknya Perbadanan Wakaf Selangor (PWS), telah mengambil inisiatif ini untuk memperkenalkan satu perkhidmatan Wakaf Tunai kepada orang ramai. Perkhidmatan ini dikenali sebagai Wakaf Selangor Muamalat (WSM) dengan slogannya “Esok Masih Ada?”. Objektif utama pihak BMMB sebagai sebuah institusi Perbankan Islam dalam keterlibatan ini adalah bagi sama-sama berganding bahu dengan pihak-pihak berwajib, mempertingkatkan peranan instrumen wakaf menangani masalah ummah. Aktiviti wakaf yang telah dibincangkan dalam kertas kerja ini menunjukkan bahawa peranan sebagai sebuah institusi perbankan tidak hanya terbatas kepada isu-isu kewangan semata-mata, malah dengan pelbagai kemudahan dan tahap keprofesionalan yang tinggi, tidak mustahil, peranan wakaf boleh dimaksimumkan. Perbincangan mengenai aktiviti perbankan Islam dalam pembiayaan umum seperti wakaf seperti akan merancakkan lagi peranan yang dimainkan oleh pemain industri perbankan dan kewangan Islam memberikan impak positif kepada industri perbankan dan pembiayaan Islam.

Kata kunci: wakaf, pembiayaan umum, kewangan Islam

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1. PENDAHULUAN

1.1. Dalil Pensyariatan Wakaf

Islam telah jelas mengharuskan pelaksanaan wakaf. Ini dapat dilihat melalui dalil-dalil yang terkandung didalam al Quranul karim, sunnah junjungan besar Nabi Muhammad SAW dan amalan-amalan para sahabat rodhiallahu ‘anhum ‘ajma’in. Diantara dalil-dalil tersebut, sebagaimana firman Allah SWT, yang bermaksud:

*“Kamu tidak sekali-kali akan dapat mencapai (hakikat) kebajikan dan kebaktian (yang sempurna) sebelum kamu dermakan sebahagian dari apa yang kamu sayangi. Dan sesuatu apa jua yang kamu dermakan, maka sesungguhnya Allah Mengetahuinya.”*³

Begitu juga dengan sabdaan Nabi SAW yang bermaksud:

*“Apabila seorang anak Adam mati, segala amalannya terputus, kecuali tiga perkara: iaitu sedekah jariah, ilmu yang bermanfaat dan anak soleh yang mendoakannya”*⁴

1.2. Wakaf Tunai

Sebagaimana yang telah dimaklumi, instrumen wakaf, sebagaimana instrumen-instrumen yang lain di dalam Muamalat Islam, telah mengalami proses-proses perubahan dan pengembangan, bersesuaian dengan keadaan dan waqi’ semasa. Ini dapat dilihat dengan jelas diseluruh pelusuk dunia Islam amnya, dan Malaysia khususnya. Secara umumnya, perubahan-perubahan ini telah mendatangkan lebih banyak manfaat dan kebaikan, yang bukan sahaja dapat dinikmati oleh orang-orang Islam, malah orang-orang bukan Islam juga.

Terkini, pelbagai instrumen wakaf telah diperkenalkan oleh pihak-pihak yang bertanggungjawab, khususnya badan-badan yang mengawalselia urusan yang berkaitan dengan hal ehwal agama Islam. Di Malaysia sebagai contohnya, dengan bantuan dan keizinan dari pakar-pakar agama, wakaf telah dikembangkan dalam bentuk saham wakaf atau wakaf tunai dan wakaf korporat, malah kajian dalam bentuk sukuk juga sedang giat dilakukan.⁵ Dalam pada itu, instrumen wakaf tunai telah mula mendapat tempat di Malaysia. Pelbagai pihak telah mula memberikan fokus kepada instrumen ini, termasuklah badan-badan korporat dan institusi-institusi swasta. Malah kerajaan Malaysia, dalam menyokong usaha yang murni berkaitan wakaf tunai ini, telah menyediakan insentif dalam bentuk pengecualian cukai.⁶

³ Surah Ali ‘Imran:92

⁴ Hadis Riwayat Muslim

⁵ Sesi Temubual Bersama Tn Hj Che Mazlan Che Yusof, Pengurus, Seksyen Wakaf & Zakat, BMMB, April 2015

⁶ <http://www.hasil.gov.my>

Wakaf tunai boleh difahami sebagai pembekuan sejumlah wang tunai secara kekal dan manfaatnya didedikasikan untuk kebajikan orang ramai.”⁷ Instrumen wakaf yang berbentuk wakaf tunai ini telah dibincangkan dan diputuskan oleh Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan, yang telah bersidang pada tahun 2007, dimana telah memutuskan bahawa berwakaf dalam bentuk wang tunai adalah dibolehkan dalam Islam.”⁸ Perkara yang sama juga telah diputuskan oleh Jawatankuasa Fatwa Negeri Selangor pada 2006⁹ dan Jawatankuasa Syariah, BMMB pada Mei 2012.¹⁰

1.3. Kelebihan dan Keberkesanan Wakaf Tunai

Dr. Murat Cizakca dalam tulisannya yang bertajuk “*A History of Philanthropic Foundations: The Islamic World From the 17th Century to the Present*” telah menyatakan bahawa zaman pemerintahan Othmaniah di Turki, amalan wakaf tunai telah memberi kesan terhadap banyak perkara, antaranya:¹¹

1. Membantu perbelanjaan kerajaan dalam kemudahan asas
2. Mencapai agihan ekonomi saksama & percukaian
3. Mudah diuruskan berbanding harta tetap
4. Boleh dikembangkan melalui instrumen pelaburan patuh syarak

Kelebihan berwakaf secara tunai telah terbukti dan keberkesananannya telah disepakati semasa pemerintahan kerajaan Othmaniah. Dari sudut pembangunan sosial dan kemasyarakatan, dengan menggalakkan orang ramai menyertai wakaf secara tunai, ianya secara langsung dan tidak langsung memberikan sumbangan yang besar kepada kebajikan masyarakat itu sendiri. Modal untuk pembangunan yang mampan dapat dijana secara berterusan di kalangan masyarakat bagi menyokong program-program seperti membasmi kemiskinan, menyediakan infrastruktur asas, penyelidikan & pembangunan teknologi, menyediakan ruang pendidikan untuk semua, keperluan asas orang-orang miskin & fakir serta peluang penjagaan kesihatan kepada semua. Ini bertepatan dengan firman Allah SWT yang bermaksud:

*“Wahai orang-orang yang beriman, kalau kamu membela (agama) Allah nescaya Allah membela kamu (untuk mencapai kemenangan) dan meneguhkan tapak pendirian kamu”*¹²

⁷ The Journal of Muamalat and Islam and Islamic Finance Research (JMIFR) Vol. 6 No. 1 2009

⁸ Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Kali Ke-77, April 2007

⁹ “Hasil daripada wang Skim Saham Wakaf Selangor hendaklah dibelanjakan bagi tujuan pembelian aset kekal.”

¹⁰ “Jawatankuasa memutuskan bahawa penawaran perkhidmatan wakaf tunai oleh pihak bank adalah harus, tertakluk kepada ketetapan-ketetapan tertentu dalam konsep wakaf.”

¹¹ Laman web IKIM, 2007, Wakaf Tunai: Pendekatan Terbaik Untuk Mewakafkan Harta Masa Kini, Muhammad Hisyam b. Mohamad. <http://www.ikim.gov.my/v5/index.php?> & Jurnal Pengurusan JAWHAR, Vol. 2, No. 2, 2008, Jabatan Wakaf, Zakat dan Haji (JAWHAR)

¹² Surah Muhammad:7

2. LATAR BELAKANG WAKAF SELANGOR MUAMALAT (WSM)

2.1. Nilai Kebajikan atau Komersial

Melihat kepada saranan ayat 7, di dalam surah Muhammad, maka BMMB telah mengorak langkah untuk memperkenalkan satu perkhidmatan yang berasaskan instrumen wakaf iaitu wakaf tunai. Secara umumnya, dengan inisiatif ini, pihak bank berhasrat untuk berperanan memartabatkan sistem wakaf ke tahap yang lebih tinggi untuk masyarakat, mewujudkan perkongsian agihan kekayaan kepada yang memerlukan dan bertindak sebagai platform untuk menyumbang dana secara berterusan melalui wakaf.¹³

Secara spesifiknya, peranan yang akan dimainkan oleh sebuah institusi perbankan Islam seperti BMMB ini, telah keluar dari skop dan landasan perbankan sebagaimana yang diamalkan dalam industri. Pertembungan antara nilai kebajikan dan komersial juga menjadi perdebatan. Walau bagaimanapun, pihak pengurusan BMMB telah melihat skop urusan perbankan dan kewangan Islam dalam kerangka yang lebih besar. Wakaf telah diiktiraf menjadi sebahagian dari kerangka tersebut dan sebagai sebuah institusi yang berasaskan Islam sepenuhnya, adalah menjadi tanggungjawab BMMB merintis jalan ini bagi kebaikan dan kemaslahatan ummah. Maka, pihak pengurusan BMMB telah menyeimbangkan antara tuntutan nilai komersial bersama dengan tuntutan nilai berkebajikan. Hakikatnya, 5 sebab utama yang telah mendorong BMMB, sebagai sebuah institusi perbankan Islam, untuk mendukung aspirasi ini sebagaimana berikut:¹⁴

1. Insituti perbankan Islam adalah pusat pelanggan
2. Institusi perbankan Islam terdiri dari golongan yang mahir dalam pelaburan
3. Pengurusan Institusi perbankan Islam adalah profesional
4. Institusi perbankan Islam mengamalkan polisi kawalselia yang ketat
5. Institusi perbankan Islam dilengkapi dengan teknologi maklumat yang terkini

2.2. Mencari Rakan Strategik

Aspirasi untuk melihat perkhidmatan wakaf tunai bertapak di BMMB telah menjadi agenda pengurusan BMMB. Maka bagi merealisasikan hasrat ini, rakan strategik perlu dipilih, yang semestinya mempunyai visi dan misi yang sama, bagi memartabatkan wakaf. Untuk itu, Perbadanan Wakaf Selangor (PWS)¹⁵ telah dipilih sebagai rakan strategik dalam menawarkan perkhidmatan yang berasaskan instrumen.

PWS telah diperkenankan penubuhannya oleh DYMM Tuanku Sultan Selangor pada 11 Januari 2011 dan diwartakan pada 3 Februari 2011. Ia adalah hasil titah DYMM Tuanku Sultan Selangor kepada Majlis Agama Islam Selangor (MAIS), pada 30

¹³ Sesi Temubual Bersama Tn Hj Che Mazlan Che Yusof, Pengurus, Seksyen Wakaf & Zakat, BMMB, April 2015

¹⁴ Sesi Temubual Bersama Ybhg Dato' Hj Redza Shah Abdul Wahid, Ketua Pegawai Eksekutif, BMMB, April 2015

¹⁵ <http://www.wakafselangor.gov.my/>

Oktober 2009. MAIS dalam mesyuarat Jawatankuasa Pengurusan Wakaf, MAIS Bil. 1/2010 yang bersidang pada 8 Februari 2010 telah memutuskan untuk mewujudkan PWS, selaras dengan titah DYMM Sultan Selangor dan Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003 Pindaan 2008.

Manakala, BMMB¹⁶ telah memulakan operasinya pada 1hb Oktober 1999 dengan liabiliti dan aset yang dibawa dari Unit Perbankan Islam Bank Bumiputra Malaysia Berhad, Bank of Commerce (M) Berhad dan BBMB Kewangan. BMMB adalah Bank Islam Tempatan yang kedua yang telah ditubuhkan di Malaysia selepas penubuhan Bank Islam Malaysia Berhad untuk menawarkan produk dan perkhidmatan Perbankan Islam kepada rakyat Malaysia tanpa mengira bangsa dan agama. DRB Hicom memegang 70% saham di dalam Bank ini, manakala Khazanah Nasional Berhad pula memegang baki 30% saham.

2.3. Bidang Kuasa

Secara umumnya di Malaysia, bidang kuasa bagi menyelaras dan menguruskan hal ehwal berkaitan wakaf adalah dibawah kuasa Sultan dan Majlis Agama Islam Negeri (MAIN). Khusus bagi negeri Selangor, kuasa DYMM Tuanku Sultan Selangor, sebagai Ketua Agama Islam Negeri, telah diperuntukkan dengan jelas di dalam Perlembagaan Persekutuan.

DYMM Tuanku pula dengan kuasa yang ada telah melantik MAIS untuk membantu dan menasihati mengenai perkara-perkara yang berkaitan dengan agama Islam di negeri termasuk perkara wakaf. Ini bertepatan, sebagaimana yang diperuntukkan kepada MAIS, dibawah Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003, kecuali perkara- perkara Hukum Syarak dan yang berhubungan dengan pentadbiran keadilan, dan dalam semua perkara sedemikian hendaklah menjadi pihak berkuasa utama di dalam Negeri Selangor selepas DYMM Tuanku, kecuali jika diperuntukkan selainnya didalam Enakmen.¹⁷ MAIS, dengan kelulusan DYMM Tuanku Sultan, dari semasa ke semasa, dengan perintah yang disiarkan dalam Warta, menubuhkan perbadanan dengan apa-apa nama yang pada pendapat MAIS adalah sesuai untuk menjalankan dan dipertanggungjawabkan dengan, bertindak dan menguruskan apa-apa projek, skim atau pengusahaan yang telah dirancang atau dijalankan oleh MAIS dalam melaksanakan kewajipan-kewajipan atau kuasa-kuasanya.¹⁸ Maka, PWS telah diwujudkan bagi memikul tanggungjawab menggerakkan semua urusan dan hal ehwal berkaitan Wakaf.

2.4. Wakaf Selangor Muamalat (WSM)

Rentetan dari jalinan strategik diantara BMMB dan PWS ini, maka perkhidmatan yang berasaskan wakaf tunai, yang dikenali sebagai Wakaf Selangor Muamalat

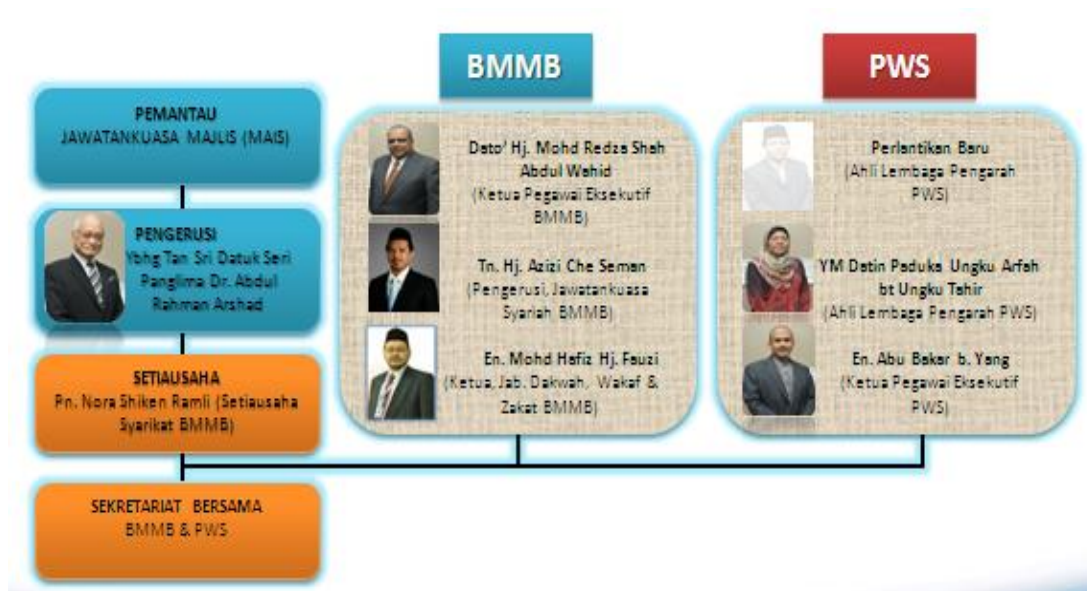
¹⁶ <http://www.muamalat.com.my/>

¹⁷ S.6, Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003

¹⁸ S. 8, Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003

(WSM) telah diperkenalkan kepada masyarakat¹⁹. Tanggal 27 September 2012, DYMM Tuanku Sultan Selangor telah memperkenalkan pelancarannya, dengan tema perkhidmatan adalah “Esok Masih Ada?”. BMMB merupakan institusi perbankan Islam pertama di Malaysia yang bukan sahaja menawarkan perkhidmatan kutipan wakaf tunai, malah bekerjasama dalam menguruskan dana tersebut melalui pembentukan Jawatankuasa Pengurusan Bersama (JPB). 3 wakil dari setiap pihak telah dilantik bagi menganggotai JPB dimana Pengerusinya adalah seorang yang bebas, tidak mewakili mana-mana institusi. JPB ini dipantau oleh Jawatankuasa Wakaf Majlis iaitu sebuah Jawatankuasa Khas yang bertindak memantau dan melaporkan segala aktiviti wakaf kepada DYMM Tuanku Sultan. Carta JPB adalah seperti berikut:

Figure 8 Carta JPB



¹⁹ <http://www.wakafselangor.muamalat.com.my/>

Dalam pada itu, fungsi dan tanggungjawab JPB, dalam mengurus, mentadbir dan mengawalselia dana WSM adalah seperti berikut:

1. JPB mempunyai kuasa sebagai pembuat dasar,
2. JPB mempunyai kuasa membuat keputusan,
3. JPB mempunyai kuasa pemutus dasar berhubung kutipan dan pengagihan atau penggunaan Dana WSM, dan
4. JPB bertanggungjawab melaporkan kepada MAIS dan PWS berkenaan WSM

2.5. Skop Penggunaan Dana WSM

WSM, adalah satu dana yang berasaskan wakaf khas. Skop penggunaan dan pengagihan dana telah dibahagikan kepada tiga saluran utama, iaitu bidang pendidikan, kesihatan dan pelaburan.²⁰ Pemilihan skop pendidikan dan kesihatan sebagai bidang utama agihan kerana melihat kepada keperluan mendesak masyarakat masa kini disebabkan peningkatan kos. Tersedianya kemudahan dan infra yang baik bagi kedua-dua bidang ini, semestinya akan memberikan lebih peluang kepada masyarakat, terutamanya kepada mereka yang memerlukan. Oleh itu, di sinilah WSM akan berperanan bagi membantu dan menambah baik kemudahan-kemudahan yang sedia ada, disamping menjadi pelengkap, berganding bahu dengan badan-badan bukan kerajaan dan pihak swasta dalam membantu serta meringankan bebanan kerajaan.²¹

Fokus WSM bagi bidang pendidikan dikhususkan kepada pembangunan infra, yang tidak terhad kepada penyediaan kemudahan asas pembelajaran seperti pembinaan bangunan pengajian atau asrama dan pembelian alatan serta kelengkapan pendidikan semata-mata, malah dari semasa ke semasa, pihak JPB akan melihat dan menyemak polisi dan dasar yang ada, bagi mengembangkan lagi peranan WSM dalam pendidikan. Begitu juga bagi bidang kesihatan, penglibatan WSM tidak hanya terhad kepada keperluan infra dan kemudahan tertentu seperti proses pembinaan hospital wakaf, klinik bergerak wakaf dan pembelian kelengkapan kesihatan, malah penerokaan segmen-segmen baru di dalam industri kesihatan perlu dipertimbangkan oleh JPB, bagi memenuhi kehendak dan keperluan semasa.

Manakala, bagi skop pelaburan, dengan matlamat untuk memastikan kelangsungan dana dalam jangka masa panjang, JPB telah diberikan mandat, tertakluk kepada fatwa dan resolusi Syariah terhadap keharusan pelaburan yang bersumberkan dana-dana wakaf, mengembangkan lagi dana WSM. Sektor pelaburan yang berisiko minimum dengan pulangan yang tinggi seperti sektor hartanah, adalah fokus utama JPB. Oleh itu, bagi merealisasikan gerak kerja pelaburan ini, JPB akan menggunakan sepenuhnya kepakaran dan kemahiran unit pelaburan BMMB. Setiap cadangan pelaburan dana-dana WSM, akan dianalisa dengan terperinci oleh unit pelaburan BMMB, sebelum JPB membuat keputusan akhir.²²

²⁰ <http://www.wakafselangor.muamalat.com.my/>

²¹ Sesi Temubual Bersama Tn Hj Che Mazlan Che Yusof, Pengurus, Seksyen Wakaf & Zakat, BMMB, April 2015

²² Sesi Temubual Bersama Cik Wan Nuraihan Hj Ab Shatar, Timb. Pengurus, Seksyen Wakaf & Zakat, BMMB, April 2015

Sehingga Januari 2015, jumlah kutipan terkumpul adalah RM9,528,044.40, dengan 43% dana (RM2,415,692) telah diperuntukkan kepada sektor pendidikan, 41% (RM2,304,510) kepada sektor kesihatan dan 16% (RM881,232.560) telah disalurkan untuk pelaburan. Manakala baki yang terkumpul, masih dalam proses pertimbangan pihak JPB, untuk diagihkan, berdasarkan kepada keperluan, keutamaan dan manfaat menyeluruh.²³

2.6. Projek Berimpak Tinggi dalam Perancangan

Melihat kepada perkembangan semasa dana WSM, JPB telah merangka pelan strategik 5 tahun WSM yang merangkumi pelbagai segmen, yang berimpak tinggi dan maksimum bagi melestarikan instrumen wakaf dalam pembaharuan ekonomi terutamanya industri perbankan dan kewangan Islam. Antara yang dirancang adalah seperti berikut:

1. Hospital Berkonsepkan Wakaf

Perancangan yang mempunyai nilai komersial tinggi adalah jalinan kolaborasi dengan hospital dan klinik swasta untuk kemampaan ekonomi yang menyumbang kepada kesihatan masyarakat menerusi perkembangan variasi wakaf. Bagi projek ini, selain dari pembangunan infra, satu Tabung Wakaf akan diwujudkan bagi membantu pesakit yang berkecukupan.

2. Sekolah Berkonsep Wakaf

Strategik kolaborasi dengan operator sekolah Islam swasta yang terdiri daripada peringkat rendah, menengah dan kolej, bakal menambahbaik sistem bantuan kewangan dalam sektor pendidikan. Projek ini juga tidak hanya tertumpu kepada pembangunan fizikal, malah satu Dana Wakaf Pendidikan akan disediakan bagi membantu para pelajar yang berkecukupan.

3. Klinik Dialisis Berkonsepkan Wakaf

Bagi projek Klinik Dialisis, kolaborasi dengan operator swasta atau Kementerian Kesihatan Malaysia (KKM) adalah antara pilihan yang ada. Faktor lokasi memerlukan pertimbangan yang sewajarnya kerana ia adalah merujuk kepada populasi masyarakat yang berpendapatan rendah dan sederhana. Fi yang rendah dan kemudahan Tabung Wakaf akan disediakan bagi pesakit/ individu yang berkecukupan.

4. Pembangunan Hartanah Wakaf

Hartanah wakaf perlu dibangunkan dalam bentuk yang lebih retorik supaya kelestarian wakaf dapat dikekalkan dan manfaat terhadap masyarakat lebih terjamin dan bertambah. Dengan itu, kolaborasi dengan Majlis Agama Islam Negeri (MAIN) dan institusi-institusi terpilih perlu digabung-jalinkan. Kolaborasi ini bertujuan pembangunan tanah wakaf dapat dilaksanakan dengan lebih sistematik dan berkesan yang mana setiap pihak dapat memberikan komitmen yang padu. BMMB pula akan berperanan menyediakan pembiayaan projek dan

²³ Sesi Temubual Bersama Cik Nurshakila Sefor Rahman, Eksekutif, Seksyen Wakaf & Zakat, BMMB, April 2015

pembiayaan akhir. Jalinan retorik ini dijangka menambah nilai komersial kepada hartanah-hartanah wakaf.

3. WSM DAN PERLAKSANAAN AKTIVITI

Selama hampir 2 tahun lebih usia WSM, pelbagai aktiviti dan agihan sumbangan telah dilaksanakan. Dengan fokus kepada pendidikan dan kesihatan, WSM dapat memaksimumkan manfaat agihan dan pelbagai pihak telah menikmatinya. Diantara aktiviti WSM sepanjang 2 tahun usianya adalah:²⁴

1. Sumbangan Mesin Dialisis
Enam (6) mesin telah didermakan kepada pusat dialisis di Pusat Dialisis Nurain (2 unit) Rawang & Pusat Hemodialisis Islam Makmur, Kuantan (4 unit), jumlah kos RM194, 800. Pesakit yang layak hanya akan dikenakan bayaran maksimum sebanyak RM100 bagi setiap rawatan, hanya untuk menampung kos asas yang dilakukan oleh pusat tersebut.
2. Alatan Perubatan Untuk Rumah Penjagaan Orang Tua
Sumbangan alat-alat bantuan kesihatan seperti kerusi roda, tongkat, katil, dan lain-lain kepada Rumah Al-Fikrah, Kajang, Selangor bernilai RM35, 600. Rumah Jagaan Al-Fikrah merupakan sebuah pusat jagaan untuk pesakit terdampar tanpa waris, orang kurang upaya (OKU), warga emas dan saudara baru. Selain daripada perkhidmatan penjagaan harian, pusat ini juga memberi perkhidmatan perubatan, kelas agama, program motivasi, dan kaunseling kepada penghuni-penghuninya. Pusat ini mempunyai 25 orang pesakit lelaki dan menggaji pekerja seramai 6 orang yang terdiri daripada seorang pengurus, seorang penyelia, seorang pekerja am, dan seorang pemandu.
3. Bantuan Peralatan Bilik Darjah
Sumbangan pembinaan sebuah bilik darjah serta kelengkapan bagi 5 buah bilik darjah kepada Sekolah Rendah Islam Al-Huda bernilai RM498,000. SERI Al-Huda telah ditubuhkan pada tahun 1989 dan berdaftar dengan Jabatan Agama Islam Selangor (JAIS) dan Kementerian Pendidikan Malaysia (KPM). Sekolah ini menawarkan silibus pendidikan akademik dan agama. Silibus ini melayakkan murid-murid di sekolah ini mengambil peperiksaan Penilaian Rendah Agama (PSRA) dan Ujian Penilaian Sekolah Rendah (UPSR).

²⁴ <http://www.wakafselangor.muamalat.com.my/>

4. Tangki Simpanan Nitrogen

MAKNA (Majlis Kanser Nasional) merupakan sebuah pertubuhan bukan kerajaan yang telah didaftarkan dibawah Pertubuhan pada 10 November 1994. WSM telah bersetuju untuk menyumbangkan sebuah Tangki Simpanan Nitrogen yang bernilai RM99,600 kepada MAKNA, Pusat Perubatan Universiti Kebangsaan Malaysia, Cheras, Kuala Lumpur. Sumbangan ini dibuat atas keperluan kepada peralatan ini yang digunakan bagi menyimpan bekalan sel stem untuk kegunaan pesakit-pesakit kanser yang semakin ramai di Malaysia.

5. Klinik Bergerak Dengan Kerjasama Hospital KPJ

Klinik Bergerak berharga RM254, 900. Kerjasama dengan Kumpulan Perubatan Johor (KPJ). Klinik ini akan beroperasi di kawasan luar bandar memberi perkhidmatan kepada golongan miskin tanpa mengira agama. Klinik ini baru-baru ini digerakkan untuk merawat mangsa-mangsa banjir semasa bencana banjir di Kelantan (2014). Secara keseluruhannya, seramai 405 orang pesakit telah mendapat rawatan daripada perkhidmatan kesihatan yang diberikan khususnya dari khidmat Klinik Bergerak WSM, disamping bantuan-bantuan kemanusiaan kepada mangsa-mangsa banjir yang lain.

4. PENUTUP

Wakaf menjadi pilihan umat Islam untuk memenuhi tuntutan kerohanian mereka kerana perwakafan membolehkan mereka mendekatkan diri dengan Allah SWT. Wakaf membolehkan mereka menyerahkan harta kepunyaan mereka kepada Allah SWT secara mutlak. Paling penting, amalan wakaf telah dijanjikan sebagai ibadah yang tidak putus pahala amalannya.

Wakaf bukan saja satu mekanisme agihan semula kekayaan untuk memastikan pembangunan sosio-ekonomi dapat dinikmati bersama oleh masyarakat tetapi dapat menjamin pewakaf sebagai sebahagian daripada golongan yang telah dijanjikan oleh Allah SWT, sebagaimana firmanNya yang bermaksud, *“Orang yang menafkahkan harta mereka pada waktumalam dan siang, dengan cara sulit atau terang-terangan, maka mereka beroleh pahala di sisi Tuhan mereka dandidak ada kebimbangan (daripada berlakunya kejadian yangtidak baik) kepada mereka serta mereka pula tidak akan berdukacita.”*²⁵

Dengan adanya WSM, semoga ianya dapat mengurangkan kebergantungan institusi pendidikan dan kesihatan terhadap bantuan daripada kerajaan seterusnya dapat membantu mengurangkanbebanan rakyat yang tidak mampu untuk menanggung bebanan kos perubatan dan pendidikan yang semakin meningkat.

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Laman Sesawang Khas:

www.wakafselangor.muamalat.com.my

²⁵ Surah Al-Baqarah, 274

ISLAMIC BUSINESS MODEL FRAMEWORK: A REVIEW

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Nathasa Mazna Ramli ³
Intan Fatimah Anwar ⁴

ABSTRACT

The ultimate objective of the whole study is to develop an Islamic business model (IBM) framework specifically for small and medium enterprises (SMEs) in Malaysia. With respect to SMEs, the lack of idea on their business model leads to less performance being achieved although more than 90 per cent of the business establishments in Malaysia are SMEs in nature. This paper will specifically reviewed several Western business model components that are significant towards firm's performance and well accepted by the scholars. Apart from that, this paper also will look into the Islamic business model concepts existed, but yet not being practiced nowadays, even by the Muslims itself or the countries that majority of the population is Muslim. This study will adopt both the qualitative and quantitative research methods for data collections.

Keywords: Business model components, Islamic business model framework

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1. INTRODUCTION

The discussion of business model has gained more attention from business scholars as well as practitioners since the emergence of the dot.com businesses. The term 'business model' has become increasingly popular within information systems, management, and strategy literature (Hedman & Kalling, 2003). Information systems and business literature refer the concept of the business model as the means of creating value for customers and to the way in which a business turns market opportunities into profit through sets of actors, activities and collaboration (Rajala & Westerlund, 2007).

Creating a business model is somewhat similar to writing a good story – a story that explains how an enterprise works or operates (Barringer & Ireland, 2006; Magretta, 2002). Magretta (2002) argued that a good business model answers Peter Drucker's long standing questions regarding who is the customer and what does the customer value. It should also answers the most significant questions that every manager must ask:

- 1) How do we make money in this business? , and
- 2) What is the underlying economic logic that explains how we can deliver value to customers at an appropriate cost? (Magretta, 2002).

Currently, many business consultants share the importance of business model canvas for every organization. The business model canvas was initially proposed by Osterwalder from his PhD thesis in 2004. The idea of business model canvas is to describe, challenge, design and invent business models more systematically. The business model canvas is based on nine (9) building blocks: key partners; key activities; key resources; value propositions; customer relationships; customer segments; channels; cost structure and revenue streams.

In Malaysia, not much has been studying on business model, especially in looking at Islamic business model. A study by Sumaiyah Abd Aziz (2010) found that four components of business model in her study (stakeholders, competencies, value creation and value capture) were found to be significant in relation to the performance of manufacturing SMEs. Apart from that, Islam as a model of management has existed long time ago, the Islamic model existed in history and concept but right now it has never been practiced in modern life, even with countries with a Muslim as majority of its population (Hassan, 1992). In addition, Murray Hunter (2012) urges the need of an Islamic Business Model (IBM) using a *Tawhid* approach, based on three main reasons argue by the Islamic scholars:

- 1) The nature of man;
- 2) The unethical society; and
- 3) The underdevelopment of Islamic societies.

Therefore, developing a practical Islamic business model framework is needed in order to enhance performance of SMEs in Malaysia, since most of the Muslims involvement in business particularly in Malaysia is small and medium in nature and it is quite easy to set-up. This paper will review several Western business model components that are significant especially towards firm's performance and well accepted by the scholars. Apart from that, this paper also will gaze into the Islamic business model concepts that existed.

2. LITERATURE REVIEW

The purpose of the study is to review several Western business model components that are significant towards firm's performance and well accepted by the researchers and also brief information on Islamic business framework.

2.1. Business Model

A well-known story about business models relates to how Dell Inc. eliminates the middleman and builds its competitive advantage through their interesting business idea. While several other firms have attempted to imitate Dell's business model, no company has been able to come close to doing so (Barringer & Ireland, 2006). This is because in order to fully imitate Dell's business model, the company that intended to do so will have to change the entire process of doing business and this will upset the present arrangement such as the relationships with retailers (middleman). By looking at Dell, the company's business model can be the source of competitive advantage that will distinguish it with others competing in the same industry. In other view, this shows that variation in part of the business model exist even though Dell and its competitors are competing in the same industry and producing quite similar range of products. Even when entrepreneurial firms imitate the business models of existing organizations (Aldrich, 1999), they may have to adapt these designs to their own particular market niche (McGrath & MacMillan, 2000).

The word 'business model' is used to illustrate a company's unique value proposition (the business concept), how the firm uses its sustainable competitive advantage to perform better than its competitors over time (strategy), and whether, as well as how the firm can make money now and in the future (revenue model) (Morris et al., 2006). The models implicitly or explicitly address the internal competencies that underlie firms' competitive advantages. The business model of a firm is fundamentally dependent on the collection of resources it controls and the capabilities it possesses (Barringer & Ireland, 2006). This is consistent with resource-based theory, where the firm is viewed as a bundle of resources and capabilities (Barney, Wright, & Ketchen Jr., 2001).

Various definitions of business model being suggested by researchers (Amit & Zott, 2001; Barringer & Ireland, 2006; Dubosson-Torbay et al., 2002; Morris et al., 2005; Osterwalder, 2004; Shafer, Smith & Linder, 2005; Stewart & Zhao, 2000; Timmers, 1998). Most of the business model discussions begin with the definitions - what business model is and normally these definitions lead to the discussion of what appears to be the core components of the business model. Some authors simply associated business model as a statement of how a firm makes money and sustains its profit stream over time (Stewart & Zhao, 2000) and this definition seems to just

focusing on the financial/revenue side of view only and not integrating other elements that might be important in making money or creating profit to the firms. Thus, Table 1 provides sample definitions of the business model by the scholars.

Table 1 Sample definitions of the business model

Author(s)	Definitions
Slywotsky, Morrison and Andelman (1997)	"The patterns and strategies which enable the firm to make profits"
Picken and Dess (1998)	"A set of assumptions about how the company earns a profit in a competitive environment"
Timmers (1998)	"An architecture for the product, service, and information flow, including a description of the various business actors and their roles, the potential benefits for the various business actors, and the sources of revenue" (p. 4)
Boulton, Libert, and Samek (2000)	"How a firm leverages assets to generate value for all stakeholders"
Rappa (2000)	"How a company makes money by specifying where it is positioned in the value chain"
Stewart and Zhao (2000)	"A business model is a statement of how a firm will make money and sustain its profit stream over time (p. 290)
Afuah and Tucci (2001)	"The method by which a firm builds and uses its resources to offer its customer better value than its competitors and to make money doing so"
Amit and Zott (2001)	"A business model depicts the content, structure, and governance of transactions designed so as to create value through the exploitation of business opportunities" (p. 511)
Dubosson-Torbay, Osterwalder, and Pigneur (2002)	"The architecture of a firm and its network of partners for creating, marketing, and delivering value and relationship capital to one or several segments of customers in order to generate profitable and sustainable revenue streams" (p.7)
Osterwalder (2004)	"A conceptual tool that contains a set of elements and their relationships and allow expressing a company's logic of earning money. It is a description of the value a company offers to one or several segments of customers and the architecture of the firm and its network of partners for creating, marketing, and delivering this value and relationship capital, in order to generate profitable and sustainable revenue streams" (p. 15)
Morris, Schindehutte, and Allen (2005)	"A concise representation of how interrelated set of decision variables in the areas of venture strategy, architecture, and economics are addressed to create sustainable competitive advantage in defined markets" (p. 727)
Shafer, Smith, and Linder (2005)	"A representation of a firm's underlying core logic and strategic choices for creating and capturing value within a value network" (p. 202)
Barringer and Ireland (2006)	"A firm's plan or diagram for how it competes, uses its resources, structure its relationships, interfaces with customers, and creates value to sustain itself on the basis of the profit it earns" (p. 100)

The above definitions lead to the discussion on what are the core elements of the business model. Table 2 listed several business model components available in the literature.

Table 2 The business model components discussed by several authors

Author(s)	Business Model Components
Timmers (1998)	Value network (suppliers), revenue/pricing, information flows, product/service flows
Hamel (2000)	Four major components: customer interface, core strategy, strategic resources, and value network. The subcomponents are as follows: 1) Customer Interface: Fulfillment & support, information & insight, relationship dynamics, and pricing structure. 2) Core Strategy: Business mission, product/market scope, and basis for differentiation. 3) Strategic Resources: Core competencies, strategic assets, and core processes. 4) Value Network: Suppliers, partners, and coalitions.
Kim and Mauborgne (2000)	Cost, customer (target market, scope), value chain, pricing/revenue, capabilities, value proposition, profit, value network
Amit and Zott (2001)	Product, information, resources, capabilities, output (offering), value creation, business opportunities, transaction content, transaction governance, transaction structure
Dubosson-Torbay et al. (2002)	Four principal components: Product innovation, customer relationship, infrastructure management, and financial aspects. The subcomponents are as follows: 1) Product Innovation: Value proposition, target market, and capabilities. 2) Customer Relationship: Get a feel for the customer, branding, and serving the customer. 3) Infrastructure Management: Resources/assets, activity and processes, and partner network 4) Financial Aspects: Revenue, cost, and profit.
Magretta (2002)	Economic logic, customers, profit, cost, value proposition
Vorst et al. (2002)	Value network (suppliers), value proposition, processes/activities, functionalities, infrastructure applications, and specific characteristics
Hoque (2002)	Value network (suppliers), customer (target market/scope), resources/assets, competitors, strategy, branding, differentiation, mission, culture, environment, firm identity, and firm reputation
Chesbrough and Rosenbloom (2002)	Market, value proposition, value chain, cost and profit, value network, competitive strategy, revenue/pricing, competitors, output (offering), create value
Hedman and Kalling (2003)	Value network (suppliers), resources/assets, capabilities/competencies, processes/activities, competitors, output (offering), management
Morris et al. (2005)	Customer (target market/scope), value proposition, capabilities, cost, offering, strategy, create value, economic logic, and time, scope, and size ambition, pricing and revenue sources

Why business model is very important for a firm? This is because several studies found that that business model matters to the performance of the firm (Malone, Weill, Lai, D'Urso, Herman, Apel & Woerner, 2006; Zott & Amit, 2007, Sumaiyah Abd Aziz & Rosli Mahmood, 2011). Therefore, having an articulated business model will have a positive impact on SME's in Malaysia.

2.2. Islamic Business Framework

The business model concepts are widely accepted by the scholars and also practitioners (most of the business owners attended the business model canvas workshop organized by several certified consultants). However, the elements and concepts of the business model does not integrate with the Islamic perspectives.

According to Islamic teachings, several things are clearly prohibited such as involving in *riba'* transactions (al-Baqarah, 2: 275) and unethical business dealings. Islam also prohibits price manipulation, as mentioned in a hadith:

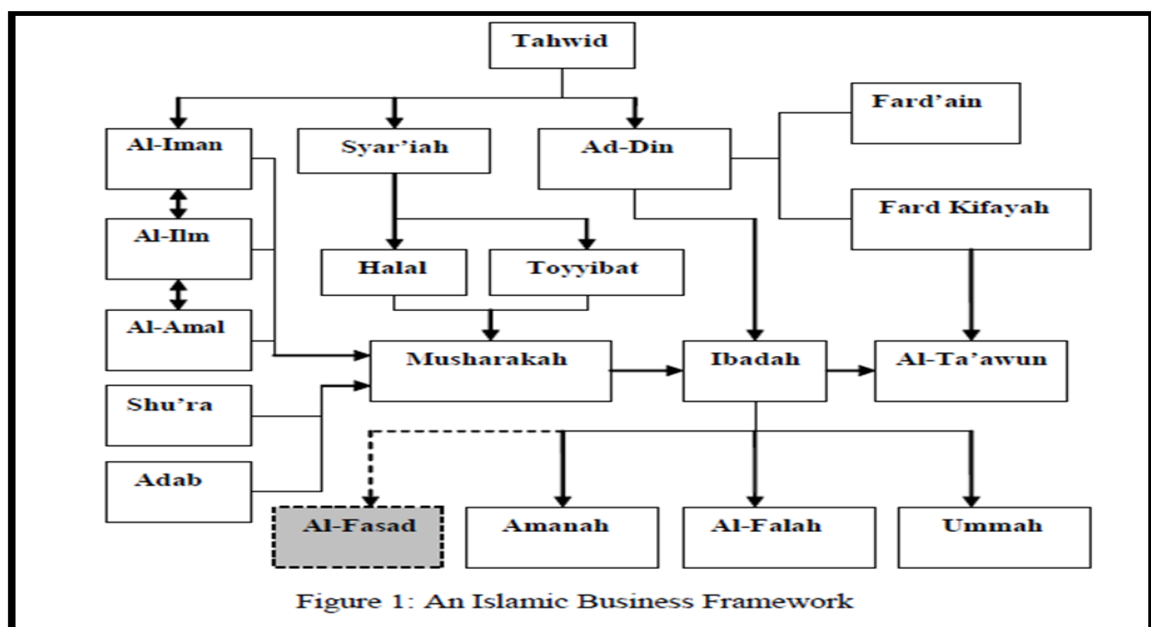
“Anyone who withholds goods until the price rises is a sinner”. (Muslim)

Apart from that, the business conducted must free from anything that is *haram* and *syubhah* (in doubt). It is must be conducted in proper ways and respect all the parties (their rights) that involved in the business dealings.

Murray Hunter (2012) came out with the idea of an Islamic business framework using a *Tawhid* approach and it is being presented in Figure 1. In his framework, the main concept that every Muslim should pay attention to is *Tawhid* [central belief of the oneness of God (Allah) – that is no other God except Allah] which consists of *al-iman* (belief), *al-ilm* (knowledge) and *al-amal* (pious acts and efforts). The manifestation of *Tawhid* should also been reflected in every effort and act in the daily life. This is also applicable to Muslims when they involved in managing a business.

Figure 1: An Islamic Business Framework

Having said that, the Islamic business framework is not much being discussed when it comes to the issues of business model. It is suggested to integrate the Islamic business framework to the business model concepts available and whether it is applicable to the Muslims as well. Thus, the findings of this study aimed to enhance the discussion of IBM in the literature.



3. PROPOSED RESEARCH METHOD

This study will adopt both the qualitative and quantitative research methods for data collections. In order to provide a base on which is to build an Islamic business model framework, the business model components and dimensions of several types of organizations will be compared and integrated with Islamic scholars' view of this issue. Review of literature, content analysis, interview with the focus group and survey questionnaire will be used to capture the relevant business model framework applied in Malaysia, including the Islamic values being practiced by the business itself that can be relate back to their business model. Then, an Islamic business model framework will be developed and tested whether it has significant impact on performance.

Apart of that, along the process of conducting this research, the researchers might come up with a case study on the experience of developing an IBM framework and the evolution of business model, including IBM being used by particular SMEs.

4. EXPECTED FINDINGS AND CONCLUSION

This research aims to develop the framework of Islamic business model, which could enhance the performance SMEs in Malaysia, particularly Muslims SMEs. The framework will contribute to the improvement of the practical business model that is align with Islamic perspective. This research will also expand the theoretical and practical aspects of business model framework by integrating Islamic values/perspectives.

Finding will be extended to produce the Islamic business model framework which can establish a practical organization design. The framework could also be the guidelines for practitioners and policy makers in making good decision in relation to enhancing performance of businesses.

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THEME: WAQF AND PRODUCT DEVELOPMENT

WAQAF BUSINESS AND INVESTMENT MODEL: THE EXPERIENCE OF WAKAFPRO 99 OF DOMPET DHUAFA INDONESIA

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ABSTRACT

In Indonesia, majority of the waqf instruments are normally used for construction of Masjid, funerals, schools and confine in the area of land and building not in the form of cash due to the lack of understanding over the essence of waqf. Moreover, the waqf instrument that used for business and investment are still lack and not well-developed that may promote the prosperity of the ummah. According to Badan Wakaf Indonesia (BWI), the capacity of waqf land in Indonesia is about 330 thousand hectares are underutilized in this country. Taking into the consideration of the high cost of investment with limited sources of funds, the potential of cash waqf instruments to attract more public funds should not be ignored. Waqf instruments could be developed for profitable investment such as business centre in the rest area, super market, hospital, construction of houses and so on. The paper aims to highlight the experience of waqaf instruments structure in WakafPro 99 of Dompot Dhuafa Indonesia such as Ebah Farma Apotic in Majalaya, Pratama Medika Family Clinic, Training Centre 99 in Bandung West Java, and Rumah Bersalin Cuma-cuma (RBC: Free Birth House) for the poor. Currently, WakafPro 99 had developed new investment model for waqf namely Firdaus Memorial Park in Mandalamukti Village West Bandung. The paper also proposed a new business investment model for the future waqaf business model that may be used for the purpose of profitable investment with the objective of prosperity of the ummah. It could be significant for the waqf institutions that have planned to apply this concept in the nearest future.

Keywords: Waqf, cash waqf, business and investment, Islamic financial instruments

1. INTRODUCTION

In Indonesia, the developments of Waqaf activities and institutions have increased tremendously. In recent years, ideas on waqaf business and investment have evolved particularly on the contemporary waqaf activities in Indonesia. For example, Dompot Dhuafa established Wakaf Produktif 99 in 2010 and come up with their innovation on cash productive waqaf for business and investment.

Today, WakafPro 99 have been developed several businesses where the revenue from the business for poverty alleviation and helping the poor such as Ebah Farma Apotic in Majalaya, Pratama Medika Family Clinic, Training Centre 99 in Bandung West Java, and Rumah Bersalin Cuma-cuma (RBC: Free Birth House) for the poor. WakafPro 99 also had developed new investment model for waqaf namely Firdaus Memorial Park in Mandalamukti Village West Bandung. At the moment, it is estimated that over 330.000 hectares of waqaf land in all over Indonesia are underutilized in this country (Badan Wakaf Indonesia, 2010). Where the waqaf land is about 35.727 acres in Malaysia (Hasan, n.d.).

The paper aims to highlight the experience of waqaf business model in WakafPro 99 of Dompot Dhuafa Indonesia. The paper also proposed a new business and investment model for the future waqaf business and investment model that may be used for the purpose of profitable investment with the objective of prosperity of the ummah. It could be significant for the waqf institutions that have planned to apply this concept in the nearest future.

2. THE CONCEPT OF WAQAF

The understanding of waqaf normally relies on a charitable giving and for whorship purposes. More than that, as a mention in the sunnah, the waqaf should be understandable as the asset that must produce something and generate return that useful for the society, so that waqaf hopefully able to alleviating the poverty and increasing the prosperity of the ummah.

Waqf or Islamic endowment is one of Islamic instrument that aims for stabilizing the income distrubitons and wealth so as does not spot in one particular group category of people. It is also a well-known topic that often discussed in the area of Islamic economics, Islamic finance and Islamic jurisprudence. The topic also has been discussed in great details in Islamic literatures by the Islamic jurists and scholars for hundreds years. In general, *waqf* could be categorized into several categories from three different aspects i.e. timing of waqf, purpose of waqf (the beneficiaries) and the waqf object (Jalil & Ramli, 2013).

Generally, the timing of *waqf* must be permanent. However, it could be temporary in accordance to the *Malikiyyah* (al-Zuhayli, 2000). In term of the purpose of the *waqf*, the waqf could be made to the family of *al-waqif* (donour) or to the public for the charitable purposes. The charitable purposes could be general or specific (e.g. for the purpose of education only). However, from the managerial perspective, general *waqf* is better than the specific *waqf* as it gives more flexibility to the manager to develop the waqf property in order to optimize the benefit of the *waqf*. In term of the object of *waqf*, generally it could be moveable or immoveable.

Literally waqaf means to stop, to retain, to hold, to detain or to prevent, such as preventing from disposition portion of one's wealth for the purpose of expending its usufructs to legitimate causes or charitable and righteous ends with the overriding objective of getting closer to Allah (Al-Zuhayli, 1987).

In Islamic jurisprudence, *waqf* is a form of gift in which the object is detained, and the usufruct is set free. The meaning of 'detention' is its prevention from being inherited, sold, gifted, mortgaged, rented, lent or any type of disposition. As to dedication of the usufruct, it means its devotion to the purpose mentioned by the *waqif* (endower) without any financial return. Thus, *waqf* could be technically defined as dedication and donation of a property that can be utilized with the permanent existence, without any right of disposition for its original endower or others to a permissible existing party or by channelling its profit or proceeds to charitable and good purposes for the sake of Allah. The *waqf* term is also commonly used to denote the endowed property (*al-mal al-mawquf*) itself (Ramli & Jalil, 2013). There are three main models of *waqf*, i.e. (i) real estate *waqf*, (ii) cash *waqf* and (iii) corporate *waqf* (Hanefah et al., 2010).

It is important for the researcher to think 'outside the box' to develop more innovative instrument and business model for waqaf land for the purpose of business so as generate more profitable investment. By creating more innovative idea, the main objective of waqaf for distributing equal income distribution and poverty eradication in the society may be achieved.

3. THE ROLE OF WAQAF IN POVERTY ALLEVIATION, THE LESSONS FROM MUSLIM COUNTRIES

It should be admitted that the main player in maintaining and stabilizing the economic of the country in the history in Islamic world is waqaf. The basic things that have been given by the waqaf are education, health, and food and clothing. waqaf have similar characteristics in terms that generally comes from people who are able and intended to help the poor. However, many institutions are engaged in this field do not manage it properly and not in effective way (Sadeq, 2002a). Therefore, there are needs some reforms made in the institutions engaged in this field, with the aim of making an institution built by the professionals, managed by good management, and used for things that are productive (Sadeq, 2002b). Especially businesses that can create huge employment opportunities for local communities and reduce poverty.

Institutions that are very famous in the Islamic world that has run well the function of waqaf is Al Azhar University in Cairo Egypt. The institute has provided free educational services to all Islamic countries. From some of history states that the Waqaf Organization of Al-Azhar has been saved the Egyptian economy and help the government when experiencing the economic meltdown. According to Rashid (2002), waqaf has a history in building and developing Muslim civilization. As once stated by Imam Shafi'i, waqaf began to be developed in stages by the former prophets and followed by the companions. It turns out that the institute has appeared at the time the companions in the 7th year of Hijriyyah and to this day they still exist and survive over 1000 years (Rashid, 2002). Al Azhar waqf institutions has resulted in millions of scholars in various world that has made a lot of changes in the state where they are lived in. Al Azhar started with building of masjid that established in 973 M (year

1039). Up to date Al Azhar has been financed millions of students freely and generate thousands of Ulama around the world.

In India, waqf institutions have been established in the past. Yet there are still serious problems in terms of management, these institutions are inefficient and dishonest in managing the waqaf assets. Since this waqf assets belong to Allah, the management shall responsible to manage it in proper manner, otherwise it will causing abused of the waqf assets, which also resulted in misuse of assets Allah (Sukmana et al, 2009).

In Pakistan, the government set up the waqaf since 1959 in order to avoid mismanagement and moral hazard. Waqaf in Islamabad managed by the department of waqaf which has two major important things. First, as the wing of masjid and as the second sacred masjid. This means waqaf lands are not reserved for the business purposes and generate the profits. Therefore, the waqaf management will use the endowment depends on the intentions of the donors, either to build masjid, schools, health or education. While the salaries of the employees who work here are taken from income of the donors. Likewise, the waqaf funds also used for the celebration of the festival, organizing the Quran competition, feeding the poor children, and including the cost of maintenance of mosques and other sacred places (Sukmana et al, 2009).

In the United Kingdom (UK), Islamic Relief has been successfully managing the waqaf funds that collected through cash waqaf program. These institutions use the way by selling shares of waqaf whose shares are worth £ 890 each page. The shareholders have the not written rights to determine where the funds will be disbursed. Although Islamic Relief himself prefers the waqaf funds that is for general purposes, so that these funds can be used for various kind of businesses and investments (Sukmana et al., 2009).

In recent years, Islamic Relief has done an excellent job by helping several projects (large and small) in various countries in the world. For example, the project Water Kharan in Pakistan, the construction of houses for orphans in Bosnia, rehabilitation of infrastructure for basic education in Kandahar, and assistance to victims of the tsunami in Aceh with some of the projects they are doing in stabilizing the economic situation in Aceh after the incident, all of the funds from this project comes from Islamic Relief (Sukama et al, 2009).

In Turki, Hakyol Foundation managing the shops, supermarket, apartment for rental, hospitals and schools. These assets come from waqaf, where from this waqf asset management, Hakyol Vakfi had generated profit or surplus wakaf fund around USD 1 m or around Rp. 9 billion/year (WakafPro 99, 2010).

In Singapore, the waqaf asset is worth of S\$ 250 million or equal to Rp1,75 trillion. In order to have good corporate management, MUIS established subsidiary company namely Wakaf Real Estate Singapura (Warees). Warees is a construction company that maximize the use of wakaf asset. Warees has been constructed the building with 8 level under land of waqaf (www.warees.com). Singapore also has been developed waqaf investment model using Sukuk and invest in shari'ah compliance business companies (Karim, n.d.).

In Malaysia, JCorp plays a very important role and recognized by many parties in developing waqaf properties particularly in corporate sector. JCorp diversified Waqaf activities to various activities via Kumpulan Waqaf An Nur Berhad like waqaf activity in medical-based institution known as Waqaf An-Nur Clinic which was the first waqaf hospital launched by JCorp in 2006. Until 2007, the expansion of Waqaf An-Nur Hospital and Clinics reached to Johor, Kuching, and Sarawak from cash waqaf (JCorp Annual Report, 2007).

A unique agenda of JCorp is through its Corporate Shares of Waqaf Corporation. In 2007 JCorp pledges to dedicate 25% of the annual dividend payout from the shares transferred into waqaf. Thus, the dividend is useful to organize various activities that benefit and fulfill the needs of the society as a whole. In 2006, JCorp launched the idea of “Corporate Waqaf” which involved the transfer of 12.35 million unit shares owned by JCorp Kulim (M) Bhd, 18.60 million unit shares in KPJ Healthcare Bhd and 4.32 million unit shares in Johor Land Bhd to Kumpulan Waqaf An-Nur Bhd as trustee (JCorp Annual Report, 2007).

Other than that, JCorp with Jabatan Kemajuan Islam Malaysia (JAKIM) produces an academic-based programme to instill business mind-setting amongst Malaysian community with Islamic outlook. The programme invites callers and viewers to donate via SMS (Short Messaging System) which is then distributed to the poor and needy directly to alleviate poverty among the Muslims and contribute for the benefit the ummah (Hanefah et al., 2010).

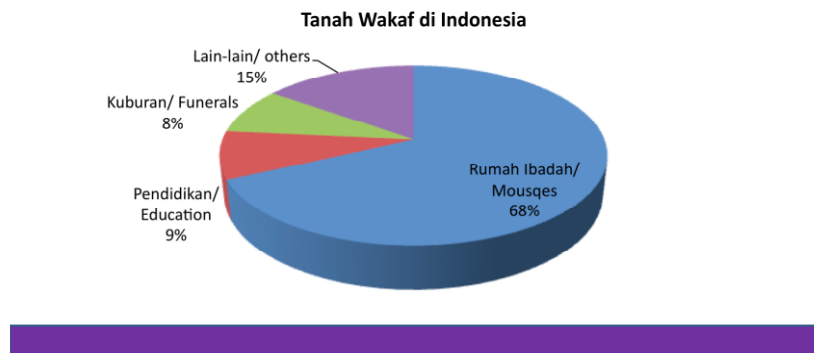
4. WAQAF IN INDONESIA

In Indonesia, the understanding of the empowerment of potential waqaf is still very minimal due to the understanding waqaf is still rigid. In general, the concept of waqaf are built with a paradigm that waqaf can only be used for mosques and other religious activities. However, in reality does not have much effect on the social and economic progress of the region. From the data, there are 330 thousands acres of waqaf land in Indonesia still not well-managed, from the data, the use of waqaf land is where 68 % is used for the construction of mosques, 9% for education, 8% to the grave, and the other 15% is used for other things (see figure 4.1). From this data, unfortunately most of waqaf land is not used for productive purposes, and even many of these lands are still idle with no clear objective what it should used for. There are needs to be an institution that pioneered the concept of waqf began with the goal of developing productive business, as some of the profits could be used for consumptive purposes disadvantaged communities (Wakafpro99, 2011).

Figure 4.1 Waqaf Distribution in Indonesia



330 k ha Wakaf in Indonesia



Source: Wakaf Produktif, 2011.

Therefore, there shall be an institutions of waqaf that manage the waqaf lands in proper manner in Indonesia, mostly for business and investments purposes that generate more income. The advance research on business and investment model for waqaf shall be conducted for the purpose of development of waqaf in the future such as, waqaf share model, cash waqaf model, business model of waqaf, investment model of waqaf and so on.

At least there are two endowments productive model that can be applied to attract funds from investors so that they are willing to invest in these waqaf models, among others:

4.1. Cash Waqaf

In the case of cash waqaf, there are actually two models offered. First is eternal cash waqaf, and the second is tomporer cash waqaf. By dividing these two models, the investor can choose according to their needs. For eternal cash waqaf, any investor who actually intend to use the funds for productive purposes at any time. Where the fund will continue to be used for beneficial purposes for the community without any time restrictions. While temporary cash waqaf, the investors just want to invest in the concept of waqaf, yet is limited by the time. For example, investors want to invest in a residential development project in West Java Muslim for 10 years. When the house was sold and the capital has been returned, the funds can be reused again for the next project purposes, and continue to be used until 10 years. When 10 years later, the investor is given the right to take back the funds or roll back for a period of 10 years.

4.2. Assets Waqaf

Similar to cash waqaf. Waqaf assets can be divided into two parts. First, enduring asset endowments, and the second temporary asset endowments. The *waqif* can choose between the two. For example, when he wants to endow 10 acres of land to construct the buildings or homes, then he can choose whether he wants to endow the asset eternally or in temporary. If eternal, then full management is given to the institution of waqaf. While temporary, *waqif* entitled to take back the assets if the time due.

It is considered to be interesting because there are few or some people do not want their asset endowed eternally. Most of them want to endow in just 5 years or 10 years, and then taken back to their needs.

5. THE EXPERIENCE OF WAKAFPRO 99 OF DOMPET DHUAFA INDONESIA

WakafPro 99 or previously known as Wakaf Produktif 99 (Productive Waqaf Body) is waqaf institution established by Dompot Dhuaafa in West Java Indonesia. It is a management body (*nazhir*) for professional waqaf management that serve the ummah and promote the waqaf as a way to spread the Islam. It has to be a powerful tool to elevate the prosperity of the society in Indonesia (WakafPro 99, 2010). The meaning of the WakafPro 99 is “the WakaPro 99 understands that waqaf not only for a charitable giving and whorship purposes. More than that, as a mention in the *sunnah*, waqaf should be understandable as the asset that must produce something and generate return that useful for the society, so that waqaf hopefully able to be a key factor that alleviate the poverty and increase the prosperity of the ummah” (WakafPro 99, 2010).

The ‘Pro’ is refer to Professional. It is no longer for *nazhir* waqaf who only being a passive body that not well managing the asset of waqaf, as well as managed by not capable human resources. It is the timw for waqaf to manage their asset professionally by the expert people, *fulltime*, by management who has the capacity and capability as well as with high integrity. The word ‘Pro’ also refer to as “PROblem Solving Program of waqaf that has to be key effects to the prosperity of the society, not only for facilitating the worship purposes, but also giving a solution to the issues in economy, education and society healthcare (WakafPro 99, 2010).

The vision of the institution is “To be a big and international Waqaf Body (*nazhir*) that manage the asset of wakaf in Indonesia and become a *trendsetter* body of waqaf in Southeast Asia in year 2020. Whil the mission is “ (1) Grounding the idea of wakaf produktif untill become a *syi’ar* to the society worldwide; (2) Educate the society for the produce the waqaf fproductive activities; (3) Push the development of real economic untill they able to be a factor for the prosperity of the society (WakafPro 99, 2010).

Wakaf Produktif means “It is giving of a waqaf asset in term of cash or in other type of assets such as land, house, building, vehicle, etc in which the profit generated from this asset management or those assets used for the empowerment of lower income people (dhuaafa people) (WakafPro 99, 2010).

5.1. Business Projects of WakafPro 99 Dompot Dhuafa

There are several business projects and productive activities that has been done by WakafPro 99. First business activities is Apotek Ebah Farma (Ebah Farma Pharmacy) in Majalaya. This pharmacy has been able to generate income between Rp250-Rp300 million every month with net profit about Rp25-Rp30 million every month (see figure 5.1).

Figure 5.1 Ebah Farma Pharmacy of WakafPro 99 Dompot Dhuafa in Majalaya.



Apotek Ebah Farma, Majalaya

Second business activity is the Family Clinic of Ebah Farma located in the second level of the Ebah Farma Pharmacy. This family clinic has been able to generate income about Rp15-Rp20 million (net profit) (see Figure 5.2).

Figure 5.2 Family Clinic of Ebah Farma, in Majalaya.



Family Clinic

Third is Family Clinic of Pratama Medika located in Sukamenak street 19, in Bandung. This business has been able to generate income with net profit of Rp5 million every month.

Figure 5.3 Family Clinic fo Pratama Medika, in Jalan Sukamenak Bandung.



Fourth is Training Centre 99. This training centre has been able to generate income every mont is about Rp2.5 million.

Figure 5.4 Training Centre 99 of WakafPro 99



Fifth is Yashifani Fashion Gallery. This gallery located in Wakafpro 99 building in Sidomukti street Bandung and has been able generate net profit of Rp3 million every month.

Figure 5.5 Yashifani Fashion Gallery



Sixth, Thibbun Nabawi Clinic. The clinic cooperate with RBC in Gegerkalong Girang No. 54 and has been able generate the net profit of Rp8.5 million every month.

Seventh, Sinergi. It is an Islamic micro finance institution for the empowerment of the poor for increase the household income by encouraging the micro enterprises to expand their businesses.

Eight, Firdaus Memorial Park in Mandalamukti Village West Bandung. Firdaus Memorial Park is a beautiful Muslim burial place, built for the poor, and was built by WaqfPro 99 which is the professional waqaf management body (Nazhir) to make Islam as a way to broadcast and be a force to lift the welfare of the people of Indonesia. WakafPro99 Bandung, West Java has been launching a Muslim cemetery , named Firdaus Memorial Park (FMP). Inauguration was done at locations in the tea park area of FMP Cikalong Wetan. WakafPro 99 aims to dispel the negative impression that sticks to every Muslim cemetery. Like the seedy atmosphere, environmentally unfriendly, costly, and many violate the law". FMP concept also aims to promoting beautiful Muslim cemetery, green, and meet the rules of law." In addition Firduas Memorial Park also aimed for the poor. In Bandung and other urban areas of many poor who can not afford a funeral, because the price is not affordable for them, it is also provided for the poor. Free of charge." For the *waqif*, he will receive four burial plots where two plots for them, while the remaining two plots for the poor (see figure 5.6). The *waqif* can participate in the FMP by investing the cash waqf of Rp10 million, the *waqif* will receive the waqaf certificate from WakafPro 99 as an evidence for the future right of two funeral plots (see Figure 5.7).

Figure 5.6 Firdaus Memorial Park



Figure 5.7 Waqaf Certificate of WakafPro 99



6. CONCLUSION

This paper is highlith a brief discussion in implementing the waqaf business model in WakafPro 99 Dompot Dhuafa Indonesia. It is important to make suggestions for future business model and investment strategy on how the institution of waqaf shall innovate the concept for the betterment of Indonesia and other Islamic countries. The waqaf institutions shall not only focused on the collection and distribution of funds, but also able to think far outside the box, so that they can make waqaf fund and assets truly become an instrument of poverty alleviation. As a *maqāsid shari'ah* of waqaf itself is aimed for poverty alleviation, equal income distribution, and prospering the ummah. It is appropriate to think further ahead or outside the box and not rigid. So

that the full benefits felt by the people of Indonesia to create a great Indonesian, Indonesian move forward, and Indonesia creative. In the end a few years later, we can empower the existing assets of the nation for a better Indonesia .

It has to be questioned the professionalism of the management of waqaf institution if the poverty highly increase from time to time and why the role of the waqaf institutions do not reach the target and right on target. With the rapid development of Islamic financial system, we could use the services of Islamic banking and Islamic securities firm as an intermediary between the waqaf institutions and investors in providing Islamic financing using sukuk as this instrument has been shown an excellent development (Mihajat, 2011).

On the other hand, there is still much research to be done, research on how to develop institutional endowments and charity so that the welfare of mankind can be achieved, significant economic growth, and the government should not be overwhelmed taking care of the interests of small communities have been covered in this project .

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WAQF FOR HEALTHCARE: JOINT COOPERATION BETWEEN USIM AND MAIN NEGERI SEMBILAN

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ABSTRACT

Waqf is a well-established practice that is highly enjoined by Islam. The institution of waqf is one of the sunnahs of the Prophet Muhammad SAW, emulated by his companions and practiced until the present time. As one of the public Islamic finance instruments, waqf has great potential in generating or providing resources for the socioeconomic development of the Ummah. It is an instrument associated with the third sector (voluntary sector) of the economy, the other sectors being the public and private sectors. In the Malaysian context the synergy or joint cooperation among the three sectors can generate substantial social capital to develop and finance awqaf assets. Given the unique characteristics of waqf viz. perpetuity (once a property has been dedicated as waqf, it remains as such forever) and permanence of conditions set by the *waqif* (waqf founder), the awqaf mechanisms are dynamic. The stocks of awqaf assets and hence the benefits/usufructs, will increase over time. Resilient and sustainable awqaf institutions can therefore play effective roles to complement the public sector's programmes to address the needs of the Ummah especially in the areas of education, healthcare and poverty alleviation. An enhanced awareness and concerted effort by the three sectors will empower the institution of waqf to reduce poverty (for example) through the provision of quality education, better healthcare and employment opportunities. This paper covers a discussion on waqf; secondly on the role of the State Islamic Religious Council Negeri Sembilan (MAINS), Malaysia in enhancing waqf institution. The paper will highlight the joint cooperation between MAINS/PWNS and Universiti Sains Islam Malaysia (USIM) in the development of awqaf projects. MAINS has appointed USIM as a waqf *mutawalli*. The projects being developed now are in the areas of healthcare and education, two areas of importance that can contribute to the development of the Ummah.

Keywords: Waqf management, awqaf, productive waqf, waqf institution, perpetuity, *waqif*.

1. INTRODUCTION

Waqf is a well-established practice that is highly enjoined by Islam. The institution of waqf is one of the sunnahs of the Prophet Muhammad SAW, emulated by his companions and practiced until the present time. As one of the public Islamic finance instruments, waqf has great potential in generating or providing resources for the socioeconomic development of the Ummah. It is an instrument associated with the third sector (voluntary sector) of the economy, the other sectors being the public and private sectors. In the Malaysian context the synergy or joint cooperation among the three sectors can generate substantial social capital to develop and finance awqaf assets. This is consistent with the view that waqf is both charity and enterprise and thus could be a self-sufficient NGO or organization (Mohammad Tahir Sabit, 2011). The way forward would be firstly, the existence of a sustained waqf culture or the culture of giving; secondly, the formulation and enforcement of clear regulations that are conducive to waqf; and third, professional and efficient management of awqaf institutions. By awqaf institutions we mean the bodies or committees that administer and manage awqaf assets and channel the proceeds to the beneficiaries. The development of productive awqaf in the form of enterprises that generate income streams is imperative.

Given the unique characteristics of waqf viz. irrevocability (once a property has been dedicated as waqf, it remains as such forever), inalienability and perpetuity of conditions set by the *waqif* (waqf founder) (Magda Ismail, 2011), the awqaf mechanisms are dynamic. The stocks of awqaf assets and hence the benefits/usufructs, will increase over time. Resilient and sustainable awqaf institutions can therefore play effective roles to complement the public sector's programmes to address the needs of the Ummah especially in the areas of education, healthcare and poverty alleviation. The main objectives would be to achieve a sustainable and inclusive socio-economic development of the Ummah with enhanced public welfare and social justice.

This paper discusses the joint cooperation between Universiti Sains Islam Malaysia (USIM), a public university, and the State Islamic Religious Council of Negeri Sembilan (MAINS) in the development of waqf. USIM had initiated waqf financing and development in 2013 as one of the ways to generate income for the University (Mohammad Haji Alias et al., 2013a; Mohammad Haji Alias et al., 2013b). USIM had cooperated with MAINS from the beginning and had obtained approval from the latter as a waqf mutawalli.

The structure of this paper is as follows. Following the Introduction section, we give a brief discussion on the concept of waqf. Relevant verses from the Quran and sayings of the Prophet SAW that have been used by the *fuqahas* to deduce on the practice of waqf are adduced to. In Section 3 we give a brief background on USIM's initiative to develop waqf financing. Section 4 describes the cooperation between USIM and MAINS in the development of awqaf projects. The final Section gives the concluding remarks.

2. WAQF: DEFINITION AND GUIDANCE FROM THE QURAN AND HADITHS

Waqf or awqaf (plural) is an Arabic word derived from the verb *wa-qa-fa* (وقف). In terms of language, waqf means to stop (السكن), to prevent (المنع) and to hold (الحبس) (Wahbah Zuhaili, 1985). In Islamic terms, 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 (Kahf, 1998). Abul Hasan and Mohammad AbdusShahid (2010) viewed the endowed/waqf asset as the trust asset. It becomes the responsibility of the trustee to protect/maintain the asset for the benefit of the beneficiaries. To elaborate, waqf is an endowment made by a person from a part of his/her wealth. An asset that is endowed as waqf may be in the form of fixed/immovable asset such as mosque, musolla, madrasah and land or movable asset such as cash and shares. The endowment is permanent and irrevocable (the corpus is detained) and is made for the sole purpose to be close to Allah SWT (*taqarrub*). Once the asset has been given out as a waqf, the right of the endower (*waqif*) over the property ceases. The asset can no longer be subjected to sales transaction or bequeathed or given out as *hibah* written as a *wassiyyah*. The original asset (*mauquf*) may be invested and the usufructs or returns will be distributed to the beneficiaries either for general or specific welfare as specified by the *waqif*.

The term waqf has not been specifically mentioned in the Al-Quran or al-hadith but are interpretations made by the fuqaha on sadaqa jariya (Abdul Shakor Borham, 2011; Zariana & Muhammad, 2013). Al-Quran and Sunnah have encouraged Muslims to give out their property as charity in general or as waqf. The following are some verses (translations) from the Al-Quran that encourage Muslims to give out some portion of their property in charity with promise of great rewards:

“The example of those who spend their wealth in the way of Allah is like a seed [of grain] which grows seven spikes; in each spike is a hundred grains. And Allah multiplies (His reward) for whom He wills. And Allah is all-Encompassing and Knowing” (Al Baqarah: 261)

“Have faith in Allah and His Messenger, and give in alms of that which Allah has made you trustee, for whoever of you believes and give in alms in the way of Allah, theirs will be in great reward” (Al Hadid: 7)

“O you who believe! Spend of the good things which you have (legally) earned, and of that which We have produced from the earth for you” (Al-Baqarah: 267)

“By no means shall you attain Al-Birr (piety, righteousness), unless you spend (in Allah’s cause) of that which you love. And whatever you spend is known to Allah” (‘Ali ‘Imran: 92).

From the Sunnah (translation):

Ibn Umar reported: Umar acquired a land at Khaibar. He came to Allah's Apostle (may peace be upon him) and sought his advice in regard to it. He said: “Allah's

Messenger, I have acquired land in Khaibar. I have never acquired property more valuable for me than this, so what do you command me to do with it?" Thereupon he (Allah's Apostle) said: "If you like, you may keep the corpus intact (waqf) 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 slaves, aired 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) 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 to becoming rich." (Sahih Muslim, Book 013, Hadith no. 4006)

Abu Huraira reported Allah's Messenger SAW as saying: *"When a man dies, all his acts come to an end, but three; recurring charity, sadaqa jariya (donation for the awqaf), or knowledge (by which people benefit), or a pious offspring, who prays for him"* (Sahih Muslim).

The rewards for the good actions including waqf are continuous even after the person passes away.

3. USIM'S INITIATIVES TO DEVELOP WAQF FINANCING

In this Section we give a brief background on USIM's initiative to develop waqf financing. The University's Top Management has agreed to establish the Center for Awqaf Financing Development in March 2013. Prof. Dato' Dr. Asma Ismail, the then Vice Chancellor in her New Year's Address delivered on 6 February 2013 proposed to initiate awqaf financing. She foresaw that in future public universities might be asked to seek endowments and/or involved in awqaf financing to complement Government funding (operating and development). The target is establishment of hybrid university i.e 70% financed by the Government and 30% self-financed from internal funds and other sources including awqaf (Asma, 2013). Returns or usufructs from awqaf assets may be used to finance education related activities.

The decision was endorsed by USIM's Board of Directors in May 2013. The Center oversees the USIM Al-Abrar Waqf Fund that has been set up by the University. The Fund is registered and approved by the Negeri Sembilan Islamic Religious Council (NSIRC/MAINS). MAINS has approved the appointment of USIM as *Mutawalli* (manager) of waqf (22 July 2013). USIM is collaborating with MAINS and the Negeri Sembilan Waqaf Corporation (a subsidiary of MAINS's Holdings) in the development of waqf financing. The joint collaboration is in recognition of the legal provision in the Waqf Enactment (Negeri Sembilan) 2005 that NSIRC/MAINS is the sole trustee of waqf assets in the State of Negeri Sembilan, where USIM is located. MAINS and USIM had signed a Memorandum of Understanding on 21 January 2014 with a view to jointly develop a number of projects to nurture the waqf culture especially through the establishment of the USIM Medical Specialist Clinic and the USIM Hemodialysis Clinic (news.usim.edu.my/.../422-usim-meterai-mou-bersama).

4. JOINT COOPERATION BETWEEN USIM AND MAINS – WAQF FOR HEALTHCARE

The substantial financial support from MAINS and the joint cooperation between MAINS and USIM augur well for the development of waqf in the state of Negeri Sembilan in particular. Such development will give benefits in the areas of health and education. The provisions contained in the Waqf Enactments (Negeri Sembilan) 2005 are conducive towards the development of awqaf. Given that MAINS is the sole-trustee of awqaf assets in the state, provisions in Section 33 of the Enactment allow the Council to appoint agent or person deemed to be competent to develop, manage and distribute the benefits to the beneficiaries (Waqf Enactment (Negeri Sembilan) 2005; Fadhilah et al., 2015). This provides an opening for the participation of institutions/NGOs/enterprises in the development of waqf provided they are registered as mutawallis by MAINS. USIM is one example.

USIM is able to move forward with the establishment of USIM Medical Specialist Clinic for a number of reasons viz. the substantial financial support from MAINS, the appointment of USIM as a waqf mutawalli by MAINS, strong commitment from USIM's top management, USIM's competitive advantage with the presence of the Faculty of Medicine and Health Sciences and Faculty of Dentistry and the attendant presence of in-house specialists, and of course the existence of waqf culture among the medical doctors. In short, the use of waqf fund and the existence of the philanthropic spirit will help to make specialist medical service more accessible. The specialists are willing to accept lower consultation fees by imputing part of their time as waqf of expertise.

The establishment of productive enterprises, social or commercial, on a big scale would certainly require an injection of significant start-up capital for fixed investment and working capital. The involvement of MAINS and the strong support from the Chief Minister of Negeri Sembilan who is also the Chairman of MAINS, and USIM's annual allocation to cover overheads such as monthly rentals and salaries/allowances for the staff of the clinic, have all helped in the establishment of the clinic. Raja Nazrin (2014) had identified capital as one of the critical success factors in the development of waqf. Given that a substantial portion of the capital expenditure (renovation and equipment purchases) are covered by waqf grant, the clinic will be able to charge lower consultation fees compared to that charged by other private specialist clinics.

USIM Medical Specialist Clinic will provide services by medical, eye and dental specialists and outpatient treatment (Mohammad Haji Alias, 2015; USIM, 2014). The specialists are from USIM's Faculty of Medicine and Health Sciences and the Faculty of Dentistry. MAINS has allocated RM2 million to USIM, RM 1 million as outright waqf grant and RM1 million as *qardhul hassan* to cover the costs of renovation and the purchase of medical equipments. The clinic started operations from 8 April 2015 after obtaining the operating licence from the Ministry of Health. USIM has entered into a 3 year (with a 2 year option for extension) tenancy agreement with the BBN Development SdnBhd to rent 2 units of double-storey shop-lots at Nilai Square, Bandar BaruNilai as premises for the Medical Specialist Clinic and 1 unit for the Hemodialysis Clinic. The renovation for the Medical Specialist Clinic has been

completed. The application for the operating licence from the Ministry of Health Malaysia is under the name of USIM Tijarah Holdings, a company wholly owned by USIM. The Medical Specialist Center is treated as a business arm of USIM Tijarah. In terms of marketing and branding, it will be acknowledged that the clinic has received waqf funding from MAINS.

MAINS has also allocated RM 1.5 million for the establishment of the Hemodialysis Clinic located next to the Medical Specialist Clinic. The renovation work and the purchase of medical equipments will be carried out by MAINS Holdings. The operation of the clinic will be under USIM medical staff. Renovation work has not started yet as the management is still waiting for the operating license from the Ministry of Health Malaysia.

The State Government has also agreed to support the Specialist Medical Clinic to have a mobile specialist clinic. Under the State Blue Ocean Strategy health has been chosen as the focus. USIM has been chosen to lead the *Projek Cahaya* (USIM, 2014). What this basically means is that USIM's eye specialists visit rural areas using the mobile clinic to do screening for eye-sight problems especially among the senior citizens. The latter will then be able to obtain specialist eye treatment. Specialist service is brought to rural areas benefitting patients who normally would not be able to afford the service. The State Government has purchased a vehicle. The vehicle has been refurbished to become the Eye Specialist Mobile Clinic costing about RM300 thousand. The equipments have also been procured costing around RM310 thousand. All of the costs, RM610 thousand have been borne by the State Government. The mobile clinic will start operation once the application for licence from the Ministry of Health is approved. The target date for the launch of the Eye Specialist Mobile Clinic is on 13 September 2015. The official handing over of the Eye Specialist Mobile Clinic to USIM's Medical Specialist Clinic will be decided later.

For a start the joint cooperation between USIM and MAINS in the development of waqf is in the area of healthcare. How do we describe the business model that underlies the joint cooperation? The business model is not completely waqf-based or business for profit but an eclectic or hybrid one. The establishment of the Medical Specialist Clinic is funded in a number of ways: waqf and qardhul hassan from MAINS; allocation from the State Government to establish the Eye Specialist Mobile Clinic; annual allocations from USIM; waqf of expertise from specialists; and USIM Waqf Al-Abrar Fund (not used yet). The establishment of the Hemodialysis Clinic will be fully borne by MAINS, with MAINS Holdings as the project manager. Members of the public are given the opportunity to contribute to a tabarru' fund, which will be used to help poor and needy patients (subject to verification). Members from the asnaf category certified by MAINS who are referred to the clinic may be considered for treatment.

5. CONCLUSION

The main objective of this paper has been to look at the joint cooperation between USIM, a public university located in the state of Negeri Sembilan, and MAINS (State Islamic Religious Council) in the development financing for awqaf assets. The joint cooperation started in the area of waqf for healthcare. The business model adopted is a hybrid one. The joint cooperation is necessitated by the fact that MAINS is vested

with the power as the sole-trustee of awqaf assets in the state. However after restructuring in MAINS, Perbadanan Wakaf Negeri Sembilan (PWNS)(a subsidiary of MAINS Holdings) is the new mutawalli 'am for awqaf assets in the Sate. PWNS is given the tasks to revive the waqf culture among Muslims in the state, to ensure a more systematic and productive waqf management, to enhance stock of awqaf assets and to apply the corporate approach in waqf management. The application of waqf for healthcare and using the eclectic/hybrid business model has great potential to contribute to the Ummah. More work has to be done to understand the underlying critical success factors for this endeavour.

The Medical Specialist Clinic faces a number of challenges at the outset of its operations. Firstly the process of obtaining operating licences for the Medical Specialist Clinic, Haemodialysis Clinic, Dental Clinic and Eye Specialist Mobile Clinic takes a relatively long period of time. The way forward would be for those in power to view applications from awqaf institutions or waqf project in a different light. Secondly there is still a shortfall in capital availability to fully equip the clinic with the required medical equipments. We have still not procured a digital x-ray, a dental x-ray and ultra-sound machine. Third is the rate of public acceptance is still slow. Most of the patients are still members of staff and students of USIM. There is a need therefore to broaden the customer base. Fourth is the need to enhance the waqf culture among the public at large and patients of the clinic to support the tabarru' fund. This fund can be used to support members of the asnaf in particular and poor and needy patients in general. Fourth is the challenge on how to generate surplus from this enterprise with a view firstly to pay back the qardhul hassan from MAINS and secondly to support education related activities.

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AN INTEGRATED MODEL COMBINING ISLAMIC TOOLS F ZAKAH, WAQF, SADAQAH AND MICRO-FINANCE: A NEW APPROACH FOR ERADICATING POVERTY IN BANGLADESH

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ABSTRACT

Though government and non-government organizations have been working in Bangladesh to alleviate poverty last few decades, poverty rate did not reduce as much as they tried. On the other hand, currently, the collections as well as disbursement of Zakah, Sadaqah and Waqf are very scattered in nature in Bangladesh. By managing those sources properly, an Islamic fiscal mechanism can play the role to eliminate poverty. This paper dedicated to develop a thematic model to eradicate poverty in the existing economic framework by using Islamic tools such as Zakah, Waqf, Sadaqah with Micro-Finance. In this model, sources, disbursement and management of funds have been described.

Keywords: Poverty Eradication, Zakah, Waqf, Sadaqah, Micro-Finance, Bangladesh.

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1. BACKGROUND

Bangladesh is a poverty-stricken country. Many government (GOs) and non-government organizations (NGOs) are working to eradicate poverty in our country. As a Muslim majority country, there is a good potential of collecting zakah, waqf and sadaqah from Bangladesh. It is seen that a big amount of zakah is distributed at self-initiative to the poor people in every year. Though there is a government organizational framework for collecting Zakah, their activities are very limited. But, zakah funds, if collected and managed properly, could be used to create a pull of funds which can be used in financing development activities and can replace government expenditures (Hassan and Khan, 2007).

Moreover, Zakah fund could act as an incentive to the poor and the needy as part of the effort to assist them to become economically productive recipients if the fund is channeled in a sustainable form (Bakar, 2011). But in our country, we see that most of the Zakah fund distributed sporadically. There is no effective or structured method for zakah distribution in Bangladesh. Now-a-days, it has been revealed that corporatization which implies use of a large network of private institutional collectors for zakah mobilization is seen to be far more efficient as compared to a large number of unconnected private individual collectors (IRTI, 2014). This is equally applicable for waqf properties and sadaqah funds. Muslim countries have come up with a structured approach to zakah collection and administration. Few countries, however, have shown success in integrating zakah funds with “social safety net” programs (“The Economics of Zakat”, 2013). The current study aims at to build such a model which will create a successful platform to disburse zakah and other charities to the poor people of the society in order to bring tangible improvement in their lives.

2. OBJECTIVES OF THE STUDY

The main objective of this study is to propose an Islamic model to free the society from poverty in our country using different Islamic financial instruments like Zakah, sadaqah, waqf with micro-finance.

3. CONCEPT OF POVERTY: CONVENTIONAL AND ISLAMIC DIMENSIONS

In conventional economics, there are different ways of defining poverty. One may classify those definitions into three types (Korayem, 1993). *The first type* includes what we may call the objective definitions of poverty. This definition specifies a specific level of income (expenditure), or index, or ratio which represents the borderline between the poor and the non-poor. The individuals who are at the borderline or below will be defined as poor whereas those above the borderline are the non-poor. This borderline, which is called the poverty line, may represent the minimum income(expenditure) needed to meet the necessary expenditures on food and non-food items for the individual or household (the basic need approach); or the borderline may be specified as a certain level of relative income, e.g. 30% of the average society’s income (Lipton, 1983; Glewwe and Gaag, 1990); or it may represent a certain level of food/income ratio following Engel’s law, e.g. the household that spends 30 percent or 1/3 of its budget on food will be defined as poor

(Hagenaars and de Vos, 1988). Welfare indices are also used in defining poverty borderline. The borderline is specified as a certain proportion of optimal attainable level of a chosen welfare index. Examples of these indices are the physical quality of life index, the medical indicators of health and nutritional status and the durable consumption goods index. *The second type* of definition is the subjective definition of poverty, which defines poverty from the perspective of the individual himself. If he feels that he does not get what he needs, no matter how he defines his basic needs, he will be defined as poor (Paul, 1989; Van Praag and Baye, 1990). This subjective definition of poverty usually gives a high poverty income level. *The third type* is the sociological definition of poverty. It defines the poor as those who take welfare assistance from society (Jones, 1990). Another definition that falls within this category is taking the poverty borderline as the official minimum income level; this is the income that the individual receives when he is on social assistance. According to this definition, people are poor when they are recognized “officially” as poor.

In Islamic economics, we have more than one definition of the poor: (1) The Qura'nic; (2) The Prophet's Hadith and (3) The Islamic Thinkers. Firstly, The Quran gives the objective definition. The verses denote two levels of poverty which virtually represent all such groups of individuals potentially present in any economy at any time: (a) those living at or below the poverty level defined as the poor (*al fuqara*), and (b) those living very much below it, defined as the destitutes (*al masakin*). The poor are the persons who lack material means, possessions or income to support them. The poor (*fakir*) finds himself in involuntary poverty, unable to satisfy his necessary needs. He may be disabled, handicapped, or having no assets or income, landless, unskilled, old, orphan or a poor widow (Haq, 1996). The destitute (*miskin*) is in misery, dependent on others, either unable to work or not earning enough to maintain himself and his family. As compared to the poor (*fakir*), he is in a worse economic condition, much below the poverty level. Both groups cannot survive healthily without monetary or in-kind assistance, temporarily or permanently, to fill the inadequacy gap and to help ensure their need fulfillment with dignity. Secondly, The Prophet's Hadiths add to the Quranic objective definition the subjective definition of poverty. He indicates that poverty is a danger and threat for both individuals and societies. It is an unwanted situation from which every Muslim should protect himself. He himself prayed “O my; Allah, I refuge to you from the evils of poverty” (Hanbal, 1953); and he advised his friends the following prayer: “Refuge to Allah from the evils of poverty, famine, degradation, oppressing and oppressed” (Hanbal, 1953). Finally, Muslim thinkers - namely al Ghazali, al Shatibi, al Mawardi and ibn Ashour- came to the conclusion that fulfilling needs must be through conserving and protecting the five objectives of Islam, which form the foundation of the well-being of man in this life and in the hereafter. These objectives are: protection of religion, life, mind, property (wealth), and posterity (offspring). These objectives are divided into a three-level hierarchy: (a) Necessities (*Jururiyyaat*), (b) Conveniences (*Tahsaniyyaat*), and (c) Refinements (*Hajiyyaat*) (Zarqa, 1980; Haq, 1996). Necessities comprise all things and activities that are essential to the preservation of the five foundations or requirements of good individual and social life according to Islam. They form the subsistence level. Convenience of sufficiency needs comprise all things and activities that are not vital to the preservation of the five foundations, but rather are needed to relieve or remove impediments and difficulties in life. They include matters that alleviate constraints or facilitate performing duties. They form the sufficiency level.

The sufficiency level is defined by the khaliphs (especially Umar) who followed the Prophet and were guided by the teachings of the Quran and Sunnah, as: ration of food, necessary pensions for the needy, the poor and the handicapped (Asad, 1980). These practices continued through the rule of the third and the fourth khaliphs and for several years during the later period as well. As an example, sufficiency needs were fulfilled in town planning by taking into account the requirements of mosques, offices, roads, markets, houses, shops, bath-houses, water supply, communications and grazing fields for cattle. Trade and travel roads were provided with amenities like rest and meal houses (Zaman, 1981). Further Muslim societies succeeded in providing the sufficiency level to all their members; some experiencing abundant wealth even managed to meet some of their luxury needs in those days (Obayd, 1975). Refinements include things that go beyond the limits of conveniences. They include matters that complement, brighten or adorn life (Zarqa, 1980). They form the richness level and the luxury needs. Needless to say that fulfilling these needs must be in accordance with the Muslim principles. They must follow the scale of Islamic precedence, be licit (*halal*), and make no harm to the Muslim or his fellow men.

3. ISLAMIC TOOLS FOR POVERTY ERADICATION

3.1 ZAKAH

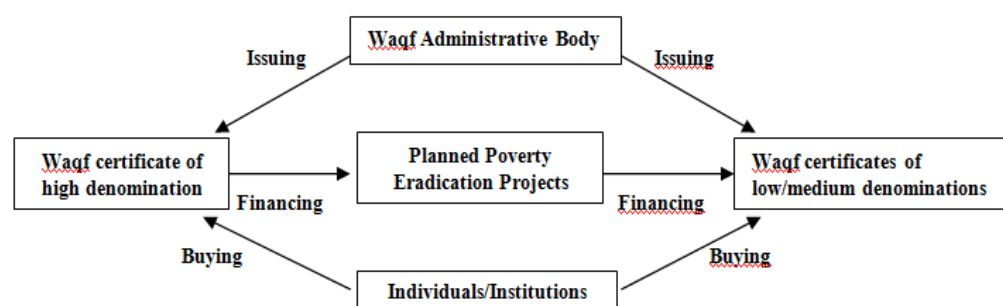
Islam establishes zakah as a compulsory charity tool that can be used on eight purposes. Among them, five are meant for poverty eradication such as the poor, the needy, the debtors, the slaves (to free them from captivity), and the travelers in need. Other heads are the administrative cost of zakah, 'those whose hearts are made inclined' (to Islam), and in the way of Allah. Although eight heads for spending zakah revenue have been mentioned in the Qur'an, there is general agreement that the first priority in the use of zakah funds has to be accorded to the alleviation of poverty through assistance to the poor and the needy (Hassan, 2010). Zakah funds, if collected and managed properly, could be used to create a pool of funds which can be used in financing development activities and can replace government expenditures. In Bangladesh, zakah funds could have contributed up to 43% of ADP in 2004/2005 (Hassan and Khan, 2007). It is estimated that the potential zakah collection in Muslim countries if mobilized properly could reach between an average range of 1.8% to 4.3% of GDP annually. In Bangladesh's case it ranges from 1.53% to 3.82 % of GDP (Raquib, 2011). In 2010-11 FY, total disbursement of microcredit by different sectors of government of Bangladesh was 132.453 billion where as total zakah collection in 2010 was 110 billion (MoF, 2014; "Multibillion dollar zakah Fund", 2014).

3.2 WAQF

In Arabic language, waqf means to stop, to contain or to preserve. According to *Shari'ah*, waqf is holding certain physical assets and preserving it to the long term benefit for the society. Although waqf applies to non-perishable properties like: fixed property, land or buildings, it can be applied to cash money, books, shares stocks and other assets. The concept of waqf is a well practiced phenomenon in recent times in both the Muslim and non-Muslim world. In North America, such waqf institutions are rendering a wide range of services by providing religious education, community services and maintenance of the mosques (Kahf, 2006; Hassan, 2010). Waqf can be classified into different kinds based on its purpose or uses. The most common waqf

are (a) Religious waqf: It means the maintenance of religious institutions, like mosques and madrasas and their adjacent premises and properties. (b) Philanthropic waqf: It aims at providing support for the poor, such as health services, as well as education. In the early days of Islam, Prophet Muhammad (S.A.W.) indicated this type of waqf with the objective to reduce the disparity and inequality among the social strata. (c) Family waqf: It is a unique kind of waqf that ensures waqf proceeds are given to the family and descendents in the first place and then the excess be given to the poor. This is in contrast to traditional trusts in western society that allows for no benefits towards the families and only to religious and philanthropic purposes. The creation of waqf requires some conditions such as (a) The property must be a real asset that has some meaning of perpetuity such as land, buildings, camels, cows jewelry etc. (b) The property should be given on a permanent basis. (c) The waqf founder should be legally fit and apt to take such an action and a child, an insane person, or a person who does not own the property cannot make waqf. (d) The purpose of the waqf must be an act of charity from both points of view of *Shariah* and of the founder. (e) Finally, beneficiaries, person(s) or purpose(s), must be alive and legitimate. However, waqf can be in cash as well. In the first century of Hijr, a cash waqf was in practice in two forms: (a) cash for free lending to the beneficiaries, and (b) cash for investment and its net return as assigned to the beneficiaries. Such cash waqf became very common in the later stage of the Ottoman Empire as well. As the primary focus of waqf is philanthropy, on principle, its objectives are in line with poverty eradication objectives. Sadeq (1995) resents an integrated approach on how traditional institutions of waqf may be revitalized through innovations. Waqf certificates of different denominations could be issued to raise the cash waqf, so that a number of individuals or institutions may buy them and finance the development projects. Besides cash waqf could be encouraged among people through building confidence on management. Waqf funds rose from issuing certificates and cash waqf can be used in creating a pool of funds for financing development projects.

Figure 1: Issuing of Waqf Certificates to Finance Development Project.



Source: Sadeq (1995).

3.3 SADAQAH

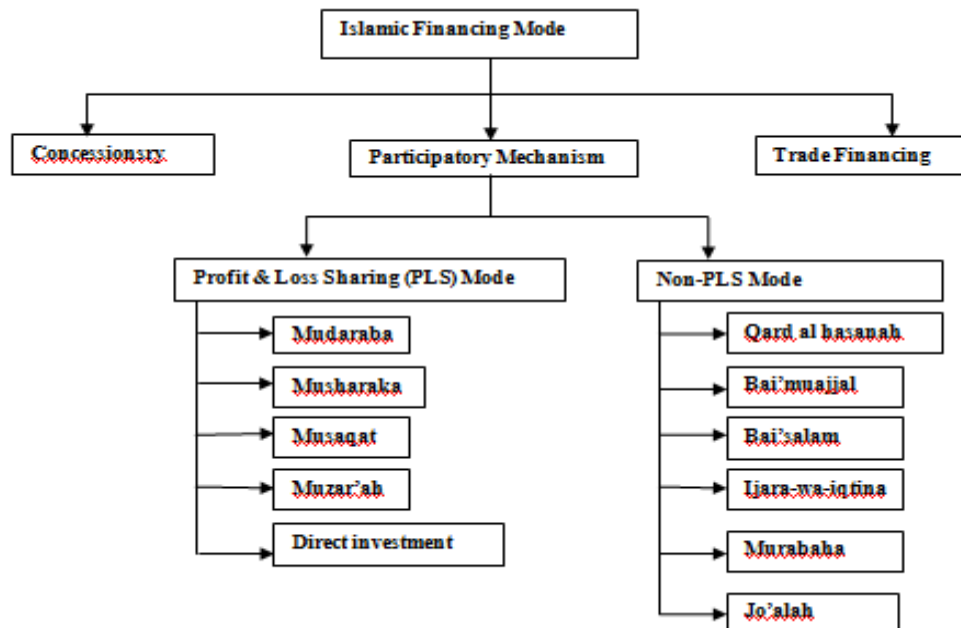
The Qur'an affirms: 'those who believe, and do deeds of righteousness, and establish regular prayers and regular charity, will have their reward with their Lord: On them shall be no fear, nor shall they grieve' (Holy Qur'an, 2:277). The word of sadaqah

comes from the root word of *sidq* which implies giving away goods and funds or the sake of Allah in expression of faithfulness and in realization of the belief in resurrection and afterlife (Qardhawi, 2009). In current life sadaqah usually called as charitable donation for those who needed in the sake of Allah. Obaidullah (2008) notes that sadaqah may include various forms of charity, such as, donations, gifts, charitable spending and may indicate any act of kindness and charity. In our country, it is more common to give sadaqah to the poor directly, instead of through the institution. However, the increasing awareness of corporate philanthropy and corporate social responsibility as form of services to the community creates a potential to generate more sadaqah from commercial business rather than personal sadaqah.

4. ISLAMIC MICRO-FINANCE

Our prophet Muhammad (SAW) took the first initiative, in introducing the microcredit system for poverty alleviation during the medieval age when he offered an axe to a poor man who came begging help. Islam's public policy has placed the utmost priority on poverty alleviation in the society. Its objective is to ensure dignity and self-reliance of individuals through a process of participatory development agenda. Microcredit is so important and vital from the Islamic point of view. Compared to Islamic banking, Islamic micro credit is an evolving concept with an outreach in mostly the Arab world and has grown considerably to more than 700,000 borrowers in 2003 (Dhumale and Amela, 2002). It can be an alternative of traditional microfinance. Ahmed (2002) points out some elementary comparisons between traditional and Islamic microfinance. Apart from the basic difference in principle of profit based systems, Islamic micro-finance differs from conventional one in their liability and capital structure. Unlike conventional micro-finance that depend on interest free or low interest foreign aid, Islamic micro-finance may collect funds from religious contributions through the institutions of waqf, Zakah and other charities. Diversified financing mode of Islamic system can be expressed in the following figure (Dhumale and Amela, 2002).

Figure 2: Financing Modes in Islam



Though the Islamic financial system engages in three categories of financing modes among which participatory mechanism can be relevant for Islamic micro-financing institutions (Hassan, 2010). Non-profit and loss sharing (non-PLS) modes can include different transactions mode. *Bai-Muajjal* is a mode of differed sale in which the object of the sale is delivered at the time of the contract but the price is paid later. The price can also be paid in future installments. *Murabaha* is a special type of financial transaction, in which the Islamic Micro-Finance Institution (IMFI) buys a good or asset and sells it to the client at a markup. The client pays for the good or asset at a future date or in installments. *Ijarah* is similar to a conventional leasing contract in which the client uses an asset by paying rent. *Ijarah wa iqtina* is similar to a hire-purchase scheme or a lease purchase scheme in which the installment includes rent as a part of the price. When the installments are fully paid, the ownership of the asset is transferred to the client. Among different profit and loss sharing (PLS) modes, the following are most commonly practiced. *Musharaka* is an equity participation mode of contract where the financier provides both equity and entrepreneurial skills on a project and thus shares profit or loss on a fixed proportion. The *Musharaka* principle can be used in production (agricultural and non- agricultural). The IMFI can provide part of the financial capital to produce an output and in return receive a share of the profit. Production undertaken under the *Mudarabah* principle implies that the IMF provides financing and the client manages the project. *Muzara'ah* is an output-sharing contract specifically for agricultural production where IMFI may provide the funding for the purchase of irrigation equipment, fertilizers, which the landowner uses on his land to cultivate a certain crop.

5. RATIONALE FOR ISLAMIC MICRO-FINANCE IN BANGLADESH

Islam is the official religion in Bangladesh and is the third largest Muslim country in the world in which 90 percent of the population belongs to the Muslim faith. Poverty alleviation and creation of employment opportunities especially for rural women and youth were prioritized in the government's development agendas. The government of Bangladesh has adopted a broad-based approach to poverty alleviation by putting more emphasis on macroeconomic stability, economic liberalization and giving support to government agencies, NGOs and the private sector. Thus micro credit or microfinance in its wider dimension became a much favored intervention for poverty alleviation and was seen as an approach to alleviate rural poverty. Over 20,000 NGOs and Microfinance institutions (MFIs) are registered with the department of Social Affairs and have been working in poverty alleviation since the independence of Bangladesh in 1971. However the degree of success of those NGOs and micro-finance institutions in poverty eradication through socio-economic means has been somewhat debatable. The sustainability of micro-finance NGOs mainly depends on foreign grants and to some extent government grants. However due to funding fluctuations, high administrative and operational costs, NGO and micro-finance institutions tend to charge high interest rates, ranging from 20-35 percent, forcing the poor to dispose any assets they may have in order to repay their loans.

Since commercial banks and traditional micro-finance institutions (GOs and NGOs) did not offer Islamic micro-finance products to the majority Muslim poor in Bangladesh, a proportion of the population were further excluded from having access to formal sources of credit. In very few rural settings in Bangladesh, Islamic leaders and spontaneous local charities and initiatives were the only source of Islamic financing available to the very poor.

From its religious stance, Islamic micro-Finance has a special appeal and a great scope for integration with the zakah, waqf and other kinds of sadaqah in order to serve the hardcore poor and thus alleviate poverty at the lowest investment cost (cost of capital financing). Therefore, there is a great need and scope for increasing the outreach of Islamic microcredit in the country.

6. CURRENT POVERTY SCENARIO IN BANGLADESH

Poverty is considered as one of the biggest challenges in Bangladesh. In five year plans poverty alleviation has been considered with a very high priority. Despite considerable thrust on poverty alleviation in all plan documents since the independence of Bangladesh, a significant number of people are still living below the poverty line. With huge population, it is also revealed that Bangladesh ranks 129th in HDI with Multidimensional Poverty Index (MPI) of 0.291 (MoF, 2014). Following the adoption of different innovative programmes during 1996-2001, yearly average rate of poverty reduction increased from 0.5 to 1.5 while human poverty index went down to 31.5 from 41.6. The present Government aims at reducing poverty rate at 22 and 15 by 2015 and 2021 respectively. Besides this, the Government is determined to build sustainable social safety net for the hard core poor. Proportion of population below poverty line was 40% in 2005 and was targeted 14% by 2015 and achieved 31.5% in 2010.

7. INTEGRATED ISLAMIC MODEL OF POVERTY ERADICATION FOR BANGLADESH

Firstly, if different types of Islamic transfer payments like Zakah, waqf, sadaqah are transferred through an efficient process instead of individual process it would play an efficient role to alleviate poverty. Secondly, it will be easier to build an interest free society if Islamic microfinance is established, because Allah has permitted trade and forbidden usury (Holy Qur'an, 2:75). Such an integrated model may effectively resolve fund adequacy of Islamic micro-finance institutions by using funds from the Zakah, waqf and sadaqah. The funds will go to two different communities named Muslim and Non-muslim as Non-muslim is not eligible for Zakah, but eligible for waqf and sadaqah. Introduce of Islamic micro-finance may reduce the chances of loan default because the basic inherent tendency of the poor to use the loan fund for consumption purpose will be met. As their basic consumption need is covered, the poor micro-entrepreneurs may be in better position to focus as their business alone. Islamic microfinance is likely to yield better benefit if they are properly designed. In addition, borrowers will have lower refundable loan, as a result of utilization of Zakah fund, it will result in less financial burden on the poor (Hassan, 2010).

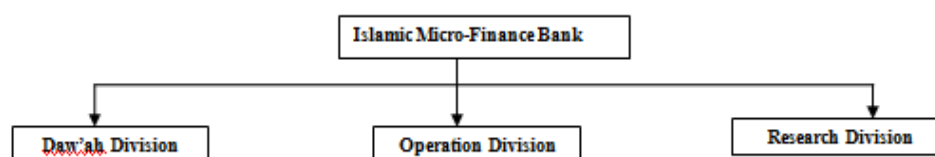
7.1 INSTITUTIONAL FRAMEWORK AND OPERATIONAL PROCEDURE

7.1.1 INSTITUTION

Our proposed institution is one kind of specialized bank. The basic functions of this bank are to accumulate funds and disburse them through micro finance within the framework of Islamic *Shari'ah*. A *Shari'ah* advisory board will approve all of its operation. It's a non-profit organization whose basic objective is to build a poverty free society. The Prophet assures the importance and holiness of working (al Bukhari, 1976). Work is the main poverty eradication policy in Islam.

The proposed institution consists of three divisions: Daw'ah, Operation and Research.

Figure 3: Framework of Islamic Micro-Finance Bank



The basic function of Daw'ah division is to create awareness and enable Muslims to fulfill their religious duty of Zakah and other transfers in a proper way as per tenets of Islam. Many people of our country are unconscious about giving Zakah as well as efficient allocation of Zakah fund. They are also unaware about waqf and sadaqah. Only Daw'ah can motivate people regarding these obligatory and optional payments which can increase the volume of these funds and can create opportunities to rich people to serve society. The main function of operation division is to collect

Zakah, waqf and sadaqah from different sources and distribute them to the eligible person according to shariah through different modes of Islamic finance. The main function of research division is to maintain a continuous monitoring and making evaluation of current project. The research findings can help the policy makers to adopt and implement efficient policy.

7.1.2 MISSION AND VISION

The mission of the proposed financial institution is to collect Zakah, waqf and sadaqah from different sources and disburse them to the poor members of the society so that they can overcome their impoverishment through improving the living standard. The vision is to create poverty free society in *Shari'ah* conformity which leads socioeconomic growth of Bangladesh.

To facilitate and institutional platform to enhance collection, disbursement and effective utilization of Zakah Fund the person who are able to do work, made them self dependent by proving them fund from Zakah and others charity through microfinance by dint of which they can overcome the poverty trap and the person who are needy but cannot earn for disability, reducing their miseries through proving help in terms of money and commodity.

7.1.3 KEY FUNCTIONS

The organization would perform the following functions:

- a. Collecting and managing Zakah fund, waqf properties and sadaqah from prospective donors
- b. Disburse these funds to the appropriate person through microfinance in shariah conformity in order to eradicate poverty.

7.1.4 KEY PROGRAMS

The bank can offer the following programs:

- (a) Safety net programs to meet basic consumption needs, health and education
- (b) Economic empowerment programs involving skill enhancement and business development services
- (c) (c)Programs to provide emergency grants
- (d) Programs to provide guarantee against credit default.

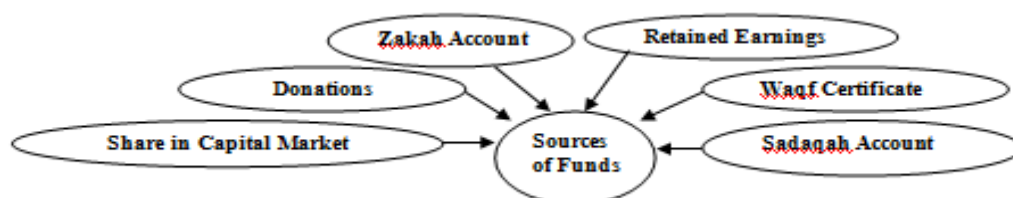
7.2 FRAMEWORK OF FINANCIAL MANAGEMENT

7.2.1 SOURCES OF FUNDS

There are five main sources of funds. Bank will collect deposit from clients as Zakah, waqf and sadaqah. It will offer Zakah account and sadaqah account to its clients and issue waqf certificates. Besides these, it can collect its fund from capital market by

issuing and selling shares and securities and also can collect donation from different institution and non institutional sources. Lastly, the bank may find extra source of fund which is retained earnings from the previous year. It may positive or negative as this bank will not charge high rate of return as like as conventional micro-finance institutions. However, the bank may charge a small fee to cover the expenses incurred in handling the loan (Hamid, 2009).

Figure 4: Sources of Fund of Islamic Micro-Finance Bank

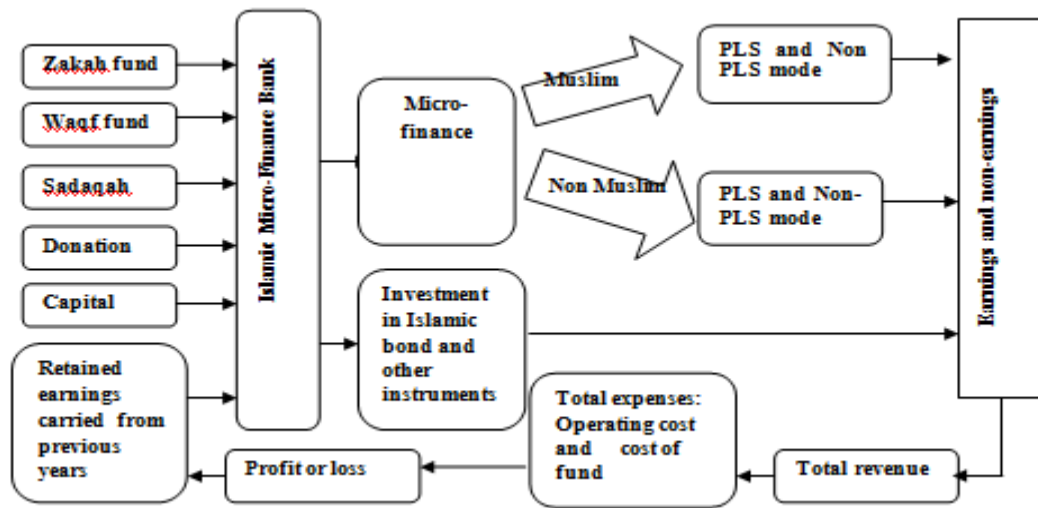


A person may pay his Zakah by opening a Zakah account in this specialized bank. Since no one can expect any return from this payment so there is no profit rate for depositor. It is one kind of semi *al-wadia* account of normal Islamic bank which includes the following conditions: (a) The account holder or depositor can deposit any amount of money as Zakah at any time, (b) The money deposited in this account neither earns any profit nor incurs any loss. A person may give sadaqah by opening a sadaqah account. Since people give sadaqah for the sake of Allah he doesn't expect any return from sadaqah receiver so there is no profit or loss for deposit. And depositor can deposit at any time any amount of money as his ability and intention (*niyaat*). As early mentioned, bank can collect its fund by issuing *waqf* certificate. Many local and international donors may be a good source of fund to provide micro credit. The bank can also collect its funds by issuing shares and securities in capital market. Earnings from previous year activities may be another source of fund.

7.2.2 FUND MANAGEMENT MODEL

The Islamic Micro-Finance Bank shall finance to Muslim as well as Non-Muslim people from its funds. These funds will be financed based on Profit and Loss Sharing (PLS) and non-PLS mode. However, this bank shall also invest on Islamic bond and other instruments. All of these finances will be centered to alleviate poverty from society.

Figure 5: Fund Management Model for Islamic Micro-Finance Bank



After adjusting annual profit or loss from the total expenses, the bank shall retain its earning to the coming year. This is why, this bank is a self-sustaining bank.

7.3 FRAMEWORK OF ADMINISTRATION

Under the administrative framework, let us discuss the administrative hierarchy and decision making process in the following sections.

7.3.1 ADMINISTRATIVE HIERARCHY

The *Shari'ah* Advisory Board will play the role as the apex body of approving IMFB's operations, while the administrative staffs shall carry the orders commanded by the board of directors.

Figure 6: Administrative Hierarchy

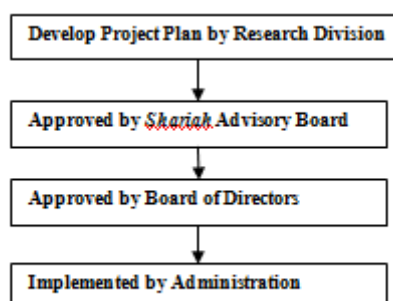


7.3.2 CORPORATE GOVERNANCE

Corporate governance has emerged as an increasingly important theme in the micro finance industry. Fundamental to good governance is the ability of individual directors to work in partnership to drive the strategic agenda and ensure that management carries out its operational responsibilities. The interplay between board and management centers on this relationship between strategy and operation, both of which are essential for the successful evolution of the institution. The Board of Directors has the ultimate responsibility to ensure good governance and management for the effective performance and operation of the proposed bank. The board approves those rules and regulation which is approved by shariah advisory board. In this governance role, the board is also accountable to a broad range of stakeholders such as donors, depositors, clients, employees and shareholders. Risk management is an important duty of this board.

7.3.4 DECISION MAKING PROCESS

Figure 8: Decision Making Process



8. CONCLUSION

This is a development model which can be applicable in a country like Bangladesh. Islamic micro-finance involves providing credit without collateral to the marginal poor. Due to high default risk, high operational cost and low return in the traditional micro-finance industry, the Islamic micro-finance can be used to create and sustain successful business. Moreover, diversified limitations and non-conformity with the Islamic values, Muslim people necessitate the creation of Islamic micro-finance. Since conventional micro-finance cannot attain desired goal regarding poverty alleviation, it is the high time to introduce charity based Islamic micro-finance programme. If it is implemented, the proposed institution will contribute to eradicate poverty by combining Zakah, sadaqah funds and waqf properties with other conventional but *Shari'ah* adaptive sources.

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THEME: INNOVATIONS IN ISLAMIC SOCIAL FINANCE AND WAQF INSTITUTION

THE IMPORTANCE OF WAQF INSTITUTION

Ahmed Barakat

ABSTRACT

Waqf need to be upgraded so as to make them more appropriate to contribute to economic development. There is an urgent need to allow the waqf institution to benefit from recent development of financial products as regards to mobilization as well as utilization of financial resources. This paper is a critical review of the current practice of Waqf Institution. Many Islamic countries have given attention to Waqf at the present time in various areas. In Saudi Arabia, where apparently established a special Ministry of Waqf affairs, to manage its affairs. Many Islamic countries have also established, special ministries of Waqf or special departments dealing with Waqf affairs, but yet the success rate has been not encouraging, compared to the West. Reviving of the Waqf Institution has become a need to return its leading role in the Muslim societies through history.

1. INTRODUCTION

The voluntary sector or community sector (also non-profit sector) is the sphere of social activity undertaken by organizations that are for non-profit and non-governmental, such as NGOs, Endowments, Foundations, Trusts, and Waqf. This sector is also called the third sector, in reference to the public sector and the private sector. The sector includes a multitude and diversity of organizations, from small local groups to large, international organizations that enrich the lives of communities in a variety of ways. Some are structured as political federations, others more like corporations. Their contributions include delivering services, advocating of behalf of a group or cause, encouraging self-help, advancing religious faith and practice, facilitating economic development and providing financial support to other organizations. Some are considered “charities” (depending on legislated rules often established at a national level) and some are not.

The presence of a large third sector is sometimes seen as an indicator of a healthy economy in local and national financial measurements. With a growing number of non-profit organizations focused on social services, the environment, education and other unmet needs throughout society, the nonprofit sector is increasingly central to the health and well-being of society.

NGOs are responsible for the promotion of certain causes whether it is in health, education, labor, environment, and other fields of life. Trusts, on the other hand, are when a person wants his or her properties and money to be managed by a certain body which is a trust. Trusts also assist in doing charitable work for the entire body of mankind whether it is medical, educational, labor, etc. NGOs are also voluntary organizations which can be free but have considerations. An NGO usually aids the government with the programs that they can't usually do in its extent and strength. Trusts, on the other hand, are not dependent on the programs of the government. Trusts have their own policies since they can be public or private trusts. It does not need any aid from the government or any organization. NGOs can receive financial assistance from the government while trusts cannot. However, if we would define a general framework, that includes all these forms, will be the Trust, as the closest practice to the Islamic Waqf.

2. WAQF VS. TRUST

Trust been defined as, A legal obligation with respect to property given by a person (donor) to another (trustee) to the advantage of a beneficiary. Historically, a trust was known to the English law as a use:

An independent legal process that a person, usually called a settlor or a donor, can initiate and once started, runs its course to the benefit of a beneficiary and as administered by a person of the settlor's choice, called a trustee, the latter, once appointed, accountable to the beneficiary.

Trust principle dates back at least to the Middle Ages, and is found both in early Christian and Muslim theological concepts. There is a reasonable argument that the trust

was the result of European encounters with Islamic legal institutions. The Islamic theory traces the origin of the trust use to the Islamic concept of Waqf. The Waqf was introduced to England by Franciscan Friars returning from the thirteenth-century crusades. Under the laws of their Order, the Friars were not allowed to own property because of their strict interpretation of religious poverty. Because the Friars still needed property for their religious activities, they used the concept behind the Waqf to circumvent the Order's vow of poverty. Accordingly, benefactors would transfer property to a trustee.

The Urban Institute recorded, an estimated 2.3 million nonprofit organization operate in the United States, and approximately 1.6 million nonprofits were registered with the Internal Revenue Service (IRS) in 2010.²

Waqf (endowment), the word Waqf and its plural form awqaf are derived from the Arabic root verb waqafa, which means to cause a thing to stop and stand still. A second meaning is simply philanthropic foundations (Cizakca, 1998). However defined, this institution, whereby a privately owned property is endowed for a charitable purpose in perpetuity and the revenue generated is spent for this purpose, stands out as one of the greatest achievements of Islamic civilization.

Waqf has always played fundamental role in socio-economic life of Muslims. Waqf is counted a voluntary sector – a sector between private and public (Dafterdar, 2010). Muslims have been encouraged to dedicate their valued objects for pious purpose to be a permanent source of goodness (Sadaqah Jariah) for them. It was a major source of employment for a large number of populations in various capacities. Waqf also provided goods and services ranging from pure religious objects, such as mosques and schools to various welfare schemes like water supply and highway facilities.

Prophet Muhammad (pbuh) established Waqf himself and advised his companions to establish them. As such, many Waqf properties were established for religious as well as charitable reasons. The first Waqf created by the prophet (pbuh) was the purchase of the land and the construction of a mosque in Madinah, known today as the Prophet's Mosque. Ibn Hisham also mentions that seven orchards left to the Prophet by Mukhayriq upon his death in the battle of Uhud were assigned by him as Waqf. The prophet (pbuh) used to spend their fruits on his household and for buying weapons for defense (Kahf, 2003).

On the recommendation of the Prophet (pbuh), a few Waqf were established by his companions. The well-known of these are the ones established by Omar and Othman. Omar established a Waqf with a land in Khaibar upon the advice of the prophet (pbuh). Omar made it a sadaqah that could not be sold or given as a gift. The fruits from the farm were to be distributed to the poor and kinships, to liberate slaves, to provide for guests and the wayfarer, and some reasonable quantity to its custodian. Another Waqf for drinking water was established in Madinah on the suggestion of the prophet (pbuh). The prophet (pbuh) once wanted to drink water in Madinah, but it was being sold at a high price. He then called on Muslims to buy the well and render the water free for everybody.

Othman bin Affan bought the well of Rumah and made it free for everybody. Abu Talha, May Allah be pleased with him, endowed his garden (Bayruhaa'). Then, after that, the endowments the Companions, may Allah be pleased with them, came one after another.

The history of Waqf is very rich with impressive achievements in serving the poor in particular and enhancing the welfare in general. Various kinds of Waqf were established including the cash

The Waqf highly supported by the Muslims who being very keen to do good deeds. Thereafter the Muslims expanded the uses of Waqf. Starting from cemeteries, decorating the Masajed, and birds feeding, to a larger Waqf and more significant in the social solidarity, such as construction of hospitals and schools. The Muslim traveler Ibn Jubayr narrated many of his observations of the broad scope of Waqf in different part of the Muslims state. All this confirms that the Waqf is the oldest human practice of voluntary effort been carried out by the Muslims.

Waqf, Waqf for public utilities, education³ and research, and health care. Similarly, there were Waqf of grain to be used as seeds, and Waqf to provide loans to persons who need financing and providing services and supplementary income to low income people.

Waqf “endowment” has played a vital role in the socio-economic development and fulfillment of basic needs like food, shelter, health services and education of all Muslim communities for centuries. However, with the change of social and economic structure, national laws and government interference, the success of the implementation of the Waqf has declined. On the contrary this same concept is being applied in America and Europe albeit with a different name, yet the success rate has been very encouraging. Hence in this paper the researcher aims to explore why Waqf institutions have not been achieving the same success rate in the West. In America and Europe, NGO organizations have been implementing the concept of endowment, whereas every family of European or U.S. allocate automatically and orderly more than 2% of their income for associations and non-governmental organizations, which is very similar in nature to the concept of Waqf. These organizations have been achieving the socio-economic goals such as, poverty and eradication etc with much success. The question which the researcher aims to solve in this paper is why the Muslims countries have failed to achieve the socio-economic goals through Waqf institutions. This research will explore the factors and problems that have undermined the success of Waqf institutions.

3. THE SIGNIFICANCE OF WAQF INSTITUTION

Waqf mechanism is a very applicable and a dynamic approach in organizing the present economic society. The purpose of the mechanism of Waqf is religiously to encourage individuals who are well-to-do in the society to voluntarily donate some of their properties to be used for a specific purpose like building of mosque, hospital, cemetery, hostel, and play ground, etc. or for general purposes that can be beneficial for the present and future generations. This mechanism if is properly institutionalized can nurture the feeling of social responsibility among the well-to-do to.

Waqf was introduced by Islam and was an active institution during the early Islamic society. It will equally be relevant and can offer economic and social dynamism to the present mission to develop our present society. This principle and spirit of Waqf are very basic and fundamental for a strong society.

Through the Waqf institution, charitable donation from the well-to-do Muslims can be mobilized to organize the society. The motivation to contribute to Waqf institution is basically due to spiritual encouragement. Islam has promised its followers that a charity contribution to Waqf can make a great wonder to the donor. Abu Hurayrah reported that Allah's messenger (PBUH) as saying: "When a man dies, all his acts come to an end, but three; recurring charity, sadaqa jariya (donation for the Waqf), or knowledge (by which people benefit), or a pious offspring, who prays for him"⁴

Through Waqf mechanism, a privately owned property is endowed for a charitable purpose in infinity and the income generated is spent for the benefits of society. It has been reported in the Islamic history that this institution of Waqf stands out as one of the greatest achievements of the Islamic civilization (Nik Hassan, 2008).

4. WAQF AS PART OF ISLAMIC VOLUNTARY SECTOR

The establishment of Waqf was a clear representation of creating a third and philanthropic sector that is kept away from both the profit motivated behavior of individuals and the authority-dominated domain of the government. If Waqf is a part of the third sector and its effectiveness would help to achieve the following Islamic finance objectives. They are:

- a) Effecting the distribution of wealth, redistribution of national income, increasing of employment and distributions of sources that will causes a stable economy.
- b) Providing improvement in infrastructure facilities
- c) Improving the social structure by the process of development.
- d) Participating in health education, Urbanization and public works investments and by transferring government budget to economic investment influence on strengthen of state.
- e) Raising life comfort of the poor and widening middle class, provides social and political stability and also reinforces the stability which is necessary for economic development.

Instead of having a strong third sector, free from profit making motivation and the power of the government, Waqf ended up under the shadow of a corrupt and inefficient public sector.

5. COMMON ISSUES IN DEVELOPING WAQF

Finally, the researcher will touch upon the common issues that are present in developing a Waqf. We have taken Malaysia an example. In general, Waqf development in Malaysia

faces many similar issues and challenges with other countries. Below are some issues and challenges in developing Waqf:

5.1. Human Capitals

One major issue faced by the State Religious Councils (SRCs) is staffing. This matter includes shortage of manpower, excessive workload, incompetent staff and non-permanent employees. SRC does not have sufficient officers and staff to manage waqf in the state. The SRC normally has less than five employees to manage them and most of them have Islamic religious background without any exposure to economics and business knowledge. This really limits their abilities to fully develop Waqf with innovation that optimize the impact on the Ummah.

5.2. Land

Muslims normally choose to give away (Waqf) the land with the least value among all their lands. Consequently, many of Waqf lands are located in non-strategic locations and it is difficult for the SRC to develop these lands. Some of the lands are located far in the remote villages without access roads, and some are even surrounded by forest.

5.3. Financial

Project financing is a major issue when it comes to Waqf development. The SRC does not have fund to finance development project on Waqf land. As a result, many Waqf lands are left idle.

5.4. Waqf Enactment

Waqf Enactment is mentioned clearly in the definition of every type of Waqf, authority of the SRC, Waqf implementation, Waqf administrators; Waqf consolidated fund, enforcement and others. It will help the SRC in administering the Waqf and every party has to abide the Enactment.

6. POLICY RECOMMENDATIONS

Federal Department should work closely with the SRC to overcome these problems. Below are some of the policy recommendations:

6.1. Human capital

The federal agency should conduct a study on the best organizational structure for the SRC to come out with recommendation on ideal structure and staffing for the SRC. This will enable the SRC to have a proper segregation of duties and will ensure a better focus and concentration on developing Waqf and other responsibilities.

6.2. Land

If the land is not strategically located or too small, the land can be changed to a new land at a new location. This practice is called Waqf Istibdal. Waqf Istibdal means selling off the unsuitable Waqf lands which are located in non-strategic location or which are in small size, and buy another piece of land in a strategic location and bigger size.

6.3. Waqf Enactment

The federal department should publish a manual on complete Waqf enactment and the SRC should study its comprehensiveness as well as its' suitability to be implemented in the state.

7. CONCLUSION

To activate and vitalize the Waqf system there should be reforms in its management principles, revise the classical fiqh to help promote the establishment of new Waqf and finally improve the benefits derived from the existing one.

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ROLES OF KNOWLEDGE AND ATTITUDE IN DETERMINING ENDOWER'S TRUST ON WAQF INSTITUTION

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EXTENDED ABSTRACT

Waqf is permissible in Islamic law and it is a recommended practice in the light of al-Quran and Hadith. Waqf is an act of holding certain property and preserving it for the confined benefit of certain philanthropy that disallows any use or disposition of it outside the specific objective. Waqf creates great benefits not only for the endower himself/herself but also for the whole society. It plays an important role in economic development by providing health facilities, education and worship place (Ab Rahman, 2009). Waqf can be in the form of immovable property (*ʿaqar*) and movable (*manqul*) property (Ab Rahman, 2009).

In 2007, the Malaysian National Fatwa Council has decided that cash waqf is allowed in Islam (Ab Rahman, 2009). With this ruling, Muslim community in Malaysia is allowed to participate in cash waqf. Cash waqf refers to endowment of an amount of money, which is managed by *mutawalli* (cash waqf trustees) to financially support a diversity of charitable work. The collection of cash will be converted to a permanent property that will then be used for the welfare and interest of the community.

Several state religious councils have implemented the cash waqf scheme or known as waqf shares. The six states that offer this waqf shares are Penang Waqf Fund Scheme, Selangor Waqf Share, Pahang Waqf Shares, Johor Waqf Shares, Terengganu Cash Waqf Scheme and Malacca Waqf Shares. Even though cash waqf has been implemented in Malaysia for a number of years, it is said that cash waqf development in Malaysia is still at infancy level (Osman et al, 2012). The cash waqf schemes of general purpose (*waqf al am*) have still not generated sufficient funds of scale to carry out program with impact (Alina, 2011). In addition, Mohsin (2009) reported that even though the amount of cash waqf collected is quite considerable but the response received is still lacking.

An exploratory study on Muslim participation in cash waqf conducted by Abdul Shukor et al. (2015) found that Muslim in Malaysia considered cash waqf as part of *sedekah* whereby they believed that will be rewarded in the hereafter. Participants of the study also revealed that they were satisfied with the act of participating in cash waqf and have the intention to participate in cash waqf in the future. Nevertheless, participants felt

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insecured with regards to the distribution of waqf fund as they were not informed by the waqf institutions. Findings from this study showed that Muslim or endower's trust on waqf institutions is crucial to ensure endowers' involvement in cash waqf. Hence, the current study is conducted to investigate the roles of knowledge and attitude in determining endower's trust on waqf institution.

TRUST ON WAQF INSTITUTIONS: All waqf properties including cash waqf in Malaysia is under the administration of a appointed trustee i.e. The State Islamic Religious Council (SIRC). The waqif or endower has no right to manage their own waqf properties (Mahamood, 2007). In other words, money raised from the public will be managed by SIRC for a planned projects. In this sense, endowers' trust on waqf institutions is crucial in determining public confidence in participating in cash waqf. Trust is people's belief in others' good intentions, that is, others' intentions not to harm them, to respect their rights, and to carry out obligations (Igarashi et al, 2008). Other authors such as Moorman et al. (1992) have defined trust as a willingness to rely on an exchange partner in whom one has confidence. The need for trust will arise when an individual becomes vulnerable to some extent and are uncertain about their decision outcome, which has importance for them. In the same vein, Schul et al. (2008) viewed a state of trust is associated with a feeling of safety. The environment is as it normally is and things really are as they appear to be. Thus, individuals see no reason to refrain from doing what they routinely do. The authors added further that ordinarily, when the stakes are not high, trust is the default state, so that without thinking much about the other, individuals feel the environment is normal and there is no need to worry. Distrust, in contrast, is associated with the concealment of truth and a lack of transparency (Sabatini, 2009). Distrust reflects the receiver's perception of the source's intention (to mislead) and, potentially, the receiver's theory about the truth (Schul et al, 2008). Given such definitions, element of trust on waqf institution is an indispensable lubricant that will encourage and stimulate public to endow cash waqf.

ROLE OF KNOWLEDGE AND ATTITUDE: An individual's knowledge on waqf is important in realising the success of cash waqf as a new financial product. Improving individual's knowledge on waqf is crucial due to the factors of the growth of the waqf instrument and the essential of development of the waqf institution in stimulating the economics of ummah in particular and the State in general (Othman et al., 2012). As reported by Siswantoro and Dewi (2002), the ineffective of cash waqf fund raising in Indonesia is because among other lack of waqf literacy among people. Indonesian public still assume that waqf is only limited in the form of fixed asset such as land and building. Similar findings go to Malaysia whereby the understanding of waqf among Malaysian people is too narrow (Laldin, 2005). Their understanding is only limited for donation for the purpose of building mosque and sites for graveyard. In consumer research, O'Cass (2004) study found that consumer knowledge is related to consumers' confidence in making decisions. The author argues that consumer knowledge is important because it can affect the strength of the relationship between attitudes and behaviour. Individuals with more knowledge tend to be more confident about making correct decisions and demonstrate less interest in others' information and opinions (Bearden et al., 1990, Clark and Goldsmith, 2006). Therefore, in this study, it is expected that an individual with

more knowledge on cash waqf and positive attitude towards participation in cash waqf will positively impact the individual's trust on waqf institution.

METHODOLOGY: Survey questionnaires consisted of items that measure attitude, knowledge and endower's trust on waqf institution were distributed to 400 respondents. The respondents were selected using convenience sampling. The survey questionnaire collected information on demographic variables, respondents' knowledge and attitude on cash waqf, and respondents' trust on waqf institutions. All items were measured on a five point Likert scale ranging from '1' (strongly disagree) to '5' (strongly agree) and respondents were asked to state the degree of agreement for each statement given. The data collection process was conducted over a period of two weeks and enumerators were appointed to conduct the data collection.

RESULTS AND FINDINGS: The net number of usable survey questionnaire was 386. The figure has contributed to 96.5% of response rate. The demographic profile of the respondents showed that 50.1% of the respondents were male while 49.9% were female. The information on marital status of respondents demonstrated that more than half (65.0%) were married, followed by single (31.9%) and divorced/widow (3.1%). With regards educational background, 40.7% had SPM/STPPM, 22.2% obtained professional qualification / diploma, 30.5% obtained undergraduate degree while 6.5% had postgraduate degree. Regarding the respondents occupation, the largest group comprised of student (19.3%), followed by self-employed (17.0%), professional/senior management (16.2%), clerical staff (14.1%), housewife/husband (11.0%), technical staff (10.2%), and others (9.7%). In terms of the respondents income, majority (52.7%) of the respondents earned below RM2,000 while 47.3% of the respondents earned above RM2,001 monthly.

RELIABILITY: The Cronbach Alpha's correlation coefficient for the constructs was 0.847. The figure achieved the recommended value of 0.7.

REGRESSION ANALYSIS: Results of multiple regression with trust on waqf institution as a dependent variable for attitude and knowledge showed that endowers' attitude and knowledge displayed a strong significant t-value of 4.190 and 3.722 respectively. Moreover, the standardised regression coefficient revealed that attitude (Beta= 0.247, $t=4.190$, $p=0.000$) makes the strongest contribution in explaining endower's trust on waqf institution comparing to knowledge (Beta=0.144, $t=3.722$, $p=0.000$). Hence, the results showed that knowledge and attitude affect endowers' trust on waqf institutions.

FINDINGS AND CONCLUSION: This study examined the roles of knowledge and attitude on endower's trust on waqf institution. Findings from this study confirmed the positive impact of knowledge and attitude in determining endower's trust on waqf institution.

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THE ROLE OF WAQF INSTITUTION IN THAILAND

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ABSTRACT

Waqf institution is one of the most important institution in Islamic economy. Reducing the burden of the government and fulfilling social needs especially for Muslim society are always referred to *waqf*'s roles. In majority of Muslim countries, where Shari'ah law is applicable, *waqf* property is managed by professional bodies. The government introduces *Awqaf* Departments to supervise and distribute *waqf* pproperty accordingly. In some non-Muslim countries where Muslims are minority, *waqf* property managed by voluntary agencies under a small unit supervised by Mosque's committee. This paper discusses the roles of *waqf* institution in southern Thailand in order to explore and investigate as to what extent does *waqf* institution and Thai law accomodate *waqf* institution in minimising and eradicating the poverty in the predominated Muslim provinces such as Patani province. The author will also identify various laws that recognize *waqf* property for Muslims and legal obstacles that impede the improvement of *waqf* institution in country. Practical suggestions contribute to the development of *waqf* institution in the country will also be highlighted.

Keywords: Waqf, minority Muslim, development, socio-economic.

1. INTRODUCTION

The term *waqf* literally means “to hold” or “to confine”. This term is used in Islam in the sense of endowing and preserving something for the benefit of the needy among Muslims. It relates primarily to land and buildings and secondly to books, cattle, shares, stocks and cash. Traditionally, the Muslims in the four provinces are deeply religious in sentiment having great attachment to the Islamic institutions and culture. Though there are no official figures of the number of Muslims in Thailand, estimates indicate it to about 6 million, forming 4 percent of the 65 million (in 2001) of the population.¹ The Muslim communities are concentrated in the four southern provinces-Patani, Narathiwat, Yala and Satul. They are living in the area near the Northern part of the Malay Peninsular. Moreover, the Muslims in those four provinces in the South are not an immigrant community, but indigenous to the area. They are categorized as Malay-Muslim communities. Being a non-Muslim country, Thailand does not have any law governing specifically to the needs of *waqf* institution.² Currently, *waqf* in those four provinces is run under the supervision of Provincial Islamic Committee and mosque committee.³ The main objective of this paper is to examine the availability of Thai laws concerning *waqf* properties and the practices of *waqf* committee in the Malay-Muslim majority areas by focusing on the practices of Al-Muhammadi mosque *waqf* committee. To achieve that aim, the writer organizes this paper as follows: the next section will discuss the method of collecting *waqf* property, followed by examining the available Thai laws concerning Muslim affairs in Thailand viz., the Royal Act concerning Muslim mosque 1947, the Royal Act concerning Islamic Patronage Act 1945, Thai Civil and Commercial Law Code 1934 and Thai National Land Code 1951. Later the writer will propose some suggestions and recommendations. This article was done via a combination of methods. The preliminary study was through library research. Analysis of the contents of *waqf* legislation in Thai law. Insights were obtained through the interviews and discussions with the *imam*, *khatib* and Muslim Religious Committee Council in Narathiwat.

2. METHOD OF COLLECTING WAQF PROPERTY

The common practice in collecting *waqf* property in those areas is that the contributor will donate or dispose his land to the mosque. The recipient will be *imam*. In most cases, the trustee for *waqf* property is the mosque committee itself. The *waqf* properties in the Malay-Muslim areas comprise of open land, apartments and rubber or coconut plantations. All these properties were donated to mosques. Incomes from these properties go to the maintenance of mosques and religious schools. The balance will be deposited in the name of *waqf* committee's account. The objective of collecting *waqf* property is to bring *waqf* property towards sustainable development and poverty alleviation.

¹ Thanet Aphornrsuvan, *History and Politics of the Muslims in Thailand*, Thammasat University, p.5

² Including zakat institution

³ Praertchob, Preeda, “ Mobilization of Resources through Waqf in Thailand, in Ariff M.(ed.), *The Islamic Voluntary Sector in Southeast Asia*, Pasir Panjang Singapore, Institute of Southeast Asian Studies, 1991, pp.233-58.

3. LAWS CONCERNING MUSLIM AFFAIRS IN THAILAND

In Thailand, all religious matters including waqf, collecting zakat and fitrah were administered jointly by Chularajmontri, Provincial Committee for Islamic Affairs and Mosque Committee. As for the position of waqf land in Thailand is out the ambit of the Thai civil law. Fortunately, there has been decided case by the Provincial court in Narathiwat, southern Thailand as to acceptance of the concept of waqf under Islamic law. Before I discuss that case, it is necessary to study the provisions of two laws concerning the Muslim affairs in Thailand in general. Those two laws are as follows:

3.1. The Royal Act concerning Muslim mosque, 1947

In Thailand, Masjid committees have been given the power to manage the mosque and its property according to Islamic law and state law. And secondly, to ensure the proper observance of Islam according to Malay culture. These provisions are in fact very general. By virtue of this Act the mosque committees are formed to administer the affairs of the mosque. Before the committees are appointed, the mosque must be first registered at the Muslim Religious Committee Council (MRCC) in the province. The details of the mosque as to its location, mosque committee members, the letter of the appointment of *imam*, *khatib* and *bilal* must be approved by MRCC and submitted to the governor. The appointment and dismissal of a *imam*, *khatib* and *bilal* is usually made by the MRCC, subjected to the consent by the community in that area. As for the job scope the mosque committees are governed by the Royal Act concerning Muslim mosque, 1947.

Table 1. List of Registered Mosques in Patani, Narathiwat, Yala and Satul

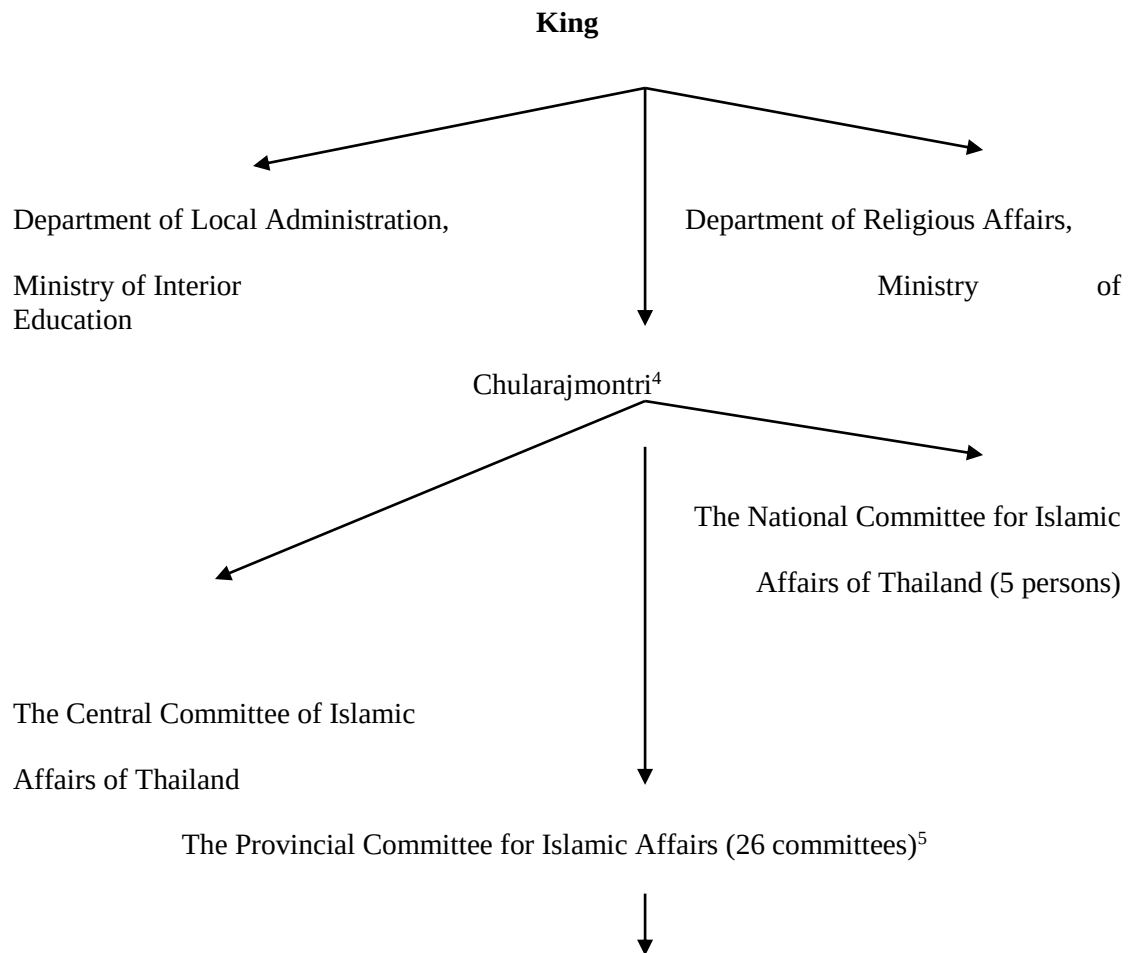
No	Province	No of Mosque
1	Patani	544
2	Narathiwat	477
3	Yala	308
4	Satul	147

Source: Omar Farouk Bajunid, Muslims in Thailand: A Review, 1999

3.1.1. Composition of the Committee

According to the Patronage of Islam Act of 1945, it provides the composition of the Committee, which consists of Chularajmontri and Provincial Islamic Religious Committee as permanent committee members. Whereas Mosque committees are elected from the communities. Below is the organizational structure of the Muslim affairs in the Kingdom of Thailand.

Figure 9 The flow of the organizational structure of the Muslims affairs in the Kingdom of Thailand



⁴ Chularajmontri is the title of the office given to the Supreme Head of Islam (Shaikhul Islam) by the Thai government. The Chularajmontri is appointed by the Thai king and is head of a nation-wide Islamic religions bureaucracy which links up all the registered mosques in Thailand at all level. The Chularajmontri is elected for life by the Central Committee, who is in turn elected by the Provincial Committees. The present Chularajmontri is Shaikh Sawad Sumalayaksak, a Sunni teacher and politician from Bangkok. See Omar Farouk, "The Muslims of Southeast Asia: An overview", in *Islam and the Economic Development of Southeast Asia*. M.Ariff ed., Institute of Southeast Asia Studies, p.33.

⁵ According to section 7(2) of the Patronage of Islam Act of 1945 any province that does not have the Provincial Islamic committee affairs, the National committee will monitor those Muslim affairs. The provinces which have the Provincial Islamic Committee Affairs are as follows: 1. Patani, 2. Narathiwat, 3. Yala, 4. Satul, 5. Songkhla, 6. Krabi, 7. Surat Thani, 8. Nakorn Si Thammarat, 9. Phattalung, 10. Phuket, 11. Trang, 12. Krabi, 13. Surat Thani, 14. Ranong, 15. Chonburi, 16. Prachuab Khiri Khan, 17. Samut Prakarn, 18. Nakorn Nayok, 19. Nonthaburi, 20. Bangkok, 21. Chachoengsao, 22. Ang Thon, 23. Ayutthaya, 24. Chiangmai, 25. Phetburi and 26. Phanga.

Mosque Committee headed by Imam(15 persons)

Source: Omar Farouk, “The Muslims of Thailand: A Survey” (1988).

3.1.2. Powers and Duties of the Waqf committee

The committee is vested with the powers and charged with the duties to administer, control and manage waqf properties. It is provided in the Royal Act concerning Muslim mosque 1947. Their responsibilities and duties are as follows:

1. Investing and determining the nature and extent of waqf properties
2. Ensuing that waqf property and incomes arising there from
3. Giving instructions for the proper administration of waqf properties⁶
4. Monitoring the affairs of the mosque⁷
5. Introducing creative and innovative modes of waqf development.

Those duties as provided in the Royal Act suggested that the waqf committee could function as waqf property protectors. However, in practice the waqf committee in those for provinces are facing various problems, for example the problem of staffing, less of creativity and innovative thinking in developing and promoting awqaf. More importantly, most of the committee are lacking of professional expertise in awqaf development.

3.1.3. Analysis the provisions of the Royal Act concerning Muslim mosque1947

According to what has been mentioned above, it found that section 7 of the Royal Act concerning Muslim mosque 1947 speaks about the mosque property by giving the authority to the mosque committee to manage and control over mosque property. Thus according to this law, the waqf committee is the one that has total supervision over all the waqf properties. The waqf committee has the right to freely distribute the endowed money to any direction without being confined to the areas that the original endowers have decided to allocate their money to. This act is too general and vague, it might be abuse of power by waqf committee and therefore, independent body should be appointed.

From what we can see above, it is proven that there is no proper waqf institution which initiated by the government in the four southern border provinces of Thailand. Though there is law speaks about it.

3.2. The Royal Act concerning Islamic Patronage Act, 1945

The Act of 1945 was similar with the above Act and was enacted to regulate and monitor the Muslim affairs in Thailand. Though it was similar with the Royal Act, it is important to discuss its provisions. There are two sections which speak about mosque property viz., section 7 and section 8.

⁶ The interview was made on 29th August 2009.

⁷ See section 26(1)(2) the Royal Act concerning the Administration of Islamic Organization 1997.

Section 7 of the Islamic Patronage Act, 1945 provides *inter alia* to the effect that:

“The Provincial Islamic Religious Committee⁸ has the power to monitor and take care the properties owned by mosques”

Section 8 of the Islamic Patronage Act, 1945 also provides:

“The procedural regulating concerning appointments and removal and management of the mosque property shall be determined by the National Committee for Islamic affairs with the consent of the Ministry of Interior.”

3.2.1. Analysis the provisions of the Royal Act concerning Islamic Patronage Act 1945

By virtue of section 7 and 8 of the Patronage of Islam Act of 1945 several persons could be appointed as committee to look after mosque property. Secondly, the definition of mosque property includes *waqf* properties as understood by Muslims. There is also no detailed provision on the qualifications of trustee or *mutawalli*. It is observed that this provision is silent about the appointment of trustee, its procedures of handling the dispute as to the *waqf* property. This two Acts viz., the Royal Act, 1945 and the Muslim mosque Act, 1947 seem to overlook the importance of *waqf* property, for example the issue of the registration of *waqf* property and the appointment and responsibilities of *mutawallis*. Therefore, those two laws as mentioned above should be reviewed and amended. As a result, the MRCC has to adopt a conventional approach wherever the two Acts are silent. In Narathiwat, for example, the normal practice is that when complaint was lodged as to *waqf* property, the MRCC will call *imam*, *khatib* and *bilal* to give statement. If MRCC is unable to settle the case, the imam with the consultation of the mosque committee members will bring the case to the provincial court. The provincial court will refer to the Thai Civil and Commercial Law Code 1934.

Form the discussion above, it is suggested in such a way because those two laws are very important in the administration of *waqf* property in Thailand. Besides that there are certain laws which dealt with property and trust.

3.2.2. Certain Other Laws Relevant to the Property Administration in Thailand

After making a study of the Royal Act concerning Muslim mosque, 1947 and the Royal Act concerning Islamic Patronage Act, 1945, it would be pertinent to refer to certain other laws, some of whose provisions are relevant to the *waqf* property and *waqf* administration in Thailand in general. They are as follows:

a. Thai Civil and Commercial Law Code 1934

The core law in Thailand for business is the TCCC. It has been enforced since 1st October 1934 and was amended on 16th October, 1976. This code is considered as

⁸ Hereinafter abbreviated, as the PIRC.

final Thai Civil and Commercial law applicable to the Thai-Buddhist people.⁹ The TCCC, 1934 sets forth general principles and specific rules for the gamut of civil law issues affecting businesses and individuals. Some of the topics of special interest to businesses include sales, obligations, contracts - general and specific, wrongful acts (torts, such as liability for negligence or intentional harm), property, mortgage and other forms of loan security, company and partnership law and agency. For individuals, the TCCC, 1934 covers marriage, divorce, wills and estate administration, and parental rights and duties.

The relevant sections of the TCCC, 1934 are sections 522, 523, 524, 525, 526, 527 and section 537 which specifically refers to the gifts. However, those sections did not successfully apply to Muslim waqfs. The rationale behind highlighting this law is because the court will normally refer to it despite the fact that the case is involving the issue of waqf property.

Gift under Thai Civil and Commercial Law Code 1934 as example

The concept of transfer of property without any consideration is recognized under the TCCC. Section 521 of TCCC provides, a gift is a contract whereby a person called the donor, transfers gratuitously a property of his own to another person, called the donee, and the donee accepts such property.

b. Thai National Land Code 1951¹⁰

Section 84 of the Thai National Land Code, 1951 provides that wats¹¹, Roman Catholic Churches, Christian Foundations or Moslem may acquire land with the permission of the Minister and may acquire not more than fifty acres. In appropriate cases the minister may allow the acquisition of more land than that prescribed in the preceding paragraph. The provisions of this Section shall not affect the acquisition of land prior to the effective date of this Code or acquisition of land of the Moslems¹² Masjid under the provisions of Moslem Law in a Changwat (province) having an Islamic magistrate (Dato Yuthitham)¹³.

Section 86 further provides aliens may acquire land by virtue of the provisions of a treaty giving the right to own immovable properties and subject to the provisions of this Code. Subject to the section 84 the aforesaid aliens may acquire land for

⁹ Rongruj Reung Watwong, *Krub Khrua(Family)*, (Bangkok: Winyuchun, n.d.,) at 12-13.

¹⁰ It has been enforced since 1 st December 1951. This code is considered as final Thai National Land Code applicable to the Thai people.

¹¹ It is a Thai word which means Thai Buddhist temples.

¹² The correct spelling is Muslims.

¹³ The word “Yuthitham” is a Thai word which means justice whereas the word “Dato” is a Malay word which is referring to a venerable person. However, the Malay Muslims in the south of Thailand usually call the Muslim judges as “ tok Kadi”. According to the rule of administration in the seven principalities of 1902, the title of the Muslim judge was called “ tok kali”. This title was first employed by the Thai government to refer to a Muslim judge. In 1917 the Ministry of Justice has changed the title of the to *kali* to *Dato’ Yuthitham*. See a letter issued by the Ministry of Justice No: 30/4353 dated on 24th September 1917. For further reading on the roles and qualifications of the Dato’ Yuthitham in the Provincial court, see Sulaiman Dorloh, *The Position of Islamic Law in the Four Southern Border Provinces of Thailand*, Journal Shariah, vol: 14, Jul-Dec 2006, at. 6-7.

residence, commerce, industry, agriculture, burial, public charity or religion under the conditions and procedures prescribed in Ministerial Regulations and with the permission of the Minister.

Section 87 also provides, the amount of land which may be permitted under the preceding section is as follows:

- (1) For residence, per family, not more than 1 rai¹⁴.
- (2) For commerce, not more than 1 rai,
- (3) For industry, not more than 10 rais,
- (4) For agriculture, not more than 10 rais,
- (5) For religion, not more than 1 rai,(6) For public charity, not more than 5 rai
- (7) For burial, per family, not more than ½ rai

Section 86 of the Act speaks about the acquisition of the government land by foreigners for religious purposes. The amount of land which will be disposed by the government is 1 acre.

Analysis of the Thai National Land Code 1951

A closer study of the code reveals that the government has authority to dispose the land for religious purposes. The amount of land permitted is 50 acres. However, pursuant to article 84 of the Thai National Land Code the mosques which are situated in the four provinces for example, Patani, Narathiwat, Yala and Satul may acquire more than 50 acres subject the approval of the Ministry of Home Affairs. Those provisions are silent about *waqf* property as understood by the Muslims. Secondly, the Thai National Land Code, 1951 seem to overlook the importance of the Royal Act concerning Islamic Patronage Act, 1945 and the Royal Act concerning Muslim mosque¹⁴.

Waqf property of Al-Muhammadi Mosque, Banthon village, Narathiwat province: An Example

In almost every village in the Malay-Muslim majority areas there was a mosque, however, in the village of Banthon, Narathiwat province, there are three mosques. Al-Muhammadi mosque is among the oldest mosque.¹⁵

¹⁴ It is a Thai word which mean acre.

¹⁵ Or its alternate name, the Ban Thon mosque, located about 15 kilometers from the provincial capital of Narathiwat. It is said to have been built in 1874, complete in the year 1999. A well-known religious scholar such as Baba Haji Ashaari Bin Haji Mohd. Carried out his teaching here. One of Baba Haji Ashaari's student, Ustaz Abd.Samad Bin Haji Che Dir, took over Baba Haji Ashaari's place.

It was registered in the year of 2496 B.E.¹⁶ The awqaf properties of this mosque are under the purview of Al-Muhammadi waqf committee. The secretary of the Al-Muhammadi waqf committee is also a *khatib* of the Al-Muhammadi mosque. The total number of waqf properties managed by Al-Muhammadi mosque is 3 arcs of coconut land. The total monetary value of immovable properties of Al-Muhammadi mosque has been estimated 80,000 Thai Baht.¹⁷ Below is the registered Al-Muhammadi waqf property.

Table 1 Al-Muhammadi Waqf Property

No	Items	Location	Remark
1.	Coconut land for 3 arcs	Ban Thon Beach	Center for Pre-school was built
2	Farming land for 4 arcs	Adjacent to Kubang Tiga Kub carnal on main road to Pek Bon	Currently is Ma'had al-Nahdhah al-Hadithah
3	Grave yard for 3 arcs	Main Road to Ban Thon Beach	
4	Tents, Tables, chairs	Al-Muhammadi's Store house	Rentable

Source: File report on Al-Muhammadi waqf property

As for expenditure on monthly electricity charges is deducted from weekly and monthly donation. The local government administration sanctioned a sum of 50,000 Thai Baht during the year 1990-1991 to Al-Muhammadi mosque as subsidy for reconstruction of Al-Muhammadi meeting room.

4. ENCROACHMENT ON WAQF LAW

A serious problem faced by the waqf properties relates to the encroachment by unauthorized person on open lands. It found that they constructed wooden houses on waqf land for their dwellings. Currently there are four houses were constructing on waqf property¹⁸ despite the fact that the encroachers have been warned by the Mosque committees. So far there is no action has been taken by the Mosque committee to remove the encroachment.

5. LITIGATION: A CASE STUDY OF AL-MUHAMMADI WAQF PROPERTY ENDOWMENT

The suit was firstly filed at the Naratiwat Muslim Religious Committee Council. The commit was unable to settle the dispute. In February 1999, the suit was filed at the Narathiwat provincial court Waqf Committee of Muhammadi mosque. It was filed against individual trustees. In this case the Waqf Committee of Muhammadi mosque demanded a piece of land which was registered in the name of individual trustees given to the Al-Muhammadi mosque. According to Waqf Muhammadi committee, such property must be transferred and registered under the Al-Muhammadi mosque to avoid from converting a donated into private property by the trustees. The plaintiff argued that the said land was donated by the villagers to Ma'had al-Nahdhah al-

¹⁶ Registration No: 93/2496.

¹⁷ The interview was made on 30th April 2009.

¹⁸ The interview was made on 30th April 2009.

Hadithat but not to the Al-Muhammadi mosque. The witnesses were called. After hearing the witnesses from both sides, the court allows to transfer the disputed land to the Al- Muhammadi *waqf* property under the supervision of Al-Muhammadi mosque committee.

The learned judge of the Narathiwat provincial court was of the view that the Al-Muhammadi mosque can own the *waqf* property provided that Al-Muhammadi mosque must be first registered under the Masjid Act, 1847. The referred to the cases decided by the appeal court. However, this decision according to the writing could not be applied to other cases. This is because under the Thai judicial system, a trial court in Thailand is not bound by prior court rulings when it decides an issue under the TCCC, 1934 or any other Thai law for that matter. Every case brought before a Thai trial court is subject to the trial court judge's personal interpretation of the plain meaning of the applicable laws. Since the laws, by necessity, are often not specific and sometimes not even plain, predicting results on particular issues is sometimes an uncertain science. Still, the language of the TCCC, 1934 is usually clear enough, and previous court rulings - especially those of the Thai Supreme Court - serve as reasonable guidelines for interpreting less certain provisions. Fortunately, the plaintiff did not an appeal on this issue. From the decided case above we may conclude that the status of *waqf* property in those Muslim majority areas is unsecured unless Thai government issue law concerning *waqf* property for Muslims in Thailand.

6. SUGGESTIONS AND WAY FORWARDS

Based on the foregoing discussion the followings are suggestions on the improvements of those weaknesses:

1. Accepting Shariah as part of Thai law. The possibility of making Shariah as a source of Thai law is based on the decided cases by the Thai judges in the case of Al-Muhammadi *waqf* property. There are several articles in the TCCC, 1934 should be reviewed in consultation with Muslim scholars and religious leaders.
2. As none of the Thai National Land Code provision and other laws is devoted to *waqf* land, the only way lands can be dedicated for *waqf* by Muslims is through the mechanisms of Islamic law of *waqf* which are being implemented at the Islamic religious councils in those four areas.
3. Since there is no *waqf* legislation in Thailand. This will be problematic for the *waqfs* as some of the regulations could be inappropriate and not in line with Islamic rules and hence, there is a need for a new and complete law for *waqf*. If the law could not be passed by the parliament. It is suggested that the call for establishment of an independent body or board which is responsible to regulate *waqf* institutions should be considered by Thai government.

7. CONCLUSION

However, despite the deteriorated conditions that face the *waqf* system in the Malay-Muslim majority areas in Thailand, there are currently lots of voices that are aware of the significance of *waqf* and call for reviving and re-organizing it. In fact, reviving the *waqf* could play a vital role in mobilizing our local resources and achieving

development. It does not, however, mean that for the effective waqf administration, the Government alone is responsible. In fact the whole society in general and those who connected with the waqf administration in particular have to be more responsible towards Waqf administration. Therefore, it is necessary to unite and empower all possible efforts that aim at revitalizing the culture of waqf in those areas and to emphasize on its potential as a financial institution able to achieve sustainable development.

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Statute

Thai Civil and Commercial Law Code, 1934

The Royal Act concerning Islamic Patronage Act, 1945

Royal Act concerning Muslim mosque, 1947

Thai National Land Code, 1951

List of Interviewees

Ustaz Marzuki Bin Muhammad Diah, imam Al-Muhammadi mosque

Ustaz Ahmad Bin Omar, khatib Al-Muhammadi mosque

PEMBENTUKAN MODEL IJARAH DALAM PENGURUSAN WAKAF MUAQQAT : SATU ANALISIS¹

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1. PENGENALAN

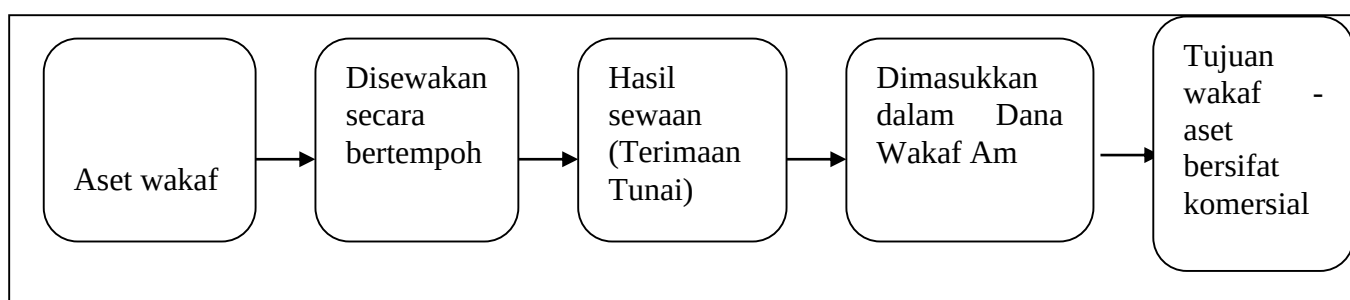
Wakaf merupakan salah satu medium pembangunan ekonomi umat Islam. Ia amat penting bagi menyempurnakan keseimbangan antara duniawi dan ukhrawi. Para sahabat R.A. telah memupuk budaya infaq fi sabilillah ini sejak berdekad yang lalu. Namun impak berkenaan terus disambung oleh para dermawan hingga ke saat ini. Menurut Norsiah Sulaiman dan Farah Dina Abdul Manaf (2009) ia merupakan satu instrumen sistem kewangan dan hasil negara Islam. Namun mutakhir ini, terdapat beberapa inovasi wakaf gaya terkini yang diperkenalkan untuk memperkasakan institusi wakaf. Selain wakaf menjadi satu ibadah di dalam Islam, pewakaf juga akan mendapat ganjaran serta pahala yang berterusan sebagaimana yang dinyatakan di dalam hadis. (Mohamad Zaim, Khadher Ahmad, Mohd Farhan dan Muhammad Ikhlas, 2013).

Di antara objektif kajian ini dijalankan adalah untuk meneliti pelaksanaan dan aplikasi hukum wakaf sementara (wakaf *muaqqat*) melalui aspek syariah. Pelaksanaan Wakaf Muaqqat ini mampu memberikan impak positif bagi memberikan keselesaan hidup ummah (Mohamad Akram Laldin, Mek Wok Mahmud dan Mohd. Fuad Sawari, 2008). Wakaf Muaqqat bermaksud pewakaf mewakafkan harta dalam sesuatu tempoh tertentu. Setelah tamat tempoh, harta tersebut akan kembali semula kepada pewakaf. Manakala Ijarah membawa maksud satu kontrak pertukaran hak milik harta (*mu'awadah*) dengan memberi milik manfaat dengan ganjaran atau bayaran tertentu. Menurut Undang-undang Mesir Nombor 48 Tahun 1946 memperuntukkan bahawa terdapat beberapa keadaan yang membolehkan pelaksanaan wakaf muaqqat iaitu dari sudut tempoh pelaksanaan dan penggunaan wakaf muaqqat. Bagi tempoh pelaksanaan wakaf sementara, ia tidak melebihi dari 60 tahun selepas kematian pewakaf. Manakala isu berkaitan penggunaan wakaf sementara pula dibenarkan dalam bentuk-bentuk tertentu sahaja seperti rumah sakit, tempat transit, sekolah-sekolah pengajian, orang fakir dan lain-lain lagi. Namun bagi tujuan pembinaan masjid, ianya tidak boleh diwakafkan secara bertempoh. Ini merupakan pandangan mazhab Maliki yang bertujuan memperluaskan lagi galakan amalan kebajikan bagi seluruh umat manusia. Di samping itu, sebahagian besar para ulamak menyatakan bahawa konsep wakaf mestilah *ta'bid* (tidak ditentukan masa dan berkekalan). Menurut pandangan Jumhur, wakaf sementara adalah tidak sah dan ianya adalah berbeza dengan pandangan Malikiah. Oleh itu, jumhur ulamak menyatakan bahawa apabila seseorang individu menyebut dengan *sighah* yang menunjukkan sementara seperti katanya : “aku mewakafkan rumah ini setahun, sebulan dan seumpamanya” boleh menyebabkan pembatalan wakaf. Manakala menurut Malikiah pula, mereka tidak mensyaratkan *ta'bid* dalam *sighah* wakaf. Kesan daripada fatwa berkenaan telah membuka ruang bagi melakukan ibadah wakaf bagi sesuatu tempoh dan membolehkan orang ramai membuat kebajikan mengikut kemampuan masing-masing.

Berdasarkan pendapat jumhur ulamak, orang ramai hanya boleh berwakaf dengan menyerahkan harta mereka secara kekal. Oleh yang demikian, bagi sesetengah masyarakat, mereka tidak mempunyai peluang untuk berwakaf secara sementara kerana kekangan kewangan dalam menguruskan kehidupan seharian. Dengan itu, kajian ini dijalankan untuk membuka ruang kepada orang ramai untuk melaksanakan ibadah wakaf sama ada secara kekal ataupun sementara khususnya yang mempunyai

hartanah pusaka dan sebagainya. Terdapat beberapa kumpulan sasaran yang berpotensi dalam melaksanakan wakaf muaqqat ini. Pertama ialah golongan hartawan yang mempunyai lebih aset. Contohnya rumah, bangunan, kereta dan sebagainya. Kedua ialah golongan korporat yang mempunyai lebih saham di dalam pelaburan atau mempunyai premis perniagaan yang banyak. Ketiga, adalah bagi mereka yang telah bersara dan mempunyai harta yang ditinggalkan tanpa dimanfaatkan. Mereka tidak dapat menguruskan harta tersebut disebabkan faktor usia yang telah meningkat. Keempat, bagi mereka yang tinggal di luar negara akan tetapi mempunyai aset di dalam negara. Mereka boleh menyewakan harta mereka dalam waktu tertentu sementara mereka pulang ke tanah air. Namun begitu, penulis yakin masih ramai juga yang menanam hasrat sedemikian bagi mengejar pahala wakaf yang telah disyariatkan.

Diagram 1 Pembentukan Model Ijarah dalam Wakaf Muaqqat



2. OBJEKTIF KAJIAN

Di antara objektif kajian adalah seperti berikut:

1. Untuk mengkaji hukum wakaf sementara dari perspektif syariah
2. Untuk membangunkan inovasi model wakaf sementara (waqf muaqqat) yang bersesuaian untuk diaplikasikan dalam sistem pengurusan wakaf Majlis Agama Islam Negeri-negeri (MAINN) dan wakaf korporat di Malaysia.

3. METODOLOGI

Kajian ini akan menggunakan kaedah kualitatif di dalam pengumpulan dan penganalisaan data yang diperolehi. Kaedah kualitatif ini digunakan dalam proses temuduga supaya maklumat yang akan diperolehi lebih tepat dan komprehensif. Selain itu, kajian ini dilakukan dengan menggunakan data primer yang diperolehi dari perpustakaan dan temubual (kumpulan fokus dan pakar bidang).

Berdasarkan kajian Literatur, Wahbah Zuhaili (1985) telah menjelaskan definisi wakaf dari sudut bahasa iaitu menahan daripada jual beli. Manakala menurut Al-Kubaysi, Muhammad 'Ubayd (1977) wakaf ialah penahanan sesuatu harta yang dapat memberikan manfaat kepada penerima manfaat di samping ain fizikalnya dikekalkan. Selain itu, hak penggunaan harta tersebut terputus bagi pewakaf dan hasilnya digunakan untuk tujuan kebaikan. Definisi ini adalah menurut Muhammad Al-Syarbini Al-Khatib, yang merupakan salah seorang ulama Mazhab Syafie. Manakala wakaf Muaqqat merupakan wakaf secara bertempoh atau sementara dimana setelah tamat tempoh, harta wakaf akan dikembalikan kepada pemiliknya (Majidah Mahmud

Hiza'(2006). Di Malaysia, peruntukan wakaf terdapat di dalam Senarai Kedua, Jadual Kesimbilan,Perlembagaan Persekutuan.(Abu Bakar Manat, 2007). Terdapat 3 negeri yang mempunyai Enakmen Wakaf tersendiri iaitu Negeri Selangor, Melaka dan Negeri Sembilan.(Jasni, 2013)

Aset wakaf meliputi harta alih dan harta tidak alih dan perkara ini ada dinyatakan di dalam penulisan Tauqir Mohammad Khan (2007). Imam Syafie memberi pandangan bahawa setiap harta yang boleh dijualbeli boleh diwakafkan selagi manfaat harta tersebut dapat disalurkan kepada penerima secara kekal Siti Mashitoh (2007). Menurut Zaharuddin Abdul Rahman (2014) terdapat beberapa dalil dari Al-Quaran dan Hadis yang menunjukkan pensyariatan serta galakan berwakaf demi menjaga kepentingan dan masalah umat Islam. Majoriti para fuqaha' memberi pandangan bahawa wakaf seharusnya bersifat kekal. Ia telah dipersetujui oleh semua fuqaha' dalam memahami konsep wakaf. Namun begitu, terdapat fatwa dan pandangan dari mazhab yang menekan *a'thar* dan fatwa sahabat r.a. yang tidak mensyaratkan harta wakaf mestilah kekal. Ia telah dibincangkan oleh Muhammad Abu Zahrah (2007) secara terperinci dalam menjaga keharmonian dan kesejahteraan pensyariatan wakaf. Selain itu, di dalam penulisan Mustafa Al-Khin, Mustafa Al-Bugha & Ali Asy-Syarbaji (1992) menyatakan bahawa lafaz wakaf hendaklah tidak menyatakan batasan masa tertentu. Sekiranya terdapat batasan masa di dalam sighah tersebut, maka wakaf tersebut adalah batal. Walau bagaimanapun, menurut pandangan Mazhab Maliki, wakaf Muaqqat adalah diharuskan. Hal ini kerana tiada syarat ta'bid (kekal) dalam lafaz wakaf. (Majidah Mahmud Hiza'(2006).

4. HASIL KAJIAN DAN KESIMPULAN

Secara praktikalnya, amalan wakaf sementara ini tidak begitu popular di negara ini. Sebahagian Majlis Agama Islam Negeri selaku pemegang amanah tunggal harta wakaf tidak mempunyai mekanisme yang khusus dalam mengendalikan wakaf secara sementara. Sekiranya wakaf muaqqat ini dipraktikkan, maka inovasi penjaan wakaf *muaqqat* ini mampu memberikan suntikan dana wakaf secara produktif. Ia juga akan membantu beberapa Majlis Agama Islam Negeri yang tidak meluluskan pelaksanaan wakaf muaqqat di negeri masing-masing. Dalam erti kata lain, ia adalah satu bentuk model alternatif melalui konsep ijarah bagi menggantikan wakaf muaqqat dinegeri tersebut. Oleh yang demikian, kajian ini akan mencadangkan satu pembentukan model ijarah dalam pengurusan wakaf muaqqat.

Walaupun bagaimanapun, jika amalan wakaf sementara ini dapat dilaksanakan, ia dapat menyumbang kepada pertumbuhan ekonomi negara secara kolektif khususnya yang berskala kecil. Di antara cadangan projek melalui medium wakaf muaqqat dengan pendapatan dari hasil sewaan aset wakaf bertempoh (manfaat wakaf muaqqat) adalah seperti berikut:

1. Pembinaan surau berskala kecil iaitu nilai projek adalah kos rendah.
2. Pembinaan Dewan Serbaguna kos rendah di kawasan luar bandar bagi tujuan pendidikan seperti sekolah, pusat tuisyen, pengajian talaqqi dan sebagainya.

3. Pembinaan Bangunan Serbaguna bagi tujuan penjanaan ekonomi dengan pembinaan bilik atau rumah kedai kecil untuk disewakan. Hasil sewaan tersebut dipulangkan kepada penerima manfaat.

Di dalam kajian ini, kontrak Ijarah dijadikan sebagai elemen penting dalam melaksanakan wakaf Muaqqat. Ini kerana ia bersesuaian dengan jenis wakaf yang bersifat sementara. Walaupun wakaf muaqqat ini bersifat sementara/ tidak kekal, namun manfaat wakaf itu wujud dalam tempoh tersebut dan hasil sewaan dapat disalurkan untuk tujuan kebajikan yang lain. Ini merupakan hikmah kewujudan kontrak Ijarah terhadap pelaksanaan wakaf Muaqqat. Jadual di bawah menjelaskan hubungan antara model konsep Ijarah dan Wakaf Muaqqat.

Jadual 1 Hubungan antara model konsep Ijarah dan Wakaf Muaqqat

Bil	Isu	Kenyataan
1	Niat Pewakaf	✓ Duit sewa ditukarkan kepada wakaf tunai
2	Penerima manfaat (<i>Mawquf Alaih</i>)	✓ Perlu dijelaskan oleh pemilik aset tentang penerima manfaat berkaitan Wakaf Am atau Wakaf Khas.
3	Aset Wakaf (<i>Ain Mawquf</i>)	✓ Diserahkan melalui surat kepada MAIN ✓ Segala penyelenggaraan ditanggung oleh pewakaf.
4	Manfaat/Hasil	✓ Hasil sewa diserahkan kepada Unit Kutipan Wakaf / Eksekutif Pemasaran Wakaf (PWS) dan kemudian dimasukkan dalam dana wakaf.
5	Pengurusan	✓ Diurus tadbir oleh MAIN.

Berdasarkan jadual diatas dapat difahami bahawa konsep wakaf sementara boleh ditransformasikan dalam pelbagai bentuk aqad muamalat. Sehubungan itu, dengan kemasukan aqad ijarah didalam kerangka pelaksanaan wakaf muaqqad ini dapat menyelesaikan tuntutan wakaf semasa. Ia juga dapat mengelakkan daripada niat pewakaf yang bercadang bagi mewakafkan asetnya secara bertempoh. Dalam diharapkan model yang diutarakan ini dapat diperhalusi demi meneruskan kesinambungan pembangunan wakaf pada masa hadapan.

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THEME: MORAL ECONOMY AND CONSUMPTION IN ISLAMIC PERSPECTIVES

GOOD FINANCE: INTERACTION OF ETHICS AND SHARI'AH IN ISLAMIC FINANCE

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ABSTRACT

Islamic Financial industry is moving towards the global integration. There is a considerable acceptance of Islamic financial practices across the globe. Islamic finance is viewed positively as an attractive financial system that could be adopted in modern context. One of the reasons for this acceptance could be due to its ethical promises. Islamic finance is widely viewed as an ethical based finance that is operating with a set of good ethics in financial dealings. With that ethical back up as the underlying principles in financial activities, there is wide expectation that it could offer a different perspective and approach in finance and a coherent perspective for understanding real economic problems faced by human being and hence could elegantly solve the crisis as regularly faced in the conventional financial system. Islamic finance is developed with the aim of capturing the moral high ground of banking and financial practices in an increasingly volatile world by offering a financial philosophy based on the triumph of ethics and dealing with customers in a more humanistic approach for the betterment of society. In this regard, the moral mastery is not only expected to be the hallmark of Islamic financial professionalism, but it is also desired to be naturally integrated in the system and its practitioners. Islamic finance aims to achieve a fair wealth circulation in society, fair and transparent financial dealings and justice in micro and macro dimension. The paper attempts to discuss the concept of ethics in Islamic finance, its basis, principles and objectives in the contemporary world.

Keywords: Islamic finance, ethics, good finance, Shari'ah compliance, maqāsid al-Shari'ah

1. INTRODUCTION

The Islamic finance industry is moving towards global integration. There is a general interest and acceptance of Islamic financial practices worldwide and clear recognition that Islamic finance represents a viable financial system that could be adopted in the modern context. One of the reasons for this acceptance could be due to the underlying ethical premises of Islamic finance.

In March 2009, the Vatican, in its official newspaper L'Osservatore Romano, said: *"The ethical principles on which Islamic finance is based may bring banks closer to their clients and to the true spirit which should mark every financial service"* (Totaro, Bloomberg, 2009).

This statement provides a clear message that it is the ethical values in Islamic finance that essentially attract audiences to look into it and participate in its operations. With the ethical back up as its underlying principles, there is wide expectation that it could offer a different perspective and approach to finance that takes into account real economic problems faced by society and could solve the recurrent crises confronting the conventional financial system.

The ethical premises of Islamic finance are derived from the foundations of Islam that provide guidance as to how a good financial system should work. These value propositions, among others, are the following:

- Islamic banking and finance is based on the Principles of Shari'ah (*aḥkām al-Shar'iyyah*) which set the rules and regulations applicable in financial dealings and aims to achieve the goals of Shari'ah (*maqāḥid al-Shari'ah*) which establish the direction of financial activities.
- Islamic banking and finance promises growth in accordance with ethics and moral commitment, social responsibility and financial stability.
- Islamic banking and finance offers a variety of contracts and allows dynamism and flexibility in product development and innovation.

This ethical concern to strengthening business ethics should be elaborated, defined and developed as a guide to market players for setting the proper behavioral framework that should direct financial activities. This paper aims at elaborating this ethical concern in the context of Islamic financial practices. The idea is that moral mastery should not only be expected to be the hallmark of Islamic financial transactions, but it should also be well integrated within the Islamic financial system and imbued within its practitioners.

2. ISLAMIC FINANCE AND ETHICAL CONCERN

In the recent decades, there has been a growing interest in the issue of ethics and finance from the public, academics, investors and businesses. The calculation of costs and benefits in term of financial profit as a reliable guide to determine what is harmful and beneficial is viewed as insufficient in deciding what is good and bad.

In fact, many have claims that profit maximization fuelled by thrift and greediness has caused the financial crisis. Oskari Juurikkala (2010: 27) for example argues the greed

of financial institutions to get profit irrespective of moral values has caused the crisis. Financial instruments called derivatives have been used in unethical ways to fool regulators and personal gain at the expense of public interest.

The global finance situation has triggered mankind to rethink the relationship of ethics and good finance. Some of other reasons on the need for ethical consciousness in financial dealings and the integration of ethics within the domain of finance are as the following.

2.1. Systemic Concern

To achieve the goal of having a solid financial system, ethics, rules and regulations are inseparable elements that guide market players in their interaction within the system. Unfortunately, in conventional finance, ethical consideration is treated as an exogenous variable to the system. Ethical exogenism implies that finance philosophy and practice is independent of value propositions and interventions. Professionalism in the field of finance is thus defined and measured in a mechanistic perspective of profit maximisation. All stakeholders operating within the system seek to achieve higher and more profits than be concerned about the impact of their actions on society and the environment. Even the elements of deregulation and liberalisation in financial markets have been promoted in an attempt to attract more participants and investment in the finance industry, with little concern of the importance of ethics and morality.

Since ethics is assumed not to form part of the financial system, it becomes incapable in affecting the parameters for establishing a good social order within the system. Eventually, when the gap widens, a dysfunction in the financial system occurs. A typical case is the example of recurring crises in the modern financial system which, for some, is triggered by unethical motives and actions. They are said to represent a moral failure instead of a system failure. The cause is the unethical behavior of market players, who attracted by greed and profit maximisation, justify their highly speculative practices and have transformed financial dealings into a casino, rather than an industry that empowers people and stimulates productive activities and development.

Hence, it is necessary for ethics to be included in finance as one of its important dimensions in establishing a sound financial system. In an integral ethical system, financial institutions would not be viewed as mere intermediaries but as enabling institutions that can empower people and companies to pursue and achieve their goals. This would systematically reshape the industry and guide it towards a proper direction (Lynch, 1994: x).

2.2. Behavioural Concern

The disclosure of unethical conduct in numerous important branches of business and industry has triggered global consciousness on the need to have an ethically-based finance. The frequency of mass media reports on instances of frauds, insider trading and the manipulations of books has seemingly increased in the last decades. Recent examples include the auditing and accounting scandals that well-known and well-respected US firms like Enron, WorldCom and Xerox have been involved in. Many such cases have been reported in several parts of the world. The impact of shocks,

scandals and crises—in the form of lawsuits, embarrassing protests, revelations, denial of capital, threats, sanction of regulation—are said to “*have often, if regrettably, achieved more progress in raising ethical behaviour than has moral suasion*” (Davies, 2003: 303).

The integration of ethics within the domain of economics and finance should be attempted by cultivating good behaviour and establishing a positive environment for good corporate practices. This could be instituted in the form of ethical codes of conduct to be abided by practitioners in the finance industry. Ethical conduct could also be promoted by:

- Organizing the finance profession under professional bodies which would instill their own code of ethics and ensure the ethical behaviour of their members.
- Establishing appropriate rules and control processes at the level of financial institutions that would promote transparency and disclosure of relevant information, while impeding excessive or unfair actions.
- Developing a culture of accountability and honesty, especially through prudent and exemplary leadership.

This would result in achieving greater efficiency in financial practices along with stability in the financial system. In addition, it would avoid moral degeneration, conflict and social tensions that arise from unfair or inhuman financial practices.

Profit and ethics, should not be viewed as something irreconcilable. Profit is lawful and legitimate if it is derived from legitimate means. It also has a moral purpose whereby profit could be used for developing human potential, providing relief from suffering, opening up new opportunities in technology and other fields of human endeavour (Lynch, 1994: 3).

2.3. Good Finance

The consciousness to bring back ethics into finance is also led by the strong desire from society to have what is called ‘good finance’ or ‘ethical finance’. An ethical mode of finance would be concerned of the implications created as a result of financial transactions. Its role is to create a positive impact on the economy, the environment and society. To this end, profit making is viewed not only for private gain but also within the perspective of social impact (Ahmed, 2012: 5).

Lack of ethical concern in financial dealings would result in erosion in trust and confidence in financial institutions, in the products and services, and in the individuals involved in the financial transactions. Lack of ethical focus can lead to consequences that would tarnish the image of financial services and the system as a whole. Furthermore, according to a study by Lynch (1994: 3-4), such situation would lead to:

- *Poor image*

Poor image will result in a financial institution being used by its customers as a last resort rather than as a first choice. This leads not only to greater chances of attracting undesirable customers of low-credit rating, but heightens the likelihood of customer defaults with its attendant cost.

- *Degradation of moral values*

Lack of ethical focus would contribute to a degradation of moral values at the level of employees. It will manifest itself in the attitudes and behavior of employees such as involvement in corruption, lack of transparency, avoiding fairness and honesty.

- *Poor service*

Lack of ethical focus would result in poorer service to customers and society at large.

- *Failed system*

Lack of ethical focus would consequently lead to the failure of the overall financial system. As has been discussed earlier, the origins of the financial crisis started with a moral crisis arising from greed, selfishness, fraud and other unethical conduct.

- *Corrupt society*

Lack of ethical focus would also lead to a corrupt society. This is because a good society is built upon ethical values where the stakeholders have full ethical and moral commitment.

3. THE BASIS OF ETHICS IN ISLAMIC FINANCE

Having said the importance of ethics in financial system and practices, the next question is what is ethics? from where ethical propositions can be derived? and what kind of ethics is needed to properly guide financial activities especially in the case of Islamic finance?

3.1. What is Ethics?

Ethics (also commonly known as morals and values) is a system of moral principles which defines what is good for individuals and society. Ethics deals with the question of what is good and bad, right and wrong, and correct and false.

In Islam, ethics is termed as *akhlāq* (*khuluq* in plural). It is defined as standards of right and wrong that prescribe what humans *ought to do* as taught by the Qur'an, and demonstrated in the exemplary life (actions and words) of the Prophet (s.a.w). Umaruddin (2003: 66) in his book *The Ethical Philosophy of al-Ghazali* defines Islamic ethics as “nothing but the body of injunction laid down in the Qur'an for the practical conduct of life and fully exemplified in the practice of the Prophet Muhammad s.a.w”.

The ethical dimension covers a wide spectrum—from preconceiving how decisions or choices are made, to their implementation through one's action, until the practical consequences of that action are seen. Issues that are morally significant usually have to do with relationships, agreements between parties, intentions and possible outcomes (Thompson, 2010: 4).

Ethics discusses morality and provides guidance on moral choice. This is done by distilling the proclaimed values and norms of individuals, enabling them to identify

courses of action which will enhance the moral quality of human behaviour (Lynch, 1994: 43).

In this perspective, three basic frameworks can be used to clarify our understanding of 'what' ethics is, namely:

- Principled conscience — helping us decide what is right by reference to principles such as fairness, courage, integrity, transparency, kindness, and others.
- Social conscience — helping us decide what is right by considering the consequences, both good and bad, of our actions on others.
- Rule compliance — telling us what is right by considering the rule of law.

The dimension of ethics is not confined to the normative realm. Ethics is also practically oriented in the sense that its effects can only be felt when it is applied in practice. Therefore, having a correct and comprehensive perspective of ethics is important as its application would bring impacts on human life.

3.2. Source of Ethics in Islamic Finance

Ethics can either be secular-based or religious-based. Secular ethics, as argued by Naqvi (2003: 4) is autonomously determined, independent of religious beliefs. Its source is western ethical philosophy, generally understood to imply a search for rational understanding of the principles of human conduct. Religious-based ethics on the other hand is derived from scripture and divine laws that guide society.

The source of ethics in Islamic finance is based on religious values founded on the teachings in the Qur'ān and the Sunnah (Prophet's way)—the two prime sources of reference in Islam. Those guidance and value-patterns from the Qur'an and the Sunnah serve as an ethical compass for finance and adopted as an ethical framework that guide Islamic financial practices.

Islamic ethics is embodied in the religious commands and prohibitions related to commercial and financial activities as outlined in the concept of Shari'ah. Shari'ah provides ways and means for a complete and comprehensive way of life that includes faith and practices (*aqidah*), personal behaviour and ethics (*akhlaq*), man-to-God worship (*ibadat*) as well as man-to-man relations through business and social transactions (*mua'malat*). Shari'ah also provides orientation on the objectives to be pursued in Islamic finance, namely to realise benefits (*maṣlahah*) and prevent harms (*mafsadah*) for individuals and in social life.

In its practice, Islamic financial ethics calls for the interplay between ethics and financial transactions. Financial aspect is put forward as part of the larger Islamic ethical system since the financial aspect in Islam is considered part of 'religion' whereby all business activities, wealth creation, economic development, wealth distribution, human welfare are also considered the 'business of religion'.

4. ETHICS AND FINANCIAL DEALINGS

Ethics is an inescapable element in Islamic financial transactions that would determine the parameters for establishing a good social order within the system is

upheld. Islamic finance in this regard is very much aware of the moral failure of unethical motives and actions in financial practices that could lead to financial crises. Islamic ethics application should be seen in all Islamic financial activities, from product structuring, marketing and all dimensions when Islamic finance institutions deal with their customer. The ethical commitment represents the true meaning of Shari'ah compliance.

4.1. Ethics and Financial Contracts

In the spirit of achieving benefits (*maṣlaḥah*) for human beings through wealth creation and augmentation, the Shari'ah has legislated various transactions and contracts. Those contracts, called as nominate contracts (*'uqud al-musamma*), are legislated with detailed rulings by Shari'ah aims to ensure a fair transition whereby all parties involved in a contract would benefit from the transactions and nobody would be marginalized, exploited or cheated.

In general, Islamic nominate contracts related to economic transactions are classified into three main categories, namely exchange (*mu'awdat*), partnership (*ishtirak*), and gratuitous (*tabarru'at*).

- Exchange contracts (*'uqud al-mu'awadat*) include simple spot sales (*buyu'*); sales that create debt, such as deferred payment sales in the form of forward sale (*bay' salam* and *bay'istisna'*), leasing contract (*ijarah*), and reward for successful completion of a job (*ju'alah*).
- Partnership contracts (*'uqud al-Ishtirak*) are ones in which one party assigns work/capital/obligation to another party (or parties). These contracts include agency (*wakalah*), partnerships (*sharikah*) contracts in the forms of profit and loss sharing (*mudarabah* and *musharakah*), assignment (*hawalah*), and pledge or mortgage (*rahn*).
- Gratuitous contracts (*'uqud al-tabarru'at*) whereby ownership or possession (right of use) is transferred without consideration or compensation. Gratuitous contracts include loans (*'ariyah* and *qard*), deposits (*wadi'ah*), gifts (*hibah*) and guarantee/security (*daman* or *kafalah*).

Every contract is designed to serve a 'particular purpose' (*muqtada al-'aqd*) as defined by Shari'ah which reflects its nature, function and purpose. The purpose of a contract is an integral part of ethics of that contract that must be followed and remain clear of manipulations that would distort its primary purpose (Kamali, 2012: 622).

The creation of Islamic banking products using particular contracts should essentially take care of the particular purpose of the contract and not merely the technical-formalities of pillars (*arkan al-'aqd*), conditions (*shurut al-'aqd*) and attributes of the contract (*awsaf al-'aqd*). The *muqtada al-'aqd* reflects the combination of all these factors into one solid form of contract (i.e., the combination of form and substance of contract, reflecting the external and internal intentions of the parties involved) (Laldin and Furqani, 2013).

To distort the Shari'ah-ordained purpose of a contract through questionable stipulations, or through recourse to legal tricks and stratagems (*hiyal*), becomes

problematic, and as Kamali (2012: 623) observes, if allowed unchecked would naturally effect the ethical propriety of the contract in question.

This spirit marks the Islamic approach in commercial (financial) dealings that takes in consideration not only the form but also the substance (including ethics) of the transactions. While certain formalities and substantive elements are essential for a transaction to become legally binding on the parties, this should be done through mutual agreement that brings about mutual consent and satisfaction (*rida*) (*al-Baqarah* [2]:282). Therefore, along with the approval of various contractual facilities and the emphasis on fulfilment of contractual obligations, Islamic law also provides various ways to remove contractual obligation in situations of unavoidable difficulties and necessities (Islam, 1998: 368).

4.2. Ethics and the Meaning of Shari'ah Compliance

Having that perspective, it is clear that law and ethics is inseparable in Islamic financial practices. The adherence to the legal principle and rules of Shari'ah (usually called as Shari'ah compliance) is not meant as merely complying with the Islamic legal principles in its structural forms, but also, in satisfying the substantive spirits of ethical and moral imperatives.

This is because law and ethics, from the Shari'ah perspective is inseparable and should not be made contradictory in developing Islamic finance, as the Qur'anic worldview recognizes no distinction between legal imperatives and moral obligations.

The legal compliant structure of Islamic financial products should essentially reflect the spirit of Islamic values that represent the hallmark of financial dealings among the contracting parties to gain mutual benefit or reach a win-win situation. Islamic financial contracts would not recognize any financial dealing with no solid ethical ground that would lead one party to gain from the transaction and the other party to lose.

Many commands and prohibitions in Shari'h should therefore be understood from the perspectives of both legal and ethical grounds. The prohibition of *riba* (usury), for example, should be understood as not merely the prohibition of any excess charge on a sum loaned, but also a moral prohibition of exploitation of man by man in financial transactions or the derivation of a gain without any effort. Likewise, an ethical perspective of *riba* prohibition would result in upholding the spirit of trust between customers/investors and fund managers where both parties would cooperate for their mutual benefits (Fazlurrahman, 1985).

Ethics would thus broaden the perspective of Shari'ah compliance from mere compliance to legal forms in product structures to also include the commitment to ethical principles and values. The value propositions that Islam promotes in financial activities should be incorporated in practices in accordance with the correct application of contracts (*'aqd*) in financial products. Therefore, Shari'ah scholars (advisors in Islamic financial institutions) should also play a role as guardians of business ethics and not merely as legal advisors for a Shari'ah-compliant product structure (Nienhaus, 2011).

5. ETHICS AND THE OBJECTIVES OF SHARI'AH IN ISLAMIC FINANCE

To have a fair, just and good financial transaction that would benefit all parties is the objectives to be realized in the perspective of Shari'ah. Shari'ah has set the goals and objectives of the Shari'ah upon which the Shari'ah is established and to which all actions of human being are directed in the concept of *maqasid al-Shari'ah*. They are standards and criteria, values and guidance rooted in divine revelation (*wahy*) to be applied in solving the problems that confront mankind and in guiding the direction of life.

The prime ethical objective of Shari'ah (*maqāṣid al-Shari'ah*) is establishing and realizing *maṣlaḥah* (benefits) and eliminating *mafsadah* (harms) in human life. Shariah in all its rulings aims at realizing *maṣlaḥah* that would facilitate benefits, fairness, justice and goodness and removing *mafsadah* that would implicate to the harms, injustice, exploitation, and dispute in financial products and transactions (Al-Qaradawi, 2007).

The discussion on the *maqāṣid al-Shari'ah* in Islamic finance is framed in terms of protection of wealth (*hifz al-mal*) as mentioned by al-Ghazali in his classification of *maṣlaḥah*. This approach is justified as the subject matter of finance and the function of financial institutions as financial intermediaries is basically how to allocate resources from the surplus sector (capital providers) to the deficit sector (capital users) so that wealth is smoothly circulated and human welfare is realised. This, however, should be looked at from a broader perspective to include ethical and moral messages instead of mere economic interest (Laldin and Furqani, 2013).

Based on the general objective of acquiring benefit (*maṣlaḥah*) and preventing harm (*mafsadah*), specific and particular objectives (*maqasid khaṣṣah*) in the enactment of financial laws and its application in financial practices could be derived as the following:

- *The objective of wealth circulation and development*

Commercial and financial activities is viewed *positively* in Shari'ah as mechanisms to circulate wealth among all the sections of society. Wealth should not be concentrated in the hands of a few (among the rich/the 'have' of society). Instead it has to go into all segments of society (Qur'an, *al-Hashr* [59]: 7).

In line with that spirit, wealth should be employed in productive activities. The funds should not be wasted or left idle (Qur'an, *al-Tawbah* [9]:34) or managed unprofessionally (Qur'an, *al-Nisa'* [4]:5). In fact, any funds/wealth that are not employed will be "penalized" through *zakah* (alms giving), which will gradually reduce the volume of wealth and put it back into circulation. *Zakah* is a mechanism that necessarily keeps wealth in continuous circulation.

- *The objective of fair and transparent financial dealings*

Shari'ah guarantees the freedom of contract and freedom in crafting the contract. The basic principle is the permissibility (*ibahah*) in commercial and financial transactions so long does not contradict with the law of Islam. Nevertheless, this freedom is to be

used within an atmosphere of fairness, equity, justice and high morality. Any contract stipulated and agreed by both parties should be respected and enforced (Qur'an, *al-Maidah* [5]:1). The application of the Shari'ah in financial practices should therefore not result in injury, harm or difficulties to the contracting parties or the public at large. This is in line with the intent of the Shari'ah which aims to create a positive atmosphere in banking and commercial transactions, instituting the principles of trust, brotherhood, cooperation and mutual benefit among stakeholders.

Transparent and fair dealings are considered among the main objectives of the Shari'ah in financial transactions and activities. The Shari'ah, in this regard, aims at creating an equal and fair transactional atmosphere and at protecting the parties against exploitation or imbalance between their reciprocal rights and obligations.

- *The objective of justice in micro and macro dimension (al-'adalah)*

The above objective of wealth circulation is a macro goal of the Shari'ah while the *maqāsid* of fair and transparent financial practices are related to micro goals of the Shari'ah in transactional instruments and mechanisms. The *maqṣad* of justice embraces both micro and macro dimensions. This *maqṣad* is related to the desire of having a just order of society as well as just dealings among individuals in financial transactions. Kamali (2012: 22) observes that justice and fairness are the hallmark in commercial contracts. If a contract proves to be an instrument of injustice, such a contract must be set aside, and justice, which is the goal and *maqṣad* of the Lawgiver, must be given priority over considerations of conformity to an untenable contract.

6. CONCLUSION

As a conclusion, Islamic finance is concerned with values and ethics that would determine good finance. Ethics in Islamic finance is derived from the religious sources, namely the Qur'an and Sunnah. Shari'ah is not only about Islamic rulings or legal principles. It is also about values and ethics. Any Shari'ah prohibitions in financial activities aim at removing *māfsadah* (harms) which might inflict upon parties in transaction. Those prohibited actions are actually negative actions in an ethical point of view. Likewise, any Shari'ah injunctions aim at ensuring benefits (*maṣlaḥah*) would be realized. Those are positive values that would ensure fairness, justice and benevolence in a transaction.

The ethical spirit is the hallmark of Islamic financial practices and one of the determinations of Shari'ah compliance. Ethics annihilation in financial practice might lead to meaningless financial practices. Islamic financial institutions should really ensure that ethics and values are in place to ensure a real Shari'ah compliant practice of Islamic finance. Having those perspectives Islamic finance is able to be contributing to the creation of a good finance for a good society.

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MEASURING INDIVIDUAL FINANCIAL WELL-BEING FROM RESOURCES AND CONSUMPTION PERSPECTIVES

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1. INTRODUCTION

Financial well-being is a concept that is of interest to professions like financial planners, financial advisers, insurance and takaful consultants, and unit trust consultants, as well as financial counselors and financial educators. In the pursuit of providing financial advices to the clients, these professionals need to assess and analyse the financial health of the clients and consequently propose suitable financial strategies for the clients. Financial well-being can be seen as a subset of economic well-being, which is a subset of well-being in general. This paper is a conceptual paper that attempts to develop an objective measurement of financial well-being that is unique to countries that offer both conventional and Islamic financial products. The main motivation to conduct this study arises from more challenging situations in Malaysia today where the financial planning industry is emerging and becoming more professional in nature, especially with the enactment of Capital Market and Services Act 2007 Financial Services Act 2013. Another motivation arises from the fact that many Malaysians today are facing financial hardships dealing with the high cost of living and an alarming statistics about 21,987 new individual bankruptcy cases in 2013, which is almost doubled that of 2007. It is reckoned that with the instruments to measure financial well-being, financial planning professionals will be able to analyse their potential clients' financial circumstances and diagnose any problems that may lead to bankruptcy and insolvency of the clients, before recommending suitable asset allocations, liquidity, financial protection and credit level for the clients. Bankruptcy data presented by Malaysian Department of Insolvency (MDI) showed a worrying statistics of bankruptcy cases among individuals, as depicted in Table 1 below. Financial counselors at Agensi Kaunseling dan Pengurusan Kredit (AKPK) and financial educators may use the proposed financial well-being measure to educate and create awareness among the population about financial health.

This conceptual paper is based on reviews of literatures pertaining well-being, economic well-being and financial well-being. After reviewing various instruments used in previous studies, this research attempts to develop an alternative measurement that incorporates resource-related financial well-being and consumption-related financial well-being.

Table 1: Individual Bankruptcy Cases in Malaysia 2007-2013			
2007	13,238 cases	2011	19,167 cases
2008	13,855 cases	2012	19,525 cases
2009	16,228 cases	2013	21,987 cases
2010	18,119 cases		

Source: The Star, April 9, 2014

2. RESEARCH OBJECTIVES

The objectives of this research are:

1. To develop a measurement instrument to measure individual financial well-being.
2. To develop guidelines for assessing individual's financial health.

3. METHODOLOGY

This study is at preliminary stage to collect various relevant literatures regarding the measurements of financial well-being. From the analysis of literatures, this research divides the definitions and measurements of financial well-being into resource-related and consumption-related definitions and measurements. Subsequently, an alternative measurement to measure financial well-being is developed. Future research will involve testing the validity of the measurement and collecting data from representative sample.

Based on reviews of literatures, there are broad discussions on the definitions and the measurements of financial well-being. In this paper, it is worth discussing the definitions of well-being first, then narrow down to discuss the definitions of financial well-being. The discussion of the measurement of financial well-being will follow suit which the author will discuss it from the resource-related and the consumption-related perspectives. Well-being in general has been defined in a broad manner from economic, social, and socio-psychological views. Suryani-Unger (1981) described the diversity of the definitions of well-being as:

“At one extreme, individual well-being can be expressed in physical and biological terms; at the other extreme, it can be viewed as a state of happiness...Between the two extreme notions of individual well-being lies a multitude of other criteria, such as income and wealth, social position, the Maslowian hierarchy of accomplishments, personal power, spiritual or ideological achievement, and many others.”

Ringen (1988) provided a direct definition of well-being as welfare, deals with intrinsic goods such as consumption or quality of life. Other researchers also relate well-being to welfare and describe it as being related to more specific facets of life. As stated by McGregor and Goldsmith (1998), welfare is a concept including economic, physical, social, emotional, environmental, political and spiritual factors. Michalos (1983) stated that general definitions of well-being start from satisfaction with, and happiness in, life as a whole, which, of course, could be inferred from satisfaction with various specific domains of life, such as health, housing and family life. Van Praag (2003) mentioned that welfare is created out of individual's satisfactions in six areas namely business, financial affairs, home, leisure, health, and environment.

Such diversity in the definitions of well-being has led the author to narrow down the discussion to focus only on financial well-being. Financial well-being as defined by many researchers include measurable elements such as income, expenses, wealth and debt accumulation. In studies conducted in the 1980s, the definitions of financial well-being were very much resource-related as mentioned in Fergusson et al. (1981) and in Williams (1983). Fergusson et al. (1981) in MoeinAddin et al. (2013) defined financial well-being as the level of income and assets. Income has been used in many of the earlier studies as an indicator of well-being. In other studies, more other elements are factored in to measure financial well-being. Income per se is insufficient to measure financial well-being because income only represents cash inflow. Researchers such as Weisbrod and Hamsen (1977) factored in current net worth, in addition to income, as a determinant of economic well-being. Other than income and current net worth, other researchers factored in other factors such as permanent

income (Boateng et al.,1990), earning capacity (Garfinkel and Haveman, 1977). The above studies are all resource-related.

As cited earlier in this section, some researchers such as Ringen (1988), McGregor and Goldsmith (1998), and Michalos (1983) defined well-being as welfare and related it with satisfaction. It is believed that resources such as income and net worth alone are not sufficient and are not accurate in measuring welfare and satisfaction. Therefore, this study looks at consumption-related factors to complement the resource-related well-being concept. Magrabi et al. (1991) mentioned about consumption as an element of well-being but admitted that the relationship between consumption and well-being is difficult to measure. Although it is difficult to measure, but the following relationships are widely accepted in many society:

1. The more the better – when an individual attains or can attain more goods and services, his/her well-being is higher.
2. The (negative) gap between actual consumption and the standard consumption – the bigger the gap between the actual level of consumption and the acceptable (standard) level of consumption, the lower the well-being is.
3. The gap between current and previous consumption level – if one's current consumption level is higher than the previous consumption level, his/her well-being has increased.
4. Well-being is affected by the balance among the elements of categories of consumption – someone who is more balanced in all categories of consumption is better-off than another person who is high in some categories and low in other categories.

Categories of consumption include health (Magrabi et al.,1991), education achievement (Lipshitz,1987), durables (Lipshitz,1987), public goods and services (Onn, 1989), food (Deaton and Muellbauer, 1984).

From the previous studies regarding resource-related and consumption-related well-being concept, a financial well-being framework is designed. Paim (1995) in her study on definitions and measurements of well-being, concluded that consumption-related definitions are more widely accepted and used in many studies, compared to resource-related definitions. Porter and Garman (1993) conceptualized and tested a measurement of financial well-being as a function of personal characteristics, objective attributes, perceived attributes, and evaluated attributes of the financial domain. This research's next step is to develop a measurable instrument that is quantifiably meaningful. Greninger et al.(1996) used Delphi study design involving 156 experts to identify and refine ratios and benchmarks for measuring financial well-being. From their study, they have reached consensus on 20 ratios in the areas of liquidity, savings, asset allocation, inflation protection, tax burden, housing expenses, and insolvency/credit. From the ratios, a profile of financial well-being for the typical family/individual was proposed. Originally, financial ratios were mainly used to assess businesses' financial performance. Ratios were also used to analyse insolvency and bankruptcy of business entities. In later development of the application of financial ratios, some of the ratios (especially debt and expenditure ratios) were used in credit scoring of individuals.

4. RESULTS AND CONCLUSIONS

Based on the collections of various instruments to measure individual financial well-being from the literatures, a financial well-being framework was developed that incorporates resource-related and consumption-related well-being concept. Seven dimensions were factored in namely household expenses, leisure expenses, debt services, liquidity, asset allocation, financial protection, and spiritual satisfaction. Table 2 shows the ratios in each dimension.

Table 2: Recommended Ratios to Measure Individual Financial Well-Being	
1. Household Expenses	• Household expenses / Gross income • Frequency of default of utility bills / year
2. Leisure Expenses	• Frequency of going for vacation per year • Frequency of having entertainment per year
3. Debt Services	• Non-mortgage debt payments / After-tax income • Total debt payments / after-tax income • Frequency of default on debt payment / year
4. Liquidity	• Liquid assets / Monthly expenses • Liquid assets / Current debt • Savings / Gross income • Savings / Net income
5. Asset Allocation	• Liquid assets / Net worth • Investment assets / Net worth
6. Financial Protection	• Life Takaful coverage / Annual expenses • Takaful coverage / Net worth
7. Spiritual Satisfaction	• Open-ended question

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THE CHALLENGES OF ISLAMIC MORAL ECONOMY IN THE CONTEMPORARY SOCIAL CONTEXT OF BANGLADESH

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ABSTRACT

Islamic moral economy (IME) emerged in the modern sense in the late 1960s and early 1970s as an attempt to develop an authentic understanding of the Islamic system of economics and development policies accordingly. On the other hand, global capitalism presents a mixed picture of unprecedented achievements in the field of economic development, productivity, creativity and innovation. This global capitalism affects promoting the Islamic moral economy in the Muslim world severely. Similarly, Bangladesh is not an exception from the effect of global capitalism. However, this paper will attempt to define Islamic moral economy and explain its principles and features. Moreover, this study critically reviews the existing scenario of IME the contemporary social context of Bangladesh. Finally, this work also will attempt to identify the problems and obstacles in the way to promote IME in Bangladesh with recommending its solutions.

Keywords: Moral Economy, Islamic Moral Economy, Obstacles, Bangladesh Context, Recommendation

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1. INTRODUCTION

The concept of moral economy was first elaborated by English historian E.P. Thompson (1971), and was developed further in anthropological studies of other peasant economies. The concept was widely popularized in Anthropology through the book, “The Moral Economy of the Peasant: Rebellion and subsistence in Southeast Asia” by James C. Scott (1976).

W. Booth (1994) mentioned two approaches of moral economy: Firstly, the moral economists’ most important achievements are their underscoring that markets have not always been the dominant institutional mode of economic transaction and their offering of an alternative typology of economic regimes (Hechter 1983, 173; North 1977,706). Second approach begins with the presence, even in market society, of institutions whose internal working is not market like (e.g., firm, family, government).

E.P. Thompson (1971) states that the moral economy embodies norms and sentiments regarding the responsibilities and rights of individuals and institutions with respect to others. To him the term “moral economy” has usually been applied to societies in which there are few or no markets-hence no competition and law of value-and in which economic activity is governed by norms regarding what people’s work responsibilities are, what and how much they are allowed to consume, and who they are responsible for, beholden to and dependent on.

Andrew (2000) asserts that as a kind of inquiry, moral economy embraces both positive or analytical studies, and normative assessments. In analytical or positive mode, the term “moral economy” is to refer to the study of the ways in which economic activities, in the broad sense, are influenced by moral-political norms and sentiments, and how, conversely, those norms are compromised by economic forces. From a normative point of view, the study of moral economy involves an evaluation of economic systems, actions and motives in terms of their effect on peoples’ lives.

John P. Powelson (2000) relates the concept of a “moral economy” to the balance of economic power. He also shows how a moral economy—a balance between interventionism and libertarianism—and economic prosperity are mutually reinforcing. Furthermore, he adds the Moral Economy proposes a desirable world that is historically possible, if certain trends of the past millennium are continued into the next, and if world power becomes more diffuse. “The moral economy,” Powelson writes, “captures the benefits of technological invention through classic liberalism while using sidewise checks and balances to prevent environmental damage, ethnic and gender bias, and distorted distributions of wealth.

Islamic Moral Economy is not similar to capitalist or socialist economy. It includes household economy as well as market economy. Islamic moral economy or Islamic economics emerged mainly immediately after advent of Islam. The principles of Islamic moral economy were practiced through ages partially or collectively. It was revived mainly in the post-1960s as a result of reform movements in the Muslim world since the beginning of the twentieth century when the economic

development of capitalist, socialist or nationalist failed in the Muslim world (Asutay, 2007a, 2007b).

The prominent scholars such as Chapra (1992, 2000), Siddiqi (1981), Al-Sadr (2000), Ahmad (1980, 1994, 2003) and Naqvi (1981, 1994, 2003), as the founding fathers of IME in the modern sense, attempted to articulate the initial theoretical building blocks of IME. As a modernist movement, IME in the process has been socially constructed according to the 'socially' understood meaning of the Islamic ontology. The concepts of '*adalah*' or 'justice' and '*haqq*' or 'right' are the core objectives and operational principles around which the economic system of Islam has been formulated. IME as we want to define is an economy, which is based on Islamic morality and legal system (*Shari'ah*). However, here Islamic Moral Economy is used instead of Islamic economics because today's Muslim scholars have a tendency to use "Islamic economics" focusing mainly on banks, banking systems and finance although it has a comprehensive understanding. This attempt may result to give more emphasize on moral aspect of Islamic economy than its legal aspect. It does not mean that it ignores the legal aspect of Islamic economics.

The present position of IME in the contemporary social context of Bangladesh is not satisfactory. The majority of Muslims adapt their traditional values to engage with today's world and they surrender to the challenge of capitalism individually and collectively. Furthermore, they use to compromise and interact with global capitalism. Besides, their moral degradation in economic practices is common phenomenon in Bangladesh. It should be attempted to identify the obstacles in the wheel of the progress of IME in Bangladesh with a view to exploring solutions to them.

2. OBJECTIVES OF THE STUDY

The main objective of the study is to critically review the existing scenario of IME in Bangladesh pointing out the major obstacles involved therein. To achieve the main objective, it is to cover the following specific objectives:

- To examine the concept, principles and characteristic features of IME.
- To highlight on the present scenario of IME in Bangladesh.
- To identify the major obstacles hindering IME in the contemporary context of Bangladesh.
- To recommend some suggestions to remove the problems.

3. RESEARCH METHODOLOGY

This study is mainly based on the secondary data. Secondary data has been collected from various sources such as several websites, related research papers and journals.

4.1. DEFINING ISLAMIC MORAL ECONOMY (IME)

Initially, 'Islamic economics' as a term was used as the Islamic equivalent of conventional or neo- classical economics in defining but also describing the nature of IME.

Al- Makarim (1974) defines Islamic economics as ‘the science that deals with wealth and its relation to man from the point of view of the realization of justice in all forms of economic activities’. In making reference to its distinctive nature, Hasanuzzaman (1984) defines Islamic economics as ‘the knowledge and application of injunctions and rules of the *Shari’ah* that prevent injustice in the acquisition and disposal of material resources in order to provide satisfaction to human beings and enable them to perform their obligation to Allah and the society’. In line with such an approach, Khan (1984) refers to the distinctive objective of Islamic economics in stating that Islamic economics ‘aims at the study of human *falah* (meaning ‘salvation’, but also ‘prosperity’ and ‘welfare’) achieved by organizing the resources of earth on the basis of cooperation and participation’. Such divine attachment is also evident in Arif (1984, p. 97): ‘Islamic economics is the study of Muslim behavior who organises the resources which are a trust, to achieve *falah*.’ The same sentiments can be seen in Chapra (2000): ‘Islamic economics is the branch of science that helps to realize human welfare through the allocation and distribution of resources which are scarce in accordance with *maqasid*.’

In all these definitions, the social dimension of economics according to Islamic ontology and epistemology is emphasized as the distinctive nature of IME. These definitions suggest that the Islamic paradigm can lead to a different ‘economics’ understanding according to the Islamic sources of knowledge, which can be socially constructed in the modern world as a distinct way of managing economic and financial issues.

4.2. PRINCIPLES OF ISLAMIC MORAL ECONOMY

The initial attempts to formulate the ‘Islamic system’ of economics aimed at laying the foundation of IME, with direct consequences and implications for the social aspects and developmentalist orientation of IME (Ahmad, 1980, 1994; Naqvi, 1981, 1994; Asutay, 2007a, 2007b; Zaman, 2008), are presented below.

- The vertical ethicality of the equality of individuals in their relations to the Creator, God (individuals having equal opportunities for the bounties on Earth created by God) as *tawhid* (‘profession of the unity of Allah’) that relates to ‘social accountability’. *Tawhid* provides the necessary value framework within which economic activity is expected to take place according to Islamic norms.
- Social justice and beneficence (*adalah* and *ihsan*) as the second axiom constitutes the horizontal equality between individuals within the *tawhidi* framework, implying that individuals are equal to each other in their everyday life (Ahmad, 2003, p. 193).
- As a direct result of the vertical and horizontal ethical axioms, IME assumes growth in individual, social, economic and biological environments to take place in harmony with the stakeholders within the spiritual framework of *tazkiyah* (‘purification’) (Ahmad, 1994, p. 20).
- IME, as a consequence of the above axioms, assumes in a functional sense the enabled individual, society and natural environment so that each of these can reach its perfection within the *tawhidi* framework, as God has chosen perfection

as a path by definition for everyone and everything. This refers to *rububiyah* as the functional axiom.

- In fulfilling *rububiyah* in all aspects, that is, in the individual, society, economy and environment, the *tazkiyah* process aims to overcome the conflict between individuals and society. Therefore, IME assumes that in order to overcome the perceived conflict between individuals and society, voluntary action is not perceived to be enough; hence, certain socially oriented financial and economic obligations are made mandatory, or *fard*, so that moral economy objectives should be achieved within *tawhid* as articulated by *al-adalah wal-ihsan*.
- The axiom of *ikhtiyar* or ‘free will’ indicates that in the Islamic moral economy understanding, humans are believed to be endowed with free will. This constitutes functional norms of individual behavior in relation to economic activity in the Islamic economic system.
- In operationalizing such expectations as expressed within the axioms of IME, as part of the *tawhidi* framework, the individual is perceived to be God’s vicegerent on Earth, namely *khalifah*, to fulfill the expected duties in their social, economic and financing aspects and to be guided through a moral filter (Ahmad, 2003).
- All these axioms, as the foundational framework of IME, are the articulation and operationalization aspects of *maqasid al-Shari‘ah* or the ‘objectives of the *Shari‘ah*’ process, which is defined as realizing ‘human well-being’. Consequently, it ‘provides the legal- rational framework within which Islamic economic activities should be conducted (Asutay, 2007a, p. 8).

In sum, ‘the Islamic concept of economics and economic growth and development follows from its concept of *tazkiyah* [purification]’ as it addresses the problem of economic aspect of human life ‘in all its dimensions’; *tazkiyah* is ‘concerned with growth towards perfection through purification of attitudes and relationships. The result of *tazkiyah* is *falah*, prosperity in this world and the hereafter’ (Ahmad, 1994, p. 20). Thus, IME makes the achievement of *falah* the primary aim of life and the ultimate success within both dimensions of transitory life (this world) and the eternal life (Hereafter).

Thus, IME is a moral economic and social system providing a systemic approach to the economic sphere through a multi- dimensional and multi- disciplinary approach. On the other hand, Islamic banking and finance, should be located within this framework and systemic understanding in order to serve the aims and objectives of IME and contribute to the *falah* process for individuals by expanding the *ihsani* social capital in society.

4.3 OPERATIONAL AND INSTITUTIONAL FEATURES OF IME

After identifying the axiomatic nature and goals of IME, it is important to determine the operational and institutional features of an Islamic economic system to identify how the axioms are articulated. IME suggests a moral filter that aims to develop the individual *khilafah* (‘vice- regency’) is the personal purification or *tazkiyah* achieved through the actualization of *ibadah* or worshipping in individual life, which limits the

material impulse of an 'economic man' (Nomani and Rahnema, 1994). In addition, an IME suggests that not only self-interest but also social interest is to be served as well (Chapra, 2000). Such an understanding and filter mechanism aims to remove the conflict between self-interest and social interest.

In parallel to self-interest, IME suggests that private property and private enterprise 'is a trust (*amanah*), and property rights used as a means of fulfilling ethical objectives. (Ahmad, 2003 also Arif, 1989). In this regard, IME institutionalizes the market as the institutional framework where a moral filter is expected to regulate it. To overcome the market and government failure, IME relies on third sector institutions such as *waqf* (voluntary organizations, pious foundations) and *zakah*, *sadaqah*, in serving the welfare needs of society.

In summation, as identified in the axioms, IME assumes individual liberty, freedom of choice, private property and enterprise, the profit motive, but, in the same instance, institutionalizes effective moral filters at different levels of life and activity to serve social and economic interests in harmony through its own distinct institutions.

5. THE ECONOMIC PHILOSOPHY OF BANGLADESH

Bangladesh is a developing country that is classified as a Next Eleven emerging market and one of the Frontier Five. According to a recent opinion poll, Bangladesh has the second most pro-capitalist population in the developing world (Dhaka Tribune 2014). Between 2004 and 2014, Bangladesh averaged a GDP growth rate of 6%. The economy is increasingly led by export-oriented industrialization. The Bangladesh textile industry is the second-largest in the world. Other key sectors include pharmaceuticals, shipbuilding, ceramics, leather goods and electronics. Being situated in one of the most fertile regions on Earth, agriculture plays a crucial role, with the principal cash crops including rice, jute, tea, wheat, cotton and sugarcane. Bangladesh ranks fifth in the global production of fish and seafood. Remittances from the Bangladeshi Diasporas provide vital foreign exchange. The Bangladesh telecoms industry has witnessed rapid growth over the years and is dominated by foreign investors.

Its independence from Pakistan, Bangladesh followed a socialist economy by nationalizing all industries by the government (Lawrence, 1988). Beginning in late 1975, the government gradually gave greater scope to private sector participation in the economy, a pattern that has continued. Economic policies aimed at encouraging private enterprise and investment, privatizing public industries, reinstating budgetary discipline, and liberalizing the import regime were accelerated. From 1991 to 1993, the government successfully followed an enhanced structural adjustment facility (ESAF) with the International Monetary Fund (IMF) [Bureau of South and Central Asian Affairs (2008)]. In the late 1990s the government's economic policies became more entrenched, and some of the early gains were lost, which was highlighted by a precipitous drop in foreign direct investment in 2000 and 2001. NGOs are also the active organizations in Bangladesh run by the foreign governments in order to develop economic aspect of Bangladesh.

Finally, we can say that constitutionally Bangladesh adopted socialist economic ideology, but over years, it is deciding its policies in favor of capitalistic ideology or market economy. Bangladesh is the most free-market, trade-oriented country in South Asia.

6. IME SCENARIO IN THE SOCIAL CONTEXT OF BANGLADESH

More than 85% of Bangladesh's 150 million people are Muslims. Bangladesh earns its title as "the third largest Muslim country of the world" following Indonesia and Pakistan because of its enormous size of Muslim population. Their religion, Islam, is however becoming a "minority" day by day. The majority of the Muslims usually admit Islam by practicing some of its rituals. They intentionally or unintentionally go to ignore the great part of Islam that related to *Mu'amalah* and *Mu'asharah* (dealings, behavior, business/trading/commerce transactions, lending and borrowing contracts or all types of economic and financial transactions) with people. Economic is pervading the whole life such as individual, family, social, political and religious affairs etc. We see Islamic moral economy is not established in any level of our societies. Most Muslims are struggling for their standard survival lifestyle by any means. Almost everyone is driven into the competition of making more money instead of compassion and selflessness. Society has become considerably devoid of morality and ethics. Today it is difficult to find someone who can be trusted or relied upon. Furthermore, the workers also suffer irregular payment of wages, overdue overtime pay and poor working conditions on a regular basis.

Nowadays the People's Republic of Bangladesh is a capitalist haven. The banking, insurance companies and financial institutions are mostly influenced by global capitalism. We know the attitudes of global capitalism moved to a greedy mode. Greed, acquisitiveness, became an accepted value, a recommended behavior. The people of Bangladesh admitted the attitudes of global capitalism without any justification. Most Muslims adapted their traditional values to engage with today's world and they earlier faced the challenge of capitalism individually and collectively. However, they have shown a compromised attitude and use to interact with global capitalism in the twenty-first century. They argued that religious value only for practicing rituals, but economics must be made free from moral values. Besides, most of the banks in Bangladesh are being engaged in corruption and money laundering. Besides, people have to pay bribery to the bank officers in order to sanction and disburse the loans. Stock market market is a pure example of pumping and dumping. Unethical and unauthorized practices in medical sector and pharmaceutical companies are considered as an alarming situation (Chowdhury & Alam, 2007). The farmers spray fish, fruits and vegetables with chemical preservatives including formalin. The poisonous ingredients being added to juices and other drink items, which causes numerous serious diseases.

On the other hand, a few Muslims try to apply Islamic morals and ethics in their daily economic transactions. They use to try their best to be moral in all types of economic transactions. Besides, they individually give *zakah*, *fitrah* among the due recipients as well as donate cash money with a view to establishing *Masjid*, *Madrasah*. Traditionally *awqaf* has been playing a significant role for the nourishing & flourishing of various religious, educational, economic, social, and cultural

dimensions of Islam. Nevertheless, there is no proper monitoring system with a view to ensuring transparency in *Awqaf* management. The *awqaf* in Bangladesh are going gradually into oblivion because of the corruption and irregularities in the system of leasing or selling out of valuable *waqf* estates. There is no perfect and sustainable mechanism in Bangladesh in public and private sector for *zakah* collection and distribution. We also do not see any perfect monitoring system with a view to ensuring transparency in *Zakah* collection and distribution. Newspapers have in the recent past reported stampede deaths during the distribution of *zakat* by political leaders in Chittagong, Dinajpur and Noakhali.

It is also noted that in intellectual level the concept of Islamic moral economy or Islamic economics is not developed because of anti-Islamic laws and customs as well as the secular system of education prevailing in the country since British rule. However, some attempts in limited form at private levels have been initiated with a view to introducing Islamic moral economy or Islamic economics by a group of Islamic intellectuals influenced by Abul A'la Mowdudi, renowned Islamic researcher of the Sub-continent. Their contributions are praiseworthy in launching Islamic banks and other Islamic financial institutes, although these Islamic banks socially failed as argued by the Islamic scholars. Because, *murabahah* instrument financing (mark-up priced financing products, which are debt-based) constituted in a great extent in Islamic Banking but financing through *musharakah*, *mudarabah* and *qard al-hassan*, which are the preferred financing methods of IME, is mostly very limited and in most of the cases is negligible if not nil. However, these Islamic banks are playing a great role in global economic development. The scholars of that Islamic group have given huge endeavor to Islamize economics. Besides, personally and collectively some organizations have taken some initiatives to develop Islamic economics Project such as Bangladesh Institute of Islamic Thought (BIIT), International Islamic University Chittagong (IIUC), Islamic Foundation Bangladesh, Islamic Economic Bouro, Darul Ihsan University, Bangladesh Islamic University, etc.

7. THE OBSTACLES IN THE WAY OF PROMOTING ISLAMIC MORAL ECONOMY IN BANGLADESH

7.1. IMPACT OF GLOBAL CAPITALISM IN ECONOMY OF BANGLADESH

Global capitalism presents a mixed picture of unprecedented achievements in the field of economic development, productivity, creativity and innovation. This global capitalism affects promoting the Islamic moral economy in the Muslim world severely. Similarly, Bangladesh is not an exception from the effect of global capitalism. As Forbes.com's Asia Correspondent Alyssa Ayres puts it: "At least as far as public opinion is concerned, the People's Republic of Bangladesh is a capitalist haven." The attitudes of global capitalism moved to a greedy mode. Greed, acquisitiveness, became an accepted value, a recommended behavior and at the same time, a powerlessness wall that close our hopes for a better future. The people of Bangladesh admitted the attitudes of global capitalism without any justification. Most Muslims adapted their traditional values to engage with today's world and they earlier faced the challenge of capitalism individually and collectively. However, they have shown a compromised attitude and use to interact with global capitalism in the twenty-first century. We observe that the free market is no more than a new

name of capitalism. The free market is about maximizing profits. It is not a social organization intended to cure social ills. In the unregulated free market, the weaker and smaller groups will lose and be destroyed by the stronger.

Similarly, we see that a capitalist society is geared towards the production and accumulation of wealth. Banks play a key role in promoting and fulfilling these functions. This banking system creates greed for acquiring more wealth, with a view to using it for luxurious and extravagant consumption, which are prohibited in Islam.

However, these corporate organizations are playing an important role in social development through Corporate Social Responsibility (CSR). Nevertheless, we do not know how to distribute this amount of money. Is Islamic morality and ethics applied or it is done only to fulfill their advertisement purpose?

On other hand, the commercialization of culture has a disturbing impact on people. People are immensely affected by the cultural globalization. They are continuously bombarded with new images, new music, new clothes and new values. Their food habit, dress and style, linguistic use, thinking, values, choosing role model etc., are determined as showed in thee Medias.

7.2. MORAL DEGRADATION (CORRUPTION)

Class division, bribery, corruptions, and oppressions, are rampant even after being a Muslim majority country. Almost everyone is driven into the competition of making more money instead of compassion and selflessness. Politicians are busy thinking about being elected in the next election, bureaucrats and government officials putting their own interest ahead of the public interest, businesspeople are leaning towards unfair business practices, and general public getting envious of one another. Society has become considerably devoid of morality and ethics. Today it is difficult to find someone who can be trusted or relied upon. Corruption is a disease, a cancer that eats into the cultural, political and economic fabric of society, and destroys the functioning of vital organs. The Corruption Perceptions Index (CPI) 2013 was released by Transparency International (TI) on December 3 as published in The Daily Star. On a scale of 0-100, Bangladesh has scored 27, just one point higher than in 2012 and the same as in 2011, and has been ranked 16th from bottom, 3 steps higher than that in 2011 and 2012. The political parties, public administration, the judiciary and the police are perceived as the most corrupt institutions of the country as reported by TIB (2011).

7.3. AGGRESSIVE TREND OF SECULARIZATION IN BANGLADESH

More than 85% of Bangladesh's 150 million people are Muslims. Bangladesh earns its title as "the third largest Muslim country of the world". Their religion, Islam, is however becoming a "minority" day by day. While Muslims in the West – in spite of being a minority – are enjoying their basic religious freedom, this basic right is increasingly being denied to the Muslim in Bangladesh while it continues to aspire to become a "uniquely secular" society". The current regime in Bangladesh has taken on a comprehensive policy of secularization with aim to emasculate Islamic influence from political and social landscape of Bangladesh. Apart from undermining basic religious freedom of Muslims, the policy – which turns out to be both aggressive and

violent – is increasingly becoming hostile to democratic principles, rule of law, freedom of movement, and political pluralism. On the other hand, Bangladesh Supreme Court Appellate Division's decision upholding the High Court's landmark verdict of 29 August 2005 that declared the Constitution's Fifth Amendment (1979) illegal, the ban on formation of political organizations based on religion was restored. The verdict also paved the way for ensuring secularism as the “cornerstone” of the Constitution. The government immediately has done amendment of the Constitution incorporating secularity, nationalism, democracy and socialism as the basic principles removing from it “Absolute trust and faith in the Almighty Allah shall be the basis of all actions”. [Saidul Islam, MD (2011), pp. 125-141] Besides this, the government attitude is not favorable to Islamic politics and economics. This aggressive trend of secularization threatens the Muslim religious people to support and promote Islamic Moral Economy agenda in Bangladesh.

7.4. HUMAN RIGHTS VIOLATION

Bangladesh is a country where human rights violation is a very common phenomenon. Mass people live here with grief and threats. According to Odhikar's Human Rights Report 2013, extra judicially 764 (from 2009-2013) people were killed by the law enforcing agencies as well as 111 people were subjected to enforced disappearance. The Government has abused section 144 of the Code of Criminal Procedure 404 times (from 2009-2013) to repress the meetings, mobilizations and protests of its political opponents. They abuse the judicial process to suppress dissenting voices and repress opposition. In Bangladesh restrictions on freedom of thought and expression is increasingly becoming severe, and such freedom seem only allowed for those ideologically and politically close to the regime. The secularists and Islamists are persecuting the religious minority groups in Bangladesh. In this dangerous situation, how Islamic moral economy promoting agenda would be successful.

7.5. UNFAVORABLE EDUCATION POLICY

The prevailing educational system is the main obstacle in the way to promoting Islamic Moral Economy agenda in our country. Bangladeshi educational system has been bearing a western secularist legacy from the very beginning. Textbook composition accompanied by syllabus and curriculum design is almost contributed to by the West incorporating the secularist, materialistic and anti-religious outlooks in all the academic disciplines. This system lacks any sort of moral training. Its syllabus contains some stories where a student learns how people are hiding after inviting them, how to make more money through interest, how to make profit out of forgery, they also learn wrong history of humankind. Thus, this system produces a class of people-selfish in character, reckless in words, shameless in nature. Besides, existing education systems ignores the comprehensives and all-embracing view of Islam. Teachers also with a very few exceptions are running after money. As a result, students are not motivated, inspired or somehow linked to Islam as well as Islamic moral economy. On other hand, *Madrasah* and other Islamic institutions completely failed to clarify about comprehensive idea of Islam as well as Islamic moral economy.

7.6. ABSENCE OF A SENSE OF NATIONAL SPIRIT

After the liberation war, Governments came and fell, each of which revised the list of liberation fighters and prepared a new list. The politicians do neither consult nor come in to concurrences of views on national economic, political or other issues. The politicians are only aimed at the grabbing of State ignoring the issues of national interest and national spirit. As a result, we see that the economy is in trouble, development obstructed, politics is full of collisions. Similarly, state administration immoral, society is inhabited by the looter-rich, land-robbers, rowdy elements, miscreants and militants. Consequently, overall the nation is divided. (Qadir, *Ittefaq*, 9 October 2011).

7.7. ANXIETIES OF THE PEOPLE

The country is now in the grips of the Mongers. The people of the country are now at a loss by falling into the clutches of various types of Mongers, – Admission-mongers, Appointment-mongers, Tender-mongers, Party mongers, Purpose-mongers, *etcetera* types of scandalmongers.. Under this process, it is impossible to build up a merit-based administration and a morality based economy.

7.8. TERRIBLE ANARCHY IN POLITICS AND POLITICAL THINKING

In politics and political thinking are going on terrible anarchy. Almost all the political parties and their alliances along with a large section of the intelligentsia are abandoned to vices as far as the streams of politics are concerned. There are diffused thinking in search of a right track, but because of the lack of mutual connection and synthesis no one of them is granulated, and are not being raised into a shape of thought and developed into a way of thinking. This situation encourages the individuals and parties in economic corruptions, which hampers promoting IME agenda.

7. 9. SOCIAL FAILURE OF ISLAMIC MOVEMENT

There are many faces of Islamic movements in Bangladesh. They are continuously creating crisis in order to indentify the true ideas of Islam according to their own thoughts and philosophy. In our country, '*Ulema* and Islamic Scholars of the different Islamic groups are divided into different sects and groups such as so called *sunni*, *ahl hadith*, *salafi*, *wahabi*, *sufi* and *madh-habi* etc. Nevertheless, '*ulema* are immensely spending their valuable time in disputing insignificant issues of Islam ignoring the most important issues of Islam. Similarly, every sect of '*ulema* is struggling for control and power in order to implement their own sectarian beliefs and policies declaring themselves the true and claiming others *batil* (misguided). Consequently, the sectarian conflict of '*ulama*' in this regard, made the mass Muslim confused about comprehensive state of Islam. Some Islamic groups have no comprehensive idea about Islam as they denied economics and political agenda of Islam. On the other hand, some extremist groups who create a great violation in the country in the name of Islam. Similarly, some Islamic Political Organizations made Islam more political than social. Because of their intolerant tendency, secular power politics considered any program of Islamic revivalism including Islamic moral economy promoting agenda as a threat for their power politics. On the other hand, the mass Muslims are

handicapped as they remain unenthusiastic about Islamic revivalism, not because they do not appreciate its importance, but because they want to avoid being accused of religious fanaticism. Similarly, Muslim *ummah* have no trust in the Islamic movement activists. Socially and politically, they completely failed to launch any model of Islamic moral economy. Nevertheless, mass people are very much confused about their transparency in economic affairs.

7.10. SOCIAL FAILURE OF ISLAMIC BANKING AND FINANCE

The performance of IBFIs in the last thirty-five years indicates that this banking and finance proposition has been unprecedentedly successful. The recent reports demonstrate that the assets of the global IBFIs have reached about USD 1,2 trillion, which of course still constitutes a small portion of the global financial system [*The Banker* 2010]. Of the 56 scheduled banks currently operating in Bangladesh, 8 are Islamic *Shari'ah* based banks (IBs). One study shows the net profit of these 8 banks is BDT 12,304.89 Mn in the year of 2012 (Bangladesh Bank website, 2014).

The IME framework suggests, ethicality in the value proposition in the original sense is not only the prohibition of *riba* (interest) but relates to larger social and economic development issues (Asutay 2007b, 2010b). In other words, IME conceptualizes IBF as a financing proposition shaped not only by the rules (*fiqh*) but also by the moral values of Islam constituting the 'substance' (Asutay 2008). IME, conceptually, suggests that IBF should be more than financial contracts, as it represents a holistic approach to financing a society.

If we analyze critically we find that for being financially stable IBFI mostly performed as same as interest rates and monetary system of conventional banking system (Asutay 2008). It is also argued that IBF does not necessarily bring stability to the financial system. It should provide stability to the financial system and should also be a moral compass for capitalism (Asutay 2007a, 2008).

Furthermore, it is identified that debt financing has become the majority financing method in IBFIs (Zubair Hasan 2007). Nagaoka [2007] evidences that *murabahah* instrument financing (mark-up priced financing products, which are debt-based) constituted in a great extent but *mudarabah* and *musharakah* instruments of financing (both joint venture capital products and therefore asset-based) remained very few portion. One study of M. Azizul Hoque (1996) shows that Islami Bank Bangladesh Limited, Al Arafah Bank and Social Investment Bank Limited in Bangladesh have used 54%, 76% and 65%, respectively, of their investment funds by resorting to *Murabahah* mode.

IBFIs contribution to economic and social development is negligible. Islamic banks rarely offer long-term financing to entrepreneurs seeking capital (Aggarwal and Yousef 2000).

8. CONCLUSION AND RECOMMENDATIONS

An Islamic moral economy, however prospective, cannot thrive in this condition discussed above. It needs is social justice, a society free from corruption, an economy devoid of disparities, politics free from violation, a constitution favorable for Islamic

morality. An awakening based on unperturbed thoughts will be much more beneficial in a country of chaos and confusions whose 85% percent of the people are Muslims.

However, the proper implementation of *Shari'ah* and Islamic Moral Economy System is the responsibility of every Muslim. It is noted that most of the solutions to the hindrances towards the progress of Islamic moral economy mainly depend on the constitutional, administrative and policymaking bodies of the country as education system and policy are framed and contributed to by the policy makers in the government. Therefore, government should launch a new socio-political and economic philosophy to be pursued for the betterment of the economic and spiritual lot of the people here and the Hereafter. The state also should make laws in favor of Islamic moral economic system as well as Islamic banking and financial institutions.

We as the citizens of the third largest Muslim country may expect that the government will adopt necessary steps to eradicate the problems. As the change in the mindset of the government to Islamization of total economic system of Bangladesh takes long time, it won't be wise for us feel ourselves disburdened assigning the government all responsibilities. Yet positive campaign and demand targeting the government should be undertaken simultaneously. In private level if we try to become a true Muslim and understand the soul and message of Islam, we would not face too many difficulties in the way of implementation of Islamic Moral economic system even in this period of globalization. In this way, we can collectively present an ideal and moral economic system for which this world is seeking. We must not waste time in pointing out similarities between Islamic and other economic systems. We must strive and look for only implementing Islamic economic system, as it is the matter of our faith. In this regard, we can recommend the followings steps to promote IME agenda in private level:

1. Islamic banking and financial institutes should be in the form of introducing further but robust social justice oriented principles as in the example of social banks and social business. Because people mean Islamic economy is as Islamic banking and finance. *Masjid* may also be adopted as the center for Islamic culture and social business.
2. A number of volunteer organizations or individuals should form the *zakah* funds and *waqf* states where transparency and accountability must be ensured.
3. The motivational programs (seminar, symposium, conference, *wa'zh mahfil* and view exchange program etc.) should be arranged both in the public and private sectors with the donors in order to enlighten them about the proper Islamic understanding and faith in Islamic Moral Economy.
4. Islamic movements should establish models for promoting Islamic Moral Economy system through applying a non-violent and tolerant attitude towards society. Also, the systems should creatively and dynamically engage and negotiate with sustainable traditional economic systems in the respective societies.
5. To run the moral economic systems, people in societies have to be motivated in pursuing the objectives. For this to happen, the policy makers should frame policies to sustain traditions in education and practices.

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THEME: INNOVATIONS IN ISLAMIC SOCIAL FINANCE

ISLAMIC FINANCE INDUSTRY AND SOCIAL RESPONSIBILITY – AN APPLICATION OF TA’AWUN AND WAQF IN COMMUNITY INTEREST ENTITIES

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Mohsin Ali²

ABSTRACT

The organizations that blindly pursue the profit making motive, without taking into consideration for the broad spectrum of Stakeholders that are relevant to the long run, are increasingly shown to lack sustainability. Consumers and investors increasingly don't accept unethical business practices or organizations who act irresponsibly. Organizations are accountable for their actions like never before. Because of all these reasons corporate social responsibility (CSR) has become very important ingredient of strategic policies of any business. Islamic financial institutions (IFIs) are no exception. This is a concept paper with the idea of bringing collaborative efforts in CSR and there implications to Islamic finance industry through the application of *Ta'awun* and *Waqf*.

Keywords: Islamic finance industry, CSR, Community interest entities, *Ta'awun*, *Waqf*

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1. INTRODUCTION

The organizations that blindly pursue the profit making motive, without taking into consideration the broad spectrum of Stakeholders become irrelevant in the long run when they lose moral and social legitimacy regardless of their legal and economic standings. Consumers and investors especially the socially responsible investors (SRIs) have increasing expectations that business behave with a long term view and consider the non-economic impact of their activities. The pursuit of balanced goals rather than just financial returns are now considered key responsibilities of boards as part of the best practices of corporate governance. It is acknowledged even by regulators that how firms make their economic returns is equally if not more important than how they deploy such returns for charities and donations. What they do in the market place must be augmented by their behavior at the work place, the communities and the environment based on measurable indices such as ESG (Environment, Social and Governance) or PPP (People, Planet and Profits).

The case for socially responsible behavior of Islamic business organizations especially the Islamic financial institutions has added significance as such institutions evolved as part of the Islamization agenda in Muslim societies to ensure socio economic justice and respect for the creation of Allah as the overarching framework within which business ought to be conducted.

Islamic banks are not just ‘banks operating without interest, gharar and maysir’ but business concerns that are founded on the idea of social justice conceived within the framework of the Islamic worldview, which is based on the principle of social justice and the well-being of society (Dusuki and Dar, 2008). Since values and principles underpin Islamic teaching and philosophy are related to the notion of CSR, a number of studies attempted to reflect the notion of social and environmental responsibility to the teaching and values of Islam (e.g., Lewis, 2001; Kamla et al 2006). A number of studies have investigated the practice of social and environmental disclosure in companies conducting their business in accordance to Islam (e.g. Maali et al, 2006; Haniff and Hudaib, 2007; Aribi and Gao, 2012; Hassan and Harahap, 2010). The business of banking, even though not a business arising from the economic history of Islamic civilization, is now a major source of intermediation in the economic landscape of the Muslim world. It is no longer an issue whether or not Islamic banking as part of an Islamic economy have a role to play in contributing to the general well-being (*Maslaha*) and social justice of the society in which they operate. The issue that is yet to be resolved is how and to what extent this role is to be played by Islamic financial institutions.

The objective of this paper is to provide a way out of these conflicting expectations and to suggest an alternative approach to understand how Islamic banking can provide the leadership in influencing greater corporate responsibility among other *Shari’ah* compliant businesses.

2. DIFFERENT SCHOOLS OF THOUGHTS

As regards the value proposition of Islamic banking, two schools of thoughts on ethics and social responsibility come to mind. The first one, akin the position of those in business states that the IFIs are just like any other organization, which are in tune with the expectations of the primary stakeholders besides complying with the relevant laws, regulations and listing requirements (for public listed companies) and should not be involved in activities that are socially irresponsible. They provide employment, provide *Shari'ah* compliant financing and they provide returns to investors and shareholders. Additionally, they ensure that the clients are well informed about the financing instruments and that there are no hidden terms and conditions in the contracts. Donations besides those arising out of non-compliant revenues are given over and above zakat on profits earned. The only additional requirement to that equation is that the marketing and sale of products should not be deceptive and to the disadvantage of the clients. One question that is being repeatedly asked is whether or too high an expectation is placed on Islamic banks to qualify as being socially responsible is unreasonable. They claim that Islamic banking is ethical when compared to conventional banking in view of the scandals that emerged during the financial crisis of 2007. Due to the asset backing requirements for financing, the Islamic banks were not involved in speculative and sometime fraudulent behavior and were relatively less affected from the liquidity crisis. Islamic banks also pay zakat, contribute to charity (sometimes out of *Shari'ah* non-compliant income) and provide for the welfare of their employees. This view can be seen in the interviews conducted by the papers mentioned above.

The opposing view is that Islamic banks while claiming to be *Shari'ah* compliant, may actually undertake fiqh compliance rather than focusing on their responsibilities to primary stakeholders such as the marginalized section of the community as well as the promotion of work life balance among their own staff. It views CSR as an opportunity for IFIs to generate honest, authentic good-news stories that IFIs could be proud of. As according to them IFIS are supposed to possess ethical identity because their social goals are just as important if not more important than financial goals because of the fact that they are based on religious foundations, i.e. the Islamic *Shari'ah* which has its ultimate goal, the betterment of society. To them IFIs are more duty bound to contribute to the betterment of society than their conventional counterparts and that is what society expect from them. They assume and create value different from the conventional financial institutions.

3. ISLAMIC PERSPECTIVE

According to the Islamic worldview, the conduct of banking business like other businesses is to ensure balanced pursuit of goals encompassing financial returns as well as the generation of positive impact on stakeholders. Islam is an all-embracing way of life. It extends over the entire spectrum of life, showing us how to conduct all human activities in a sound and wholesome manner. Same goes with CSR. IFIs have inherent capacity of promoting CSR on a greater level as they follow the interjection of *Shari'ah* which bounds IFIs to practice responsible and ethical banking. For following *Shari'ah*

the parameter defined by Imam Ghazali is to meet its objectives. The objective of the *Shari'ah* is to promote the well-being of all mankind, which lies in safeguarding their faith (din), their human self (nafs), their intellect ('aql), their posterity (nasl) and their wealth (mal). Whatever ensures the safeguard of these five serves public interest and is desirable (Dusuki and Abdullah, 2007).

4. A VIABLE SOLUTION: APPLICATION OF *TA'AWUN*, *Waqf* AND COMMUNITY INTEREST COMPANIES

The approach suggested by this paper is to relook at the literature on social responsibility and challenge the assumption that it must be undertaken by individual firms and where possible align the CSR initiatives with their strategies and core values. What is implicitly acknowledged is that different firms have different capacities and priorities when it comes to their CSR policies. The impact of this type of activities is at very micro level and the aggregate impact can't actually be measured. As each organization is trying fulfill their responsibility towards society only at the individual level. These efforts are multi directional and not focused and hence achieving social macro objectives like eradication of poverty, increasing literacy rate, provision of health facilities at country levels become really difficult.

This problem of how to impact society at larger scale gives rise to the most natural solution of *Ta'awun* (cooperation) among IFIs. *Ta'awun*, is a Quranic concept and like other Quranic concepts it is extremely rich in scope and meaning so as to defy translation into a single word. We may define it as collaboration towards mutual benefit of each other in any positive or contributive endeavor (Blala 2014)¹⁹³. The Quran urges *Ta'awun* towards what is good and against *Ta'awun* towards ill. Al-Maida: 2. In order to establish a system of impacting society at large based on Islamic principles there is a requirement of a paradigm shift from individuality to *Ta'awun*.

Based on above, CSR can be the remit of Islamic Banking industry rather than that of the individual bank. To develop and effectively implement this approach, the concept of *Ta'awun* has to be part of the CSR core value of the industry. Secondly, it leads to effective involvement more at the oversight level rather than at managerial level. The nature of *Ta'awun* need not be excessively demanding on the resources of individual banks such that they lose focus on their core business. The governance framework to be proposed together with the *Ta'awun* concept is expected to be the model that Islamic banking can adopt in showcasing its capacity to do CSR more effectively than the conventional approach.

There is another well-established Islamic structure which can be put in place in order to make this arrangement i.e. *Waqf*. So, one solution could be an arrangement of *Waqf* where all banks get together by pooling a certain sum of money, appoint a trustee and run

¹⁹³<https://www.linkedin.com/pulse/20140808122018-255299176-ta-awun-a-paradigm-shift-from-competition-to-cooperation-as-the-basis-of-islamic-banking-finance>

it for the betterment of society at large. But the problem with *Waqf* is that the regulation and governance structure is not as efficient as that is for companies. Besides that the donors in case of *Waqf* do not tend to be involved much in terms of the decisions on handling and employing the funds in a rightful manner. So, for that we can look for the other available company structures, which have more efficient governance and regulatory structure in place. One such form of companies are called Community Interest Company (CIC).

A community interest company (CIC) is a new type of company introduced by the United Kingdom government in 2005 (UK Companies Act, 2004), deliberated for social enterprises that want to use their profits and assets for the public good. CICs are envisioned to be easily incorporated, with all the docility and certainty of the company form, but with some special features to ensure they are working for the benefit of the community. CICs are only operational in the UK but the institution can be borrowed and tweaked according to our own requirements.

The benefits of bringing in CIC for *Ta'awun* among Islamic banks and other Islamic financial institutions are numerous. It will promote stewardship approach towards social responsibility as compared to the current stakeholder approach, where the managers and owners of the company (representatives from the participating financial institutions) would have similar objectives. The Supervisory Board will comprise nominees from participating banks, members of communities and staff representatives. The management board will comprise the three Cs as well as other senior managers. Secondly, since the sole purpose of the company will be to create value (though it may generate profits and part of which may be distributed to the shareholders i.e. IFIs), all the expertise will be focused towards achieving a single goal i.e. helping society and all resources could be deployed towards certain focused projects. It should not work as a normal charity where an Islamic financial institution just gives charity without keeping in mind the large scale impact on the society. In CIC the focused strategies will be devised to achieve large scale focused social objectives.

5. CONCLUSION

To conclude, this is a concept paper with the idea of bringing collaborative efforts in CSR. This topic opens up door for further research in terms of putting down legal, governance and *Shari'ah* compliant structure for CIC in order to achieve the larger societal objectives. To ensure success, there will have to be a buy in from the industry. The support of regulators and government agencies in ensuring the incorporation of this new form of company is undeniable. It has worked in the United Kingdom and with the necessary modifications in the constitution of this type of companies, the opportunities to be actively involved in CSR as a collaborative effort based on the essential value of *Ta'awun* would also help Islamic finance industry to meet expectations of society, which will be much harder to achieve with individual financial institution's efforts. It is hoped that this idea will be further explored in terms of its scope and efficacy by the relevant parties before it can be actualized. A preliminary survey will be conducted as part of a

research project to seek the feedback of relevant parties before initiating the development of the model in greater detail.

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USE OF CROWDFUNDING FOR DEVELOPING SOCIAL ENTERPRISES: AN ISLAMIC PERSPECTIVE

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ABSTRACT

Crowdfunding is a relatively new method of funding a project or cause by aggregating small amounts of money from a large group of people through internet and social media. The industry continues to grow at an incredible rate with global crowdfunding markets increasing from \$1.5 billion in 2011 to \$5.1 billion in 2013. Companies make use of the crowd mainly for cost-reduction reasons. By participating in the product design and improvement, users contribute to creating value for the company. Moreover, this allows the company to reduce the length of new product development as well as its costs, have a better customer acceptance, and increase the customers' perception of product newness. Within the crowdfunding activities, consumers and/or individuals provide needed capital to the company to make its investments such as acquire new assets or pay employees. Researches demonstrate that sufficient numbers of social enterprises are mandatory for ensuring benefits of societies. In this Paper, we have discussed crowdfunding as an alternative way of financing projects, with a focus on social enterprise development from Islamic perspective in the Muslim societies with a view to ensure social equity by removing many social problems like unemployment and poverty.

Keywords: Social enterprise, Crowdfunding, Islam, Muslim society

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1. INTRODUCTION

Crowdfunding is an internet-enabled way for businesses or other organizations to raise money in the form of either donations or investments from multiple individuals (World Bank 2013). Indeed, Crowdfunding is an open call over the Internet for financial resources in the form of a monetary donation, sometimes in exchange for a future product, service, or reward (Gerber et al 2012, Belleflamme et al 2014 & Kleemann et al 2008). The concept of crowdfunding comes from the notion of crowdsourcing which is the use of creativity and expertise of a large number of people, subcontracted to perform some tasks traditionally performed by an employee in a company (Howe, 2006). This new form of capital formation emerged in an organized way in the wake of the 2008 financial crisis largely because of the difficulties faced by artisans, entrepreneurs and early-stage enterprises in raising funds. With traditional banks less willing to lend, entrepreneurs started to look elsewhere for capital (World Bank 2013). Crowdfunding uses web technologies and existing online payment systems to facilitate transactions between creators (people who request funds) and funders (people who give money). Crowdfunding platforms, such as RocketHub, Kickstarter, and IndieGoGo provide opportunities for anyone with Internet access to pitch an idea to their social network and beyond and to gather funding to realize their work. Creators develop a profile on a crowdfunding platform and explain their monetary goals, planned use of the funds, and timeline for reaching their goals. As an example, two friends with an idea but no connection to capital raised USD \$306,944 in 37 days to develop a coffee warming product on a crowdfunding platform (Gerber et al 2012). In the process of exploring crowdfunding, they developed an innovative coffee product, marketed the idea, managed customers and finances, and delivered a product. Funders who pledged \$40 or more received the new product when the fundraising goal was achieved.

Around the world, the use of ‘crowdfunding’ is increasing with sustained growth (Schwienbacher & Larralde 2010) because of its multidimensional benefits both for business organizations as well as fund providers. According to Crowdsourcing.org (2013) global market represented \$5.1 billion in 2013 with growth of 81% compared to 2012. It is expected that over time, crowdfunding can be a key to economic growth of many countries because it allows more individuals to engage as producers and consumers in the economy without the backing of high net-worth individuals or institutions (Schwienbacher & Larralde 2010). According to World Bank (2013), today, 45 nations in North America, Latin America, Europe, the Middle East and North Africa, Sub-Saharan Africa, and Asia have active crowdfunding platforms (See Table 1).

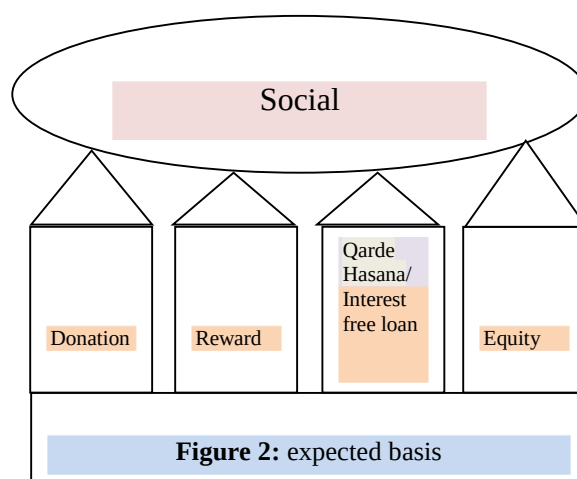
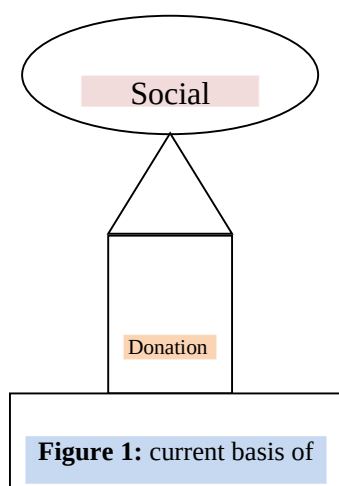
Table 1: The Number of Crowdfund Investing platforms (CFI) in selected countries

Country	Number of CFI Platforms	Country	Number of CFI Platforms
United States of America	344	Brazil	17
United Kingdom	87	Australia	12
France	53	South Africa	4
Italy	15	India	10
Spain	27	China	1
Germany	26	Russian Federation	4
Netherlands	34	United Arab Emirates	1
Canada	34	Estonia	1

Source: World Bank (2013)

Though the concept of ‘crowdfunding’ was developed in the developed countries and still largely a developed-world phenomenon but this concept has very high potentiality in the developing countries as well; because, funding the projects is more an issue in the developing countries as compared to developed countries due to lack of sufficient number of financial institutions in the developing countries. So, developing economies have the potential to drive growth by employing crowdfunding to leapfrog the traditional capital market structures and financial regulatory regimes of the developed world (World Bank 2013). Especially, ‘crowdfunding’ has very high potentiality in the Muslims societies for developing business enterprises because in one side, most of the Muslim countries lack sufficient numbers of financial institutions and in another side, Muslim societies have many people having small amount of money to donate /and invest. But this study has focused mainly on the development of social/social business enterprise; because, Islam highly emphasizes on the social welfare issue and social wellbeing is the most crying demand in the Muslim societies due to having high rate of social inequity, unemployment and poverty in Muslim societies. Considering the social welfare aspect of society, Islam has prohibited interest (Riba) (Quran: 2: 275), made the Zakah compulsory (Quran 9:60) for the solvent Muslims and charity is given very high importance (Quran: 2:261). But, still Muslim societies are not free from many social problems like social inequity, unemployment and poverty and how Muslim societies can be freed from such problems still this debate is going on among the academia, policy makers, social thinkers and civil society. In this regard, it is the proposition of this study that by developing sufficient numbers of social enterprises, the problems like unemployment, inequality and poverty can be solved and social wellbeing can be ensured; because, social enterprises are formed for maximizing the benefits of society not profit (Biztaxlaw, 2013). But social entrepreneurs in the Muslim societies often face a problem of fund for developing and managing social enterprises. Fortunately, many social enterprises are working in Muslim societies for alleviation of poverty as well as for providing service to the poor but most of the social enterprises are charity/ donation based (See Figure 1) and lack income generating projects; consequently seeking donation (charity) continuously has become the common phenomenon of social enterprises and the development of social enterprises are not occurring as per their potentiality. In this regard, crowdfunding can be a good tool to generate sufficient fund for developing social enterprises in the Muslim societies because it is

difficult to collect big amount of fund from a few people but it is easier to collect big amount of fund from large number of people (crowd). Moreover, the base of social enterprises (see figure 2) would be strong if different models of crowdfunding are used properly. So, this is the argument of this paper that by using different models (Donation, Reward, Lending, and equity) of crowdfunding, the development of social enterprises can be accelerated in the Muslim societies; consequently many social problems like inequity, unemployment and poverty can be solved.



In this article, the authors took interest to highlight the concept of crowdfunding, models of crowdfunding, and social enterprises from Islamic perspective. The rationale of the study lies in the fact that through literature review the authors found no comprehensive research regarding crowdfunding from Islamic perspective. There are few studies in this line but they are not fully and analytically written from the Islamic point of view. This study is a desk-based and library-oriented research. To discuss the Islamic framework for social enterprises, the authors reviewed the Holy Quran, Sunnah (the sayings of Prophet Muhammad SAW), available published literatures, research monograms, journal and magazines in this field.

The paper proceeds as follows. In Section 2 we present literature on crowdfunding and social enterprise. In Section 3 we discuss the Islamic guidelines of social enterprise. Section 4 the prospects of developing social enterprises in Muslim courtiers by crowdfunding. Section 5 presents the example of some social enterprises in Muslim world developed by using donation/ charity model and Section 6 offers some concluding thoughts and policy recommendations.

2. LITERATURE REVIEW

2.1. Concept of Crowdfunding

The fundamental concept of crowdfunding is not new. Historical examples of crowdfunding include the (family) partnership system in the late middle age (Lane 1944), charitable fund-raising (Bremner 1996; Ingenhoff and Koelling 2009) and micro-finance (Morduch 1999). However, due to the development of information and communication technology, the system of collecting fund from many people in different models is modified and changed. According to Belleflamme et.al (2014),

many ventures remain unfunded as they either lack resources to be pledged to funding agencies like banks and equity capitalists or they are unsuccessful to find and convince specialized investors like business angels and venture capitalists. This situation has led entrepreneurs to look for a new source of finance “Crowdfunding”. Crowdfunding is derived from the broader concept of crowdsourcing. The term “crowdsourcing” was first used by Jeff Howe and Mark Robinson in the June 2006 issue of *Wired Magazine*, an American magazine for high technology (Schwienbacher & Larralde 2010, Rubinton, 2011). In the context of the literature, the term ‘crowd’ is defined as a group or community consisting of a large number of people, each contributing little, but with a possible high combined impact (Belleflamme et al. 2014, Lehner, 2013). Crowdsourcing is defined as a way to harness the creative solutions of a distributed network of individuals (Howe 2008). According to Rubinton (2011), crowdsourcing is a process of achieving a goal by receiving small contributions from many in exchange for any form of value. The vision of crowdfunding is to harness the power of the crowd to fund small ventures, projects that are unlikely to get funded by traditional means, using crowdfunding platforms or social networks, such as Twitter, Myspace, and Facebook (Lambert & Schwienbacher 2010). To realize this vision, crowdfunding platforms provide a platform for creators and funders to exchange resources to realize ideas. Before computer-mediated crowdfunding, creators often engaged in personal crowdfunding initiatives. For example, musicians would publicly ask their fans to fund a new album or tour. Fast-growing crowdfunding platforms now fund a diverse range of projects, such as fashion, film, product design, and software (Gerber et al 2012) and it can be used for developing various types of enterprises regardless of its nature and types such as social enterprise, social business enterprise and business enterprises.

2.2. Why do companies use Crowdfunding?

Companies make use of the crowdfunding mainly for cost-reduction reasons (Kleemann et al 2008). By participating in the product design and improvement, users contribute to creating value for the company. Companies can easily raise fund by crowdfunding because crowdfunders provide small amounts individually; consequently, their risk is minimum and the crowd may further become consumers once the product has been brought to the market and have an incentive to disseminate the information about the product if they participate in the profits of the venture (Schwienbacher & Larralde 2010). Moreover, this allows the company to reduce the length of new product development as well as its costs, have a better customer acceptance, and increase the customers’ perception of product newness. Within the crowdfunding activities, consumers and/or individuals provide needed capital to the company to make its investments such as acquire new assets or pay employees (Schwienbacher & Larralde 2010). Crowds may at times be more efficient than individuals or small teams (Howe, 2008). According to Brabham (2008), the efficiency of crowds in solving problems of companies is related to its composition; the more diverse it is, the more efficient it can be. While quoting Surowiecki (2004), he explains that the ‘wisdom of crowd’ is due to crowd’s solutions aggregating to each other, as opposed to averaging out. In other terms, members of the crowd may build up their own solution using others’ suggestions and hence end up having better solutions overall. Lévy (1997) goes even further with his notion of “collective intelligence”: ‘no one knows everything, everyone knows something, and all

knowledge resides in humanity'. It makes pretty clear the fact that knowledge becomes more important as communities share it (Schwienbacher & Larralde 2010).

2.3. Why Do Crowdfunders Invest Money?

The motivation for the crowd (people) investing in Crowdfunding (CF) initiative could be social return; financial return and material return (De Buysere et.al, 2012). Furthermore, the expectation of returns is dependent on the extrinsic or intrinsic factors motivating the crowd (Collins & Pierrakis, 2012; Lehner, 2013; Ordanini et.al, 2011; Belleflamme et.al, 2014). According to De Buysere et.al (2012) emotional and geographical connection of the crowd towards the project is another important motivational factor.

2.4. Models of Crowdfunding

According to Ordanini et.al (2011) Crowdfunding (CF) models have precedents of charity and social cooperation, but unlike them in CF, consumers invest money to obtain a return, mostly financial but also intangible like status, social esteem and identification. Hence categorisation is mainly based on the motivation of crowd making the contribution and the returns on investment (ROI) (social return; financial return and material return) expected from this investment. Table 2 presents the four types of Islamic CF models (modifying the conventional CF models) along with a detailed picture of the characteristics of each of the four types of CF models.

Table 2: showing the different types of models of crowdfunding from Islamic perspective

Type	Contribution	Reward(ROI)	Motivation of crowd
Donation CF	Sadaqa (no monetary returns expected)	Intangible benefits. (satisfaction of helping the needy people of society)	Intrinsic and social Motivation (satisfaction of Allah, Salvation in the hereafter, getting Jannat, Escaping from hellfire etc)
Reward CF	Sadaqa/Pre-purchase/Pre-sales	Rewards & Intangible Benefits	Intrinsic and social Motivation with a desire for reward.
Lending CF (Qarde Hasana/ Interest free loan)	Qarde Hasana/ Interest free loan)	Intangible benefits. (satisfaction of helping the needy people of society)	Combination of Intrinsic, social and financial motivation(Getting back the lending capital)
Equity CF	Investment	ROI if the business is success. Rewards may also be offered. Intangible benefits another factor for many investors.	Combination of Intrinsic, social and financial motivation(Very small amount of profit say 3-5%)

Source: CF types & properties (extended and modified from Collins & Pierrakis, 2012)

2.5. Concept of Social Enterprises

Social enterprises are ‘social mission driven’ organizations. These include both non-profit and for-profit (Biztaxlaw, 2013, Molla 2012) and may take the form of a co-operative, mutual organization, a disregarded entity (Biztaxlaw, 2013), a social business, or a charity organization (Ridley-Duff et al., 2011). These are business like operations but not for business (Mollah 2012). Social enterprises are organisations with an explicit aim which is to benefit the community, initiated by a group of citizens and in which the material interest of capital investors is limited and regulated (Nyssens 2006). Social enterprise must satisfy a social need and at the same time its activities must be economically sustainable (Molla 2012). Social enterprises apply market-based business approach in their operations to achieve social objectives. These are organized under different names with different tendencies in different countries and societies. It is not outright a charity function. It is, in fact, based on the principle that can be described as ‘doing charity by doing trade’, rather than ‘doing charity while doing trade’ (Mollah 2012). Although most social enterprises are small, and many are fragile, the sector has attracted growing interest from policymakers, young people, entrepreneurs, funders and established businesses (Leadbeater 2007) due to its social and welfare aspects. Bill Gates, the founder of Microsoft, in his commencement speech at Harvard in June 2007, explaining why he and his wife had decided to invest \$39bn in projects addressing stark inequalities in health and education, particularly affecting children. Bill Gates says,

Around the world many children of developing countries died because their mothers and fathers had no power in the market and no voice in the system. We can make market forces work better for the poor if we develop a more creative capitalism – if we can stretch the reach of market forces so that more people can make a profit, or at least a living, serving people who are suffering from the worst inequities. We can also press governments around the world to spend taxpayers’ money in ways that better reflect the values of people who pay taxes. If we find approaches that meet the needs of the poor that generate profit for business and votes for politicians we will have found a sustainable way to reduce inequity in the world because we believe that each life has equal value.

Social enterprise is critical to what Gates calls a more creative capitalism that can adapt business and the market to better address unmet social needs. Giving can involve people right across society, from young to old, very rich to those on modest means, city-based venture philanthropists to school children saving their pocket money. It embraces a lot of people rather than relying on an elite of specially talented social entrepreneurs.

2.6. Types of Social Enterprises

Social enterprise has a mixed and contested heritage due to its philanthropic roots in the United States, and cooperative roots in the United Kingdom, European Union and Asia (Ridley-Duff et al., 2011). In the US, the term is associated with ‘doing charity by doing trade’, rather than ‘doing charity while doing trade’. In other countries, there is a much stronger emphasis on community organizing, democratic control of capital and mutual principles, rather than philanthropy (Kerlin, 2009). In recent years, there

has been a rise in the concept of social purpose businesses which pursue social responsibility directly, or raise funds for charitable projects (Ridley-Duff & Southcombe, 2011). Social enterprise may be classified into four, such as:

- i. No cost recovery
- ii. Some cost recovery
- iii. Full cost recovery
- iv. More than full cost recovery

2.7. Motivation for Social Enterprise

Social entrepreneurship is an integral part of human history. There are many people in the world who get pleasure in helping others (Yunus, 2007). All religions encourage this quality in human beings. Furthermore, earning reasonable profit can also be the source of motivation for social entrepreneur along with other intrinsic factors of motivation. Indeed, reasonable profit or small amount of profit is the legitimate right of social entrepreneur and without profit the enterprise cannot survive and entrepreneur cannot remain in business (Molla 2012). That is why the normal profit, without which the entrepreneur will not be willing and able to continue with the business, is calculated as a part of economic cost. Indeed, the 'not for-profit' narrow base has put serious limitations to its growth and expansion and entry to the growth yielding and more challenging industrial sectors which are called the mainstream economy.

2.8. What People Can Donate/Invest in Social Enterprise?

People can donate their money, time, things and skills & knowledge (Leadbeater 2007) on the basis of their ability. Those who have sufficient fund they can contribute/donate money for developing social enterprise and around the world there are many rich philanthropists who can create venture philanthropy funds. Even people with little money have time to donate, especially the young and old. In the USA 55% of the population, 84 million people, spend some time each year to a social cause, equivalent to more than nine million full-time employees, worth \$239 billion, almost as much as the amount donated in money, \$269 billion. This policy strand could: extend British experiments with time banks; promote peer-to-peer forms of giving such as the expert patients programme and extend it into other areas such as education (the expert learner programme); and focus on the organisation of the informal economy of care which is the main area for giving.

Moreover, donations of resources are still critical to many social enterprises and deprived communities. The blood donation service is a model in this regard. Another example is the USA social enterprise GoLoco, which is using social networks to allow people to share. People can also donate their skills and know how to help others. This is the model pioneered by Wikipedia and now being taken up in the UK by the School of Everything created by the social entrepreneur Paul Miller, which aims to be a learning exchange. Furthermore, one of the most promising global social enterprises is One World Health which uses unwanted intellectual property donated by large pharmaceutical companies to address diseases in the developing world.

2.9. Need for Social Enterprises in Muslim Societies

Unfortunately, out of 1.7 billion world's poor, 44 % (The Nation 2011) or 35 % (World Bank 2010) are residing in Muslim countries (Hoque et al 2015). So, Social enterprises are badly needed in the Muslim societies for ensuring social equity and social wellbeing. Since social enterprises do not seek unreasonable or excessive profit, they generate much social wellbeing. Social enterprises can challenge mainstream businesses to operate in more socially responsible and inclusive ways. They can also inspire consumers to demand such products (Leadbeater 2007).

2.10. Prospects of Social Enterprises in Muslim Societies

Giving a portion of a Muslim's annual savings to the poor and needy is one of the five pillars, or religious duties, of Islam. To accomplish the fair distribution of donations, the social institution of "Awqaf" arose in early Islamic societies. "Awqaf" is the plural form of "waqf," meaning "standing trust," or "charitable endowment." The Almighty Allah says,

"The likeness of those who spend their wealth in the Way of Allah, is as the likeness of a grain (of corn); it grows seven ears, and each ear has a hundred grains....." [Quran 2:261].

Prophet Muhammad(SAW) says,

"When a person dies, all of his/her acts come to an end, except three: "sadaqah jariyyah," (recurring or ongoing charity, or waqf); beneficial knowledge shared with others; and a pious child (son or daughter), who prays for the deceased person."

Islam's basic concern is human welfare. The Quran and Sunnah reveal an overriding interest in the overall welfare of mankind (Al-Quran 2:201), while a unanimous view of Fuqaha (Muslim jurists) is that the welfare of the people and their relief from hardships is the basic objective of the Shariah (Chapra 1985). The life of mankind consists of two sequential stages: the worldly life (from birth until death) which is temporary and the life of the hereafter (that begins after death) which is eternal and permanent (Al- Qur'an 87:16). Islam desires welfare of this composite life (Al- Qur'an 28:77). A fundamental principle of Islam is to prohibit monasticism and encourage economic activities not for the sake of accumulating wealth, but for the welfare of mankind (Al- Quran 57:27). The Qur'an states that all the natural resources are meant for the benefit of mankind (Al- Qur'an 2:22). Man should explore them, use them for production, enjoy the fruits of producing goods and services, and use them for meeting moral and social obligation (Al- Qur'an 28:77). Islamic way of life is very much consistent with economic diligence of a man as an entrepreneur. Allah (SWT) asks people to search for his bounties where the prayer is over (Al- Qur'an 62:10).

In fact, Islam as a religion of universal brotherhood wants to ensure social and economic justice for all human being in general and Muslim in particular (Choudhury 2002). But, Islamic teaching of brotherhood and social justice would not be meaningful unless accompanied by economic justice so that everyone gets his due for his contribution to society or to the social product and that there is no exploitation of

one individual by another (Hoque et al 2015). To meaningfully realize social justice, therefore, all the resources at the disposal of human beings must be utilized efficiently and equitably to fulfill the needs of all and to bring about an equitable distribution of income and wealth (Sadeq 1996, Hoque et al 2015). Hence, Islam emphasizes wealth mobilization through the creation of business enterprises. Indeed, resources are mobilized and people are highly benefited when people develop sufficient number of social enterprises. Considering the importance of multidimensional benefits of social enterprises Islam highly emphasizes on the creation of social enterprises. Fortunately, presently the total number of Muslim population is 1.62 billion and rising with high rate and expected to be 2.2 billion by 2030 (Pew Research Centre 2014). Furthermore, Muslims are possessing 70 % energy resources and 40 % natural resources of the world (Laghari 2013). Social enterprises can create a good demand of their products by appealing to general people for buying the products of social enterprises. Of course, if social enterprises can produce quality products and sell with reasonable price then customers will certainly buy the products of social enterprises. So, social enterprises have very high prospect in Muslim society.

3. ISLAMIC GUIDELINES FOR SOCIAL (BUSINESS) ENTERPRISES

Every social enterprise can be regarded as Islamic social business enterprise if it fulfils the requirements prescribed by Islam. The Islamic social enterprise must adhere to the some guidelines. There are a number of rules of ethical discipline in Islamic commercial transactions without which business contract would be regarded as imperfect. The important doctrines such as;

3.1. Truthfulness in Transactions

Islam encourages truthfulness in business transactions and raises the status of a truthful merchant at par with the holy warriors and martyrs, in the Hereafter (*Tirmidhi*, No: 1130). Allah blesses business dealings if both the buyer and the seller are true to each other. Telling lies and hiding facts will result in the loss of divine blessing (*Bukhari*, No: 1937).

3.1.1. Trustworthiness in Transactions

Trustworthiness is one of the most important principles of Islamic ethical discipline in commercial transactions. Trust is a moral virtue and duty incumbent on a Muslim in the performance of his affairs. It demands sincerity in work and purity of intention from every believer. A true Muslim trader will not, therefore, barter his *Akhirah* (hereafter) for worldly gains. He will avoid fraud, deception, and other dubious means in selling his merchandise. The sense of mutual trust demands that the pros and cons of commodity be revealed to the buyer so that he purchases the commodity with full satisfaction. The Holy *Qur'an* says "O you believers! Do not betray Allah and the Messenger, nor knowingly, betray your trusts"(8:27).

3.1.2. Generosity and Leniency in Transactions

One should be lenient and generous in bargaining. The Prophet (SAW) says, May Allah's mercy be on him who is lenient in his buying, selling, and in demanding back his money [or debts]. (*Bukhari*, No: 1934). A creditor should be easy and generous in demanding back his money. The debtor, in turn, should also give back the debt to the

creditor on time with due thanks and politeness. The Prophet (SAW) was the best of all people in repaying the debts. Abu Huraira narrated that once the Prophet owed a camel of a certain age to a man who came to demand it back. The Prophet ordered his companions to give him. They looked for a camel of the same age but found nothing but a camel one year older. The Prophet told them to give it to him. The man said, "You have paid me in full, and may Allah pay you in full." The Prophet said, "The best amongst you is he who pays his debts in the most handsome manner." (Bukhari, Volume 3, Book 41, No: 578).

3.1.3. Honouring and fulfilling Obligations

Islam attaches great importance to the fulfilment of contract and promises (*Abu Da'ud*, No: 3120, *Bukhari*, No: 32). Islamic teachings require a Muslim trader to keep up his trusts, promises and contracts. The basic principles of truth, honesty, integrity and trust are involved in all dealings (Quran 5:1). Each business contract should clearly specify the quality, the quantity and the price of the commodity beyond question.

3.1.4. Legitimate (*Halal*) Earnings

Islam places great emphasis on the code of lawful and unlawful business practices. Many *Qur'anic* verses disapprove the wrongful taking of the property (Quran 2:188, 4:29). The Prophet (SAW) endorsed the importance of legitimate ways of earning (*Ahmad*, No: 1576). Foremost among the unacceptable business practices strongly condemned in Islam is *Riba* (Quran 2:275, 2: 278, 3:130) since it involves both oppression and exploitation. The *Sunnah* is equally emphatic in denouncing *Riba* (*Ahmad*, No: 624).

3.1.5. Trade through Mutual Consent

Mutual consent between the parties is a necessary condition for the validity of a business transaction. It, therefore, follows that a sale under coercion is not acceptable in Islam. A sale transaction is to be regarded as legal only if it is made through the mutual consent of the parties concerned (Quran 4:29). The two key elements of general theory of contract are endorsed emphatically in Islam are mutual consent and gainful exchange. One can also find importance of mutual consent for legality of a business deal. The Prophet (SAW) is reported to have said "A sale is a sale only if it is made through mutual consent" (*Ibn Majah*, No: 2176).

3.1.6. Fair Treatment of Workers

According to the Islamic teachings it is the religious and moral responsibility of the employer to take care of the overall welfare of his employees. Islam encourages and promotes the spirit of love and brotherhood between them. The Prophet of Allah (SAW) has said " around you, Allah has placed those who are your brothers [workers under you] who are around you, Allah has placed them under you. So, if anyone of you has someone under him, he should feed him out of what he himself eats, clothe him like what he himself puts on, and let him not put so much burden on him that he is not able to bear, [and if that be the case], then lend your help to him (Bukhari). The Prophet (SAW) also said " I will be foe to three persons on the last day one of them being the one who, when he employs a person that has accomplished his duty does not

give him his due”(Bukhari:2109). The Prophet (SAW) is also reported to have said “The wages of the labourers must be paid to him before the sweat dries upon his body” (*Ibn Majah*, No: 2434)

3.2. Prohibited Matters in Transactions

So far we have focused on one aspect of the business ethics – guidelines prescribed by Islam for conducting business transactions. Another aspect of business ethics is the various forms of unethical business practices a Muslim businessman must avoid in his business dealings. Some of these prohibited and undesirable business practices are as follows:

3.2.1. Dealing in Prohibited (*Haram*) Items

Dealing in unlawful items such as carrion (dead meat), pigs and idols is strongly prohibited in Islam. Dead meat would mean the flesh of any bird or animal dead from natural causes, without being properly slaughtered in an Islamic way. A Muslim, therefore, will not eat the flesh of such an animal or bird. Flesh of an electrocuted animal, or of an animal killed by the blow of a blunt weapon, and of the strangled one is also proscribed in Islam. Also proscribed is the flesh of the animal that has been killed or slaughtered in ways other than Islamic. A verse of the Holy *Qur'an* says “Forbidden to you [for food] are: dead meat, the blood, the flesh of swine and that on which name of other than Allah has been mentioned” (5:1). The Holy *Qur'an* also says “O you who believe! intoxicants and gambling [dedication of] stones and [divination by] arrows are an abomination of Satan’s handiwork: so avoid it in order that you may prosper” (5:90). The Prophet (SAW) is reported to have said “Allah and His Messenger made illegal the trade of alcoholic liquors, dead animals, pigs and idols” (*Bukhari*, No: 2082) The Prophet (SAW) also said “If Allah makes something unlawful, he makes its price also unlawful” (*Ahmad*, No: 2546).

3.2.2. Sale of *Al-Gharar* (Uncertainty, Risks, Speculation)

In Islamic terminology, this refers to the sale of a commodity or good which is not present at hand; or the sale of an article or good, the consequences or outcome of which is not yet known; or a sale involving risks or hazards where one does not know whether at all the commodity will later come into existence. Such a sale is strictly prohibited in Islam because the quality, whether good or bad, is not known to the buyer at the time of the deal and there is every possibility that the contract may give rise to disputes and disagreements between the concerned parties. The Prophet (SAW), therefore, prohibited the sale of what is still in the loins of the male; or sale of whatever is in the womb of a she-camel; or sale of birds in the air; or the sale of fish in the water, and any transaction which involves *Gharar*. (i.e. anything that involves deception). He also forbade the sale of fruits before they look healthy and also the sale of crops until the grain hardens. Nevertheless, such advance sales would be acceptable if the element of *Gharar* does not exist and the quality and the quantity of the goods are pretty well known and predictable.

3.2.3. Arbitrarily Fixing the Prices

Islam allows absolute freedom to traders provided they adhere to the rules of Islamic principles. It does not, therefore, encourage the practice of artificial price control and

leaves the traders to earn the reasonable profits from each other with understanding (Tirmidhi, No: 1235). As a matter of principle public authorities are not allowed to fix the prices of commodities by force. This is because rise and fall in the prices are linked to various factors other than the greediness of the traders and fixing the prices may endanger both public and private interests. However, the role of public authorities comes into play if it becomes absolutely essential to do so, especially in order to prevent exploitation and other unjust practices in the market. Thus, if a trader adopts unfair means, charges unjust prices and indulges in undercutting of prices with a view to doing harm to the smaller traders, public authorities have the right to intervene in the market.

3.2.4. Hoarding of Foodstuff

The Arabic word for hoarding is *Ihtikar*. It means storing foodstuffs or withholding them in expectation of rise in their prices. This is an unjust practice and a clear case of exploitation and deservedly condemned by Islam. The Prophet (SAW) is reported to have condemned the hoarders when he said “No one hoards but the traitors” (i.e. the sinners). (*Abu Da’ud*, No. 2990). He (SAW) also said “The importer [of an essential commodity] into the town will be fed [by Allah], and the hoarder will have [Allah’s] curse upon him” (*Ibn Majah*, No: 2144)

3.2.5. Exploitation of one’s Ignorance of Market Conditions

One of the most common unethical practices in modern business is to exploit one’s ignorance of market conditions. Islam condemns this act of intermediary intervention which involves exploitation of one’s ignorance of market conditions. The practice was prevalent in pre-Islamic society. The Prophet (SAW) has prohibited this practice through a number of instructions. A tradition is there “A town dweller should not sell the goods of a desert dweller” (*Bukhari*, No: 2006)

3.2.6. *Al-Najsh* (Trickery)

The term *Al-Najsh* means an action in which a person offers a high price for something, without intending to buy it, but just to cheat or defraud another person who really intends to buy it. The person practising it may collaborate with the seller to offer high prices in front of the buyers merely as a means to cheat them. This type of fraudulent transaction is totally prohibited in Islam. The Prophet (SAW) is reported to have said:

Do not harbour envy against one another; do not outbid one another [with a view to raising the price]; do not bear aversion against one another; do not bear enmity against one another; one of you should not enter into a transaction when the other has already entered into it; and be fellow brothers and true servants of Allah. (Muslim, No: 4650)

3.2.7. Cheating and Fraud in Transactions

The traders and businessmen generally have a tendency to motivate the customers by adopting fraudulent business practices. Islam strongly condemns all such practices in business transactions (*Al-Ghashsh*). The Messenger of Allah has commanded the believers not to indulge in cheating and fraudulent practices in business transactions. The Prophet (SAW) is reported to have said

“The seller and the buyer have the right to keep the goods or return them as long as they have not parted. He also said that if both the parties have spoken the truth and described the defects as well as the merits thereof (the goods), they would be blessed in their deal. If they have told lies or concealed something, then blessings of their transaction would be lost” (Bukhari, No: 1937)

3.2.8. Swearing

The traders often take recourse to swearing to emphasize that their items are of good quality. They claim qualities in the merchandise, which don't exist in it. They try to persuade the buyers to purchase their commodity by invoking Allah's name. Swearing in business for such purposes is strictly forbidden in Islam (*Bukhari*, No: 1945), be it false or true. False swearing is an act of sin punishable by hellfire. Swearing by Almighty Allah is too great a thing to be used as a means to sell a commodity. The desirable thing in business transaction is that both the buyer and the seller remain straightforward and truthful in their dealings, so that no one will feel the need to swear by Allah in order to create conviction in the mind of the other party.

3.2.9. Giving Short Measures

Another form of deceit is to manipulate weights and measures. It refers to the act of taking full measures from others and giving them short measures in your turn. Allah the Almighty has repeatedly commanded exactitude in weights and measures. One of the verses says “And give full measure when you measure, and weigh with a just balance. That is good and better in the end”(Quran 17:35).

3.2.10. Dealing in Stolen Goods

Almighty Allah has declared thievery unlawful and warned of severe punishment such as cutting the hand of the thief from the wrist joint if the necessary legal conditions for the award of punishment are met. Even if the thief escapes worldly punishment and gets away with stolen goods, it is not permissible for a Muslim to knowingly purchase or sell stolen items. The stolen items are neither to be bought nor sold by those who know the reality. The Prophet (SAW) made the person knowingly buying a stolen commodity a partner to the crime. He said “The one who knowingly purchases a stolen good, is a partner to the act of sin and the shame”(Kanz Al-‘Ammal, No: 9258)

4. PROSPECTS OF CROWDFUNDING IN MUSLIM SOCIETY FOR DEVELOPING ISLAMIC SOCIAL ENTERPRISES

Entrepreneurs are the engines that drive new companies and financing is the fuel that propels them (Bygrave 2003). There is a bright prospect of crowdfunding in Muslims' society for developing Islamic social enterprises mainly because of having large numbers fund providers/investors who will ultimately be the customers and

consumers of the products of social business enterprises. Furthermore, people (crowd) can donate/and invest small amount of fund, donation/charity is the community character of Muslims and presently Muslims are 1.62 billion of which many have ability and mentality to donate or /and invest for social enterprise.

5. EXAMPLE OF SOME ISLAMIC SOCIAL ENTERPRISES IN THE MUSLIM WORLD

Unlike the current mode of crowdfunding, the social enterprises of Muslim world are using mainly charity/donation and zakah based model for developing social enterprise. A few of such social enterprises are as follows;

In Malaysia, Johor state government's investment agency, Johor Corporation (JCorp) is an example of a successful initiative of social entrepreneurship (Musa 2010, Molla 2012) from Islamic perspective. JCorp, through creation of its corporate waqaf, WANCorp, has successfully initiated a new way of doing business under the banner 'Business Jihad' - an alternative to the purely shareholder-centric, business-driven economic model. Its mission and slogan is 'Building wealth for all with Islamic entrepreneurship'. It is formed on the basis of the institution of Waqaf, which in Islamic Law, is a permanent endowment or trust, customarily of real estate, in which the proceeds are spent for purposes designated by the benefactor – usually charitable foundations such as schools, orphanages, hospitals, and mosques, etc. This newly created corporate Waqaf is a legally recognised community-owned corporation that continues in perpetuity, for producing useful goods and services for the society. Profits from it are used solely for reinvestment or to fund community interests in charitable or social causes as a way of bridging the social divides. It is more or less like the 'social business'. It is claimed that the approach largely adheres to the nature and character of Islamic entrepreneurship. Community and social justice are at the core of this alternative way of doing business. Thereby it initiates a shift from the conventional to a community-centric business concept (Molla 2012) also one kind of social enterprises.

Islamic University Chittagong Trust (IUCT) of Bangladesh (founded in 1992) is another example of Islamic social enterprise which is presently running institutions like International Islamic Medical College (IIMC), Chittagong Dental College (CDC) and International Islamic University Chittagong (IIUC) under cost plus surplus (More than full cost recovery) basis. Yet, IUCT is using charity/ donation model along with its own income generation. The surplus of these institutions (if any) is being reinvested for their expansions and charity causes. In 2004 IIUC was recognized as one of the 9 top-graded Private Universities by a Government-appointed High Powered Team led by the UGC Chairman. At present, it is one of the largest private universities with about 400 fulltime teachers and around 14000 students from home and abroad. A good number of full-time teachers and students are studying abroad for pursuing higher studies with IIUC's scholarship or financial assistance or continuation of services. Unlike other private universities in Bangladesh, IIUC reinvests its income (excess of income over expenditure) for the expansion of the establishment. Thus, within a very short period of time it has become almost a self sufficient social enterprise in Bangladesh.

Dhaka Ahsania Mission(DAM) in Bangladesh is an example of another type of social enterprise. DAM is a non-government charity/donation based social enterprise founded by Khan Bahadur Ahsanullah, an eminent educationist, reformer and Sufi. The founding motto of DAM is 'Divine and humanitarian service'. It functions since 1958 pursuing the aims of social and spiritual development of entire human community. Presently many institutions related to education, health care and religious are being managed by DAM such as ; Ahsanullah University of Science and Technology (AUST), Ahsania Mission Cancer & General Hospital (AMCGH), Addiction Management & Integrated Care (AMIC), Haque Bulu Ahsania Hospital, Patuakhali, Ahsania Institute of Sufism, Ahsania Malaysia Hajj Mission (AMHM), Ahsania Mission Publication Trust etc. DAM's major sources of fund inflow are grants from external donors, fees and service charges for institutional services and contributions from local donors and individuals. During FY 2013-14, from external donors grants contribution was BDT 1025 million which was 43.55% of total fund receipts. Expenditure analysis of FY 2013-14 shows that three major fields of expense were for implementation of field based projects (49.81%), expenses for activities of various institutions (43.65%), and 6.53% expenses were to meet general. DAM growth in terms of financial turnover of last many years are a steady position creating a sound base for future organizational development. Fortunately, many institutions of DAM are also following more than full cost recovery basis and thereby many institutions are now self sufficient projects.

Sheba Polly (*integrated rural service centre*) is a newly established Islamic social enterprise in Bangladesh. It is a cost based charity initiative ((Molla 2012). It is a project of a series of rural services centers, each armed with facilities ranging from hospital, technical institutes, and other services outlets built primarily through local initiatives to provide various social services in the community and motivate members of public commit to social services with the realization that '*serving humanity is serving religion*'. It is to provide at cost six categories of aids under a scheme - '*service according to need and payment according to ability*'. Under the scheme, those who are incapable to pay full cost for the services may apply and negotiate with 'Sheba Fund' management (created for this purpose, with donations and *zakah* receipts from individuals and institutions) for payment of the balance. Recipients of services thus only pay according to their ability. So far only one such service outlet has been established at the suburban village of the district town Brahmanbaria. Being located at the village Bhadughor, it is called Sheba Polly Bhadughor. It has a 10- bed hospital, certificate level nursing (patient management) and medical science and technology programs, handicrafts program, legal aid program, youth club (called Sheba Club to motivate the youths to social services), etc. However, its success so far has been modest. It is yet to start the agricultural aid and microcredit project. It is still struggling with the teething pains. For its take off and full success it may need some amount of initial backup support from other national and international institutions.

6. CONCLUSION AND POLICY IMPLICATIONS

With the passage of time, the social enterprise field has become increasingly well-populated in the world. In some areas social enterprises are growing and continue to grow in scale and number (Leadbeater 2007). Unfortunately, most of the social enterprises have no income generating projects and following only donation/charity

model consequently the developments of social enterprises are not occurring as per the potentiality. But, the social entrepreneurs can use different models of crowdfunding (Like donation, lending, reward, and equity) for developing social enterprises in different areas as well as different types (no cost recovery, some cost recovery, full cost recovery and more than full cost recovery) and can challenge the profit maximizing business enterprise (PMEs) and social enterprise can act as a catalyst for further change in other sectors of the economy. Of course, social enterprises are facing some challenges in Muslim world such as lack of favorable government policy, lack of crowdfunding platforms and lack of skilled social entrepreneurs. But the prospect of developing Islamic social enterprises by crowdfunding is very bright because of having religious inspiration as well as having huge number of potential donor, lenders and investors in the Muslim world. Furthermore, general people of Muslim countries have a soft corner towards social enterprises; consequently, by designing proper strategy social entrepreneurs can create a good demand of their products and thereby make the social enterprises successful which will ensure social equity in the Muslim society.

In this paper the guidelines of developing social enterprises from Islamic perspective is discussed along with the example of some social enterprises (developed by charity based model) of Muslim world. The paper suggests that the social enterprises of Muslim world can also use different models (donation, reward, lending & equity) of crowdfunding for the smooth development of social enterprise and thereby their development can be accelerated. The paper also suggests that the governments of Muslim countries should come forward in encouraging (by proving policy supports) the social entrepreneurs in developing sufficient numbers of social enterprises by using different models of crowdfunding models(donation, reward, lending, equity). Though the concept of crowdfunding is developed by the west, the concept can be used in developing social enterprises from Islamic perspective as well. Indeed, Islamic social enterprises are different from traditional social enterprises from the perspectives of content, philosophy and spirit; because, Islamic social enterprises must be formed and managed as per the guidelines of the Quran and Sunnah. Thus, this study will help those social entrepreneurs who would like to run their enterprises as per the guidelines of Quran and Sunnah for the betterment of organizational performance as well as for ensuring salvation in the hereafter. Finally, this paper suggests that further study should be conducted to know the real performance of those Islamic social enterprises which are using(will use) the different models of crowdfunding with a view to understand the true benefits as well as to identify the problems of social enterprise so that necessary policies can be devised to ensure the smooth development of social enterprise from Islamic perspective in the Muslim world.

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INTERNAL CONTROL PRACTICES IN ISLAMIC NON-PROFIT ORGANIZATION IN MALAYSIA

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ABSTRACT

Islamic non-profit organizations received lot of Islamic charity funds such as zakat, waqf and sadaqah. Zakat and waqf mainly govern by government authorities which are State Religion Islamic Councils (SRICs). However, sadaqah funds management given to Islamic non-profit organizations to handle with it. This sadaqah funds are mainly to be distributed to the needs for achieving social objectives set by these Islamic non-profit organizations. For an organization, internal control identified as one of the elements to assure good management practices. Therefore, in order to ensure sadaqah funds are fully utilize and social objectives of these Islamic non-profit organizations are achieve, good internal control needs to be practiced by these Islamic non-profit organization. Thus, this study explores current internal control practices by Islamic non-profit organization in Malaysia to identify its implementation and practices in internal control aspect. Five main control activities recognized as measurement indicators which are segregation of duties, authorization of transactions, documentations and records, physical control over assets and independent checks. This exploration on internal control practices had been done in the one selected Islamic non-profit organization by using case study method. Surprisingly, unexpected result produced. Some challenges and issues related to internal control practices also been highlighted. This study also provides new empirical evidence for internal control practices.

Keywords: internal control, Islamic non-profit organizations, sadaqah

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1. INTRODUCTION

Recently, there are a lot of crises relating to Muslims in the world, such as Palestine-Israel conflicts, civil war in Syria, war against Syiah Houthi rebels, Islamic State of Iraq and Syria (ISIS) terrorisms across Muslim countries such as Iraq and Syria and the latest one is Rohingya fugitives across the South China Sea. These crises cause to a millions of Muslim who not only lost their relatives but also their belongings from these crisis.

These crises results heavy damages and casualties. To overcome these losses, there are lots of humanitarian reliefs and aids are supplied for those affected that comes from various organizations whether government, privates and non-profit sectors. These aids are majorly contributed by non-profit sectors especially for organizations who objectively related to these humanitarian reliefs. There are lots of aids such as in term of money, volunteers, shelter, clothes, foods, medicals and other types of aids given by these organizations to support the affected Muslims.

These contributions involved lots of funds by those organizations who receive the funds from public at large. These funds basically are known as *sadaqah* from Islamic perspective. Funds contributed can be in term of cash, goods and other kinds. Previous studies shows that there are inefficient management of Islamic non-profit organizations, particularly in *waqf* institutions by (Ihsan and Hameed, 2011; and Hisham and Shahul, 2006) and *zakat* institutions (Ab Rahman *et al.*, 2012; and Lubis *et al.*, 2011). However, for *sadaqah* institutions, the studies on its management are limited compared to these other types of Islamic non-profit organizations.

Although there are limited studies regarding management of *sadaqah* funds for Islamic religious type of non-profit organizations, it still can be an issue especially regarding its fund managements as it involved with a lot of money. This *sadaqah* funds management involves collecting, managing and distributing activities which need to be assured. One way to assure good management of *sadaqah* funds is by having good internal control practices.

This paper focus on the internal control practices by one of the Islamic religious type of non-profit organizations. The Islamic non-profit organization is related to humanitarian reliefs' objectives in Malaysia. Previously, internal control practices of non-profit organizations are mainly focus on other types of institutions for example religious institutions such as Jerusalem Temple (Fonfeder, Holtzman and Maccarrone, 2003), U.S Catholic churches by (West and Zech, 2007), churches at the Greater Accra by (Shaibu, 2013) and state mosques in Malaysia by (Sulaiman, Siraj and Ibrahim, 2008). However, to date, there is no study done related to internal control practices for other Islamic non-profit organizations types including humanitarian reliefs' objectives.

In the next section, this paper discussed overview of internal control. Then, it continues with relationship between internal control and religious types of non-profit organizations. Next, background of the selected Islamic non-profit organization for this study is elaborated. Further, discussion regarding its current internal control practices being

touched. Some arising issues for current internal control practices are then highlighted and some suggestions to overcome these issues are proposed for better internal control practices in the future.

2. OVERVIEW OF INTERNAL CONTROL

Internal control is one of the essential elements for every organization to operate in good practices, including for non-profit organizations. Petrovits, Shakespeare, and Shih (2011) stated that by having a good internal control practices, it can avoid deficiencies reflected by poor internal control practices that can results in decrease of public supports especially by donors. Donations support is the core element for most of the non-profit organizations to survive and delivers its services toward public.

There are lots of definitions that can be used in describing internal control. However, most of the definitions are similar and the one that generally accepted is defines by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In its *Internal Control – Integrated Framework*, COSO (1992) defines internal control as a process, effected by an entity's board of directors, management and other personnel – designed to provide reasonable assurance about the achievement of the entity's objectives with regard to: (1) reliability of financial reporting; (2) effectiveness and efficiency of operations; and (3) compliance with applicable laws and regulations. These three main objectives are applicable to all types of organizations including non-profit organizations.

These three main objectives of internal control also been supported by other accounting professional bodies such as the International Federation of Accountants (IFAC). In its final procurement in *Professional Accountants in Business Committee International Good Practice Guideline*, IFAC (2012) stated that internal control should be used to support the organization in achieving its objectives by managing its risks, while complying with rules, regulations, and organizational policies by treating internal control as part of risk management and integrate both in its overall governance system.

By having good internal control practices, Doyle, Ge and Mcvay (2007) stated that it will aims to detect and prevent any possible errors that will cause a misstatement in financial reporting. Moreover, Sulaiman, Siraj and Ibrahim (2008) stated that proper internal control will cause an efficient and effective donation funds utilization which gives assurance to public especially donors.

According to COSO (1992) in its *Internal Control – Integrated Framework*, there are five components of internal control that need to be focus which are: (1) control environment; (2) risk assessments; (3) control activities; (4) information and communication; and (5) monitoring activities. Spillan and Ziemnowicz (2011) stated that all of these five components are important and need to be reviewed quarterly of its implementations to ensure good practices and its relevancy.

Despite all these five components of internal control, the most basic and important component that is related to daily management of *sadaqah* funds for non-profit organizations are control activities. This is because control activities are involved with flow of operation in *sadaqah* funds management from collecting, managing and distributing part of *sadaqah* funds. Moreover, control activities also involved as a procedures and policies for organizations to comply with it.

Control activities basically can be divided into five activities. In the latest edition of COSO (2012) *Internal Control – Integrated Framework*, a range of diverse activities or economic events in control activities are highlighted which are: (1) segregation of duties; (2) authorization and approval; (3) verification and reconciliation; (4) physical control; and (5) supervisory check.

Segregation of duties refers to separate action taken for any economic events that occurred. The segregation is to ensure documents or information recorded by these actions is the same and true. While, authorization and approval refers to an action taken to ratify that a transaction are valid. Verification refers to an action that compares for two or more documents or information. This is to ensure that all document or information are match, and if any mismatch occurs, follow-up action needs to be taken.

Reconciliation refers to comparing process for two or more data elements. Should any mismatch data are identified, action will be taken to bring those data elements into agreement. The next control activity is physical control which refers to assets such as cash, inventories, equipment, securities and other tangible assets are physically secured. Lastly, supervisory check refers to an assessment to monitors whether transactions are performed correctly and completely according to policies and procedures given.

Although every organization may adopt different kind of control activities reflect to differentiate characteristic for each type of organization, these basic control activities are supposed to exist in each organization. The existence of control activities also need to be ensured at satisfactory level in order to gain good internal control practices for non-profit organizations. Existence of control activities could also give assurance and good impressions toward public regarding *sadaqah* funds management. By having these elements in *sadaqah* funds management operations, it will indirectly help to enhance the effectiveness and efficiencies of financial accountability for non-profit organizations.

3. INTERNAL CONTROL PRACTICES IN RELIGIOUS TYPES OF NON-PROFIT ORGANIZATIONS

According to United Nations (2003) in its *Handbook on Non-profit Institutions in the System of National Accounts*, non-profit organizations are legal or social entities created for the purpose of producing goods and services whose status does not permit them to be a source of income, profit, or other financial gain for the units that establish, control or finance them. Non-profit organizations can be set up of private foundations including corporate foundations, community foundations and independent public-law foundations.

There are many types of non-profit organizations with different objectives and purposes. In Malaysia, all non-profit organizations can be categorized into four main categories which are: (1) societies; (2) associations; (3) foundations; and (4) companies limited by guarantee (CLBG). Majority of these non-profit organizations are providing services toward certain individuals or groups or public at large. All of these services basically being done by people who are volunteers to accomplish any activities and programs by non-profit organizations.

Despite categories of non-profit organizations, the organizations basically involved with funds management as fund is a crucial element for sustaining the survival of non-profit organizations. Studies such as Sloan (2009) and Abraham (2003) identified that positive accountability ratings for non-profit organizations are positively increase the donation received by non-profit organizations. This positive accountability can be achieved by having good internal control practices.

There are several previous studies that focus on internal control practices in religion-based non-profit organizations. Fonfeder, Holtzman and Maccarrone (2003) for example, investigate control activities of Jerusalem Temple for Jewish religion. They find that control activities for record keeping are not been performed well. In addition, the control activities are only focusing on certain type of charity funds, which is money without any details for other types of funds such as fixed assets.

Another study is by Shaibu (2013) that focus on control activities in three churches at the Greater Accra for Cristian religion. Some weaknesses in control activities such as absent of office or specific place for clerk accounts to collecting and manage charity funds identified. These weaknesses, therefore, will increase the tendency of losing the charity funds. There are also other ineffectiveness practices such as when the churches giving out the procurements of the churches projects and activities. The project and activities are given only to members and improper recording of recipients' transactions. This study also concludes the trustworthiness of the public towards the collectors of charity funds are very weak due to these weaknesses.

Sulaiman, Siraj, and Ibrahim (2008) investigate 10 state mosques in Malaysia which is related to Islamic religion. They highlighted weaknesses such as shortage of staff due to limitation of funds for hiring purpose, lack in staffs' and committees' knowledge for adequate internal control practices and unstandardized financial reporting. This finding turns to the needs in having proper control activities in the mosque. They suggest some control activities such as physical custody of cash and cheques, segregation of duties, recording of transactions and authorization of payments for *sadaqah* funds managements.

These previous studies show that there are still lacks of internal control practices especially in control activities for religion-based non-profit organizations. The lack of control activities exist regardless of religion types. Thus, it is believed that proper internal control is needed especially to enhance financial accountability of non-profit

organizations. In the long term, it will positively increase the effectiveness and the efficiencies of non-profit organizations. In addition, these previous studies also shows that studies on internal control practices for other types of non-profit organizations need to be explored.

4. RESEARCH OBJECTIVES AND DESIGN

This research is aimed to explore current internal control practices by an Islamic non-profit organization. Currently, there is no specific guideline or standard for internal control practices by non-profit organizations in Malaysia. Thus, it is believed that current internal control practices by non-profit organizations in Malaysia are unstandardized based on different types of non-profit organizations. This study, therefore identify two research questions which are:

RQ1: What are the existing practices of the internal control practices in Islamic non-profit organizations in Malaysia?

RQ2: What are the issues and challenges of the internal control practices in Islamic non-profit organizations in Malaysia?

For the purpose of this study, one selected Islamic non-profit organization were investigated, to answer both research questions, namely, Organization A. Organization A had been selected as a sample for this study as this Islamic non-profit organization deals heavily on *sadaqah* funds. The *sadaqah* funds management by Organization A includes collecting, managing and distributing activities, which are the focus to answer the research questions.

This study opts to use case study method to explore current internal control practices by Organization A. Benbasat (1984); Kaplan (1986); Yin (2003); and Yin (2014) suggested case study as the best method for exploring a specific system practices in organization. This is because case study is an empirical investigation of a current phenomenon or a system in depth within its real-world. Thus, to explore the control activities of Organization A, case study is the suitable method.

Specifically, this study employs single case study as stated by Yin (2014). A single case study is analogous to a single experiment and many of the same conditions that justify a single experiment also can become a single-case design (Yin, 2014). This study also employs exploratory case study as suggested by Baxter and Jack (2008), where exploratory case study had been used to find an answer regarding real-life interventions that are too complex by using surveys or experimental strategies.

The data were collected through interview from a person in charge of the financial management in Organization A. The interviews focused on the control activities based on interview protocol and last around one hour. Interview protocol or known as interview guideline has been developed as suggested by Mason (2002) to ensure that data collection can achieve objectives of the study.

Interview protocol questions are been made by focusing on the five modified control activities. These five control activities have been to suit with the characteristic of selected Islamic non-profit organization which is stressed on the element of *sadaqah* funds management. These five modification control activities are based on the element of control activities stated by COSO (2012) in its *Internal Control – Integrated Framework* which are:

- a. Adequate segregation of duties – focusing on person in-charge tasks that are involved in collecting, managing and distributing *sadaqah* funds.
- b. Proper authorization of transactions and activities – focusing on entitled power and limit of transactions given to person-in charge regarding *sadaqah* funds.
- c. Adequate documents and records – focusing on proper documentations and records that involves *sadaqah* funds.
- d. Physical control over assets and records – focusing on existence and usable of *sadaqah* assets.
- e. Independent checks on performance – focusing on other parties who are verifying the internal control process regarding to *sadaqah* funds such as superior or other people who not involved in that particular transactions.

To ensure that every statement is recorded, the research interviews were taped. The interview was held on June 23, 2015 in selected Islamic non-profit organization in Malaysia.

5. PROFILE OF THE ORGANIZATION A

Organization A was incorporated in June 25, 2004 and officially launched in May 3, 2005 by former Prime Minister of Malaysia, YABhg Tun Dr. Mahathir Mohamad. Organization A is one of the 45 branches of its parent, known as Organization B. Organization B which is established earlier in 1984 is based at United Kingdom. Organization B expands its operation in the Asia-Pacific region with establishment of Organization A. Organization A is registered as company limited by guarantee (CLBG) type of company under the Companies Commission of Malaysia (CCM).

The purpose of the Organization A is to continue humanitarian aids by Organization B in the Asia Pacific region. Functioned as both fundraising office (local and international projects) and field office (implementing local projects), Organization A contributes in implementing community, economic and social developments programs in Malaysia. As a fundraising office, most of the funds received recognized as Islamic charity fund which is *sadaqah*. There are also other types of funds such as *waqf* and *zakat*. Organization A also generates its own income from trading activities done through its social enterprise under Charity Shoppe and Event Division.

Since its inception, Organization A has been successfully distributing aids in various social projects worldwide by using *sadaqah* funds from the public. One of its main services known as mySEDEKAH, initiated in August 2013 which aimed around 9 million beneficiaries throughout the world. This service determines recipients' accordance to the

priority and current situation. To ensure that the objective of Organization A's establishment is achieved, various programs and activities are held either in local and international, especially to eradicate the poverty issues with the support of Organization B and other branches.

Organization A is led by a Country Director who is responsible to the Board of Director (BOD). The BOD consists of 6 members appointed both from Malaysian and also a representative from Organization B. The BOD is responsible in governing all programs and activities of Organization A. This board also responsible to the budget regarding the distributing of *sadaqah* funds based on programs and activities that had been planned by the management of Organization A.

Organization A had four divisions consist of Relief and Programs Division, Services Division, Fundraising Division and Charity Shoppe and Event Division. The one who is responsible in financial process is the Services Division. Under the Services Division, there are five departments which are Finance Department, Procurement Department, Account Department, Human Resources Department, and also Administration Department.

6. FINDINGS AND DISCUSSIONS

The findings from Organization A provide a summary from interview session with Head of Services Division who is responsible for financial matters in Organization A is presented in **Table 1** below.

Table 1: Summary of Internal Control Practices in Organization A

Control Activities	Key Activities
Segregation of duties	- Financial manpower are about 1:5 ratio from total staffs. - Financial manpower has specific work place. - Collecting, managing and distributing <i>sadaqah</i> funds are being done by separate staffs/department or divisions.
Authorization of transactions	- Have Limit of Authority (LOA) tables for transactions and approved level start from manager to BOD. - BOD plays roles in giving authorization power and approved annual budget for the usage of <i>sadaqah</i> funds. - No limits in amount of <i>sadaqah</i> funds for each project done.
Documentations and records	- Well accounting software named Quick Book. - Proper documentations and records. - Implement receipts, procurement forms and quotations for receiving and distributing <i>sadaqah</i> funds.
Physical control over assets	- Safety boxes for <i>sadaqah</i> funds and petty cash. - Special door access into financial documentations and records room. - Hired guards, door access, CCTV camera and tagging system for other assets safeguards.

Independent checks	• Internal auditors assigned by headquarter to do assessment for every two year. • External auditor hired as part of obligation to submit annual reports to the CCM.

The findings from Organization A provide some insight of how *sadaqah* funds are managed and how far good internal control practices are practiced in Islamic non-profit organization in Malaysia. As discussed in prior literature, proper internal control cause an efficient and effective in utilizing *sadaqah* funds while give assurance toward public (Sulaiman, Siraj and Ibrahim, 2008). In order to gain deeper understanding on internal control, the five control activities as mentioned before in COSO (2012) *Internal Control – Integrated Framework* becomes the main indicators for this study. Those indicators are transformed into five main questions and are discussed below.

6.1. Segregation of Duties

Segregation of duties refers to manpower position. Segregation of duties is done by more than one person to complete a task to prevent abuse (Srinidhi, 1994). Different organization required different segregation of duties in internal control and there are no two or more entities have same internal control (Morehead, 2007). Its depends on various criteria in organization's such as structures, size, complexity, purposes and management philosophy (Doyle, Ge, and Mcvay, 2006). Therefore, to gain understanding on the segregation of duties in Organization A, the following question being asked:

Q1: How is your organization's financial department in term of segregation of duties' practices?

The answers can be divided into three parts. The first part is relating to manpower and its positions. Currently, there are six staffs in Services Division from overall 30 staffs under Organization A. Each one is responsible with each five departments under the Services Division and the respondent as the sixth person who are in-charge for this division. As Organization A is categorized as small organization, it can be said that staffs for financial process are suitable with the total staffs hired by Organization A. The second part is about staffs' work location. It was been told that each staffs had their own work station or specific place for them to carry their duties. The third part is about *sadaqah* flows in term of collecting, managing and distributing process. The respondent provides details explanation, where this part conversation is as follow:

Sadaqah funds can be in term of money and kinds. Most of the money received via online banking transactions. This method is done by identifying inflow of money in our specific receiving sadaqah funds bank accounts. Fundraising department identify it and records is being done by Finance Department. For cash received method, mostly it being held at our premise and the one who is responsible to receive it was staffs from Fundraising Division. Cash received are recorded into two forms, one as receipts for donors and another one passed to Account Department and the cash is passed to Finance Department for bank-in process.

For other kinds, it depends on the size and value. Normally, kinds that are recognized for distributing process had been done in our Charity Shoppe premise and received by our Charity Shoppe and Event Division's staffs. For bigger size of kinds, we have a warehouse that also being as Collection Centre that being the place to receive those kinds by Finance Departments' staff.

From above statement, it can be said that collecting or receiving *sadaqah* funds of Organization A quite organize. Different staffs from different division are assigns to received and bank-in if it was cash. It also include different department to bank-in and record the amount of *sadaqah* received. So, it is in line with Fonfeder, Holtzman and Maccarrone, (2003) study in segregation of duties aspect. However, for bigger size of kinds, some lack procedures when it being received by finance departments' staff which is more suitable to be done by Fundraising Division's staffs. Another issue might arise if there are big kinds received at the Charity Shoppe premise. Further, there are no specific measures to classify kinds' size. For managing and distributing *sadaqah* funds process, another part of conversation by the respondent is as follow:

We have budget that been prepared and approved annually. This budget are prepared by top management and presented into Board of Directors (BOD) for approval. Normally it been approved in first quartile of the year. The budget contains allocation for each division to be spent on activities and programs. If spending is over budget, there will be a special meeting to discuss on that particular issue. But until now, every our surplus spending still can be covered from overall revenues. For every spending, all related documents been sent to account department for record purposes.

From above statement, it can be said that managing and distributing *sadaqah* funds are based on budget that been approved by the BOD. This budget also stated the allocation or limitation for every division to use funds in supporting their activities and programs. This statement also shows that activities and programs are not restricted to certain divisions or in simply word, by specific staffs. However, this diverse practice possibly tends to unorganized for the segregation of duties in term of activities and programs' implementations. Moreover, it could be a risk when staffs that join some activities and programs could possibly also the one who records the activities and programs spending. This could tend into fraud risk. Besides that, there is no specific action taken into place for every surplus spending.

6.2. Authorization of Transactions

Authorization of transactions is another control activity that noteworthy. Basically, authorization of transactions especially financial transactions is refers to typical financial transactions involves a form of payment in exchange for goods and services at a point of sale (Sellen and Schmid, 2004). It can be either in term of cash, paper drafted check, electronic payment transfer and other forms. Thus, following question is being asked:

Q2: *How is your organization's financial department in term of authorization of transactions' practices?*

The answer can be divided into three parts. The first part is about authorization of transactions process. It had been told that Organization A has the Limit of Authority (LOA) table depending on type and amount of transactions. The approval level starts from manager until the BOD. This authorization include in signing the check. Basically, approvals of spending are based on budget approved by the BOD. The second part is about the BOD involvement in authorization of transaction. As stated before, the BOD approved annual budget that includes the estimated amount of expenditure. BOD also gives authorization approval to the Country Director and the Head of Services Division. This shows some involvement by the BOD in the usage of *sadaqah* funds. This is in line with Said *et al.*, (2013) on needs of the BOD involvement in financial decision making. The third part is about limits of amounts for *sadaqah* funds that can be used for each activities and programs. To answer, this part conversation by the respondent is as follow:

As mentioned before, Organization A is one of the Organization B's branches. Organization B endorses a list of projects at Project Menu (website page name). This list consists of thousands projects proposed by field officers from all Field Offices in the worldwide. These projects are proposed to Organization B and after approval process, it is being listed in the Project Menu so that it can be accessed by all Fundraising Offices including Organization A. Then, it's up to management from all Fundraising Offices to choose any projects that suits with their capabilities. These selected projects are then sent to the BOD in getting approval and this will be includes into annual budget. Normally, there is no limits amount of funds being used for each project. It's more on Fundraising Offices' capabilities to handle the selected projects. Once selected projects approved by the BOD, those projects will be unlisted from the Project Menu.

From above statement, it can be said that there is no restrict or limit in amount of *sadaqah* funds that can be used for any projects held by Organization A. This may cause possibly issue of unbalance *sadaqah* funds being used for each project. However, this is not so risky process as all projects listed are approve by Organization B. Its means that Organization B as a parent plays its roles to ensure each proposed projects are execute according to their shared objectives and goals.

6.3. Documentations and Records

Documentations and records process can be described as a process to communicate transactions that occurs into meaningful information to users. In order to have good quality in documentations and records, there are five characteristics as stated by Groth and Moreau, (2009). Those characteristics are immutable, attributable, finalize, autonomously creatable, and process reflecting. In order to identify documentations and records practices, the following question is being asked:

Q3: How is your organization's financial department in term of documentations and records' practices?

The answer can be divided into three parts. The first part is about accounting software used. The respondent told that currently they used Quick Book accounting software supplied by Organization B. However, they are in progress in implementing new accounting software soon. This new accounting software has new features that it can be linked between Organization B with all its branches including Organization A. It also needs to send annual reports to Organization B and those reports are audited. This means that Organization B have a systematic process in documentations and records. The second part is collecting *sadaqah* funds documentations and records process. To answer, this part of conversation by the respondent is as follow:

Receipt is given to donors. Every sadaqah funds received by Fundraising Division, two copies of receipts are created. The original one for donors and the copy one send to Finance Department. Then, these copy receipts are being reconcile with bank statements for verification. If sadaqah funds received in term of cash, calculation process will be done by both representatives from Fundraising Division and Finance Department.

The above statement shows that Organization A has proper documentations and records practices in collecting the *sadaqah* funds. There also verification element. The third part is distributing *sadaqah* funds documentations and records process. To answer, this part conversation by the respondent is as follow:

We have our trusted suppliers. For every expenditure process, we asked our trusted suppliers to give their invoices as common practices. However, if our trusted suppliers are unable to supply certain goods and services, three quotations are requested from any other suppliers. Besides that, we also used procurement forms as common practices for expenditure process.

This above statement shows that Organization A applied quotation in its expenditure process. However, it just restricted to certain goods and services. Although they had their own trusted suppliers, some implication such as manipulation of prices can be happen that cause mismatch prices between goods and services consumed by Organization A.

6.4. Physical Control over Assets

Physical control over assets can be simplified describes as a process to securing assets. Assets can be into tangible and intangible forms. The asset that is mostly concerned in Organization A is *sadaqah* funds or money itself. Other physical assets such as premise, warehouse, donated kinds and also documents and records need to be secured as well as *sadaqah* funds. Although previous studies such as by Amit and Schoemaker (2012) stated that there is no comprehensive general strategy or model in safeguarding assets, assets

still need to be safeguard. In order to identify physical control over assets practices, the following question is being asked:

Q4: How is your organization's financial department in term of physical control over assets' practices?

The answer can be divided into three parts. The first part is about physical control over *sadaqah* funds in term of money. This part of conversation by the respondent relating to the question is as follow:

We have three safety boxes to keep safe sadaqah received in term of cash. The biggest one is located in my office and its size is big that I can fit into that safety box. The second one located at Financial Department Room for keeping cash before bank-in process. The last one is located in Fundraising Division Room. If they received cash from donors and couldn't submit to Finance Department for bank-in process, those cash will be saved to their safety box temporary. We also have petty cash for administration uses that also keep in safe.

The above statement shows that Organization A has physical control over *sadaqah* funds in term of cash basis. This physical control of cash is better compared to mosque practices studied by Sulaiman, Siraj and Ibrahim, (2008). However, it is not mentioned who can assess these safety boxes. This could be another risk that may be happen if other unrelated staffs also have access to the safety boxes. The second part is about physical control over documents and records. It had been told by the respondent that all documents and records for financial are secured at Finance Department as they had additional door access that only financial officers are authorized to get into it.

The third part is about physical assets over other assets. Basically, Organization A hired guards to keep guard their premise and warehouse. The guard also responsible in accompany financial officers for bank-in process. To enter their premise, it has door access and there is also CCTV camera placed in the main entrance for safety purposes. Besides that, they also using tagging systems for their physical assets and they had the directory listing assets.

6.5. Independent Checks

Independent check is a monitoring process on ongoing operation and flows in an organization. Zhang, Zhou and Zhou, (2007) identify that there are three major in internal control weaknesses and one of it was lack in independence check or monitoring process. Independence check is important in identifying risks and deals with it. Besides that, independence of the person who is responsible to monitor also need to be focused. In order to identify independence checks' practices, the following question is being asked:

Q5: How is your organization's financial department in term of independent checks' practices?

The answer can be divided into two parts. The first part is about independence check by internal auditor. To answer, this part of conversation by the respondent is as follow:

As a branch of Organization B, Organization A has been internally audited by internal auditors hired by organization B for every two year. For your information, our internal auditor just had done their auditing work at our branches for last month.

This above statement shows that Organization A has internal auditor who check their operation. The independence of internal auditor is in good practices as it hired by their parent, Organization B itself. However, the assessment just be done once for every two years. It could have a risk as the time for each internal assessment quiet long.

The second part is about independence check by external auditor. Currently, Organization A hired external auditor to audit their annual reports. As CLBG and binding with the Companies Act 1967, Organization A need to submit their annual reports to CCM and for that purposes, external auditor need to be hired. However, the respondent told that their engagement with external auditor quite long and no rotation has been done. This issue also highlighted by their internal auditor and action will be taken.

Overall, there are some challenges in implementing internal control practices in Organization A. As stated by the respondent, it includes the size of the firm and its capabilities to hire an adequate staffs. To overcome, each staff needs to depend to each other in completing the process. There also some challenges in following internal control procedures when some emergency events are happening. However, it still can be controlled well.

7. CONCLUSION

This paper success to answer both research objectives listed. Current internal control practices and issues and challenges for the selected Islamic non-profit organization in Malaysia identified. For current internal control practices, all of the main control activities of internal control for the selected Islamic non-profit organization including segregation of duties, authorization of transactions, documentations and records, physical control over assets and independent checks are in proper practices. Although there are some weaknesses, the major focus on control activities related to *sadaqah* funds itself is in good practices. Thus, proper internal control practices are directly assuring the utilization of *sadaqah* funds in good practices.

This study has laid the groundwork for several strands for future research. Since this study based on only one Islamic non-profit organization in Malaysia, it unsuitable to give a picture that other Islamic non-profit organizations had same good practices in their internal control. Moreover, this study just focus on CLBG types of Islamic non-profit organizations. Another types of Islamic non-profit organizations also potentially to be research in internal control aspects. This study related to internal control also can be

broad its scope to another religion types of non-profit organizations and also to other non-profit organizations as well.

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INTERNAL ISSUES AND DILEMMAS, WHO FAULT IS IT?

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ABSTRACT

This case study looks at a part of the initial findings of a larger study on the critical success factors of Bumiputera contractors in Malaysia. This case study, drawn upon interviews conducted with company owners as well as secondary data obtained from the company and its website, revolves around the research questions to identify the critical and determining factors for the success of Bumiputera contractors in Malaysia. A true story about how the company began to be established as well as the problems they had to face is highlighted in this case study. It was found that among the assets which are also the core factor of Bumiputera contractors' success are: good rapport among managers; no funding or loans given for start-up capital; income generation through diversified business activities; good rapport with suppliers; and excellent quality of work. The study shows that Bumiputera contractors are capable of becoming frontrunner in the construction industry and contribute to the economic strength if they are encouraged and given chance.

Keywords: Case studies, Bumiputera contractors, construction industry, critical success factors

1. THE CONSTRUCTION INDUSTRY IN MALAYSIA

In 2010, the Economic Transformation Programme (ETP) was introduced in conjunction with Malaysia's vision to become a high-income nation. This program targetted a threefold increase in the Gross National Income (GNI) which is from RM660 billion in 2009 to RM1.7 trillion in 2020. Through this program, 131 projects and 60 commercial branches covering various fields including infrastructure and the Greater Kuala Lumpur is able to provide an opportunity for the contractor to broaden their business and add revenue in the field of construction. In addition, the 1Malaysia Housing Program (PR1MA) which was introduced to provide housing to ease middle income group also contributes to the contractors in general, and the Bumiputera contractors in particular, to involve in construction area.

Contractor Service Centre (PKK) is the first government agency established with the aim to coordinate customer services for the construction sector. Through PKK, a registered contractor is placed under an agency which from time to time implements a set of policy to improve its business image and its welfare that are related to its construction business. However, beginning on October 15, 2012, the government announced that a registration system for issuing licenses to the Contractor under the supervision of PKK has been canceled and replaced with Government Job Acquisition Certificate (SPKK) issued by the Construction Industry Development Board Malaysia (CIDB). However, PKK is still overseeing Bumiputera Status Certificate. CIDB was established to assist, supervise and coordinate the activities of the construction company. Construction entrepreneur who wishes to take the opportunity to achieve tender and construction projects are required to register their companies with CIDB under the classification of construction, engineering or electrical and mechanical work. CIDB has also restructured the contractors' classifications, which previously was classified into seven groups, and are now replaced with seven grades.

Apart from that, as a multi-racial country, Malaysia has also introduced a number of economic policies to reduce the economic gap between Bumiputera and non-Bumiputera and to ensure the equitable distribution of economic wealth among all the people. For example, the New Economic Policy (NEP) was drafted with the aim to achieve 30 per cent Bumiputera equity. The government has provided incentives for Bumiputera contractors in the construction sector, through a quota system. For example, grade G1 is only open to Bumiputera contractors.

Although the government has carried out various efforts and policies to facilitate and enhance the competitiveness of Bumiputera contractors, there is still a perception that Bumiputera contractors are less able to survive their business in construction. Among the problems identified are as the followings: lack of expertise and experience; highly optimistic tender bidding; rise in prices of construction materials; financial problems; suppliers network problems; constraints of skilled labor; shortages of building materials and machinery equipment; inefficient and ineffective planning and management; and communication problems (Othman, 2010).

Thus a more detailed and continuous study should be done to identify the exact causes for the existing problems that Bumiputera contractors are facing. This is to ensure that the relevant policies can be designed to overcome shortcomings in order to empower the entrepreneurs and support continuous potential of their business.

To achieve the research purpose about the competitiveness of Bumiputera contractors, this paper is written based on the case study of a grade G1 Bumiputera contractors in Malaysia. All the successes and challenges faced by this company, Taming Services (incognito), have been shared by the managers of the company. The results of the study were discussed among the researchers and its findings are included at the end of this paper.

2. RESEARCH METHODOLOGY

This study was conducted using the case study method to obtain comprehensive information (in-depth) on the critical success factors of Bumiputera contractors in Malaysia (Yin, 2009). For the purpose of writing this paper, the researchers focused on the research of the factors that are critical in determining the success of Bumiputera contractors in Malaysia. Primary data are obtained through interviews conducted with company owners. In addition, secondary data such as company records and websites of relevant agencies are also used for the construction of this case.

Based on the results of the interviews and existing documents that have been provided by the company, the researchers used a five-phase cycle approach (five-phased cycle) by Yin (2011) to analyze the qualitative data: (1) compiling; (2) disassembling; (3) reassembling (and arraying); (4) interpreting and (5) concluding.

3. COMPANY'S BACKGROUND

Bina Empayar (incognito), established on 9th of February in the year 2000, is a fully Bumiputera share ownership of the company. The main activity of this company is carrying out civil engineering or construction work as well as general supply work. The company has licenses for Class F contractors (now known as grade G1), registered with the Ministry of Finance and has the status of indigenous people.

In the early years, the company undertakes construction work subcontracted out to other companies. However, beginning in 2004, the company began to carry out work offered by the government or the private sector.

The company's mission is as follows:

1. Strive to meet customer needs by offering excellent quality and competitive services and work
2. Responsible for the welfare of employees
3. Provide assistance to the surrounding communities
4. Strive to improve services to the most optimum level

Bina Empayar is also focused in the following business:

1. Becoming a successful and competitive company
2. Increasing returns to the company through construction activities.
3. Strengthen the company's position by giving the best to its customers

It runs two main activities in the field of civil engineering and general supplies. In short, civil engineering works carried out are such as the followings: office renovations, home, interior design (furniture and equipment), carpet, amber and others. In addition, the company also undertakes civil works such as maintenance of buildings - building drains, repairing leaky roofs and washing of buildings and engineering works, steel work (stainless steel), painting and polishing grilles.

For the general supply, the companies involved as suppliers of office supplies and stationeries such as rubber stamp, pen, paper, files and the like; the supply of office machines such as photocopier, fax machine, laminate and punch; and the supply of office furniture such as chairs, meeting tables, cabinets, bookshelves and magazine racks. The company is also involved as a supplier of souvenirs and gifts such as printed pens, T-shirts, umbrellas, bags, seminars, calendars and the like as well as supplying equipment and sportswear. From 2008 until 2012, the company has successfully completed a total of 51 medium and above medium projects that were entrusted to them.

4. BACKGROUND OF THE PARTNERS

As a company based on partnership, Bina Empayar is run by two brothers as a partner who are En Zairil (incognito) and En Zamani (incognito). Bina Empayar is also assisted by an executive administration, an accounting executive, two project managers, one assistant, a site supervisor and an assistant supervisor site. The company organization chart is shown in Appendix 1.

Zairil acts as a Marketing and Finance manager for Bina Empayar. He holds a Bachelor of Accountancy from a local University and a Diploma in Accountancy from overseas College. He had experienced working in auditing firm and as an accounting officer before build up this company. His experience as an accountant in a contractor company provides him a wide range of knowledge to apply in the established company.

Meanwhile, Zamani is a Project and Operation manager. He holds a Certificate of Building Contractors of Faculty of Civil Engineering, from a local University. He has also attended many construction-based courses such as road and bridges building. Before being actively involved in this business, he has experienced as a site supervisor for four years in a construction company.

5. A PASSIONATE STARTING POINT

Although the company was registered in 2000, the operation actually started in 2004. The involvement of Bina Empayar is more focused on the work of the general supply, while the works involving civil engineering services and maintenance took a small portion of

20 per cent. Zairil and Zamani needed to think on effective strategies to ensure and prove the intensity of their commitment towards the success of Bina Empayar. It is the elder brother's dream to ensure that the company is in progress and to be at par with other Bumiputera contractors such as Kamal Bina, Lebar Daun and some other great names in the Malaysian construction arena. The question is, how does the G1 class contractor company which is very small can go further?

Zairil was aware that they need to make sales on the project to go miles forward in this business, and that a single project requires substantial capital to run. Thinking about investing, he did not want to take loans from the bank. Furthermore, banks do not easily provide loans to new companies which have never made any significant experience. Therefore, with embarrassment, he asked for loans from family members and relatives. Thanks to his persistent, RM50,000 was collected to start taking up projects of moderate proportional for grade G1 companies which were not exceeding RM200,000.

Apart from the difficulty to obtain the start-up capital, he also found it is difficult to move quickly along with the client's needs and requirements of the project because the entire work covering from the process of planning, gathering and maintaining the project, to the work force were managed by only both himself and his brother alone. Thus, they found that hiring foreign workers would use up a large amount of capital. His two younger brothers who were serving as technicians in a private company quickly came to Zairil's mind. In his mind, it was such a waste not to utilize the knowledge and skills possessed by his siblings to develop the company. When recalled their childhood with lack of financial support and a father who is a soldier with low amount of salary. Thus he, became more determined to make Bina Empayar as a symbol of success and grandeur of the family. He was determined to make their parents happy and satisfied with their success. They accepted his offer and two years later, Zakuan and Zarul were also named as partners since the company's operations has become beyond the G4 grade of not more than RM500,000. Their passion to mutually cooperate with each other and discuss any problematic projects has made them to be more progressive, attain solidarity and build a strong familial relationship. A brother's love has been expressed in the form of a business planning and cooperation. Financially, they share equally in terms of salary, bonuses and allowances as what has been agreed.

6. REACHING EXCELLENCE

In 2004, they obtained a public service project to supply almost anything requested by government agencies or private, with a capital of RM50, 000, in Klang Valley and Putrajaya. Later the company increasingly became a recognized name and pushed their reputation further. This is due to the ability in maintaining the momentum of their best performances in almost every project which led the existing clients to recommend to other agencies.

They were aware that their existing reputation and resources must be used to the maximum in order to reach their vision. They realized that they need to be efficient and creative in their planning to beat their competitors. They started to analyse the prices of

projects to win the tender before sending their quotation. However, they also encountered difficult times in making decisions between obtaining profits or gaining job offers. Thus, the economic theory has been applied to determine their profit margin for each type of projects so that their gains are reasonable and would not jeopardise the financial source of the company. All of them equip themselves with a range of courses to enhance their skills and knowledge. Even Zairil himself who was an accounting background is skillful in drawing plans and expert in interior decoration using 3D and AutoCAD software.

Bina Empayar also ensured an excellent rapport with their suppliers, such as hardware stores, suppliers of carpets, furniture and others. Because of their experience and good payment records, Bina Empayar would easily obtain credit services from suppliers, and this reduced the capital requirements for a project. Payments to their suppliers were directly solved as soon as progress billings were received from the agencies involved. Along with the development of the project, funding was also needed. As the business expand, Bina Empayar has received funding from Al-Tijari scheme of Bank Rakyat for projects below RM200,000, and loans from Amanah Faktor.

In 2007, Bina Empayar took a bolder step to add another line of business which was steel and foundries by hiring few Indonesian labors. It was turning out to be a right decision as orders and projects they receive were more than they could handle. Few years after that Bina Empayar started to add more staff from local, Bangladesh and Indonesia. A year later, Zamani began to make progress and achieved more sales compared to his brother, Zairil who eventually has submitted the company financial affairs to Zamani

7. CONFLICTS AND BIAS

In the early 2013, Zairil received a phone call from Zamani who told that Bina Empayar was unable to pay the salaries of their partners as the money had to be used to pay the salaries of the employees and the suppliers. This situation had continued to happen for almost a year. Zairil decided and called all partners for a meeting.

At the meeting, Zairil proposed that the foreign workers should be terminated for maintenance job due to the very late payment by clients. This problem was more complicated because one of the partners insisted to take on jobs from an agency even though he knew that the late imbursement meant late payment of debts to their suppliers who once trusted them.

The situation became more difficult as the financial situation would not allow them to take on new projects. Some partners have blamed each other for purchasing private properties and investing in assets that were difficult to be managed and monitored since the the assets were far away at their home town. There was also a high administrative staff turnover which further hurt the company's bottom line as it often cost more to find and train a replacement. Zairil realized that they also had not treated the employees very well. Recent years the employees have not received bonuses and salary increment. Zairul was worried and did not know where they went wrong. However, he realized that he himself did not care on the company's financial for a long time since it was passed to his

brother, Zamani. He questioned whether his partner was mistaken in making decisions or has failed to identify the cause of the problem? Zairul also regretted that Zamani, refused to agree with his proposals to solve the problem. Even worst, they could not receive job offers due to capital restraint. At the end of the meeting, they reached a consensus that each partner needed to invested an amount of money to finance the new projects and evaluated the company's performance and financial status.

8. FINDINGS AND DISCUSSION

Based on the information obtained, the researchers discussed and analyzed the research findings using SWOT analysis. The following table summarizes research findings as internal factors (strengths and weaknesses) and external factors (opportunities and threats).

STRENGTHS 1. The relationship between managers 2. Small start up capital 3. Generation of income through diversification of business 4. Good relations with suppliers 5. Quality of work (beginning)	WEAKNESSES 1. Management of cash flow 2. Less care of staff welfare 3. Capital constraints 4. Conflict of interest
OPPORTUNITIES 1. Financial incentives from the government to Bumiputera contractors 2. Quota projects for contract grade G1 only for Bumiputera contractors 3. The stability of the national economy	THREATS 1. Dependence on current prices of building materials 2. Competitive price in bidding and competing for tender 3. Other contractors in the same grade, especially G1, as competitors

The strength of Bina Empayar is the main factor which has strengthened the company and contributed to the success of the company. As the managers are siblings, their relationship is very close and this enables them to reach a consensus in resolving all the issues raised. In addition, a good relationship with suppliers is crucial to the company as credit facilities granted by the suppliers to the company are very important to ensure that a project can be accepted. Credit facilities from suppliers are also important as a way to reduce the initial capital requirement for a project. Bina Empayar also ensures their work is excellent and meets the specifications of the client, which makes the company has always been the choice of the client. Recommendations from agencies also positively impact the company's reputation and it is very good for the company's long-term future.

However, it is undeniable that some weaknesses of the company have been identified. The weaknesses in the company have retarded the company's operations. The main drawback is in terms of cash flow management, which is when the project is growing; funding allocation can not be managed prudently. Staff welfare was ignored which was illustrated without bonuses and salary increment. This in turn has resulted in the neglect of the workers who in turn do not have the loyalty to and ownership towards the company. It is also contrary to what is stated in the company's mission which is "responsible for the welfare of the employees of the company".

In terms of opportunities, the government offers financial incentives. Furthermore, grade G1 are reserved for Bumiputera contractors only. Looking at the relatively stable development of the nation's economy, plus a number of projects being developed such as the Multimedia Super Corridor in Cyberjaya, this is an opportunity for contractors to be actively involved in projects as such.

However, there are also threats to the company. The main threat is the company's dependence on the current price of construction materials such as cement and steel. In addition, in an effort to obtain a tender, the company should bid for the tender with the lowest price in a competitive competition. Many other contractors in the same grade, especially G1, as competitors are also a threat to this company.

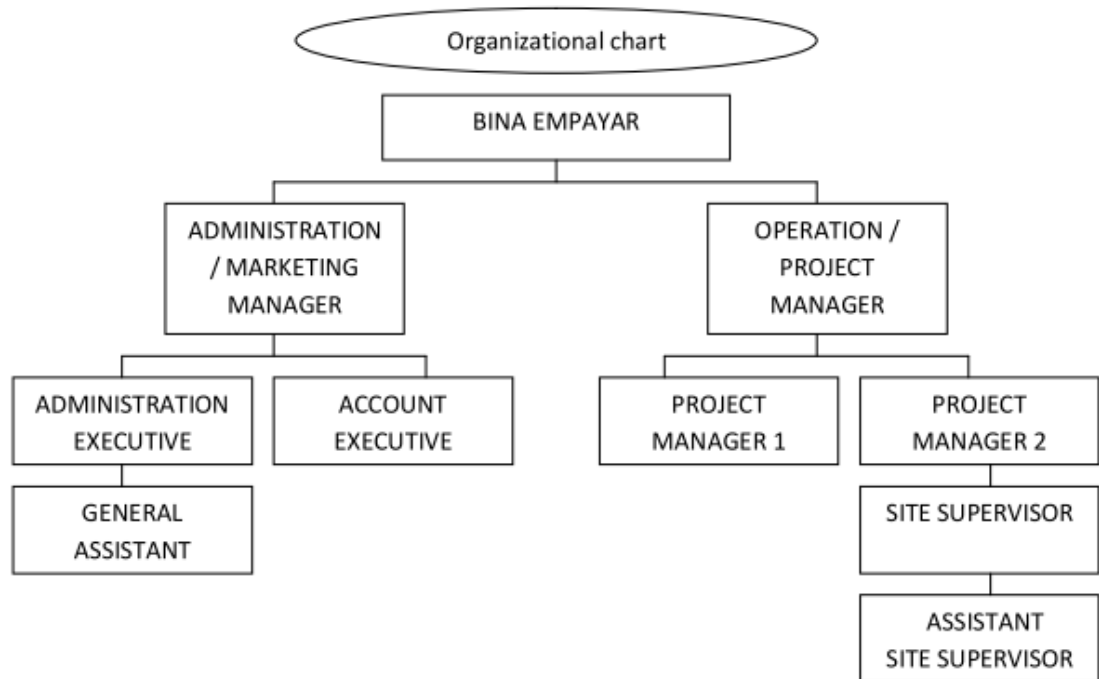
9. CONCLUSION

In order to strengthen construction industry in Malaysia, many sectors have to play their role. These sectors include the government whoc should provide incentives in the form of financial and non-financial to continue the survival of the company contractors. Government can also help in controlling the prices of raw materials if required. This is important to avoid a high cost of a project due to expensive raw material prices. In addition, the provider needs to be more flexible in offering and providing of facilities needed by contractors, such as credit facilities, transportation and delivery. Clients consisting of government agencies and the private sector should cut down on the bureaucracy, procedures and red tapes, especially in the payment of a project. Although the issue of corruption has not been raised in this case, but all of the above, including the contractors themselves should care to ensure good growth and profits for the construction

industry in Malaysia. If left unchecked, corruption will be a key factor which not only disrupts the development of the construction industry, but the economy as a whole.

Based on the above case study, it can be concluded that the financial issues and dependencies can inhibit a company's capital construction. These constraints can lead to many Bumiputera contractors into bankruptcy. Most members of the public perceive and label Bumiputera contractors as not being able to produce excellent work quality, inefficient and lacking in managing available financial resources. However, the findings of the initial research on a number of Bumiputera contractors (including this case) are very surprising. This is because these companies are very competitive Bumiputera contractors who strive to improve their economic status. The Bumiputera contractors in this case study are also motivated in improving their knowledge, skills and experience to become successful and famous.

Appendix 1: Organizational Chart for Bina Empayar



Appendix 2: Classification of Grade for Contractors

GRADE AND TENDERABILITY		
G1	Not more than	200,000.00
G2	Not more than	500,000.00
G3	Not more than	1,000,000.00
G4	Not more than	3,000,000.00
G5	Not more than	5,000,000.00
G6	Not more than	10,000,000.00
G7	No limit	



CATEGORIES
CE CIVIL ENGINEERING CONSTRUCTION
B BUILDING
ME MECHANICAL AND ELECTRICAL



SPECIALIZATIONS
PLEASE REFER TO APPENDIX 2B

Source: Construction Industry Development Board Malaysia (CIDB)

Appendix 3: Number of Registered Contractors in Malaysia

		Jadual 1.1 - Jumlah Kontraktor Berdaftar Mengikut Gred Pendaftaran Kontraktor dan Negeri Berdaftar Table 1.1 - Total Contractors Registered by Contractor Registration Grade and State of Registration						
Pada Akhir Tempoh End of Period	Jumlah Kontraktor Berdaftar Total Contractors Registered	Kontraktor Berdaftar Mengikut Gred Pendaftaran Kontraktor / Contractors Registered by Contractor Registration Grade						
		G1	G2	G3	G4	G5	G6	G7
2011	63,850	32,752	8,187	10,437	2,686	3,817	1,398	4,573
Johor	6,496	3,202	998	1,240	321	302	124	309
Kedah	3,464	2,086	521	368	115	138	65	171
Kelantan	3,230	2,233	314	296	77	133	48	129
Melaka	2,245	1,123	360	383	109	127	37	106
Negeri Sembilan	3,309	2,128	430	410	87	125	47	82
Pahang	3,682	2,174	469	547	168	146	57	121
Pulau Pinang	4,222	2,522	586	599	159	174	63	119
Perak	1,167	937	90	68	17	30	4	21
Perlis	3,304	1,318	585	687	132	220	88	274
Selangor	8,301	5,473	1,044	944	148	220	81	391
Terengganu	3,027	1,329	521	429	132	178	87	351
Sabah	10,069	4,285	1,182	2,047	554	782	269	950
Sarawak	3,550	2,267	311	376	147	203	76	170
Wilayah Persekutuan	7,784	1,675	776	2,043	520	1,039	352	1,379
Jun-12	66,904	33,991	8,780	11,183	2,793	3,930	1,454	4,773
Johor	6,794	3,320	1,075	1,314	320	309	123	333
Kedah	3,528	2,128	537	375	115	134	63	176
Kelantan	3,246	2,243	314	296	79	137	50	127
Melaka	2,293	1,118	376	392	128	126	43	110
Negeri Sembilan	3,362	2,109	468	429	94	126	52	84
Pahang	3,774	2,193	500	557	185	152	59	128
Perak	4,502	2,677	634	641	178	178	71	123
Perlis	1,155	925	92	86	22	27	4	19
Pulau Pinang	3,567	1,405	635	774	141	230	95	287
Sabah	8,736	5,772	1,140	989	140	216	78	401
Sarawak	3,164	1,456	529	418	141	164	89	367
Selangor	10,742	4,536	1,277	2,251	574	816	283	1,005
Terengganu	3,572	2,286	333	356	147	209	76	165
Wilayah Persekutuan	8,469	1,823	870	2,325	529	1,106	368	1,448

Source: Construction Industry Development Board Malaysia (CIDB)

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THEME: ROLES OF ISLAMIC BANKING AND FINANCE INSTITUTIONS

ARE ISLAMIC BANKS MORE ENVIRONMENT FRIENDLY THAN CONVENTIONAL BANKS? AN EMPIRICAL STUDY IN BANGLADESH

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ABSTRACT

Islamic banking aims to maximize social welfare through its operation, while the conventional banking runs behind the self-profit maximization. As per the direction from Bangladesh Bank, both conventional and Islamic banks have been following the green banking guidelines to ensure sustainable banking practices since 2011. Based on a questionnaire survey among sample banks, the study revealed that Islamic banks show better performance in terms of green budget, environmentally less risky finance, solar-powered and online banking, green marketing, climate risk reduction and building awareness among employees through training compare to conventional banks. But these socially responsible banks could not attain efficiency in natural resource use that we have found from our study. Among other challenges, Islamic banks could not avail the Bangladesh Bank re-finance scheme facilities due to interest-based procedure. This paper finally recommends that the cost-effective technology is needed to make the green finance facilities popular among the clients, Government should make the awareness among mass people about green banking through campaigning, Bangladesh Bank should formulate better environmental risk rating (EnvRR) technique and uniform sector-specific guidelines for evaluation to the banks. Department of Environment (DoE) and other concerned bodies should also be more prompt in action so that banks can easily replace the green banking over their traditional banking practices.

Keywords: Green Banking, Conventional Banks, Islamic Banks, Social Welfare, Bangladesh.

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1. BACKGROUND

Are we moving to the edge-point of global collapse? The ecological balance is deteriorating rapidly and significantly in the world. For instance, environmental degradation is very noticeable all around the world particularly in the poor and developing countries. Pollution of air and water are significant, consumption of non-renewable energy is fast, and industrial pollution is beyond the control. Waste disposal from households and industries are ill-managed. Deforestation, loss of open space and loss of bio-diversity are also alarming. Even the global warming has been increasing on an average of 0.6 degree Celsius in the last century that helped to melting ices in the polar area (IPCC, 2002). Scientists are forecasting that most of low lying countries of the world would be submerged due to sea level rise by 2050. Evidence shows that these climatic changes have been occurred mainly due to green house gases (GHG) emissions by human activities (NAS, 2010). Collective and integrated actions by the global community are needed to combat this vulnerable situation. United Nations (UN) identified the following thematic areas of sustainable development such as poverty, governance, health, education, demographics, natural hazards, atmosphere, land, ocean, seas and coasts, fresh water, bio-diversity, economic development, global economic partnership, consumption and production patterns etc (UN, 2007). There are eight principles those guides the sustainability as enshrined in the Holy Qur'an. Firstly, justice (*Adl*) means the humankind must accept their role as a custodianship of the planet and they should protect the Earth in a just and fair manner. Any environmental pollution and degradation is the result of unbridled greed of mankind. Secondly, balance (*Mizan*) means that everything in creation is made to exist in a perfect and harmonious balance (Holy Qur'an, 55: 3-10). Any natural disaster may have destroyed this natural balance. Thirdly, over-consumption of natural resources is not consonant with the principle of middleliness (*Wasat*) as Allah (SWT) does not love them (Holy Qur'an, 7:31). Fourthly, mercy (*Rahmah*) means the governing all aspects of human relationships and treatment of all living animals, plants and insects. In this regard, good and ethical governance is the cornerstone for attaining and sustaining progress and thus good life (*Hayat Tayebah*). Fifthly, Allah (SWT) is the true owner of the Earth and we have trustworthiness and custodianship (*Amanah*) on this Earth. All creations including men have the right to inhabit in the Earth (Holy Qur'an, 2: 30). Prophet Mohammad (SAW) said, "When doomsday comes, if someone has a palm shoot in his hand he should plant it" (Al-Albani). Thus, Islam believes in mutual existence of all living creatures in the world until it is collapsed by Allah (SWT). Islamic belief and faith is based on spiritual purity and physical cleanliness (*Taharah*). Purification is the prerequisite of good life. For instance, pure water is useful to our sustenance and existence (Holy Qur'an, 2:22; 21: 30). Apart from these, truthfulness and rights (*Haq*), and usefulness of knowledge and science (*Ilm Nafi'*) also promote the sustainable development (*Tayebah Development*). Zaidi (1981) argues that the ecological crisis is actually a moral crisis and this ecological crisis warrants an ethical ground with divine principles.

Bangladesh is one of the most climate change vulnerable countries in the world (WB, 2009). In line with global development and response to the environmental degradation, financial sector in Bangladesh should play important roles as it is one of the key stakeholders of sustainable development initiatives. Banking industry is a great part of the whole financial sector under which both conventional and Islamic banking are working in Bangladesh. Currently, fifty six scheduled banks in Bangladesh are operating under full control and supervision of Bangladesh Bank. More specifically, 5 State-owned Commercial Banks (SOCBs), 3 Specialized Banks (SDBs), 39 Private Commercial Banks (PCBs), 31 conventional PCBs, 8 Islami *Shari'ah* based PCBs, 9 Foreign Commercial Banks (FCBs) and 4 non-scheduled banks are operating in Bangladesh (BB, March 2015). It is mention worthy that the conventional banks imply the banks those perform the banking functions in conventional fashion i.e. interest based operations, while the Islamic banks execute banking activities according to Islamic *Shari'ah* based principles i.e. Profit-Loss Sharing (PLS) mode. In other words, conventional banks run behind maximizing its own profit, while the Islamic counterpart aims to attain socioeconomic objectives along with achieving self profit (Hassan, 2003, p. 76). This paper is an attempt to focus on environment friendly banking practices of Islamic and conventional banks in Bangladesh.

Following sections are designed as, section 2 conceptualize the environment friendly banking, section 3 discusses the green banking initiatives by banking industry in Bangladesh, objectives of research are mentioned in the section 4, literature review in the section 5, methodology in the section 6, results are presented in the section 7, and finally, concluding remarks in the last section.

2. ENVIRONMENT FRIENDLY BAKING

Environment friendly Banking concept though evolved in western countries, it is now practiced in other parts of the world. This banking system, alternatively known as Green Banking (hereafter will be used as GB), added to the banking industry in order to build a sustainable society. GB indicates endorsing environment-friendly practices and reducing carbon footprint from banking activities. GB is not just another corporate social responsibility activity; it is all about going beyond to keep the world livable without any significant damage. GB considers all the social and environmental factors into banking business, that is why, it is also called as ethical banking. The main objective of GB is to ensure the use of organizational resources in favor of the environment and society. GB, as a concept, is proactive and smart way of thinking with a vision for future sustainability of our only spaceship earth. It evaluates all the factors before giving the loan whether the project is environment-friendly and has any implication on the future people and planet. Green finance as a branch of GB makes significant contribution to the transition to resource efficient and low carbon industries i.e. green industry and green economy in general. GB is a component of the global initiative by a group of stakeholders to put aside environment. GB or ethically responsible banks do not only advance their own initiatives but also affect socially responsible behavior of other business.

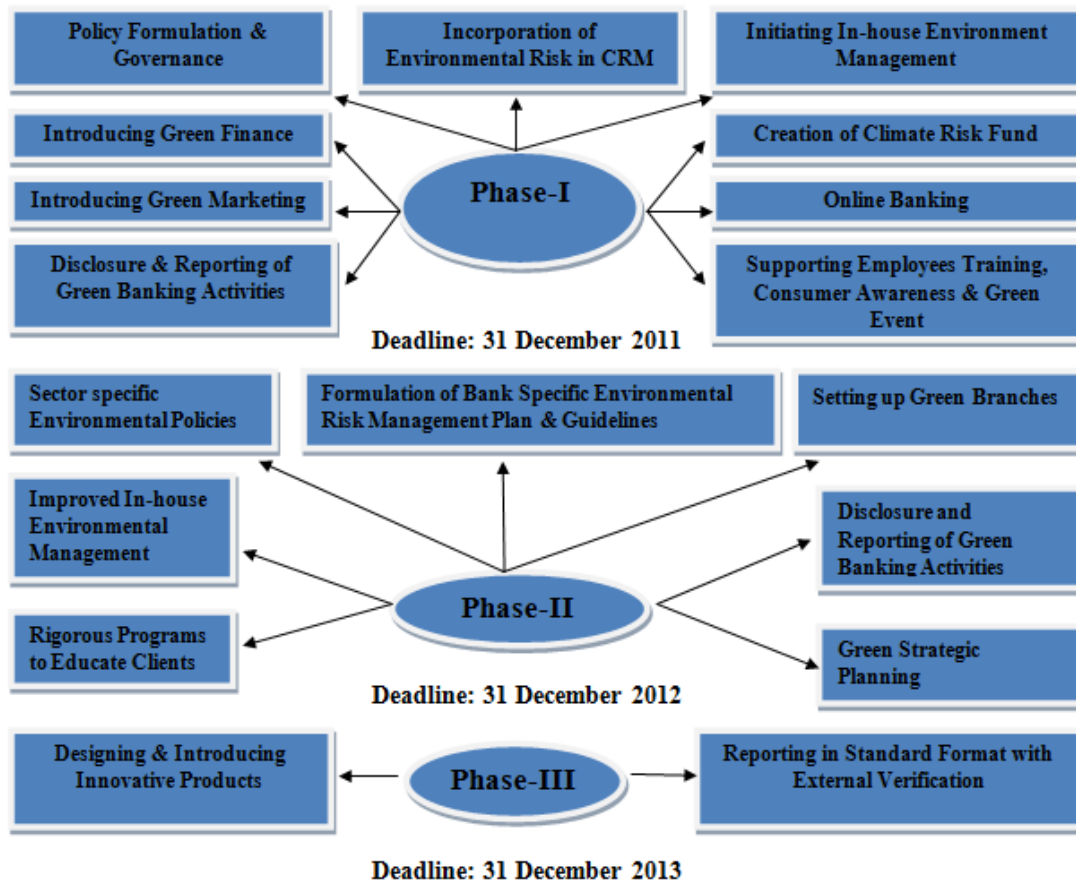
3. GREEN BANKING INITIATIVES IN BANGLADESH

Bangladesh Bank (BB), the central bank of Bangladesh, adopted and promoted green banking practices throughout the financial sector. BB is responding to sustainability in a diversified ways. With a move towards encouraging green banking in Bangladesh, BB installed a 8-kilowatt solar power system on its rooftop in March 2010, which has been providing necessary energy supply for the executive floor along with emergency security lights in the BB premises (BB, 2012). This is now being extended to cover more areas. A recent initiative has been taken to convert the 30-storied building of the bank into a 'Green Building' with the modern facilities of rain water harvesting, waste water recycling and motion sensor energy efficient bulbs supported by window based solar panels. Under the said program, this bank then extended her hand to financial institutions, particularly to other commercial banks. Finally, BB has issued a three phased policy guidelines for green banking in 2011 as shown in Figure 1 (BRPD Circular No. 02). Bangladesh Bank “is probably the only central bank, which has issued such an indicative guideline for green banking” (Rahman, 2013). In Phase-I, Banks are to develop green banking policies and show general commitment on environment through in-house performance. Under phase-II, banks need to formulate Sector Specific Environmental Policies for different environmental sensitive sectors. In phase-III, banks are expected to address the whole eco-system through environment friendly initiatives and introducing innovative products, and publish independent Green Annual Report targeting their stakeholders that will be verified by an independent agency or acceptable third party.

Banks shall keep their annual report and websites updated with the disclosures on GB activities. The preferential treatments for compliant banks practicing Green Banking are: Green Banking practices impacts positively on CAMELS rating of a bank; BB declares the names of the Top Ten Green Banks in the BB websites; BB will actively consider green banking activities of a bank to give permission for opening new bank branch etc.

In line with the GB policy developed by Bangladesh Bank, both Islamic and conventional commercial banks of Bangladesh have undertaken initiatives to implement this policy. Banks and other financial institutions are now submitting a quarterly report on prescribed format regularly to BB on their performance of GB activities.

Figure 1: GB Guideline Formulated by Bangladesh Bank.



4. RESEARCH OBJECTIVE

The main objective of this study is to compare the performance of some selected conventional and Islamic banks of Bangladesh in green banking practices. However, specific objectives are as follows:

- To give an overview of green banking initiatives in Bangladesh;
- To compare the performance of Islamic and conventional banks in green banking practices in Bangladesh;
- To explore problems and challenges faced by Islamic banks and provide suggestions for those banks so that any constraints before the green banking practices can be tackled.

5. LITERATURE REVIEW

As one of the least developed countries, Bangladesh is the worst sufferer of global pollution through industrialization of the western countries. Under such extreme environmental threat, the financial sector of Bangladesh is playing a key role as one of the important stakeholders of the economy enforcing the businessmen and industrialists of the country to design their various action plans keeping in mind the crucial environmental issues (Ullah, 2013). Using secondary data from commercial bank's annual reports and BB's publications, Islam and Das (2013) highlighted on fund allocation to green banking, green finance, mobile banking, online banking etc.

As they reported that GB practice is a new way of conducting banking business which will be a part of hygienic environmental issue and corporate social responsibility. And the concept of green banking is relatively new in Bangladesh and yet to get momentum, but in the developed countries it is passing through a mature stage. The study concludes that green banking practices in Bangladesh is not satisfactory at all. Choudhury, Salim, Bashir and Saha (2013) identified a set of stakeholders to calculate their ability to influence in developing green banking products. The findings suggest that banks should go green and play a pro-active role to take environmental aspects for functional improvements and changing client habits in banking business. Use of appropriate environmental technologies and management systems will not only be useful for environment, but also provide benefits as greater operational efficiencies. After using both descriptive and inferential statistics, this study also advocates for the necessity of stakeholder's influences in green banking practice and recommend some indication for Government, the whole banking sector and for the business community. Rahman, Ahsan, Hossain and Hoq (2013) focused on the green banking prospects in Bangladesh in their paper. Banks can be green through bringing changes in six main spheres of banking activities. Those are Change in Investment Management, Change in Deposit Management, Change in House Keeping, Change in the Process of Recruitment and Development of Human Capital, CSR, and Making Consciousness Among Clients and General Mass. Such an initiation can ensure a safe residence for upcoming generation. Authors reemphasized on supporting BB's initiatives by raising our voice, keeping hand over hands, thinking in positive way and working in collective manner to make our life green. Based on probability stratified sampling technique, Ahmed, Zayed and Harun (2013) selected employees as respondents from ten sample banks and found that economic factor, policy guideline, loan demand, stakeholder pressure, environmental interest and legal factor are responsible for adopting of green banking by commercial banks in Bangladesh to ensure sustainable economic development. Finally, Islam (2014) opined that low cost technology is matter for sustainable banking in current situation. Because most of clients are no longer interested to adopt eco-friendly technology mainly due to high cost of installation and maintenance.

Unlike previous studies, using primary data, this paper attempts to compare the green banking performance between conventional and Islamic banks in Bangladesh.

6. METHODOLOGY

In this study, we have mainly identified the following issues such as budgeting, environmental risk management, inventory management, green finance, climate risk reduction, green marketing, awareness etc. to be examined.

6.1. RESEARCH DESIGN

This is an empirical research that has been conducted by following BB green banking guidelines (Kothari, 2008). Population of this study covers the whole banking industry of Bangladesh. Since 45 banks formulated GB policies and 46 banks established GBU in Bangladesh (BB, 2012), a specific sampling technique has been chosen in this paper.

6.2. SURVEY, SAMPLE AND SAMPLING

At the beginning stage, we conducted a pilot survey at the branch level to know green banking activities of the industry. Based on this pilot survey, we presumed to choose the sample banks for this study. Afterwards, we carried out a sampling survey under this study during the period May 01, 2015 - May 30, 2015. During this survey, we observed a heterogeneous scenario in the banking industry of Bangladesh in practicing green banking policy formulated by BB. However, primarily five scheduled commercial banks have been chosen from population as sample banks purposively. All sample banks are now classified into two groups of banks, such as Islamic banks and conventional banks. Three banks have again been chosen purposively as Islamic banks and two banks have been chosen purposively from conventional banks. Islamic banks under this study are EXIM Bank Limited (EXIM), Islami Bank Bangladesh Limited (IBBL), and Social Islami Bank Limited (SIBL), on the other hand, two conventional banks are Bank Asia Limited (BAL) and BASIC Bank Limited (BASIC). Reason behind choosing those banks are the green banking activities of selected banks and limited access to primary data on other banks.

6.3. COLLECTION OF DATA

Data were collected from both primary and secondary sources. Primary data have been collected for the period of 2011-2014. For collecting primary data, a formal interview was arranged with head of green banking unit and delivered an open-ended questionnaire to each of the sample bank. But secondary data have been retrieved from several sources, such as different publications of Bangladesh Bank on GB, annual reports of sample banks for the year 2011, 2012, 2013, 2014 and related articles. Data also collected through company's corporate profile, daily newspaper, different academic journals, websites of sample banks and BB.

6.4. ANALYSIS OF DATA

Data were analyzed by using descriptive statistical tools. To compare the data, we used standard units for those environmental variables considered. After collecting data from primary sources, it was categorized according to a logical manner. It was then tabulated and converted into graph. Finally, data were crosschecked for its reliability and authenticity.

6.5. ENVIRONMENTAL PERFORMANCE ANALYSIS

To analyze the environmental performance of sample banks, we selected seven main themes of green banking such as green budget, environmental risk management, inventory management, green finance, climate risk reduction, green marketing and awareness etc. Under these principal themes, we again considered eleven sub-themes

of green banking practices such as budget utilization of green banking, number of environmentally risk rated projects, amount of taka financed on environmentally risk free sector, consumption of natural resources, number of solar-powered branches, number of on-line branches, utilization of green finance, utilization of climate risk fund, budget for green marketing, number of programs organized on green banking, number of employees trained on green banking etc.

7. RESULTS AND DISCUSSION

From the sample banks, results on green banking practices of Islamic and conventional banks are discussed below.

7.1. BUDGET FOR GREEN BANKING

Environmental governance is an important part of green banking which require green budget. Each sample bank formulated the green banking policy approved by board of directors and formed green banking unit headed by a senior executive. At this phase, bank approved a considerable amount of fund for Green Banking in their annual budget, which included environmental risk management and core risk management, Green Finance, Climate Risk Fund, Marketing & Capacity Building for Green Banking, Online Banking etc.

Table 1: Budget Utilization for Green Banking (Million Taka)

Year	Islamic Banks			Conventional Banks	
	IBBL	SIBL	EXIM	BASIC	BAL
2011	592	-	9508.95	207.2	3.087
2012	27284	446.14	27719.11	8632.08	11140.57
2013	44593	991.08	14867.98	588.51	26220.95
2014	54894	1080.03	20566.40	191.37	20495.19
Mean	31840.75	839.08	18165.61	2404.79	14464.95

Source: Survey

Note: US \$ 1= Tk. 77.80, BB (May 2015).

During the study period, sample banks have been utilizing fund for green banking. Among Islamic banks, mean budget for green banking was found 31840.75, 839.08, 18165.61 million taka for IBBL, SIBL and EXIM respectively. On the other hand, it was 2404.79 and 14464.95 million taka for BASIC and BAL respectively.

7.2. ENVIRONMENTAL RISK MANAGEMENT

Environmental risk is not a part of credit risk, but it is a facilitating element of credit risk when it is linked with the credit risk due to environmental condition or climatic change. A strong credit risk graded project or business deal may be weakened by a high environmental risk rating (EnvRR) because of high environmental risk therein. Environmental risk in this case has a greater impact over credit risk in the overall credit risk methodology. So, BB is looking for incorporation of environmental risk in the core risk management that mandates considering in the overall credit risk methodology. Banks are now assessing environmental risk rating as per the Environmental due diligence checklist of environmental risk management guideline.

Table 2: Number of Projects Rated and Amount of Finance by Banks

Year	Islamic Banks						Conventional Banks			
	IBBL		SIBL		EXIM		BASIC		BAL	
	Project s Rated	Finance (Mill.Tk.)	Project s Rated	Finance (Mill.Tk.)	Project s Rated	Finance (Mill.Tk.)	Project s Rated	Finance (Mill.Tk.)	Project s Rated	Finance (Mill.Tk.)
2011	2	144	-	-	391	28562.98	-	-	324	6075
2012	592	239390	450	5607	968	160897.4 2	414	10191.2	1044	59340.17
2013	4107	422836	356	7085	163	2546.48	797	12577.62	1046	69580.33
2014	2031	128947	399	14422	505	12759.81	313	3784.28	1468	61394.98
Mean	1683	197829.3	401.67	9038	506.75	51191.67	508	8851.03	970.5	49097.62

Source: Survey

Note: US \$ 1= Tk. 77.80, BB (May 2015).

From the above table, we see that among Islamic banks, the highest number of projects rated by IBBL and financed 197829.3 million taka on environmentally safe projects; on the other hand, Bank Asia Ltd. rated more amount of project than BASIC Bank Ltd. and released more fund amounting 49097.62 million taka during the study period.

7.3. INVENTORY MANAGEMENT

Green banking policy states that each bank shall provide the green office guidebook and keep record the consumption of inventories at their offices. Here, inventory includes water, electricity, gas and energy etc. Banks may contribute to reduce the consumption of natural resources and less carbon emission by following eco-friendly office management in all aspects.

Table 3: Resources Consumption by Banks

Year	Islamic Banks						Conventional Banks			
	IBBL		SIBL		EXIM		BASIC		BAL	
	Con. of Natural Res.	Solar Powered Branches	Con. of Natural Res.	Solar Powered Branches	Con. of Natural Res.	Solar Powered Branches	Con. of Natural Res.	Solar Powered Branches	Con. of Natural Res.	Solar Powered Branches
2011	126.78	7	-	-	23.28	3	23.38	6	64.68	2
2012	227.39	23	97.3	13	35.55	8	35.48	3	69.79	7
2013	406.99	29	49.18	17	82.46	10	46.25	6	72.57	7
2014	438.32	34	60.03	17	94.32	11	50.09	0	98.28	11
Mean	299.87	-	68.84	-	58.90	-	38.8	-	76.33	-

Source: Survey

Note: US \$ 1= Tk. 77.80, BB (May 2015).

Note: Here, consumption of natural resources represents water, paper and electricity etc. which is measured in million taka.

In the Table 3, trend shows that expenditure on natural resource consumption is steadily rising for all sample banks during 2011-2014. We also found that mean consumption expenditure was 299.87 million taka for IBBL which is highest and the lowest consumption expenditure was found 58.90 million taka for EXIM among Islamic banks. On the contrary, consumption of natural resources were 76.33 million and 38.8 million taka for BAL and BASIC respectively among conventional banks. Up to 2014, IBBL, SIBL and EXIM operated 34, 17 and 11 number of solar-powered branches, while BAL operated 11 solar-powered branches Only BASIC whose number of solar-powered branches was highly fluctuating during the study period.

Table 4: Number of Branches under Online Banking

Year	Islamic Banks			Conventional Banks	
	IBBL	SIBL	EXIM	BASIC	BAL
2011	266	-	62	45	69
2012	276	86	72	62	79
2013	286	91	80	68	84
2014	294	100	87	68	97

Source: Survey

Banks also can contribute to environmental protection by introducing the number of on-line branches, therefore, reducing printing costs and postage costs. From the Table 4, we found that all of the sample banks have been increasing their number of on-line branches during this period, particularly IBBL performed outstanding as this bank raises its on-line branches up to 294, while second highest was 100 for SIBL. The least number of branches operating under on-line banking was 68 by BASIC Bank Ltd. in 2014.

7.4. GREEN FINANCE

Eco friendly business activities and energy efficient industries have been given preference in financing by banks. Environmental infrastructure such as renewable energy project, clean water supply project, wastewater treatment plant, solid and hazardous waste disposal plant, bio-gas plant, bio-fertilizer plant and environment friendly brick kiln have been encouraged and financed by banks. Consumer credit programs have been applied for promoting environmental practices among clients.

Table 5: Utilization of Budget for Green Financing (Mill. Tk.)

Year	Islamic Banks			Conventional Banks	
	IBBL	SIBL	EXIM	BASIC	BAL
2011	26567	-	9508.95	207.2	-
2012	27176	384.51	27607.71	8632.08	11139.83
2013	44456	972.23	14783.03	588.51	26220.60
2014	54751	1065.04	20381.86	191.37	20495.19
Mean	38237.5	807.26	18070.39	2404.79	19285.21

Source: Survey

Note: US \$ 1= Tk. 77.80, BB (May 2015).

In the above Table, we see that budget utilization for green finance by IBBL, SIBL, and EXIM are 38237.5, 807.26, and 18070.39 million taka respectively, and it is 2404.79 and 19285.21 million taka for BASIC and BAL respectively.

7.5. CLIMATE RISK FUND

Banks should address environmental issues and assess environmental risks (high/moderate/ low) of projects/businesses of different sectors in different areas and create climate risk fund. The fund should allocate/create for GB as a part of CSR activities at the time of emergency. The targeted area of Climate Risk Fund (CRF) would be climate-vulnerable areas, namely flood, cyclone and draught prone areas in Bangladesh. Areas may also include, but not be limited to, post-disaster rehabilitation; skills development and alternative livelihood; climate adaptability; climate resilient

housing facilities etc. Sample banks allocated and utilized the budget for climate risk fund during the period 2011-2014 that are shown below.

Table 6: Provision for Climate Risk (Mill. Tk.)

Year	Islamic Banks						Conventional Banks			
	IBBL		SIBL		EXIM		BASIC		BAL	
	Allocation	Utilization	Allocation	Utilization	Allocation	Utilization	Allocation	Utilization	Allocation	Utilization
2011	-	-	-	-	-	-	-	-	1	-
2012	92	92	-	55.94	50	61.4	430	-	3	0.22
2013	145	98	-	14.4	50	35	432	-	3	0
2014	123	123	-	12.68	120	119.79	432	-	3	0
Mean	120	104.33	-	27.67	73.33	72.06	431.33	-	2.5	0.07

Source: Survey

Note: US \$ 1= Tk. 77.80, BB (May 2015).

In the Table 6, it has shown that most of the Islamic banks satisfactorily allocated and utilized the fund for climate risk during this period, but the fund of conventional counterparts are very negligible. For instance, IBBL, SIBL EXIM, and BAL, on an average, utilized 104.33, 27.67, 72.06, and 0.07 million taka, while BASIC Bank Ltd. utilized no fund on this purpose. Similarly, SIBL allocated no fund for climate risk reduction from the period of 2011 to 2014.

7.6. GREEN MARKETING

Green marketing (GM) is the marketing of products that are presumed to be environmentally safe. GM incorporates a broad range of activities, including product modification, changes to the production process, packaging changes, as well as modifying advertising. It refers to the process of selling products and/or services based on their environmental benefits.

Table 7: Budget for Green Marketing (Million Taka)

Year	Islamic Banks						Conventional Banks			
	IBBL		SIBL		EXIM		BASIC		BAL	
	Allocation	Utilization	Allocation	Utilization	Allocation	Utilization	Allocation	Utilization	Allocation	Utilization
2011	-	-	-	-	-	-	-	-	-	-
2012	17	17	-	5.69	50	50	20	1	6.5	0.52
2013	42	39	-	4.45	50	49	40	1	7	0.35
2014	122	21	-	2.30	65	64.75	40	0	7	0
Mean	60.33	25.67	-	4.15	55	54.58	33.33	0.67	6.83	0.29

Source: Survey

Note: US \$ 1= Tk. 77.80, BB (May 2015).

From the table above, we see that trend in utilization of budget for green marketing found to be mixed in case of IBBL and EXIM, while it is falling in case of SIBL and BAL. Moreover, this expenditure found negligible for BASIC and BAL during this period and in 2014 no expenditure found for BASIC and BAL. On the other hand, mean expenditure on green marketing found 54.58 million taka which is highest among sample banks.

7.7. AWARENESS

Employee awareness development and training on environment and social risks should be a continuous and compulsory part of bank's human resource development. Building awareness among staffs may facilitate to raising awareness among bank's clients.

Table 8: Training on Green Banking

Year	Islamic Banks						Conventional Banks			
	IBBL		SIBL		EXIM		BASIC		BAL	
	Programs Organized	Staffs Trained	Programs Organized	Staffs Trained	Programs Organized	Staffs Trained	Programs Organized	Staffs Trained	Programs Organized	Staffs Trained
2011	183	8980	-	-	1	25	2	88	60	1785
2012	26	1144	4	89	8	270	5	163	31	1500
2013	170	4934	4	129	15	423	4	158	29	3000
2014	288	7405	5	150	11	207	4	151	49	5000
Mean	167	5616	4	123	9	231	4	140	42	2821

Source: Survey

During the period 2011-2014, IBBL, SIBL, EXIM, BASIC and BAL, on an average, organized training programs to aware their staffs on green banking by 167, 4, 9, 4, and 42 respectively under which the number of employees trained, on an average, was 5616, 123, 231, 140 and 2821 respectively. During this period, the highest number of program was organized by IBBL and the trend of this is strictly rising except in 2012.

7.8. SUMMARY OF RESULTS

Based on seven themes of green banking, we can now analyze the performance of Islamic banks (IBs) and conventional banks (CBs) for the period of 2011-2014.

Table 9: Performance of Islamic and Conventional Banks in Green Banking

Theme	Sub-theme	IBs	CBs
Green Budget	Budget Utilization for Green Banking (Million Taka)	16,948.48	8,434.87
Environmental Risk Management	EnvRR Rated Projects in Number	863.81	739.25
	Environmentally Safe Finance (Million Taka)	86,019.66	28,974.33
Inventory Management	Consumption of Natural Resources (Million Taka)	142.54	57.56
	Number of Solar-powered Branches	16	6
	Number of Branches under Online Banking	149	71
Green Finance	Utilization of Budget for Green Finance (Million Taka)	19,038.38	10,845
Climate Risk Reduction	Utilization of Climate Risk Fund (Million Taka)	68.02	0.035
Green Marketing	Budget for Green Marketing (Million Taka)	28.13	0.48
Awareness	Number of Programs Organized on Green Banking	60	23
	Number of Employees Trained on Green Banking	1,990	1,480

Source: Survey

Note: US \$ 1= Tk. 77.80, BB (May 2015).

Table 9 shows that IBs performed better than CBs in terms of green budgeting, environmental risk management, green finance, and building awareness. Expenditure on inventory management found lavishly higher in case of IBs than CBs. Moreover,

for reducing climate risk, on an average, IBs utilized 68.02 million taka and CBs utilized only 0.035 million taka. For promoting green marketing, IBs spent, on an average, 28.13 million taka while it is 0.48 million taka for CBs.

8. CONCLUSION

Bangladesh is a Muslim majority country in one side; on the other hand, it is one of the most climate vulnerable countries in the world. Islamic way of life demands that we should lead our worldly life with necessary consumption and least damage of the ecology to the pleasure of Allah (SWT) and succeed in the world hereafter. In context of Bangladesh, it can be concluded that Islamic banks performed better than conventional banks in practicing green banking except expenditure on natural resources. Higher expenditure on inventories including water, gas and electricity may be occurred due to larger size and wider activities of Islamic banks. It is now clear that Islamic banks not only earn limited profit, but also it responds to social and environmental goals like sustainability initiatives. Greater budget for green banking, higher amount of green finance, more careful evaluation to social and environmental risks, more initiatives for climate change resilience also revealed that the Islamic banks are more socially responsible bank. Thus, we can infer that *Shari'ah*-based banking follow the built-in-sustainability principle by its operations. Some Islamic banks are very active, for instance, green banking activities of IBBL is noticeably extensive than any other bank, while some other did not respond to the sustainability initiatives at the initial stage, for example, SIBL did not respond to BB green banking guidelines in 2011 though, it joined in the GB movement extensively in later.

8.1. MAJOR FINDINGS AND RECOMMENDATIONS

Though BB paid their all effort to green the banking industry of Bangladesh, we still observe many challenges and limitations to implement this new banking practice.

Mass Awareness: Lack of mass awareness is a common phenomenon, mass publicity and awareness among stakeholders is therefore required for its successful implementation. Government may encourage mass people to protect environmental degradation via electronic and print media. Concerned authorities should coordinate with each other to speed-up the green banking.

Environmental Awareness among Bank Owners: Bank owners are not as aware to environment as they concerned to maximize their own profit. Bank officials therefore primarily concerned about bank's profit; not about environmental sustainability. Government should take initiatives to make awareness among bank owners.

Shari'ah Adaptive Re-finance Scheme by Bangladesh Bank: Islamic banks cannot avail the re-finance scheme facilities offered by BB due to interest based procedure. BB should provide *Shari'ah* compliant re-finance scheme to Islamic banks so that those socially responsible banks may enjoy this scheme.

Inappropriate Environmental Risk Rating: Like credit risk grading (CRG), quantifying environmental risk rating and practicing it in different bank is a prime challenge. Clients in many cases try to hide the environmental risks of their projects. All commercial banks should truly integrate credit risk management in the overall

credit risk methodology and apply quantitative approach for environmental risk rating. In this case, bank should direct its employees to screen the environmental risk strictly while they sanction the fund for project.

Strong Coordination among Stakeholders: Irrespective of Islamic and conventional banks, lack of coordination among stakeholders is a common phenomenon; therefore, government should ensure a strong coordination among stakeholders including clients, bankers, entrepreneurs, government and international development agencies etc. Study revealed that green banking initiative is still facing challenges by many agencies. For instance, collection of required documents from Department of Environment (DoE) and other concerned authorities are hassle some and time consuming, which often disrupts client's business to run and bank to sanction fund.

Low Demand for Climate Risk Fund: Demand for climate risk funds is very insignificant. Government should penetrate into carbon market to get climate fund and people may enjoy more fund for climate risk reduction. Government may also do campaigning for climate risk fund in this case.

High Cost but Low Return, and Less Viable Green Technology: Most of the green technology involves high cost of installation and maintenance. On the other hand, this technology is less viable and less profitable compare to traditional technology. This is why; entrepreneurs are no longer interested to replace the green technology over the traditional one. More research and development are needed to invent low cost green technology.

Sector Specific Environmental Policy Guidelines: Preparing sector specific environmental policy guidelines for the banks is a big challenge. Degree and nature environmental risks differs from sector to sector, therefore, uniform sector specific guidelines and its practices should be ensured by the regulatory authority such Bangladesh Bank.

Uniform Green Banking Disclosure: All commercial banks should maintain the uniform disclosure of green banking practices in annual report. Based on banks' performance, BB should declare top ten banks regularly.

8.2. POLICY IMPLICATION

This study will carry an enormous value to academicians, bankers, policymakers and environmentalists etc. of those countries where environmental preservation and sustainability are a great concern. Audience shall understand about how the Islamic banks are more environment friendly than conventional banks in practice by this study. Readers shall also know the challenges before Islamic banks in practicing green banking in any country under secular financial framework.

8.3. FUTURE RESEARCH

Covering the whole banking industry of Bangladesh, future research is necessary for credibility of the findings. Future researchers may examine the correlation between degree of *Shari'ah* compliance and degree of green banking practices of Islamic banks. If there is a strong correlation between them, then it can be re-emphasized that

Islamic banking is built-in-sustainability by its very nature. Though there were data insufficiencies on green banking practices, future researchers may also conduct an econometric study on green banking as a function of various determining factors.

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INTERNAL DETERMINANTS OF PROFITABILITY OF ISLAMIC BANKS IN BANGLADESH

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ABSTRACT

Determinants of Profitability are enormous; both internal and external. This study investigates the internal determinants that affect the profitability of the Islamic Banking industry in Bangladesh by using Ordinary Least Square regression method. A panel data of six Islamic Banks of Bangladesh over the period 2009-2013 have been used for the purpose. The empirical findings suggest that asset management, cost income ratio, savings account balance and capital ratio are highly correlated with profitability where branch number, operation efficiency, current account balance, liquidity ratio, investment percentage and total expenditure are highly negatively correlated with profitability. The study also suggests that bank size and percentage staff expenditure have no significance correlation.

Keywords: Profitability, Internal Determinants, Islamic Banks

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1. INTRODUCTION

Islamic Banking System is becoming more attractive day by day to peoples irrespective of nations, religious, colors and species. Islamic banking system refers to the banking system that complies with Islamic laws and regulations also known as Shariah principles. The laws and regulations come from the four different sources such as Quran, Hadith, Ijma and Qias. The underlying principle on which Islamic bank performs its banking activities is profit and loss sharing between parties.

After the independence, banking industry in Bangladesh started its journey with 6 nationalized commercialized banks, 2 State owned specialized banks and 3 Foreign Banks. Currently 56 scheduled banks are operating in Bangladesh. Recently, Bangladesh has a significant number of full-fledged Islamic banks. Besides these some conventional banks perform Islamic banking activities by opening different branches which are based on Islamic laws and regulation. Though they follow Islamic laws and regulations but they are not full-fledge Islamic Bank.

In Bangladesh, Islamic banks have been operating for about 32 years together with the traditional banks. Among the Islamic banks, Islami Bank Bangladesh Ltd., was the first Islamic bank that went into operation on 30th March, 1983. Other Islamic banks are First Security Islami Bank Ltd, Export Import Bank of Bangladesh Ltd, Al-Arafah Islami Bank Ltd, Social Islami Bank Ltd, Shahjalal Islami Bank Ltd, ICB Islamic Bank Ltd and Union Bank Ltd. Though number of Islamic Bank in Bangladesh is very few compare to conventional Banks but profitability is much better than conventional banks (Md. Safiullah, 2010). Profitability is an indicator of the financial performance of any business entity and the bank is not exception. Because profitability measures the earning ability of business entity. Profitability valuation is an imperative tool to evaluate the success of any business including Islamic financial industry. Profitability in the banking sector is the broader term because profitability of a bank depends on so many factors so it is necessary to identify the determinants of the profitability which will provide the management body an opportunity to concentrate their attention on these determinants at the time of decision making. As a result there are so many profitability ratios have used in most studies by the researchers. In this study only seven ratios have been selected to measure the profitability of the Islamic banks and twelve independent variables have been selected to measure the impact of these variables on bank's profitability. Among 8 Islamic Banks only 6 banks have been selected as research sample and others two banks have been excluded because of data insufficiency.

Though the Islamic banking system in Bangladesh was introduced in 1983 by the incorporation of Islami Bank Bangladesh Ltd (IBBL) but most of the Islamic banks were incorporated after the 1995. So the average duration of Islamic banking system in the Bangladesh is 16 years. Within this 16 years, so far our knowledge go, there is no study found where such types of internal determinants were detected. In this study we tried to find the internal determinants which are statistically significant for this six sample banks as well as the Islamic banking sector of Bangladesh.

This study shows the impact of some internal factors which have been considered in this study as independent variables on the Islamic Banking profitability of Bangladesh and also the study will help the Islamic Banks of Bangladesh to take precautions on these internal factors.

Rest of the study proceeds as follow: Literature review is presented in section II, followed by research objectives in III and methodology in section IV, Statistical results and analysis in V while section VI concludes.

2. LITERATURE REVIEW

Many researchers have conducted the studies to analyze the determinants of the profitability of Islamic Banks. Among them some conducted on the basis of internal factors (Haslem, 1968; Kwast & Rose, 1982; Bashir, 1999; Bashir, 2003; Noor & Ahmad, 2011) and some are both internal and external factors (Haron, 2004; Sufian & Parman, 2009; Akhtar et al., 2011; Ali et. al, 2011; Chua, 2013). The literature highlights the impact of internal factors on Islamic bank's profitability. Internal factors are those over which bank management has control.

In order to measure the effects of management, Haslem (1968) used 64 operating ratios, size, location and time on profitability of commercial banks argued that all tested variables were significantly related to profitability. Bashir (2003) identified the determinants of profitability in Islamic Banks by analyzing on cross-country analysis and collected income statements of 14 Islamic banks in 8 countries for the period of 1993 to 1998. By using return on asset (ROA) and return on equity (ROE) as dependent variables he found that profitability indicators positively react to boost in loan ratios and capital. Haron (2004) investigated the determinants of Islamic Banks profitability and found that internal factors such as liquidity, total expenditures, funds invested in Islamic securities and the percentage of total profit sharing ratio between the banks and the borrower of funds are highly correlated with the level of total income of the banks. Gul et al. (2011) examined relationship between bank-specific and macro-economic characteristics of fifteen Pakistani commercial banks over the period 2005-2009 by using pooled Ordinary Least Square method and found that bank size, loan, deposits, inflation and gross domestic product had a positive relationship with ROA, equity capital to total asset and market capitalization.

Javaid et al. (2011) studied on top 10 banks in Pakistan over the period 2004-2008 by using pooled Ordinary Least Square (POLS) method. They found that assets, loans equity and deposits have a strong impact on the profitability. They also recommended that higher total assets may not necessarily lead to higher profits due to diseconomies of scales. Ali et al. (2011) investigated the impact of bank specific factors of profitability by using two model namely ROA (Model-1) and ROE (Model-2) and found that the relationship of gearing ratio and capital adequacy ratio have a positive relation and also capital adequacy ratio have significant relation in both models. Said and Tumin (2011) argued that increase in profit may lead to an increase in capital and the capital is better model as an internal determinant of bank profitability.

As studied by Eljelly (2013) on profitability of Islamic banks in Sudan and found that only the internal factors to these banks have a significant influence on profitability. The study was conducted using a sample of Sudanese banks and profitability was measured by return on assets (ROA), return on equity (ROE), and net financing margin (MARG).

Chua (2013) examined the impact of internal and external determinants on the profitability of Malaysian Islamic Banks using a panel data of 6 Malaysian Banks over the period 2007-2011 and found that capital ratio, bank size and gross domestic product are positively significant determinants of profitability and liquidity is the negatively significant with profitability. Almazari (2014) investigated the impact of internal factors on profitability by comparing Saudi and Jordanian banks. The study concluded that there is significant positive correlation between ROA of Saudi banks with total equity to assets ratio, total investment to total assets ratio and liquidity risk as well as a negative correlation with net credit facilities to total assets ratio, net credit facilities to total deposits ratio, cost income ratio and bank size. Again there is a significant positive correlation between ROA of Jordanian banks with liquidity risk, net credit facilities to total assets ratio, total equity to assets ratio and net credit facilities to total deposits ratio, also there is a negative correlation of ROA with cost income ratio, total investment to total assets ratio and bank size.

3. OBJECTIVE OF THE STUDY

The main objective of this study is to measure the impact of internal factors on profitability of the Islamic banks in Bangladesh from 2009 to 2013.

4. METHADODOLOGY

a. DATA

The article is mainly based on secondary data which are collected manually from the annual reports of the respective Islamic Banks' website over the period 2009-2013.

b. PROFITABILITY MEASURE

The following ratios have been selected as proxies to measure the profitability of Islamic banks in Bangladesh:

Return on Assets

Return on assets (ROA) is the ratio of net profit after tax divided by the total assets. It measures the ability of the business entity to breed earnings by utilizing total assets. Higher value of this ratio indicates higher capability of the firm in generating earnings (Ika & Abdullah, 2011).

Total income as a percentage of Total assets

Total income comprises the income from the investment and other sources like commission, exchange and brokerage fee etc. Total income as a percentage of total assets (TITA) measures the effect of total income on a bank's profitability. This ratio expresses how the bank manages the total assets to generate total income. Higher the ratio indicates the higher capability of the bank in earning profit.

Net profit before tax as a percentage of Total assets

Tax is a compulsory payment of firm to the state, levied by the Government on business profit. Net profit after tax represents the actual profit after meeting all obligations performed by the firm whereas net profit before tax represents the profit incurred by the operation of the firm. Tax rate differs country to country as a result profitability measured by the net profit after tax as a percentage of total assets (ROA) may not represent the actual scenario. For knowing about the profitability condition of Islamic banks before tax paying we have used this ratio. This ratio shows how total assets are managed to generate profit before tax.

Net profit as a percentage of capital and reserves

Capital is the amount of shareholders' investment in a firm whereas capital reserve is the accumulated capital surplus from the firm. Capital reserve is a fund which is created for the future purposes. Net profit as a percentage of capital and reserves (NPACR) measure how shareholders' fund and every year capital reserves contribute to generate profit.

Return on Equity

Equity is the portion of shareholders', invested in the firm with a view to earning profit. Higher return on equity (ROE) indicates the better position of the firm in generating profit. It is further explained by the Ongore & Kusa (2013) that ROE reflects how a bank effectively manages its shareholders' funds in generating profit.

Return on Deposit

Deposits are the main source of funds that banks invest to generate income. Return on deposits (ROD) is the ratio of net profit after tax divided by the total deposits. The ratio indicates the effectiveness of bank in converting deposits into earnings (Rosly & Bakar, 2003).

Profit after tax as a percentage of total expenditure

Total expenses of bank include operating and non-operating expenses. Bank's main expenses are derived from the interest payment of deposits. By

compensating between interest income from investments and interest paid on deposits, bank generates net interest income which further contributes in generating operating profit. This ratio indicates how the total expenditure contributes in generating profit for the bank. Higher value of this ratio indicates that bank could make higher profit with a given expenses (Ika & Abdullah, 2011).

Model	Ratio	Measure	Previous Studies
Model-1	$\text{ROA} = \frac{\text{Net Income after tax}}{\text{Total assets}}$	It measures the return as a percentage of total assets.	Haron(2004); Athanasoglou et al. (2008); Naceur (2008), Kosmidou (2008); Javaid et al. (2011); Chua (2013); Eljelly (2013); Almazari (2014)
Model-2	$\text{TITA} = \frac{\text{Total Income}}{\text{Total Assets}}$	It measures the total income as a percentage of total assets.	Haron(2004); Almazari (2014)
Model-3	$\text{NPBTA} = \frac{\text{Net profit before tax}}{\text{Total Assets}}$	It measures the profitability before tax paying as percentage of total assets.	Bourke (1989); Molyneux & Thornton (1992); Haron (2004)
Model-4	$\text{NPACR} = \frac{\text{Net profit after tax}}{\text{Capital and Reserves}}$	It measures the profitability after tax paid as percentage of capital and reserves.	Haron (2004)
Model-5	$\text{ROE} = \frac{\text{Net profit after tax}}{\text{Total Equity}}$	It measures net profit after tax as a percentage of the money shareholders have invested.	Bashir (2003); Ali et al. (2011); Eljelly (2013);
Model-6	$\text{ROD} = \frac{\text{Net profit after tax}}{\text{Total deposit}}$	It measures net profit after tax as a percentage of customers' deposit.	Rosly & Bakar (2003); Samad (2004); Ika & Abdullah (2011)
Model-7	$\text{PER} = \frac{\text{Profit after tax}}{\text{Total Expenditure}}$	It measures net profit after tax as a percentage of total expenditure.	Samad (2004)

ROA= Return on Assets, **TITA** = Total income as a percentage of Total assets, **NPBTA**= Net profit before tax as a percentage of Total assets, **NPACR**= Net profit after tax as a percentage of Capital and reserves, **ROE**= Return on equity, **ROD**= Return on deposits, **PER**= Net profit after tax as a percentage of total expenditure.

Model Specification

Following regression models were proposed to measure the profitability:

$$\text{Model-1: ROA} = \alpha + X_1\beta_1 + X_2\beta_2 + \dots X_n\beta_n + \varepsilon_n$$

$$\text{Model-2: TITA} = \alpha + X_1\beta_1 + X_2\beta_2 + \dots X_n\beta_n + \varepsilon_n$$

$$\text{Model-3: NPBT/A} = \alpha + X_1\beta_1 + X_2\beta_2 + \dots X_n\beta_n + \varepsilon_n$$

$$\text{Model-4: NPACR} = \alpha + X_1\beta_1 + X_2\beta_2 + \dots X_n\beta_n + \varepsilon_n$$

$$\text{Model-5: ROE} = \alpha + X_1\beta_1 + X_2\beta_2 + \dots X_n\beta_n + \varepsilon_n$$

$$\text{Model-6: ROD} = \alpha + X_1\beta_1 + X_2\beta_2 + \dots X_n\beta_n + \varepsilon_n$$

$$\text{Model-7: PER} = \alpha + X_1\beta_1 + X_2\beta_2 + \dots X_n\beta_n + \varepsilon_n$$

Where,

α = Intercept

$X_1, X_2, \dots X_n$ = Independent Variables

$\beta_1, \beta_2, \dots \beta_n$ = Beta Coefficients

ε_n = Error Term

Model Assumptions:

Following tests were done to suit the basic assumptions of linear regression model:

Normality

To check data normality, Kurtosis and Skewness tests were done and found that the data are normally distributed.

Multicollinearity

Multicollinearity (Strong correlation among independent variables) was checked by the correlation matrix and found that there was no existence of Multicollinearity.

c. INTERNAL FACTORS

Internal factors are the factors that are prejudiced by assessment made by the bank's management. The internal factors which have been selected for this study are as follows:

Capital Ratio

Capital ratio (CR) is a measure of capital adequacy, calculated as total equity as a percentage of total assets. The higher the ratio of capital ratio, the higher is the sustainability of a bank in assets losses (Samad, 2004). We expect a positive relationship between capital ratio and profitability in our study.

Liquidity

Liquidity (LIQ) is a measure of the ability of holding cash and cash equivalent assets to meet the liabilities, calculated as cash and cash equivalent assets as a percentage of the total liabilities. We expect a negative relationship between liquidity and profitability in our study.

Bank Size

Bank's size (SZE), calculated as Tier-I and Tier-II capital as a percentage of total risk weighted assets measures the economies of scale of the bank. Higher the bank's size the lower the cost of processing information regarding services rendered by the bank and higher the accessibility of capital market. We expect a positive relationship between bank size and profitability in our study. Sometimes higher bank size may lead negative relationship with profitability (Naceur, 2003).

Current accounts as a percentage of Total assets

Current accounts deposits of Islami banks are based on the principle of Wadiah. Arabic word Wadiah means safe keeping, under this arrangement the Islami banks treat the deposits as trust vested upon banks and do not use the deposits as investment without the consultation of depositors. As like as current account nature of conventional banks, the Wadiah account deposits have no withdrawal restrictions. As a result the depositors do not have any facility to have the return from the deposited funds. Current accounts as a percentage of total assets (CATA) measures the percentage of Wadiah account held by the banks proportional to size. According to Haron(2004), current accounts deposits are cost free for that the higher current accounts deposits lead higher profit. In our study we expect a positive relationship between this ratio and profitability.

Savings accounts as a percentage of Total assets

Savings accounts deposits taken by the Islami banks are based on Mudarabah where the depositors are known as Rabb-ul-mal and the banks are known as Mudarib. In Mudarabah accounts deposits, profit is shared as per predetermined ratio and the loss is solely borne by the depositors. Savings accounts as a percentage of total assets (SATA) measure the percentage of Mudarabah account held by the banks proportional to size. Since the profit is jointly shared, in our study we expect a positive relationship between this ratio and profitability.

Total expenditure as a percentage of Total assets

Total expenditure as a percentage of total assets (TETA) ratio measures the percentage of expenditure in accruing total assets. Total expenditure includes both operating and non-operating expenses. Higher ratio indicates higher percentage of expenditure needed for assets. If bank incurs higher expenditure it may lead lower return. So we expect a negative relationship between this ratio and profitability.

Staff expenditure as a percentage of Total assets

Staff expenditure is one kind of variable cost. Staff expenditure includes salaries, bonus etc. The higher the human resources of bank leads the higher the staff expenditure. We expect a positive relationship between staff expenditure and profitability because more staff expenditure may motivate the human resources of the banks to work more efficiently which may generate more profit.

Branch Size

Branch size (BNH) is one of the important determinants of profitability. Generally bank expands its branch network to cover the actual and potential clients by giving products and services. Since by the expanding branch a bank covers clients it also increases the profit of the bank. So we expect a positive relationship between branch size and profitability.

Investment to Total assets

Investment is the main source of income of the banks. Investment to total assets (ITA) measures the portion of total assets comprised by investments. It is important determinant because more investment may lead more investment income. We expect a positive relationship between investment to total assets and profitability in our study.

Operating Efficiency

Operating efficiency ratio (OE), calculated as operating expenses as a percentage of total assets which has been used as a proxy of cost management. Cost management is vital to improve the profitability. According to theory we expect a

negative relationship between operating efficiency and profitability because if this ratio decreases the cost will be minimum and profit will be maximum.

Asset Management

Asset management (AM), calculated as operating income as a percentage of total assets measures how the total assets contribute to generate operating income. Higher asset management ratio indicates the efficient management of total assets which boost up the profitability of banks. In our study a positive relationship is expected between asset management and profitability.

Cost income ratio

Cost income ratio (CIR), calculated as operating income as a percentage of operating expenses measures how operating expenses generate operating income. The lower the cost income ratio, the better the profitability of bank because efficient management of cost generate higher operating profit. In our study a negative relationship is expected between cost income ratio and profitability.

Internal factors	Expected Result	Previous Studies
CR	Positive	Bourke (1989); Molyneux & Thornton (1992); Haron(2004); Javaid et al. (2011); Scott and Arias (2011); Chua (2013)
LIQ	Negative	Bourke (1989); Molyneux & Thornton (1992); Haron(2004); Eljelly (2013); Chua (2013); Almazari (2014)
SZE	Positive	Boyd & Runkle (1993); Haron(2004); Chua (2013); Eljelly (2013); Almazari (2014)
CATA	Positive	Heggestad (1977); Smirlock (1985); Haron(2004)
SATA	Positive	Heggestad (1977); Haron(2004)
TETA	Negative	Haron(2004)
SETA	Positive	Bourke (1989); Molyneux & Thornton (1992); Haron(2004);
BNH	Positive	Hester & Zoellner (1966); Emery (1971); Haron(2004)
ITA	Positive	Haron(2004); Almazari (2014)
OE	Negative	Samad (2004); Akhtar et al. (2011); Ali et al. (2011); Ika & Abdullah (2011)
AM	Positive	Akhtar et al. (2011); Ali et al. (2011)
CIR	Negative	Eljelly (2013); Almazari (2014)

CR= Capital ratio, **LIQ**= Liquidity ratio, **SZE**= Bank Size, **CATA**= Current accounts as a percentage of total assets, **SATA**= Savings accounts as a percentage of total assets, **TETA**= Total expenditure as a percentage of total assets, **BNH**= Branch size, **ITA**= Investment as a percentage of total assets, **OE**= Operation efficiency ratio, **AM**= Assets management ratio, **CIR**= Cost income ratio

5. RESULTS AND ANALYSIS

The results of the regression analysis for seven models are shown in the following tables:

Table-1: Results of regression analysis.

Model	Adjusted R ²	F-value	P-value
ROA	0.958	32.707	0.000
TITA	0.889	20.344	0.000
NPBTA	0.619	4.919	0.002
NPACR	0.349	2.295	0.050
ROE	0.741	7.929	0.000
ROD	0.923	30.115	0.000
PER	0.960	58.279	0.000

Table 1 exhibits the results of the regression models used to measure the profitability of the Islamic banks of Bangladesh during the period of 2009-2013.

The adjusted R² for ROA, PER, ROD and TITA is higher than ROE, NPBTA and NPACR. Higher adjusted R² indicates that the internal variables have a strong effect on the profitability of Islamic Banks in Bangladesh. But it does not mean that small value of adjusted R² is inappropriate to measure the impact of internal variables on profitability.

Table-2: Results of all models and correlation with dependent variables.

Model	Significant level 0%	Significant level 1%	Significant level 5%	Not Significant
ROA	AM (1.204)	BNH (-0.006), OE (-1.998) , CIR (0.085)	SATA (0.035)	CR, LIQ, SZE, CATA, TETA, SETA, ITA
TITA	CATA (-0.531)	SATA (-0.096)		CR, LIQ, SZE, TETA, SETA, ITA, BNH, OE, AM, CIR
NPBTA				CR, LIQ, SZE, CATA, SATA, TETA, SETA, ITA, BNH, OE, AM, CIR
NPACR			CR (4.56), LIQ (-1.923), ITA (-1.826)	AM, BNH, OE, CIR, SZE, CATA, SATA, TETA, SETA
ROE		CR (-1.794)	BNH (-0.072),	OE, LIQ, SZE,

			AM (8.265)	CATA, SATA, TETA, SETA, ITA, CIR
ROD	AM (1.450)	LIQ (-0.050),	SATA (0.041), BNH (-0.006), OE (-2.447), CIR (0.108)	CR, SZE, CATA, TETA, SETA, ITA
PER	TETA (-3.677) AM (11.491)	BNH (-0.77)	CR (1.147), LIQ (-0.319), SATA (0.352),	CATA, SZE, OE, SETA, ITA, CIR

Table 2 represents the results of all models used to measure the profitability and the correlation of internal variables with profitability and their impact on profitability.

In this study, capital ratio has been found as we expected that is positively significant with net profit after tax as a percentage of capital and reserves (NPACR) and net profit after tax as a percentage of total expenditure (PER). This may indicate that Islamic banks of Bangladesh have higher level of capital which ensures net safety in liquidation and lower cost of capital contributing to profitability. The positive relationship between profitability and capital ratio is similar to the findings of Bourke (1989), Molyneux & Thorton (1992), Steinherr & Huveneers (1994), and Haron(2004). Again a significant inverse relationship has been found between profitability and capital ratio measured by the return on equity (ROE). This finding is supported by the saying of Athanasoglou et al. (2008) that it is not appropriate of using capital ratio as independent variable when ROE is used as dependent variable.

For the liquidity ratio, it has been found that liquidity is a significant negative relationship with net profit after tax as a percentage of capital and reserves (NPACR), net profit after tax as a percentage of customers' deposit (ROD) and net profit after tax as a percentage of total expenditure (PER) which was expected in our study and the finding is backed by the Molyneux & Thorton (1992), Steinherr & Huveneers (1994), Haron(2004) and Sufian & Habibullah (2010). The negative relationship may indicate that higher liquidity position may reduce the profitability of the Islamic Banks. If the banks hold huge amount of liquid assets there will create an opportunity cost. Because if the banks hold more liquid assets it will be turned into idle assets. So from this analysis it may be assumed that higher liquidity does not mean higher profitability. Again there was no significant relationship is found with profitability measured by the ROA, TITA, NPBT and ROE.

Though it was expected that the relationship between bank size and profitability would be positive but in the result there is no significant relationship has been found between bank size and profitability. It may be due to the data insufficiency or lower sample size in the study. The result also supported by the Ali et al. (2011).

In the case of current accounts balances as a percentage of total assets (CATA), we expected positive relationship but there is significant negative relationship found with profitability measured by the total income as a percentage of total assets (TITA). This

result is similar to the findings of Hester & Zoellener (1966). In this study the negative relationship may indicate that the higher the current account balances the lower the profitability of the Islamic Banks of Bangladesh.

In the side of Savings accounts balances the relationship has been found significantly positive with profitability measured by the ROA, ROD and PER which supports our expectation. In the literature, most studies found that significant positive relationship such as Hester & Zoellener (1966) and Heggstad (1977). In Islamic Banking system savings account is known as Mudarabah Account where one party supplies the fund and another party manages the fund by investing labor and time. In Mudarabah Account profit is shared by the depositors and banks as per agreed upon and loss is fully borne by the depositors. In this study the positive relationship may indicate that the higher the savings account balances the higher the profitability of the Islamic banks of Bangladesh. Because any loss incurred from the Mudaabah accounts deposits will be borne by the depositors. Surprisingly, there was negative significant relationship found with profitability measured by the total income as a percentage of total assets (TITA) and which was supported by findings by the Hester & Zoellener (1966) and Heggstad (1977). It may indicate that higher percentage of savings account balances reduce the total income.

We expected a negative relationship between total expenditure as a percentage of total assets (TETA) and profitability and this has been found significantly with profitability measured by the net profit after tax as a percentage of total expenditure (PER). The result may indicate that Islamic banks of Bangladesh are less efficient in managing expenditure for that they earn lower profitability due to high expenditure. There is no significant relationship was found between staff expenditure as a percentage of total assets (SETA) and profitability but we expect positive relationship. The result may indicate that the expenditure on staff can not motivate the human resources of Islamic banks in Bangladesh.

Though we expected a positive relationship but we found a negative significant relationship between branch and profitability measured by the return on assets (ROA), return on equity (ROE), net profit after tax as a percentage of customers' deposit (ROD) and net profit after tax as a percentage of total expenditure (PER). It may indicate that opening a new branch increases the establishing cost and other cost which increase the total expenditure of bank and as expenditure leads lower profitability which was found in our result so branch expansion leads the lower profitability. Also there was a no significant relationship found with profitability measured by the total income as a percentage of total assets (TITA), net profit before tax as a percentage of total assets (NPBTA) and net profit after tax as a percentage of capital and reserves (NPACR). This finding is also supported by the findings of Hester & Zoellner (1966).

In the case of investments as a percentage of total assets (ITA), there was an inverse relationship found with profitability measured by the net profit after tax as a percentage of capital and reserves (NPACR) which is similar to Ahmed (2014). It

may indicate that for higher investment, Islamic banks of Bangladesh pay higher cost for funding the investments which reduces the profit margin.

Operation efficiency (OE) had an inverse significant relationship with profitability measured by the return on assets (ROA) and net profit after tax as a percentage of customers' deposit (ROD) which supports our expectation. This result is also backed by the findings of Alexiou & Sofoklis (2009), Sufian & Habibullah (2009), Ramlall (2009), and Ali et al. (2011).

We expected a positive relationship between asset management (AM) and profitability and this was found significantly with profitability measured by the return on assets (ROA), return on equity (ROE), net profit after tax as a percentage of customers' deposit (ROD) and net profit after tax as a percentage of total expenditure (PER) and this finding is similar to Miller & Noulas, 1997; Chirwa, 2003; Ali et al., 2011. It may indicate that Islamic banks in Bangladesh efficiently manage their assets portfolio which generates higher operating income. It may also indicate that the Islamic banks in Bangladesh control non-performing assets efficiently because higher non-performing assets reduce the return of bank.

Finally there has been significant positive relationship found between cost income ratio (CIR) and profitability measured by the return on assets (ROA) and net profit after tax as a percentage of customers' deposit (ROD). It is may be due to small sample size because we considered six average value of cost income ratios for six banks instead of 30 observations of six banks for five years.

6. CONCLUSION

The study shows that asset management, cost income ratio, savings account balances as a percentage of total assets and capital ratio had a positive significant relationship with profitability. It suggests that the Islamic banks of Bangladesh follow asset management strategy very efficiently as a result the profitability of Islamic banks are positively related. The positive relationship with capital ratio indicates that an increase capital in capital structure would increase the profitability. The positive relationship with savings accounts balances indicates that any increase in savings accounts would increase the profit.

The study also provides information on the independent variables of operation efficiency, current assets balances as percentage of total assets, savings accounts balances as a percentage of total assets, liquidity ratio, investments as percentage of total assets, capital ratio, and total expenditure as a percentage of total assets. In this study above variables had significant inverse relationship with profitability though some of them had significant positive relationship (CR and SATA) with profitability.

In the performance measure by the net profit before tax as a percentage of total assets (NPBTA), any significant relationship was not found with internal variables. But the

model has 0.619 adjusted R^2 and which is significantly accepted. It means that all internal variables had an impact on the profitability of Islamic banks.

Finally in the study it was found that there were some internal variables had no significant relationship with profitability. These variables are staff expenditure as a percentage of total assets and bank size. Any significant relation was not found with profitability measured by the all models.

There were some limitations in this study. The first limitation of this study was that the ratios which used for measuring profitability and internal factors ratio were conventional approaches. Therefore, further study may use other financial ratios which are Islamic, such as Zakat fund to Total Assets, Waqf Fund to Total Deposits, Government Securities Investment to Total Investment. Another limitation was that the study conducted on the basis of internal factors where many studies were conducted both internal and external factors.

For future research, the study should be broader meaning. The future research is suggested to cover for the internal determinants that were not studied in this study and also external determinants can be examined. In this study there were seven profitability measurements were used. The future research can be used other profitability measurement ratio to measure profitability of Islamic Banks of Bangladesh.

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performance? Panel evidence from Malaysia. *Journal of Contemporary Accounting & Economics* , 6 (2), 77-91.

APPENDIX

SL. No.	Name of the Bank	Year of Incorporation	Listing Status	Year of Listed
1	Islamic Bank Bangladesh Ltd.	1983	Listed	1985
2	ICB Islamic Bank Ltd.	1987	Listed	1990
3	Al-Arafah Islami Bank Ltd.	1995	Listed	1998
4	Social Islami Bank Ltd.	1995	Listed	2000
5	Export Import Bank of Bangladesh Ltd.	1999	Listed	2004
6	First Security Islami Bank Ltd.	1999	Listed	2008
7	Shahjalal Islami Bank Ltd.	2001	Listed	2007
8	Union Bank Ltd.	2013	Not listed	----

THEME: RISK, ISLAMIC FINANCE AND PERFORMANCES

DETERMINANTS OF COMMERCIAL BANKS' MARKET RISK IN MALAYSIA

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ABSTRACT

This research provides an insight to the main determinants behind the market risk of banks, specifically the Malaysian conventional and Islamic banks. The data is collected from the financial statements of respective banks for the period of 5 years, starting from 2008 to 2012. Employing panel data analysis, the results reveal that size and non-interest income have strong relationship with market risk. Our findings not only are of significance both to bank managers as well as investors, since they will enable them to fully assess the effects of different strategic choices on a bank's risk profile but also contribute in enriching and enhancing literature on risk management of Islamic and conventional banks. Establishment of a comprehensive market risk management system in both banking system should be a prerequisite as it contributes to the overall risk management system of the bank.

Keywords: Market Risk, Risk Management, Islamic Bank, Conventional Bank, Panel data analysis

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1. INTRODUCTION

The past decades have witnessed the banking and financial system gradually liberalised. In the sphere of the banking system we have seen changes such as the deregulation of interest rates, the introduction of new players, new banking and financial instruments, new institutions and also to some extent the expansion of the prudential regulations. These rapid innovations and the changed environment in which banks operate today presents not only major opportunities for banks in satisfying the customers' needs but also the increasing risks they are exposed to. Since effective risk management is very important in order to develop a strong, stable infrastructure and for the survival of banking industry, banks need to improve their risk management capabilities and in so doing identifying the different types of risks and their determinants play a crucial role in risk management process. As stated by Arora and Jain (2011), in order to manage risk efficiently these risk factors need to be identified and a proper assessment of such risk factors should be done.

Market risk is one of the major types of risk in banking. Market risk is defined as the risk that affects the entire banking industry, such as changes in the economic environment like recessions and financial crisis. For instance, the 2007-2008 global financial crisis which affects the global financial landscape (Vaaler & McNamara, 2004). Market risk can also be defined as a financial and portfolio instrument that can be fluctuated with the changing market prices that caused by factors for counterpart to all the instruments traded on the market. Market risk and its determinants have been examined widely in finance literature. Through finance theories such as the Capital Asset Pricing Model (CAPM), market risk is the main focus of this model which suggests a positive linear relationship between the required rate of return of any stock and its beta, the measurement of market risk (Sharpe, 1964). Since a stock's required rate of return from the point of view of a company also constitutes the cost of equity capital, those factors which affect a firm's market risk at the same time indirectly influence the funding costs of the firm, as well as its market value. The importance of beta is also evident from the investor's point of view. Market risk estimation is useful for investors in order to analyze the nature of risk associated with different investment options and to recognize risk-return relationships within portfolio investment strategies.

This paper is an attempt to identify the factors that determine market risk in banks and to compare that risk determinants between conventional and Islamic banking system in Malaysia. The unique duality banking system in Malaysia, the conventional and Islamic banking system would provide a comprehensive determinants of market risk in banking sector. Studies on this issue have argued that factors that influence market risk for Islamic financial institutions may be different from conventional financial institutions (Khan and Ahmed, 2001).

This paper is organized as follows. This paper begins with an introduction and followed by section 2 which entails review of related literature. Section 3 highlights the methodology and section 4 presents the analysis the result of the paper. Finally, section 5 is the conclusion.

2. LITERATURE REVIEW

Market risk and its determinants have been widely discussed in previous studies. Madura et al. (1994), Ahmad and Ariff (2004) and Rahman (2009) examine the determinants of

market risk exposure. While Rahman (2009) covers a more comprehensive factors that include nine bank specific factors that reflect credit, capital, interest rate, liquidity and business operation, studies by Madura et al. (1994) and Ahmad and Ariff (2004) focus only on the credit, capital, interest rate and business operation related variables.

Madura et al. (1994) examine the determinants of the ex-ante risk deposit-taking institution in the United State for the period 1987-1990. They analyzed fourteen risks related variable against three risk measures based on single factors CAPM and one risk measure based on the market information approach. The findings show that only non-performing loan (NPL), funding cost, total loan to total deposit and loan concentration ratio are significant for market risk exposure.

Most of the studies include bank specific character as a control variable when examining the impact of specific factor on risk exposure. Saunders et al. (1990) investigate the relationship between ownership structure and the US bank risk exposure by taking into account three bank specific variables. The variables are the financial leverage and size. The result shows that size is positively related to market risk, but negatively related to interest rate risk. In contrast with the findings by Saunders et al. (1990), Anderson and Fraser (2000) find that size is negatively related to total risk, but positively related to systematic risk.

Rahman (2009) investigates the linkage between lending structure and market risk exposure and finds that only total loan expansion (TL) has positive significant relationship and this finding is consistent with Hassan (1994), Gallo et al. (1996), Ahmad and Ariff (2004) and Gonzales (2004). This result conforms to prior belief on the positive association between loan expansion and bank risk exposure. Rahman (2009) finds that management efficiency (MGT) has significant negative relationship to market risk in which such results contradict with the study of Angbazo (1997) who shows that Malaysian bank are efficient in term of managing its risk exposure particularly in relation to market fluctuation.

Interest rate risk is consider one kind of market risk. Interest rate risk is a probability that variation in interest rate will have a negative influence on a quality of portfolio in banking. Previous study regarding risk exposure of Islamic financial institutions using interest rate risk from Gulf Co-operation Council countries include Aldoseri (2012) show that there is a significant relationship between non-interest income (NONII) and interest rate risk. Firms with lower NONII has lower interest rate risk. Their study also find that growth of total asset (GTA) in conventional bank has a significant negative association with interest rate risk. These results suggest that if total asset is increasing due to short term funds to provide long term loans, GTA will increase the profit and decrease the exposure of interest rate risk. On the other hand, market risk has significant positive relationship with NONII and negatively significantly related to GTA.

Hassan (1993) analyzes the impact of loan sales on bank risk with six bank specific variables for the United State. Based on his finding, interest rate related variable (GAP) and business operation related variable (size and dividend payout) yield mixed result. GAP ratio is not a significant factor to total risk exposure and size is only significant to two implied asset risk and total risk exposure. These results suggest that GAP ratio and size are significantly related to market risk.

Previous study also examined the regulatory restriction on bank risk-taking, Gonzales (2004) develops nine variables along with three bank specific variable. As it is not the intention of this study to examine the regulatory aspect, but the finding of bank specific variable is the main concern in this paper. Gonzales (2004) finds that high investment (INV) in consolidated can represent a loss of diversification; hence it should be responsible for a higher risk exposure. This shows that INV are also related to market risk exposure in the banking system.

3. METHODOLOGY

3.1. Data

This paper retrieves data for the years 2008-2012 from the Bankscope database and annual report from the central bank for 16 Islamic banks and 21 conventional banks. The empirical data employed in this paper consists of the pooling time series and cross section data, and the panel data model was used for the analysis.

3.2. Market risk model

In this study, following Gonzales (2004) and Rahman (2009), nine factors are explored as possible determinants of the market risk of banks: (1) equity ratio (2) short term investment to total asset (3) loan to asset ratio, (4) size of the bank (5) ratio of GAP to total assets (6) loan loss ratio, (7) interest expense to total asset (8) management efficiency and (9) non-interest income. To test whether these factors affect market risk of the Malaysian banking sector, the empirical panel data model is as follows:

$$MR_{it} = \beta_0 + \beta_1 TL_{it} + \beta_2 LLP_{it} + \beta_3 TE_{it} + \beta_4 GAP_{it} + \beta_5 INTEXP + \beta_6 INV_{it} + \beta_7 SIZE_{it} + \beta_8 NONII_{it} + \beta_9 MGT_{it} + \varepsilon_{it}$$

Where,

MR_{it}	=	Market risk as measured by earning per share bank i in year t
TL_{it}	=	Total loan to total asset bank i in year t
LLP_{it}	=	Provision of loan loss to total asset bank i in year t
TE_{it}	=	Total equity to total asset bank i in year t
GAP_{it}	=	Ratio of GAP to total asset bank i in year t
$INTEXP$	=	Interest expenses to total asset bank i in year t
INV_{it}	=	Short term investment to total asset bank i in year t
$SIZE_{it}$	=	Natural log of total asset bank i in year t
$NONII_{it}$	=	Non-interest income to total asset bank i in year t
MGT_{it}	=	Management efficiency as measured by total earning asset divided by total assets of bank i in year t

3.3. Hypotheses development

Based on the theoretical framework explained in the previous section, the following hypotheses have been developed:

H_0 : There is no significant relationship between market risk and its determinants in both Islamic and conventional bank.

H₁: There is a significant relationship between market risk and its determinants in both Islamic and conventional bank.

4. EMPIRICAL RESULT

This section presents the descriptive analysis, regression model for examining the determinants of market risk and the results of the analysis.

4.1. Descriptive statistic

Table 1 presents the descriptive statistics of the market risk for conventional banks. The statistics show that market risk (MR), which is derived from earning per share, has a mean and a medium ratio of 1.6249 and 1.7471. This suggests that conventional bank on average has a market risk ratio of 1.6249. Total loan (TL) is measured by total loan to total asset has a score mean of 0.5039, median of 0.5971 and standard deviation of 0.2318. This shows that total loan has an average of 0.5039 among the bank in the sample. This result also shows that the mean of loan loss provision (LLP) is 0.0022 with a median of 0.0020. Based on the standard deviation, there is a significant dispersion in loan loss provision among banks. The mean and median of TE which is defined by total equity to total asset is 0.1116 and 0.0921. The descriptive statistic also show the standard deviation for TE is 0.0569. The statistics also show that GAP as measured by different between rate sensitive asset and rate sensitive liability has a mean and median ratio respectively -0.1212 and -0.1057 with a standard deviation of 0.1295. The mean of INTEXP measured by interest expenses to total asset is 1.7570 and the median is 1.7471. This shows that average of INTEXP is 1.7570. The liquid asset (INV), which is measured from short term investment by total asset, is 0.1307 with a median of 0.1378 and standard deviation is 0.0662. The descriptive statistic of bank SIZE suggests that bank on average have 7.3933 with a median of 7.6055 and the standard deviation is 0.6733. The result also shows that noninterest income to total asset (NONII) have mean and median ratios of 1.1060 and 0.9565. Management efficiency (MGT) is measured by earning asset to total asset has score mean of 0.4313, median of 0.3593 and standard deviation of 0.1795.

Table 1: Descriptive statistic for the Conventional banks

Variable	Mean	Median	Standard Deviation
MR	1.6249	1.7451	0.6648
TL	5.0386	0.5971	0.2318
LLP	0.0022	0.0020	0.0018
TE	0.1116	0.0921	0.0569
GAP	-0.1212	-0.1057	0.1295
INTEXT	1.7570	1.7471	0.6948
INV	0.1307	0.1377	0.0662
SIZE	7.3933	7.6055	0.6733
NONII	1.1060	0.9565	0.6063
MGT	0.4312	0.3593	0.1794

Table 2 presents the descriptive statistics of all variables for the Islamic banks. From the table, market risk (MR), which is derived from earning per share, has a mean and a medium ratio of 1.1642 and 1.2347 respectively. This suggests that Islamic banks in Malaysia on average has a market risk ratio of 1.1642. Total loan (TL) is measured by total loan to total asset has score mean of 0.7733, median of 0.6891 and standard deviation of

0.6427. This shows that total loan has an average of 0.7733 among the banks in the sample. This result also shows the mean of loan loss provision (LLP) is 0.0064 and median of 0.0045. Based on the standard deviation, there is a significant dispersion in loan loss provision among banks which is 0.0092. The mean and median of total equity (TE) which is defined by total equity to total asset is 0.0860 and 0.00760. The descriptive statistics also show that the standard deviation for TE is 0.0414. This result also reported that GAP as measured by different between rate sensitive asset and rate sensitive liability has a mean and median ratio respectively -0.0881 and -0.0778 with a standard deviation of 0.1047. The mean of INTEXP measured by interest expenses to total asset is 0.2793 and the median is 0.1478. The liquid asset (INV), which is measured from short term investment by total asset, is 0.1798 with a median of 0.1488 and standard deviation is 0.1487. The descriptive statistic of bank SIZE suggests that bank on average have 7.1525 with a median of 7.0768 and the standard deviation is 1.0297. The results also show that noninterest income to total asset (NONII) have a mean and median ratios of 1.7584 and 1.8462 respectively. Management efficiency (MGT) is measured by earning asset to total asset has a score mean of 0.4501, median of 0.4155 and standard deviation of 0.1738.

Table 2: Descriptive statistic for the Islamic banks

Variable	Mean	Median	Standard Deviation
MR	1.1642	1.2347	0.7507
TL	0.7733	0.6891	0.6427
LLP	0.0064	0.0045	0.0092
TE	0.0860	0.0760	0.0414
GAP	-0.0881	-0.0778	0.1047
INTEXT	0.2793	0.1478	0.3349
INV	0.1798	0.1488	0.1487
SIZE	7.1525	7.0768	1.0297
NONII	1.7584	1.8462	0.5671
MGT	0.4501	0.4155	0.1738

4.2. Tests of multicollinearity

This section discusses the results obtained from the regression on the estimated model. Normally in regression analysis, multicollinearity issue may exist due to related independent variables. The existence of multicollinearity could affect the results by producing a high R^2 , small t value and large standard error. Pearson's correlation test is used to identify the close association among variables and the result is presented in Table 4 and 5 for conventional and Islamic banks respectively. From the correlation test, there is no extreme high correlation exist among the variables, therefore all independent variables are included in the regression estimation. Such results are also supported by the results from the variance inflation factor test (VIF) which show that the relationship among all the variables are not more than 10. In the cases of any inconsistencies in the results between these two tests, greater emphasis is given to the regression analysis that will exclude the variable with a higher VIF value. Gujarati (2003) sets the rules of thumb of 10 for VIF in which a larger VIF will show the variables to be highly collinear. Table 3 shows the results of the VIF reflecting that none of the independent variables for both conventional and Islamic banks has multicollinearity issue.

Table 3: Result of Variance Inflation Factor (VIF)

Variable	Conventional bank	Islamic bank
TL	6.7781	1.170.5
LLP	1.4146	1.1887
TE	3.6944	1.4848
GAP	1.6907	1.2845
INTEXP	1.7445	1.0813
INV	1.4640	2.1759
SIZE	3.7691	1.5340
NONII	1.3648	1.2367
MGT	6.7512	2.1322

Table 4: Pearson Correlation for conventional banks

	RPS	TL	LLP	TE	GAP	INTEXP	INV	SIZE	NONII	MGT
RPS	1.0000									
TL	0.3592**	1.0000								
LLP	0.1383	0.4712**	1.0000							
TE	-0.4600**	-0.4351**	-0.1979*	1.0000						
GAP	0.3162	0.3573**	0.0761	-0.5245**	1.0000					
INTEXP	0.1509	0.4767**	0.2676**	-0.4038**	0.4827**	1.0000				
INV	0.1357	-0.0560	-0.1143	-0.3461**	0.1413	0.0382	1.0000			
SIZE	0.4920**	0.5118**	0.1348	-0.8001**	0.4104**	0.2619**	0.2979**	1.0000		
NONII	0.2475*	-0.3977**	-0.1037	0.0728	-0.1468	-0.0192	0.1512	-0.0585	1.0000	
MGT	-0.3592**	-0.8935**	-0.3790**	0.4967**	-0.4306**	-0.4540**	0.1333	-0.5806**	0.3315**	1.0000

Note: *Correlation is significant at 0.05 levels (2-tailed)

**Correlation is significant at 0.01 levels (2 tailed)

Table 5: Pearson Correlation for Islamic banks

	RPS	TL	LLP	TE	GAP	INTEXP	INV	SIZE	NONII	MGT
RPS	1.0000									
TL	0.2184	1.0000								
LLP	-0.2340*	-0.0251	1.0000							
TE	-0.5772**	-0.0919	0.3385**	1.0000						
GAP	-0.0138	-0.1223	-0.0404	-0.1165	1.0000					
INTEXP	-0.1162	-0.1214	0.1227	0.1336	0.1663	1.0000				
INV	0.0640	-0.0815	-0.0629	-0.1215	-0.3164**	-0.0093	1.0000			
SIZE	-0.0040	0.0443	-0.0113	0.3751**	0.0293	0.0817	0.0521	1.0000		
NONII	0.0450	-0.2179	0.1207	0.1570	-0.0449	0.0439	0.2550*	0.2624*	1.0000	
MGT	-0.2266**	-0.1948	-0.0237	0.0760	-0.0520	0.0197	0.6210**	0.3524**	0.2528*	1.0000

Note: *Correlation is significant at 0.05 levels (2-tailed)

**Correlation is significant at 0.01 levels (2 tailed)

4.3. Regression analysis

This section analyses the result of the market risk determinants in conventional and Islamic banks from the GLS technique which cover both the fixed effect as well as the random effect. The best model is identified using the Hausman test. The result of GLS estimation for market risk model is presented in Table 6. For conventional banks, the results show that four variables namely total loan (TL), loan loss provision (LLP), bank size (SIZE) and non-interest income (NONII) significantly influence market risk. The regression result shows that TL has a significant relationship with market risk for conventional banks. This result is similar with previous studies by Rahman (2009), Gonzales (2004), Ahmad and Ariff (2004), Gallo et al. (1996) and Hassan (1994). The result for the LLP which shows a negatively significant relationship with market risk for conventional banks contradicts the study of Madura et al. (1994). In their study, LLP which presents the forecasted default risk is positively related to risk hence reflect that the probability of future default that can reduce earnings and dividends of banks. The most and very important variable is size of the bank. The result shows that bank size have a positive relationship with market risk at one percent significant level. The majority of past studies argues that a larger bank size have more potential to diversify business risk from various perspectives. Saunders et al. (1990) and Hassan (1994) argue that the larger is the bank size, the more information these banks possessed which will reduce the risk exposure. Different view were given by Anderson and Fraser (2000) on the bank size. According to them, larger banks are more flexible in adjusting for the unexpected liquidity and capital shortfall. The results from Table 6 shows that for conventional banks NONII has a positive relationship with market risk at one percent at significant level.

For Islamic banks six variables are significantly related to market risk namely TL, LLP, GAP, SIZE, NONII and MGT. The regression result shows that total loan (TL) has negative relationship with market risk at one percent significant level. This result supports previous studies such as by Rahman (2009), Hassan (1994), Gallo et al. (1996) Ahmad and Ariff (2004) and Gonzales (2004). This shows that when the total loan for the bank increase the market risk will decrease and loan expansion is more important to the banking system. For Islamic banks loan loss provision (LLP) has a negatively significantly related with market risk and this finding contradicts the findings by Madura et al. (1994) that believe LLP is positively related to risk. This paper also finds that GAP is related to market risk but with negative relationship only in Islamic banking. Study by Hassan (1993) also found that GAP is significantly related with market risk, whereas a negative GAP bank is exposed to risk that interest rates will increase. The greater the absolute value of GAP, the more banks is exposed to changes in interest rates. The result also shows that size of the banks has a positive relationship with market risk in Islamic banks which suggests that a larger bank size will increase market risk in Islamic banks. Madura et al. (1994) find that the higher non-interest income to total asset (NONII) lead to a lesser business risk. This result is in contrast to the study by Madura et al. (1994), where Islamic banks have a positive relationship with market risk at five percent significant level. This shows that a higher non-interest income will increase the business risk of banks. The regression results for management efficiency show a negative relationship with market risk only for Islamic banks. This result is similar to the finding by Rahman (2009), but contradicts with Angbazo (1997) and Ahmad and Ariff (2004). A negative association implies and

inefficient in management. This shows that bank with lower efficiency in managing earning asset will give a higher risk in the banking system.

In conclusion, there exist a significant relationship between market risk and the factors under study in both Islamic and conventional bank. Thus, the null hypothesis of no significant relationship between market risk and the factor that influence risk is rejected at a five percent significant level.

Table 6: Result for Conventional and Islamic bank

Variable	Conventional	Islamic
Constant	-3.2571 (1.3939)**	-0.3521 (0.2521)
TL	0.8318 (0.3288)**	-0.1236 (0.0185)***
LLP	-40.7852 (10.1907)***	-7.4099 (3.9429)*
TE	-0.4568 (0.8924)	-1.6868 (1.4065)
GAP	0.2631 (0.2562)	-0.8201 (0.4303)*
INTEXT	0.0178 (0.0209)	0.1356 (0.0925)
INV	-0.1581 (0.2897)	-0.0180 (0.2799)
SIZE	0.5625 (0.1726)***	0.2313 (0.0399)***
NONII	0.3883 (0.0479)***	0.1380 (0.0472)**
MGT	0.0821 (0.2742)	-0.4442 (0.2339)*
N	105	80
R²	0.9785	0.9700
Adj. R²	0.9701	0.9570
F	117.7206	74.2040
P	0.0000	0.0000
DW	1.8024	2.2796

Note:

Figure in parentheses is standard error value of the regression coefficient

***, **, * denotes a significant level at 1%, 5% and 10% confidence level.

5. CONCLUSION

The purpose of this paper is to examine the factors affecting market risk in both the Islamic and conventional banks in Malaysia. The general objective of the study is to determine the market risk factor by employing a regression model. The results show that most of the variables that have been tested has significant relationship with market risk except for INTEXT and INV for both banks. The results also show that determinants of market risk differ slightly between conventional and Islamic banks. The findings suggest that bank manager and investor should prioritize the risk based on the bank mission. Because of market risk is one of the important risk in the banking system; all banks cannot run from facing the challenges in managing risk. Investors should be able to monitor their investment decision making before start

investing in the banking industry by looking at the factors that significantly influence the market risk. The results of this study suggest that in the implementation of successful market risk management system, banks should focus on several policy implications. Establishment of a comprehensive market risk management system in both banking system should be a prerequisite as it contributes to the overall risk management system of the bank. This study only focuses on internal factors of bank risk and for future research direction other external factors should be considered considering the current globalization nature of the financial market.

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DISCUSSION IN ISLAMIC CAPITAL STRUCTURE FRAMEWORK: TOWARDS MAXIMIZING WEALTH DISTRIBUTION AND SHARING RISK AND REWARD

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ABSTRACT

It is very crucial that firms strategize their capital structure to ensure that the firm is at its optimal capital structure or to maintain its target capital structure policy. Optimal capital structure can increase the firm's value and thus increase in shareholders' wealth. However, poorly planned capital structure could reduce the value of a firm and shareholders' wealth. Islamic recognizes both debt and equity financing in planning the capital structure of a firm. In seeking additional funding, a firm has an option either to borrow from external party or to find partner for the business. It should be noted however borrowing from external party must be strictly done without paying interest as it is prohibited in Islam. In order to facilitate firms in this purpose, Islamic banking institutions offer a number of debt-based instruments by applying classical Islamic contracts such as *murabahah* (mark up sale) and *ijarah* (leasing). In the former contract, Islamic banks will purchase merchandises from suppliers of behalf of the firms and then sell the merchandises with mark-up price. The firms will pay fixed installments over an agreed period to Islamic banks. On the other hand, equity financing is conducted based on profit and loss sharing (PLS) principle. The main contract in PLS principle are *musharakah* and *mudarabah*. The PLS principle is formulated based on the Shariah rejection on the notion that 'money could yield money' without bearing any risk. For money to generate money, it must be linked with a certain degree of risk. Despite the permissibility of debt and equity financing, Muslims scholars are in disagreement over the question which method is more preferable from Shariah point of view? Is equity financing is more preferable than debt financing? If that is the case, what is the ideal composition of equity and debt financing in a Shariah approved firm? Or Shariah does not put any limit for firm to choose either equity or debt financing as long as it can achieve the optimum value? It is also noted that the capital structure decision for Shariah approved firms is also influenced by the payment of zakah in addition to corporate taxes. This paper will discuss the model for Islamic capital structure decisions taking into account notion of serving the *ummah* will become the driving force for corporate and businesses to accumulate wealth

1. CAPITAL STRUCTURE: AN OVERVIEW

The investments of a firm are financed by investors who have various types of claims on the firm's cash flows. These investors hold several types of financial claims such as debt, equity, and hybrid securities. The two main sources of capital for a firm are debt and equity. Debt holders have the first claim to the firm's cash flows. Equity holders have claim to the residual cash flows in addition to maintaining control of the firm. Each type of financing has a cost for the firm. The cost of any financing source is the minimum rate of return accepted by the provider of that financing. The rate of return accepted by each type of claimant differs because the risk associated with each type of financing is different. The cost of all financing sources is called the weighted average cost of capital and the weights usually reflect the extent to which each source of capital is used. Since the cost of each source of financing differs from other sources, changing the weight of any one of these sources will change the cost of capital for the firm. Firms attempt to minimize the cost of capital. Theoretically, the cost of capital is the rate at which the firm's cash flows should be discounted in order to determine the value of the firm (Copeland et al. 2005). Therefore, a lower cost of capital for the firm leads to a higher value of the firm.

2. MM CAPITAL STRUCTURE THEORY REVISITED

Modern capital structure theory was introduced through the seminal work of Modigliani and Miller (1958), who demonstrate that capital structure can be irrelevant to the value of the firm under certain conditions. Though not realistic, once the conditions for the irrelevance of capital structure are known, determining the circumstances in which capital structure is relevant will be possible. In order to make a more realistic theoretical foundation for the capital structure issues, some of the original assumptions of Modigliani and Miller (1958) can be relaxed.

Basic Assumptions of Capital Structure Theories:-

- a. There are no taxes
- b. Individual can borrow and lend at the risk free rate. There are only two kinds of funds used by a firm i.e. risk free debt and risky equity.
- c. Capital market are frictionless i.e. no transaction cost
- d. No Bankruptcy cost
- e. No agency cost
- f. Symmetry of market information i.e. no signaling opportunities
- g. The firm's total financing remains constant
- h. Business risk is constant over time
- i. The firm has perpetual life.

2.1. MM Proposition 1 (without taxes)

MM Proposition 1 is a proposition that the value of the firm is independent of the firm's capital structure. It means that the market value of a firm is not affected by the capital structure of a company. Under conditions of perfect and frictionless markets with no transaction costs, taxation or default risk, Modigliani and Miller (1958) note that when a firm includes a certain debt level in capital structure, all it does is divide its free cash flow between fund suppliers. If the financing supplier, whether debt or

equity, is interested in a certain level of leverage, but that level is not offered by the firm or the financing supplier desires to get rid of any unwanted leverage that a firm already takes, the fund supplier can make a homemade leverage that suits his/her needs. For instance, if two firms are identical in everything except their financing sources and the capital structure is assumed to affect the value of the firm, investors can always make their own leverage that maximizes their wealth by selling the overvalued firm and, using the proceeds along with some borrowing, invest in the undervalued firm. This is an arbitraging process that will continue until the value of the two firms is identical and no more arbitrage can be profitable. The arbitrage-free equilibrium implies that the market value of a levered firm (V_l) and an unlevered firm (V_u) are identical, or

$$V_l = V_u$$

2.2. MM Proposition 11 (without taxes)

MM proposition II is the proposition that a firm's cost of equity capital is a positive linear function of the firm's capital structure. MM proposition II deals with the Weighted Average Cost of Capital (WACC). It says that as the proportion of debt in the company's capital structure, the riskiness of the equity increases. Therefore the required rate of return on equity to shareholders increases in a linear fashion. Since the benefit of cheaper debt will then exactly off set by the increase of the cost of equity, the WACC will remain constant. Therefore value of a firm is not affected by the capital structure of a company.

2.3. MM Proposition I and II (with corporate taxes)

When there are taxes, the value of the firm is enhanced by the tax shield provided by this interest deduction. The tax shield will lower the cost of debt and thus lower the WACC as more debt is used. Since there is no offsetting cost for the benefits of debt financing, this proposition implies that the optimal leverage is almost 100 percent debt, which is not realistic. This flaw opens the door for more realistic interpretations offered later by trade-off theories.

3. TRADE-OFF THEORIES AND OPTIMAL CAPITAL STRUCTURE

In a tradeoff between tax benefit and bankruptcy related cost, the firm is supposed to substitute debt for equity and vice versa until the value of the firms is optimised. Myers (1984) refers this as balancing the value of interest tax shield against various costs of bankruptcy or financial embarrassment. The combination of debt and equity that satisfies the balancing condition is called the target capital structure.

4. THE PECKING ORDER THEORY

The pecking order theory was discussed by Myers and Majluf (1984). They argue that if managers have much better information about the future investment opportunity compared to the potential investors (asymmetric information), they would face problems in securing external finance. This is due to the fact that the possibility of funding a bad firm exists thus leads to outsiders demanding for a premium as compensation. If the firm issues equity to finance new projects, the possibility of

being under-priced would be so great that a good firm might resort to rejecting some of the projects though with positive NPV. Comparatively, internal sources of funds do not suffer such consequences. The chances to be under-priced are much lesser if debt is preferred to equity. This scenario leads to a financing hierarchical preference. A firm will prefer internal to external finance and debt over equity. A firm will firstly use available internal fund like retained earnings to finance new project. Next alternative will be reducing firm dividend policy to generate additional internal fund if the first alternative turns out to be insufficient. If these internal sources facing exhaustion, the firm may eventually resort to external funding, starting with issuing safest security like debt and when the firm has no starting with issuing safest security like debt and when the firm has no more debt capacity, then hybrid securities like convertibles and finally equities will be the last resort. This hierarchical financing choice is known as the pecking order theory.

5. ASYMMETRIC INFORMATION

Asymmetric information is a situation which different parties have different information. In a corporation, managers will have better information set than investors. The degree of symmetric information varies among companies and industries. The effect of variation in information will lead to asymmetric information and signaling interpretation by the investors. Information Asymmetry can lead to two main problems:

- a. Adverse selection
- b. Moral Hazard

6. AGENCY THEORY

The Agency Theory was discussed by Jensen and Meckling (1976). They argue that agency costs play an important role in financing decisions due to the conflict that may exist between shareholders and debt holders. They claim that there are cases where managers opt to pursuing their own self-interest projects or investments rather than on value maximizing financing decisions. Basically there are three components of agency costs which are: the adverse incentive effects associated with highly levered firms, monitoring cost generated by these effects and bankruptcy costs. The optimal capital structure can be achieved by trading off the agency costs, which include the monitoring expenditure by the principal, the bonding expenditure by the agent and the residual loss, against the benefits of debt.

Three types of agency cost

- a. Asset substitution effect
- b. Underinvestment problem (or Debt overhang problem)
- c. Free cash flow

7. CAPITAL STRUCTURE ANALYSIS

It is very crucial that firms estimate their current capital structure to ensure that the firm is at its optimal capital structure or maintain its predetermined capital structure policy. Optimal capital structure can increase the firm's value and thus increase in

shareholders' wealth. However, poorly planned capital structure could reduce the value of a firm and shareholders' wealth.

The value of a firm is determined by the expected future free cash flow (FCF) discounted by its weighted average cost of capital (WACC). This is determined by:

$$V = \sum_{t=1}^{\infty} \frac{FCF_t}{(1 + WACC)^t}$$

Where,

$$WACC = w_d(1 - T)r_d + w_e r_s$$

$$w_d = \text{weightage of debt}$$

$$w_e = \text{weightage of equity}$$

$$r_d = \text{Cost of debt}$$

$$r_s = \text{Cost of equity}$$

$$T = \text{Tax rate}$$

When the WACC increase, the value of the firm will decrease, and vice versa. Therefore, a firm's agent would need to reduce WACC to increase the firm's value. On the other hand, WACC is affected by the cost of debt, equity, and tax rate. Tax shield would reduce the effective cost of debt and WACC as a whole. Therefore, the increase of capital funding from debt would actually increase the value of a firm. However, this only happen to certain extent as the increase of funding from debt would increase the future cost of debt and cost of equity. This is because the higher debt would increase the risk of bankruptcy and thus creditors would demand a higher return (higher cost of debt) for bearing higher risk. As for the shareholders, the possible future FCF available for shareholders would be reduced because a larger portion of firm's earnings before tax would be used to service the debt. As a result, investors would demand higher required rate of return for bearing higher risk and reduce cash flow.

8. ISLAMIC CAPITAL STRUCTURE

Islamic recognizes both debt and equity financing in planning the capital structure of a firm. In seeking additional funding, a firm has an option either to borrow from external party or to find partner for the business. It should be noted however borrowing from external party must be strictly done without paying interest as it is prohibited in Islam. In order to facilitate firms in this purpose, Islamic banking institutions offer a number of debt-based instruments by applying classical Islamic contracts such as *murabahah* (mark up sale) and *ijarah* (leasing). In the former contract, Islamic banks will purchase merchandises from suppliers of behalf of the firms and then sell the merchandises with mark-up price. The firms will pay fixed installments over an agreed period to Islamic banks.

On the other hand, equity financing is conducted based on profit and loss sharing (PLS) principle. The main contract in PLS principle are *musharakah* and *mudarabah*. The PLS principle is formulated based on the Shariah rejection on the notion that 'money could yield money' without bearing any risk. For money to generate money, it must be linked with a certain degree of risk. The linking of the lawfulness of gain to risk-taking is based on two classical legal maxims. The legal maxims postulate that (1) *al-kharaj bi-dhaman* - gain comes with the liability for loss and (2) *al-ghunmu bi al-ghurmi* - gain is the result of risk taking. These legal maxims are derived from *hadith*. The first legal maxim is actually a saying of the Prophet reported in the five major Sunni *hadith* collections (Sahih al-Muslim (d.261/875), Sunan Ibn Majah (d.273/887), Sunan Abu Dawud (d.275/889), Sunan al-Tirmidhi (d. 279/893) and Sunan al-Nasa'i (d.303/916) (Ibn Hajar al-Asqalani, 1979, p.183). The second legal maxim is derived from the understanding of *hadith* on pledge (*al-rahn*) narrated by al-Daraqutni (d.385/995) and al-Hakim (d.405/1015) (as cited in Shahrudin, 2010).

Despite the permissibility of debt and equity financing, Muslim scholars are in disagreement over the question which method is more preferable from Shariah point of view? Is equity financing more preferable than debt financing? If that is the case, what is the ideal composition of equity and debt financing in a Shariah approved firm? Or Shariah does not put any limit for firm to choose either equity or debt financing as long as it can achieve the optimum value? Habib (2007) views that a firm which operates under the Shariah principle has restriction on its ability to borrow. This is because a debt in Islamic framework has to be backed by asset. He suggests that a Shariah approved firm cannot have a debt exceeding its tangible asset, thus it implies that a firm with lower tangible assets will relatively have lower debt ratio. On the other hand, the emphasis on PLS principles is generally advocated by early works in Islamic finance (see for example Siddiqi 1987 & al-Ashker 1987). The PLS principles are viewed to be the ideal basis in achieving the Islamic finance objectives i.e. economic welfare and socio-economic justice. In theory, the PLS school of thought propose that a Shariah approved firms should choose equity over debt in their capital structure.

Besides the theoretical discussion, research in Islamic corporate finance in general and capital structure in particular take in the form of empirical research. Pratomo & Ismail (2006) examined the capital structure of Islamic banking institution in Malaysia and proved that a high leverage reduces the agency costs and increase firm values. The findings imply that preference of equity over debt financing is not necessarily able to optimize the firm values. Nagano (2010) further confirmed that debt is chosen over equity by firms in Malaysia and the Middle East. The behaviors of Islamic firms that they investigated are correlated with pecking order and trade off theories. Firms prefer to issue *sukuk* (which is regarded as debt-based instrument) in raising funds because issuance of *sukuk* brings an additional benefit which normal traditional external finance does not provide.

The capital structure decision for Shariah approved firms is also influenced by the payment of zakat in addition to corporate tax. Corporate taxes in general terms are a financial obligation imposed by the state on corporation, from which the state spends on the public interest, such as transportation, health, education and securities i.e. it should be spent in the real interests of the ummah. Whereas Zakah is a form of

obligatory alms-giving and religious tax in Islam. It is based on income and the value of all of one's possessions. It is customarily 2.5% of a Muslim's total income, savings and wealth above a minimum amount known as nisab. For the corporate zakah, it is based on profit and loss account or net working capital (current assets minus current liabilities)

9. ISLAMIC CAPITAL STRUCTURE ANALYSIS REVISITED

The value of a firm is determined by the expected future free cash flow (FCF) discounted by its weighted average cost of capital (WACC). This is determined by:

$$V = \sum_{t=1}^{\infty} \frac{FCF_t}{(1 + WACC)^t}$$

Where,

$$\begin{aligned} WACC &= w_d(1 - T)r_d + w_e r_s \\ w_d &= \text{weightage of debt} \\ w_e &= \text{weightage of equity} \\ r_d &= \text{Cost of debt} \\ r_s &= \text{Cost of equity} \\ T &= \text{Tax rate} \end{aligned}$$

WACC is affected by the cost of debt (murabaha), equity, and tax rate. Tax shield and zakah shield would reduce the effective cost of debt and WACC as a whole. Therefore, the increase of capital funding from debt would actually increase the value of a firm. However, this only happen to certain extent as the increase of funding from debt would increase the future cost of debt and cost of equity. This is because the higher debt would increase the risk of bankruptcy and thus creditors would demand a higher return (higher cost of debt) for bearing higher risk. As for the shareholders, the possible future FCF available for shareholders would be reduced because a larger portion of firm's earnings before tax would be used to service the debt. As a result, investors would demand higher required rate of return for bearing higher risk and reduce cash flow.

9.1. Effect of Profit And Loss Sharing Claims for All Financings

If both equity and debt were based on Profit and Loss sharing claims, the important component will be on the net cash flow from the operation. The risk of bankruptcy and agency cost will be shared by the investors and the investee.

9.2. Effect of Profit And Loss Sharing Claims on Equity and Murabaha Financing (Debt) Claims

Under this condition of equity and debt, the firms would be financed by more debt than equity to minimize WACC. In a tradeoff between tax benefit and bankruptcy related cost, the firm is supposed to substitute debt for equity and vice versa until the value of the firms is optimized.

9.3. Effect of Financing on Stakeholders or Ummah versus Shareholders Maximization Theory

Islamic Finance is within the scope of Islamic economy whose main goal is to promote maslahah or public interest and prevent harm (mafsadah). It is built upon principles underlined by Shariah. It takes into consideration issues of social justice, equity and fairness and the practicality of commercial transaction which are shariah compliant. While zakah is given to the recipients of zakah, according to Quran, corporate tax should be spent in the real interests of the ummah, and then the question of tax shield and zakat shield in the choice of equity and debt should not be part of the arguments to increase firm's value. The focus should be maximizing the net cash flow from operation as long as it is deemed legal and lawful by the Shariah and is free from any prohibition.

10. CONCLUSIONS

Despite the permissibility of debt and equity financing, Muslims scholars are in disagreement over the question which method is more preferable from Shariah point of view? Is equity financing is more preferable than debt financing? If that is the case, what is the ideal composition of equity and debt financing in a Shariah approved firm? Or Shariah does not put any limit for firm to choose either equity or debt financing as long as it can achieve the optimum value? It is also noted that the capital structure decision for Shariah approved firms is also influenced by the payment of zakat in addition to corporate taxes. While zakah is given to the recipients of zakah, according to Quran, corporate taxes should be spent in the real interests of the ummah, and then the question of tax shield and zakah shield in the choice of equity and debt should not be part of the arguments to increase firm's value. The focus should be maximizing the net cash flow from operation as long as it is deemed legal and lawful by the Shariah and is free from any prohibition

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THEME: LEGAL, REGULATORY AND SHARIAH GOVERNANCE

SHARIAH CORPORATE GOVERNANCE MODEL FOR ISLAMIC FINANCIAL INSTITUTIONS

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ABSTRACT

The Islamic economy has been introduced for more than 1,400 years ago together with the establishment of Islam brought by Prophet Muhammad. As the modernization of the world economy, the Islamic economy also expands in various sectors especially in the Islamic countries. These various sectors include the government, private or business corporations, financial institutions, statutory bodies, non-profit organizations and other organizations. Regardless of these differences sectors, every sector has their own governance model by following Islamic perspectives. Thus, discussion on this paper opens to potential further development especially on shariah corporate governance models in Islamic financial institutions (IFIs), which could become for a better corporate governance practice for organizations in the future.

Keywords: Corporate governance model, Shariah corporate governance model, Islamic financial institutions (IFIs).

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1. INTRODUCTION

The growth of Islamic economy especially in corporate governance are expands from a simple structure for an organizations towards a more comprehensive and complex structure as the modernization and globalization of the economy itself. However, as far as the Islamic economy growth take place, the structure of the organizations also being changed to fulfill the current needed and practices. These structure are begins to become more comprehensive and complex and the participants from various parties from different areas to an organization are starts to be focused.

Thus, this paper focuses on the concept of corporate governance models concentrating on Shariah corporate governance framework for Islamic financial institutions (IFIs) in Malaysia. It begins with overview of corporate governance including characteristics and limitations for corporate governance practices. Then, it continued with the corporate governance models and *shariah* corporate governance models. These models are then discusses further specifying in IFIs practices among selected Islamic countries including Malaysia. Weaknesses among these *shariah* corporate governance models are discussed and some development improvements are suggested for better practices in the future.

2. OVERVIEW OF THE CORPORATE GOVERNANCE

Corporate governance can be defined in general as a relationship among stakeholders that is used to determine and control the strategic direction and performance of organizations. Corporate governance concerned with identifying ways to ensure that strategic decisions are made effectively for a good practices. Corporate governance is being used widely in corporations to establish order between the management of an organization with its stakeholders including internal stakeholders such as shareholders and employees and also external stakeholders such as creditors, debtors, government and society. These stakeholders' interests are important as stated by Letza (2004) as it more comprehensive and cover more related parties with organizations compared just by shareholders interest alone.

From Malaysia perspective, *Malaysia Code of Corporate Governance (MCCG) 2012* defines corporate governance as the process and structure used to direct and manage the business and affairs of the company towards enhancing business prosperity and corporate accountability with the ultimate objective of realising long-term shareholder value, whilst taking into account the interests of other stakeholders.

Meanwhile, in Islamic perspectives, the Islamic Financial Services Board (IFSB) defines *shariah* corporate governance system as a set of the strategic roles and functions of each organ of governance and mechanisms for balancing the Institutions that offering Islamic Financial Services (IIFS) accountabilities to various stakeholders. In addition, IFSB also highlighted four structures and processes regarding *shariah* corporate governance in IFSB-10 which are:

1. Issuance of relevant *shariah* pronouncements/resolutions.
2. Dissemination of information on such *shariah* pronouncements/resolutions to the operative personnel of the IIFS who monitor the day-to-day compliance

with the *shariah* pronouncements/resolutions vis-à-vis every level of operations and each transaction.

3. An internal *shariah* compliance review/audit for verifying that *shariah* compliance has been satisfied, during which any incident of non-compliance will be recorded and reported, and as far as possible, addressed and rectified.
4. An annual *shariah* compliance review/audit for verifying that the internal *shariah* compliance review/audit has been appropriately carried out and its findings have been duly noted by the *shariah* board.

The objectives of corporate governance are about decision making by whom and for whom that can be viewed in three alternative views by Lewis (2005) which are (1) the legal view; (2) the economic view; and (3) the accounting view. From legal view, corporate governance can be viewed as an organization is separate entity that owned by shareholders as capital providers, directors as stewardship of the organizations' capital and employees as managers to conduct the operation of the organization using power delegated to them by directors.

From economic view, corporate governance can be viewed as separation between ownership and management of organization in decision making. Thus, corporate governance will ensure agency problems can be solved when shareholders as owner can secure their right and investments while managers as management can carry their duties and being compensated fairly based on their achievements in managing the organization without reducing the interest of shareholders in their decision making.

From accounting view, corporate governance can be viewed as accountability and transparency of management toward shareholders as owner and other related interest stakeholders such as employees, creditors, debtors, government and society. These accountability and transparency can be achieved with proper record keeping and disclosure management practices by management according to guidelines and standards given.

The Organization for Economic Cooperation and Development (OECD, 1999, 2004) identified four main components for good corporate governance practices that focusing to secure the interest of shareholders as owner of organizations which are:

1. An active board of directors (BOD).
2. Separation of chairperson with chief executive officer (CEO) by using role duality.
3. Outside or non-executive directors as majority of the board.
4. Two-tier board (using supervisory boards to supervise BOD).

There are a lot of structures for corporate governance in general. For example, previous study by Haniffa and Hudaib (2006) have evaluating six corporate governance structure indicators of significant relationships for corporate performance for Malaysia public listed companies practices consists of (1) board size; (2) proportion of non-executive directors; (3) role duality; (4) multiple directorships of directors; (5) shareholdings held by top five largest shareholders; and (6) directors' shareholdings.

Board size have significant relationship with corporate performance when large board size give various experiences, contacts and expertise to enhance performance although it is less effective in term of monitoring performance and directors costs. For domination proportion of non-executive directors in BOD, there is no significant relationship with corporate performance as in Malaysia most directors having political influence and not independence to monitoring performance of companies.

Companies with role duality practices are not performed as well as separate board leaderships companies which mean it is no significant relationship with corporate performance as it is uncommon practices in Malaysia. For multiple directorships of directors, it has significant relationships with corporate performance when it may be drive by perception of 'crony capitalism' in Malaysian environment.

It is better in term of corporate performance for having concentrated ownership by top five largest shareholders although it is not ideals for emerging market like Malaysia to attract investors and encouraged diffused shareholding. For directors' shareholdings, it has significant relationship with corporate performance when it seems to be detrimental for misallocation of companies' resources at the expense of directors.

Regardless of these indicators, in order to evaluate good corporate governance practices for organizations, it can be measured by Corporate Governance Index (CGI) which consists of four main categories evaluation as stated by Silva and Leal (2005) which are:

1. Disclosure.
2. Board composition and functioning.
3. Ownership and control structures.
4. Shareholders rights.

These main categories play important roles in order to ensure soundness and effectiveness of corporate governance practices for organizations. As corporate governance focuses on relationships between related parties with organizations, it focuses mainly on board roles and functions in ensuring process and operations of organizations are being conducted as its objectives and cares stakeholders' interests.

In addition, Chapra and Ahmed (2002) already identified 12 main elements regarding codes of good corporate governance practices particularly for IFIs practices which are: (1) the Board of Directors; (2) Non-Executive Directors; (3) Executive Directors; (4) Senior Management; (5) Employees; (6) *Shariah* Board; (7) Auditors; (8) Accountability and Controls; (9) Compensation Policies; (10) Board Meetings; (11) Annual Report, Information Disclosure and Transparency; and (12) Code of Ethics.

In Islam, Quran already highlighted several verse regarding encouraging toward good corporate governance practices such as verse 18:84 which is translated: *"Indeed We established him upon the earth, and We gave him to everything a way"* This verse story regarding Dzulqarnain, an emperor who being given a great government as a ruler, he leads wisely as stated in verse 18:85 which is translated: *"So he followed a way"*

Another instructions regarding corporate governance in Quran also as stated in verse 4:58 which is translated: *"Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing."* People who are being elected to hold accountability especially as leaders in organizations also need to govern according shariah laws as ordered in following verse 32:24 which is translated: *"And We made from among them leaders guiding by Our command when they were patient and [when] they were certain of Our signs."*

However, there also some possibilities for being bad practices of corporate governance. These possibilities for having bad practices of corporate governance as listed by Heracleous (2001) are as follow:

1. The attributed researched and related best practices are indeed irrelevant to organizational performance.
2. The operationalization of theoretical concepts and principles has low face validity.
3. The influences of organizational performance are too complex to find significant relationships in narrow studies of board attributes.
4. Different types of organizations required different board practices.

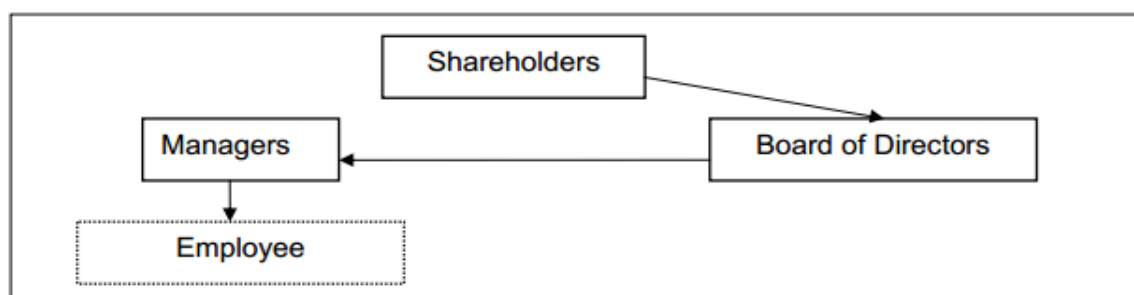
3. CORPORATE GOVERNANCE MODELS AND *SHARIAH* CORPORATE GOVERNANCE MODELS

In general, there are few of theoretical corporate governance models such as the Anglo-Saxon Model, the German Model and the Japanese Model. From Islamic perspectives, there also few of theoretical *shariah* corporate governance models such as the Tawhid and Syura Based Model and the Stakeholders Model. Each model has differences features, structures and aims of organization.

3.1. The Anglo-Saxon Model

The Anglo-Saxon Model or known as principle-agent model is a corporate governance model that being using widely by organizations located in the United States and the United Kingdom. This model focuses on interest of shareholders as owners and management duties to maximizing shareholders' wealth. Board of directors as representative of shareholders was delegated power to managements in managing organization and supervises the ongoing operation by organization.

Figure 1: The Anglo-Saxon Model of Corporate Governance

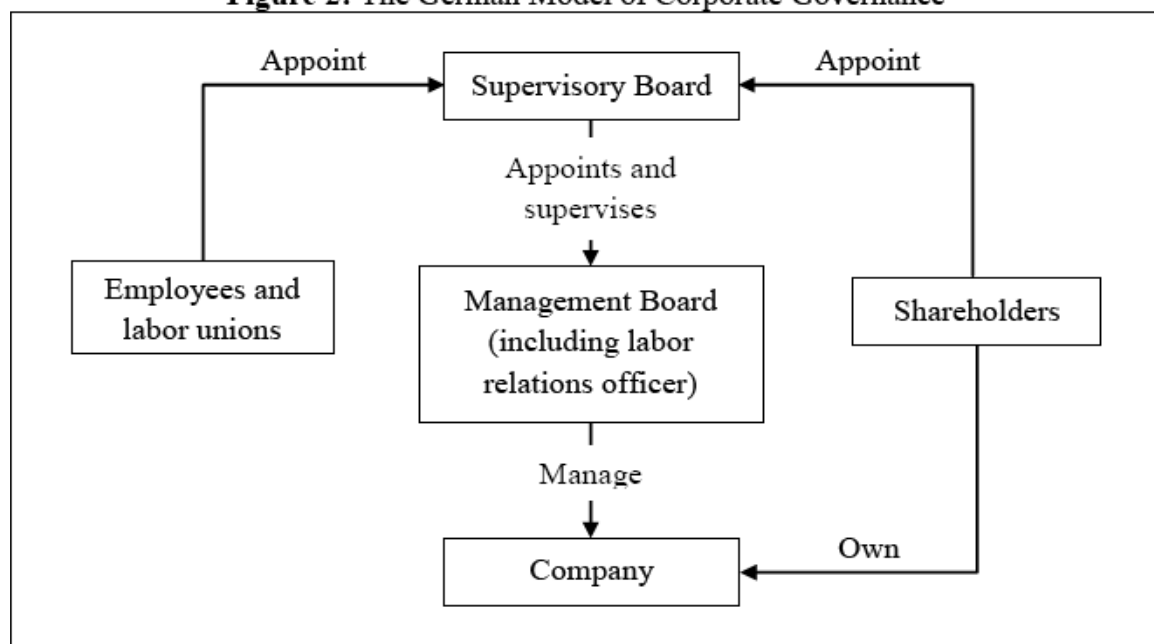


Source: Cernet (2004: 153)

3.2. The German Model

The German Model or known as two-tier board model is a corporate governance model that widely used by Germany, Holland and France organizations. This model focuses on bigger scope of parties that had interest with organization beside shareholders which are employees and labor unions. The German model exercise two-tier board consists of supervisory board and management board. The supervisory board is sited equally 50% from shareholders and another 50% from employees and labor unions. As for aims, the German model's aims are not restricted by maximizing shareholders' wealth, but also considering the needed of employees benefits as they being treated as part of organization.

Figure 2: The German Model of Corporate Governance



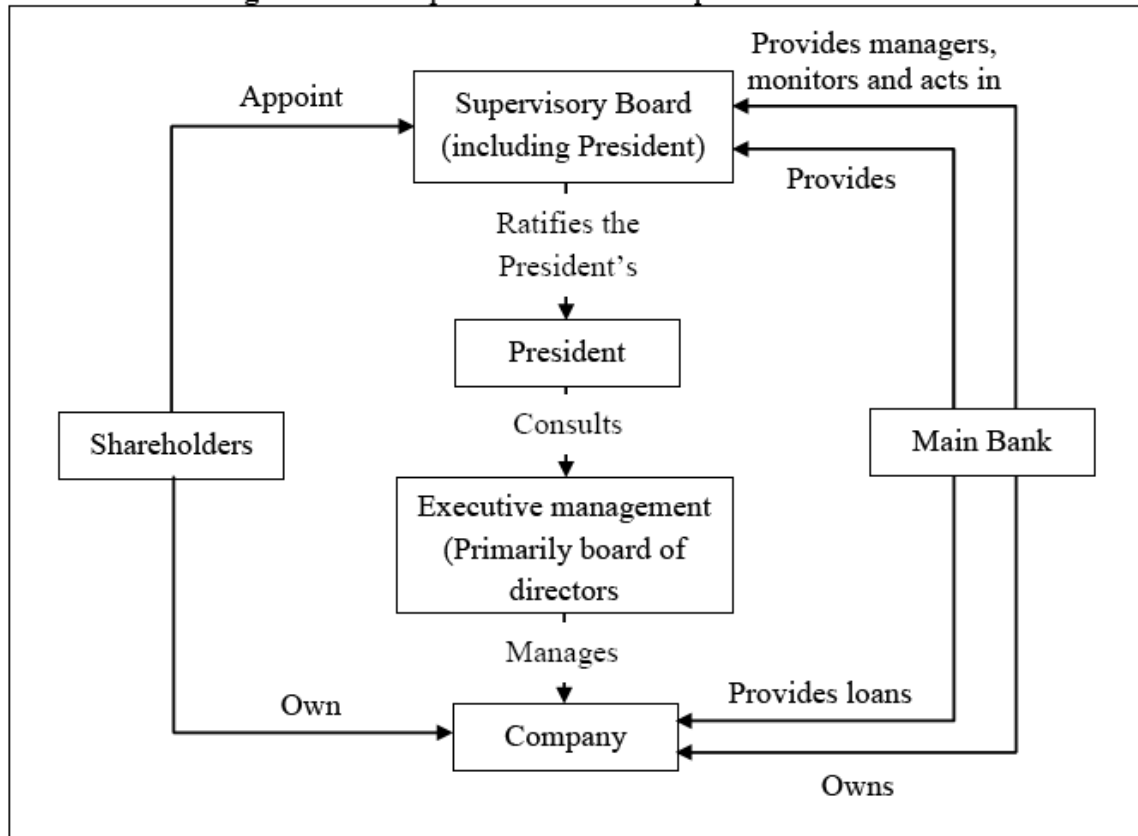
Source: Fernando (2010)

3.3. The Japanese Model

The Japanese Model or known as keiretsu model is corporate governance model that being used by Japanese organizations. This model also exercises two-tier system as German model but with different structure. In this model, main bank plays important roles when supervisory board consists of directors including president are jointly appointed by shareholders and main bank.

Supervisory board are ratifies president's decisions and president are consult the management board who primarily also known as board of directors. These directors also act as management executives in managing organization. In reality, the power of organization is on these directors within keiretsu network. Keiretsu network is a cultural relationship among family controlled organization or group of complex interlocking business relationship.

Figure 3: The Japanese Model of Corporate Governance



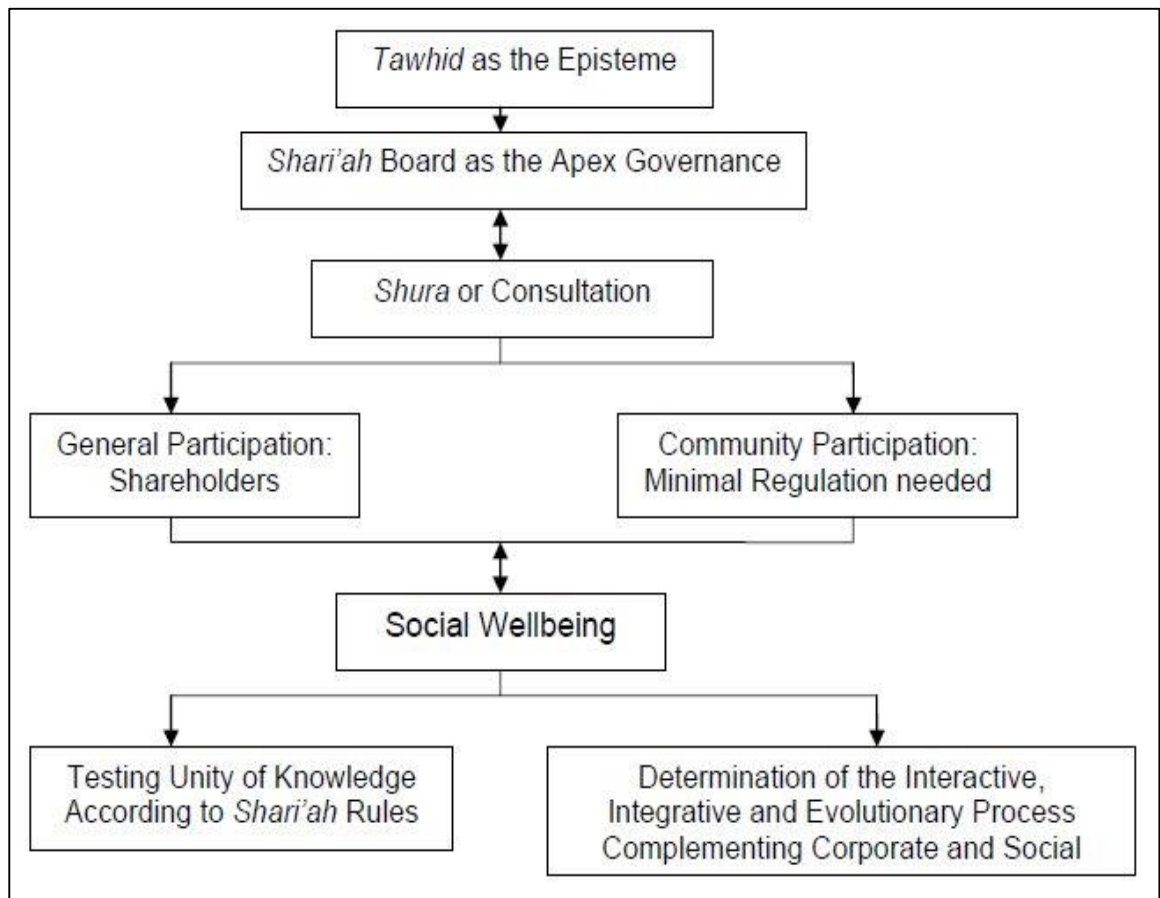
Source: Fernando (2010)

3.4. The Tawhid and Syura Based Model

The *Tawhid* and *Syura* Based Model is *shariah* corporate governance model by Choudhury and Hoque (2004). This model used *tawhid* or one of Islamic philosophical pillar which is *Rukun Iman* as foundation for this *shariah* corporate governance model. By using *tawhid*, Muslims are believed that everything that human do are being accountable by Allah. The principle of *tawhid* is derived from concepts of vicegerency (*khilafah*), trust (*amanah*) and justice (*al adl wal ihsan*).

This model is using two-tier consists of *shariah* board and *syura* board. The members of the *shariah* board must have an expertise in *shariah* laws and also *fiqh muamalat*. Another board, *syura* board consists of all related stakeholders as it will discuss all interests by those stakeholders that related with the organization. The *shariah* board will acts as the supervisory board while *syura* board will acts as management board. Hasan (2009) stated by having *syura* as another element in this *shariah* corporate governance model, it provides widest possible participation of the stakeholders in the affairs of the state including corporation either directly or via representative.

Figure 4: The *Tawhid* and *Syura* Based Model of *Shariah* Corporate Governance



Source: Choudhury and Hoque (2004: 86)

3.5. The Stakeholders Model

The Stakeholders Model is proposed by Iqbal and Mirakhor (2004), which consists of three main objectives which are: (1) all stakeholders have a right to participate in corporate decisions that affect them; (2) managers have a fiduciary duty to serve the interests of all stakeholder groups; and (3) the objective of the firm ought to be the promotion of the interests of all and not only those of shareholders.

By adopting two fundamental Islamic economic concepts which are property rights and contract governance, these two fundamental concepts are being applied not only for shareholders but also all stakeholders. The first and ultimate property owner are Allah and human as *khilafah* as stewardships of the property. Property rights can be gained by human by two ways in Islam which are by (1) through his own creative labors and/or (2) through transfers consists of exchange, contract, grant or inheritance.

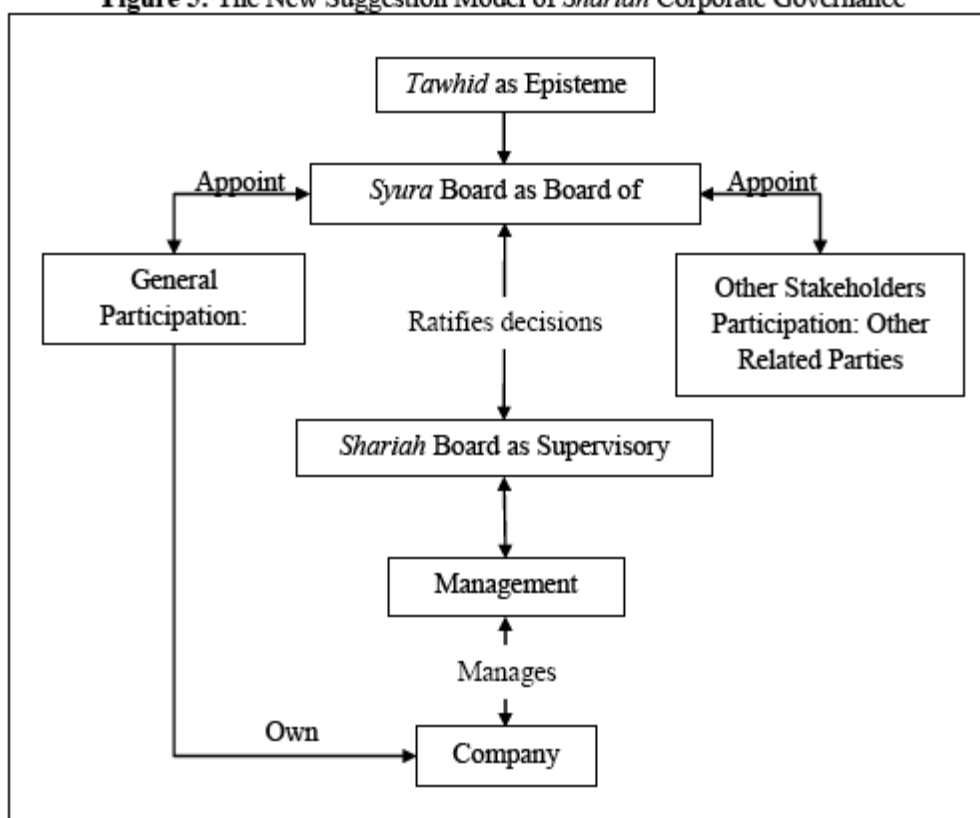
Meanwhile, contract governance are regarding to whom accountable for the decision made. According to Shahul (2000) and Lewis (2006), accountability in Islam can be viewed from two perspectives which are: (1) humanity's accountability to God (*hablum minallah*); and (2) humanity's accountability to other people (*hablum minannas*).

For the first accountability perspective, *hablum minallah* is derived from the concept of trust (*amanah*), which, in turn, is related to another important concept: vicegerency (*khilafah*). Thus, people worship God and fulfil all of their duties as a *khalifah* (vicegerent). This may be regarded as their primary accountability.

For the second accountability perspective, *hablum minannas* is established through a contract among people. More importantly, one's relationship with other individuals mirrors one's relationship with God. As it contracts among humans, it must consists for all related parties or known as stakeholders whether individual, group or society to make sure that all interest are being take care. In order to identifying the related stakeholders, Clarkson (1995) identified that one's who are affected by organizations' decisions whether directly or indirectly are recognized as those organizations' stakeholders.

In addition, tawhid philosophy itself is about one's relationships or accountability with Allah which is *hablum minallah*. Means every decisions made by organization must be followed *shariah* laws as *shariah* laws are derives from *Quran* and *Hadith*. By adopting both *shariah* corporate governance models' elements, a new suggestion for improvement in *shariah* corporate governance model are introduced as following figure.

Figure 5: The New Suggestion Model of Shariah Corporate Governance



Source: Authors

By implementing tawhid as episteme or foundation, it will fulfil accountability to Allah which is *hablum minallah*. The first-tier consists of syura board as board of directors. This syura board must be jointly appointed by shareholders as *rabb mal*

(property owners) and other stakeholders who are directly affected by organizations' decisions. This composition is needed to ensure that all parties interests related to organization are being considered in every decision making made. Quran also stated the needed of *syura* in following verse 42:38 which is translated: "*And those who have responded to their lord and established prayer and whose affair is [determined by] consultation among themselves, and from what We have provided them, they spend.*"

The second-tier consists of *shariah* board as supervisory board. This board will become the authority that ensures every decisions made by *syura* board are according to *shariah* laws. The management board consists of chief executive officer (CEO) and other top managers are accountable to ensure the daily operations of organization are carried according to *syura* board directions. These directions are to ensure all significant of property rights and also contract governance are applied for the benefit of all related stakeholders.

3.6. Shariah Corporate Governance Models in IFIs

Currently, IFIs in each country had their own unique *shariah* corporate governance models. These models are basically comes with legal regulations and standards to enhance the implementations and practices of *shariah* corporate governance. Following are discussion for some shariah corporate governance models in IFIs including the Pakistan Model, the Kuwait Model, the Bahrain Model, the United Arab Emirates Model, the Qatar Model and finally the Malaysia Model that previously also being discussed by (Hasan, 2007; Hasan, 2009).

The Pakistan Model

The Pakistan Model adopted two-tier system when it has established the Shariah Board (SB) under the State Bank of Pakistan (SBP). The SB exercises as the sole authority for any matters pertaining to Islamic finance. For any disputes regarding shariah issues, those issues are brings to court or arbitrator. There also requirement for establishment of the Shariah Advisory (SA) for each IFIs in Pakistan. The members of the SB can be appointed as the member of the SA for any IFIs in Pakistan. However, member of the SB are restricted to serve only one IFI.

The Kuwait Model

The Kuwait Model do not adopted two-tier system when it not establishes any shariah advisory council under the Central Bank of Kuwait (CBK). However, Article 93 of CBK required for all IFIs in Kuwait to establish an independent the Shariah Board (SB) which shall be appointed by the bank's General Assembly that appointed by Annual General Meeting (AGM).

As there is not any shariah board at CBK, any disputes regarding Islamic finance matters will be brings to the Fatwa Board at Ministry of Awqaf and Islamic Affairs of Kuwait. This Fatwa Board acts as sole authority in Islamic finance matters in Kuwait. As for composition member of the SB in IFIs in Kuwait, there are no restrictions for any member of SB to serve more than one IFI. There are also no any restrictions for any member of Fatwa Board to serve as member of the SB.

The Bahrain Model

The Bahrain Model do not adopted two-tier system although it has established the National Shariah Board (NSB) under the Central Bank of Bahrain (CBB). This due to NSB is only serves to verify the shariah compliance of the CBB products and services. The NSB are not having any authority to other IFIs.

The CBB Rule Book Volume 2, Islamic Banks, Part A, High Level Control, section 1.3.15 provides that the CBB requires all banks to establish an independent Shariah Board (SB) complying with AAOIFI's governance standards for IFIs No. 1 and No.2. As for composition member of the SB in IFIs in Bahrain, there are no restrictions for any member of SB to serve more than one IFI. There are also no any restrictions for any member of NSB to serve as member of the SB.

The United Arab Emirates Model

The United Arab Emirates (UAE) Model adopted two-tier system when it has established the Higher Shariah Authority (HSA) under the Ministry of Justice and Islamic Affairs according to Article 5 of the Federal Law No. 6 of 1985. The HSA exercises as the sole authority for any matters pertaining to Islamic finance. There also requirement for establishment of the Shariah Supervision Authority (SSA) for each IFIs. For appointment of the SSA members, the IFIs needs to get the HSA approval before appointment are made either by IFI's BOD or AGM.

As for composition member of the SSA in IFIs in UAE, there are no restrictions for any member of SSA to serve more than one IFI. There are also no any restrictions for any member of HSA to serve as member of the SSA.

The Qatar Model

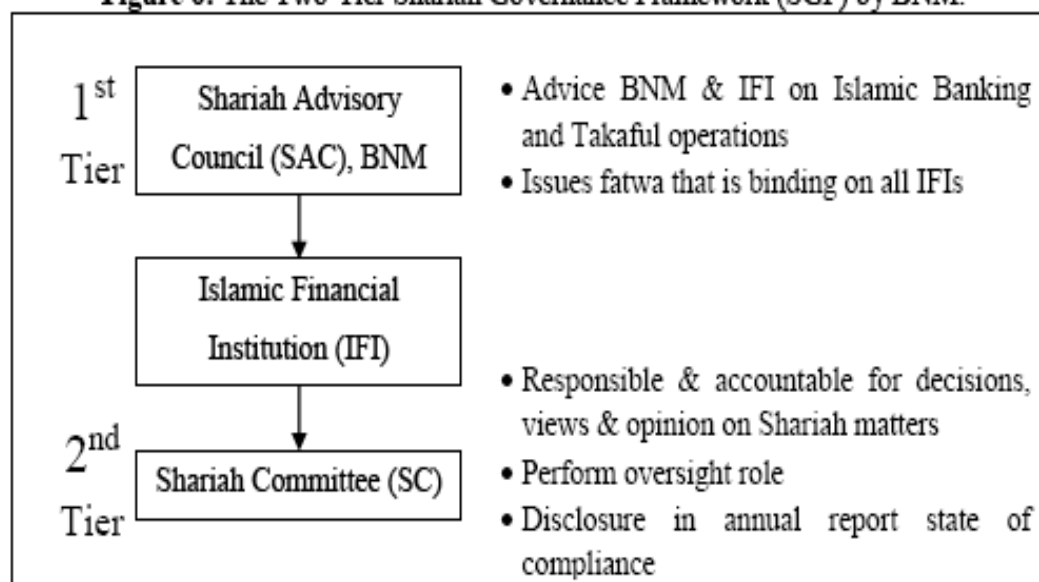
The Qatar Model adopted two-tier system when it has established the Shariah Supreme Council (SSC) under the Awqaf Ministry. Any issues arise regarding to shariah matters, it can be directed to SSC for clarification. Chapter 1 of Banking Risk, Credit and Financing Risk of the Instructions required for establishment of the Shariah Board (SB) for each IFIs in Qatar. As for composition member of the SB in IFIs in Qatar, there are no restrictions for any member of SB to serve more than one IFI. There are also no any restrictions for any member of SSC to serve as member of the SB.

The Malaysia Model

The Malaysia Model adopted two-tier system when it has established the Shariah Advisory Council (SAC) under the Central Bank of Malaysia (BNM). The SAC exercises as the sole authority for any matters pertaining to Islamic finance. For any disputes regarding shariah issues, those issues are brings to court or arbitrator. There also requirement for establishment of the Shariah Committee (SC) for each IFIs in Malaysia according to BNM/GPS 1. For appointment of the SC members, the IFIs needs to get the SAC approval before appointment are made by IFI's BOD.

As for composition member of the SC in IFIs in Malaysia, each member of the SC are restricted to only one IFI in the same industry. There are also restrictions for member of the SAC to serve as member of the SC. The following figure shows two-tier system used by the Malaysia Model according to Shariah Governance Framework (SGF) by BNM.

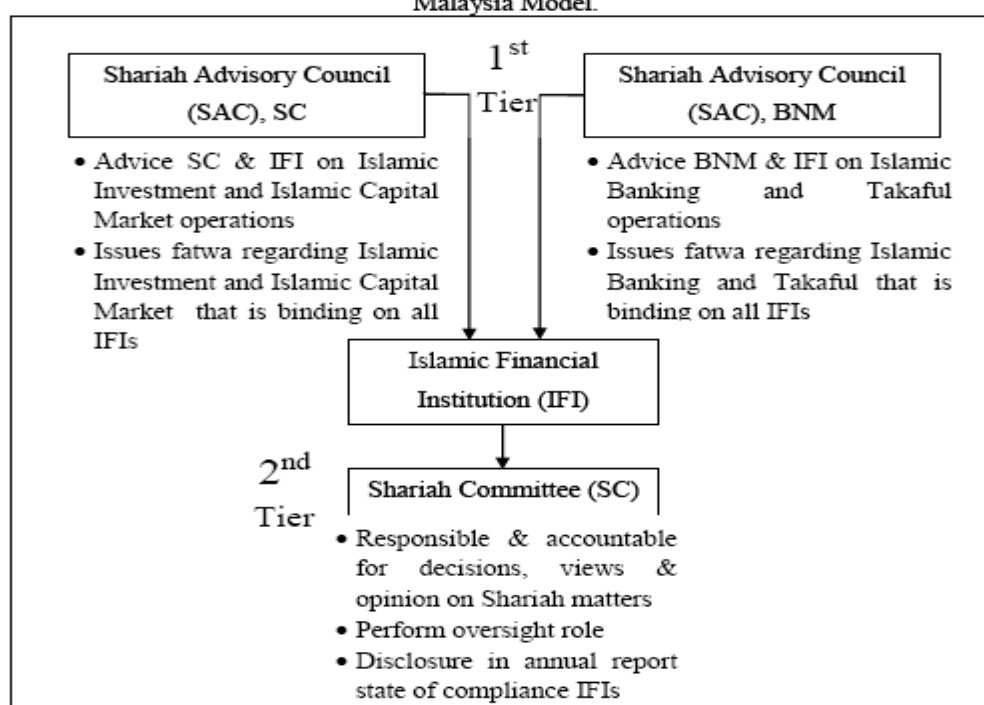
Figure 6: The Two-Tier Shariah Governance Framework (SGF) by BNM.



Source: Shariah Governance Framework (2010)

However, there are some issues regarding first tier authority. Basically, SAC are focusing on Islamic banking and *takaful* products and services. Regardless of these Islamic banking and *takaful*, operations of IFI also includes variety of investments and involves in capital markets. These part are not being focusing supervision area by SAC as these area are supervises under the Shariah Advisory Council (SAC) under the Security Commission of Malaysia (SC). In addition, the Islamic Financial Services Act (IFSA) 2013 also does not focusing on these area as it was set up by SAC BNM. Because of this lack, a new suggestion regarding this two-tier *shariah* corporate governance practices by the Malaysia Model are as following figure.

Figure 7: The New Suggestion of Two-Tier Shariah Governance Framework for the Malaysia Model.



Source: Authors

By implementing SAC SC as another final authority specifying in investments and capital markets area for IFIs, it can cover current loopholes in this related area and makes IFIs being monitored from this area. Any issues and problems regarding investments and capital markets, decisions that been made by SAC SC are be treat same as decisions by SAC BNM. Any possibilities for redundancy also hard to be happened as their responsibilities are in different areas.

This separation final authority between IFIs operation as business provider in products and services with IFIs operation as business investor in investments is need. Besides solving problems in investments and capital markets that currently not been supervised in specific and depth, it also enhances smoothies IFIs operation as business investor. Moreover, SAC SC is the one who professionally in *Shariah* investments and capital markets matters. Quran in the following verse 18:84 which is translated: *"Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing"* also asked to rend any pertaining matters to its experts.

4. CONCLUSION

The growth of Islamic based organizations especially in Malaysia practices cannot be taken lightly. This expands diverse in various sectors including IFIs can lead not only to serves shareholders wealth, but it also can be as a key player in economic and social stabilizations. As for that, *shariah* corporate governance being demanded and its existence are highly significant especially for society overall.

The challenges for IFIs should be taken seriously. Particularly, it is because there also carrying society's interests and good practices for IFIs can be ensured by having good *shariah* corporate governance practices. As for that, these *shariah* corporate governance studies can be extends on evaluations for these current *shariah* corporate governance practices.

Some other suggestions for better practices especially to enhance *shariah* corporate governance practices of IFIs in Malaysia are by developing a comprehensive *shariah* standard focusing on *muamalat*. A standardize *shariah* standard on *muamalat* will make IFIs are being guided to good practices in *muamalat*. Future study should also be undertaken to examine the current practices regarding roles and functions for *shariah* board among IFIs in Malaysia and to come out with the best practices according to *shariah* in ensuring Islamic practices are truly being implemented in IFIs.

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INTERNAL GOVERNANCE AS PERFORMANCE MEASUREMENT INDICATOR FOR WAQF INSTITUTIONS: A PROPOSED FRAMEWORK

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ABSTRACT

Waqf institutions have received tremendous public scrutiny of late for their roles in administering waqf funds. For that reason, measuring performance through proper measurement is crucial. Measuring performance is not only limited to financial indicators but is also beyond the financial measurement which is non-financial indicator. Since financial measures alone are not sufficient as a measurement tool, non-financial approaches need to be assessed. This paper mainly aims to investigate proper performance tools for *waqf* institutions based on internal governance structure. The approach of this paper is based on review of a range of published and unpublished documents. These documents were collated and filtered based on the defined rules to identify the performance measurement suitable for an organization. This paper also has established the importance of governance in organizations. The review synthesizes the previous research and views, thus capsulizing the structural overview for this topic. Internal governance performance measurement framework is proposed to conclude the study. Main obstacles for performance governance is the unstandardized disclosure requirement which may makes it difficult to measure performance. Therefore, a suitable framework can be used to measure the performance of waqf institutions and hence, enhance the institutions' accountability.

Keywords: Accountability, governance, internal governance, non-profit organization (NPO), performance measurement, shariah governance, waqf, waqf institutions.

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1. INTRODUCTION

There is no evidence in the Qur'an that deals specifically with *waqf* practices. However, many scholars agree that *waqf* was widely practiced since the arrival of Prophet Muhammad pbuh in Madinah. The first *waqf* is the mosque of Quba' in Madinah. The practice of *waqf* was then continued by the *sahabat* (Companion of the Prophet) like Umar, Abu Bakar, Osman and Ali. However, many verses in the Qur'an can be referred as the source to encourage *waqf*. For instance, in Surah Al Imran, verse 92, Allah (s.w.t) says, "*By no means shall ye attain righteousness unless ye give (freely) of that which ye love; whatever ye give, of a truth God know it well*". In Islam, there are many philanthropic tools that serve to protect wealth of the *ummah* especially from oppression and misappropriation. Among the well-established tools in today's world is the empowerment of *waqf* through the establishment of *waqf* institutions.

In Malaysia, the duty of managing and developing *waqf* assets is under the jurisdiction of state government through SIRC's (Hanefah et al., 2009). Article 3 (1) of the Malaysian Constitution had guaranteed the implementation of Islamic laws, although limited, and the establishment of various Islamic institutions such as Islamic religious council (SIRC), *baitulmal* (Islamic Treasury), *zakah* (Islamic taxation), *waqf* and fatwa council (an authority issuing religious decrees), under the jurisdiction of the states (Hassan, 2007). In recent years, various steps have been taken by the government and private companies toward accelerating and stimulating *waqf* developments in the country because of the benefits of *waqf* that provides social and economic welfare and not to mention its contribution in promoting religious charity (Aziz, 2012; Shafii et al., 2014).

Waqf as a charitable deeds in Islam can bring benefits to individual and the society. In a personal context, the altruistic act of giving away properties as a *waqf* is religiously motivated to demonstrate the gratitude for bounties enjoyed and an acknowledgement of blessings, as well as seeking to please God (Hasan, 2007). *Waqf* also instil the generous character building in Muslim societies. With regard to the society, Siraj et al., (2012) believed that the creation of *waqf* demonstrates the care of an individual towards the community and the underlying spirit of *waqf* habituates people to exercise duties to the public as stipulated in the Qur'an:

Verily, those who give Sadaqat (i.e. Zakat and alms, etc.), men and women, and lend to Allah a goodly loan, it shall be increased manifold (to their credit), and theirs shall be an honourable good reward (Paradise) (Qur'an: 57:18)

Despite being administered by the State, *waqf* has not reach its full potential yet due to several reasons. Several contributing factors have been identified as the source of the non-satisfactory *waqf* management, including legislative lacunae, administrative lapses, lack of potential will, indifference attitude of the management of the *waqf*, and lack of honesty and integrity (Saad et al., 2013). Due to these factors, the roles of *waqf* institutions in managing *waqf* were questioned. This has also put pressure to them due to the increasing demand for accountability from many parties especially the stakeholders. Considering the fact that *waqf* institutions exist for public' interest, they

have receive public scrutiny on how donor's funds were managed. In order to sustain the public's confidence, their performance should be assessed so that they can provide better and more efficient services as the sole trustees of *waqf* in Malaysia.

Measuring performance in *waqf* institutions is a challenge due to its unique nature compared to other institutions. As non-profit organisations (NPOs), management and reporting activities of *waqf* institutions emphasize stewardship for the resources entrusted to them. Due to the importance of the *waqf* donated to them, financial managers of these institutions need to determine the suitable performance measurement that assist them in managing the *waqf* effectively and efficiently. Performance measurement is essentially needed because it is part of management tools and responsibility and it does not only produce accounting related information but both financial and non-financial information.

Since financial measure is inadequate for strategic performance measurement, non-financial performance indicators have to part of the evaluation. One element that needs to be considered is the internal governance of the institutions. The Organisation for Economic Co-operation and Development (OECD) recommends that organizations should undergo evaluations related to the internal governance every year (Loo et al., 2015). These evaluations covers the competencies, performance and function of the boards. Therefore, a robust framework comprising performance governance should be included in performance measurement where it acts as a non-financial indicator.

Measuring performance is often linked to accountability and has gained interest especially in *waqf institutions*. It can be justified that *waqf* institution must be able demonstrate the capability to operate at its optimum and efficient level in ensuring the rationale of its existence (Mohd Noor et al., 2012). The fact that *waqf* institutions always need to fulfil objectives of the *waqif* (Person who gives *waqf*), have called for the need for a measurement system that will be able to monitor and maintain organizational goal, which is the process of ensuring that an organization pursue action plans that lead to the achievement of overall goals and objectives (Keehley & Abercrombie, 2008). The main problems associated with *waqf* institutions are lack uniformity of reporting, managed by non-professional and no standards has question the accountability of the institutions.

Maintaining excellent performance is not an option but it is rather a responsibility held by any organisation. The calls for accountability have encouraged some to use performance measures. However the role of governance as a monitoring mechanism to enhance firm performance is still vague. With the increasing lack of trust in firm's abilities to manage the money spent by public, the role of governance as performance measurement should be strengthen. Thus, the objectives of this paper is to propose a suitable internal governance performance indicator for *waqf* institutions. Hence, this paper is expected to contribute to the current literature review on performance measurement and governance of *waqf* institutions.

The structure of the remaining paper is as follows. The next section reviews the relevant literature on organizational performance and governance especially in NPOs and *waqf* institution. Section 3 provides the proposed performance indicator for *waqf* institutions and lastly section 4 concludes the paper.

2. BACKGROUND OF *Waqf* INSTITUTIONS IN MALAYSIA

The history of *waqf* practices before the commencement of Malaysia (once known as Tanah Melayu) was not properly recorded. However, the existence of *waqf* is believed to have started when Arab Muslim traders brought Islam to the land more than eight hundred years ago (Syed Othman, 1986). The development of *waqf* in Malaysia is mainly driven by religious education to promote education to the public. There are no written records on the establishment of *waqf* institutions in Malaysia before the nineteenth century excluding the establishment of Masjid Kapitan Keling, Penang in 1801 (Yaacob, 2013). According to Yaacob (2013), Muslims who wished to *waqf* their property in the earlier period would meet the village head (penghulu) to give *waqf* and the village head would be the trustee of the *waqf*. Thus, this explain why no records were made as it is a verbal based transaction between both parties.

Waqf affairs are the responsibility of the State Islamic Religious Councils (SIRCs). *Waqf* property are govern by shariah law and this has been enacted in the Section 25 of the Civil Law Act 1995 where administration of Muslim's property shall be guided by Islamic law (Yaacob, 2013). Meanwhile article 3 (1) of the Malaysian Constitution had guaranteed the implementation of Islamic laws, although limited, and the establishment of various Islamic institutions such as Islamic religious council, *baitulmal* (Islamic Treasury), *zakah* (Islamic taxation), *waqf* and fatwa council (an authority issuing religious decrees), under the jurisdiction of the states (Hassan, 2007). The duty of managing and developing *waqf* assets is under the jurisdiction of state government through SIRCs (Hanefah, et al., 2009). Ever since the appointment of SIRCs as the sole *waqf* trustees at the state level, the role on supervising and regulating *waqf* institutions in Malaysia became apparent (Siraj, 2013). Among the roles of SIRCs are to advise the King on matter relating to Islam and Malay custom and to develop policies on Islamic related matters, which makes it the highest authority on the administration of Islam in state governments (Mahamood, 2006; Roff, 1998).

Ever since the establishment of Jabatan Wakaf, Zakat dan Hajj (JAWHAR) in 2004, there has been a significant improvement in development *waqf* in Malaysia. JAWHAR was formed to ensure the management and administration of *waqf* properties, zakat and hajj are in order, systematic and effective. Despite having no legal authorities, JAWHAR has been appointed to spearhead *waqf* development activities throughout the country, together with SIRCs and other government agencies (Siraj & Karbhari, 2013). The introduction of corporate *waqf* is one of the resolutions in the Third Islamic Economy Congress on the 12-15 January 2009 and the States Islamic Council Congress on 26-27 September, 2011 (Ibrahim & Ibrahim, 2013). Corporate *waqf* according to Waqaf An-Nur Corporation is more than a charitable philanthropic act by a business entity. It is an initiative to combine *waqf* concept and apply it to achieve business and corporate objectives (Saad et al., 2013). Saad et al. (2013) further added, corporate *waqf* intends to redefine the role and function of business organisations in today's society by 'giving back' to the society and reaching out to the community.

Waqf institutions as a philanthropic organisation can be categorised as NPOs. NPO can be defined as an organisation that has “predominantly non-business characteristics that heavily influence the operation of the organisation” (Financial Accounting Standard Board, 1980). What distinguish NPOs from for-profit organisation is that they are a non-profit motive organisations that operate to achieve their mission rather than aiming to earn profit. Designation as NPOs has structured the organisation with no ‘owners’ and shareholders but rather serve the public and citizens with no intention of making profit and taking any rewards in return. Instead of generating profit, their aim is to create social value (Nathasa Mazna Ramli et al., 2015a). Like any other organisation, NPOs vary much in terms of mission, size, model of operation and impact, particularly in a cross sectional sense (Anheier, 2000).

3. THE NEEDS FOR ACCOUNTABILITY IN WAQF INSTITUTIONS

Accountability can be defined as the state of being accountable or liable. Accountability can also be referred as the quality or state of being accountable especially in an obligation or willingness to accept responsibility or to account for one’s action. In Gray et al. (1996), accountability can be defined as “the duty to provide an account (by no means necessarily financial) or reckoning of those action for which one is held responsible”. In ethics and governance, accountability is answerability, blameworthiness, liability and the expectation of account giving. In governance aspect, accountability has been a major discussion related to problem in the public sector, non-profit and private (corporate) worlds.

For an organisation that rely on donations, their management and reporting activities often emphasize stewardship and accountability for the resources entrusted to them. Due to the importance of donated resources, financial managers of *waqf* institutions need not to only determine the fund raising targets but also identify the best instruments that meet donor’s requirement (Keating & Frumkin, 2001). So why accountability matters? Many people view the concept of accountability as a final scorecard that raise the question whether you succeed or fail while performing duties and responsibility. This, is not the reason why accountability is being popularly promoted in *waqf* institutions. In reality, accountability should serve as a principle to guide *waqf* institutions to achieve their missions. Similarly, accountability should be approached as a mindset that shapes the goals and the action to be taken to achieve these goals. Rather than dwelling on accountability as culpability, focus instead on accountability as responsibility. Accountability should not be seen as a way of preventing failure but to encourage excellence.

World religion have preached accountability for centuries. In Christianity and Islam, entrance to heaven is determined on positive accounting of one’s life. In Hindu faith, concept of karma is taken into account in determining a soul’s destiny after death. The concept of accountability in Islam or *taklif* (a legal charge or obligation entrusted to someone) is differentiated from its western concept by insisting each person is responsible for his own deeds (Abdul Rahman, 1998). Izetbegovic (1984) viewed the Islamic worldview as a distinct and a unique paradigm, which is separate from the religious worldview (represented by) Christianity and the secular worldview represented by the west. Unlike the western concept of accountability, *taklif* encompasses the primary accountability relationship between human beings and God

and the secondary accountability relationship established with other individuals and physical subjects (Ibrahim, 2000; Ibrahim & Yaakob, 2006; Sulaiman et al. 2008).

In *waqf* institution, both management and providers of capital are accountable for their actions both within and outside the firm (Afifuddin & Nabiha, 2010). And this context of accountability refers to the community or society at large. Waqf institutions are not only accountable to the public but also the governing bodies for which they are required to provide an account for the performance of the stewardship of the resources according to Siraj (2012). These contexts of accountability can also be understood as multiple accountability which is divided into downwards and upwards accountability. Downwards accountability is when they need to answer to their partners, community, staff and public. While upwards accountability is answerability to their trustees, donors and governments. Nevertheless, both primary and secondary accountability must be carried out in parallel to ensure high standard of conduct as affirmed by Siraj (2012).

Information on performance is important to discharge accountability, besides financial accounting (Hyndman and Anderson, 1995; Cochrane, 1993), financial disclosure (Kamaruddin & Nathasa Mazna Ramli, 2015) and good governance (Nathasa Mazna Ramli and Muhamed, 2013). For an organisations that strive to manage their institutions with the best interest of all stakeholders, performance measurement is viewed as an important tool to achieve this goal. As accountability is divided into external and internal accountability, performance measurement is indeed vital. To measure the accountability of the *waqf* institutions, financial and non-financial measures are required as the notion of accountability does not necessarily limited to the financial measures only.

4. IMPORTANCE OF MEASURING PERFORMANCE

Performance measurement is an evidence to proof the credibility and accountability of an organisation. Nonetheless, why is it so important and what is the rationale behind measuring performance? Many NPOs claimed that they frequently measure their performance but failed to deduce why it is needed. Using performance measurement will improves the management and delivery of services to the public. It also enhance communications internally among employees as well as externally between customers and stakeholders. Besides, it is helpful in achieving eight specific purpose of management. Managers can use performance measures to evaluate, control, budget, motivate, promote, celebrate, learn and improve (Behn, 2003). Unfortunately, Behn (2003) affirmed that no single performance measure is appropriate for all eight measures therefore managers must select managerial purposes to which performance measurement might contribute and help deploy these measures.

Stakeholders often urged NPOs to measure their performance so that they can hold them accountable for their action. From stakeholders' point of view, how the organisations managed their fund are something they look forward to know. Through performance measurement, this will help justify programs and their costs effectiveness. It can also demonstrates the accountability and stewardship of the donors' resources. Phusavat et al. (2009) conducted a study to identify roles and challenges of performance measurement in organisations process and the result

performance measurement helps bring more scientific analysis into a decision making process. Furthermore, Wholey and Newcomer (1997) argued that performance measurement provide information that can be used to improve management and program effectiveness, improve policy decision making, and improve public confidence in government.

Measuring performance by relying only on financial information is inadequate as scholars (Nathasa Mazna Ramli, et al. 2014; Mohd Noor, 2012; Dewi et al., 2013; Kloot, 1999; Phusavat et al., 2009) agreed that non-financial information must be taken into account as well. Measuring through financial performance alone will only make visible to limited aspects of organisations performance (Kaplan & Norton, 1992). Dewi et al. (2013) suggested using performance analysis to observe accountability, management and reporting of *waqf* institutions. According to Dewi et al. (2013) who quoted Anthony and Young (2002), measuring performance in any types of organization should achieve at least two objective; (1) to measure efficiency (relationship between input and output) and (2) to measure effectiveness (relationship between output and objectives). Measuring net income is not enough to represent NPOs for the reason that revenue does not picture the actual output compared to forprofit organization.

A study by Siraj (2012) who attempted to examine the operational effectiveness performance measurement in SIRC's determined that performance measurement existed in all SIRC's (100%) which also shows that SIRC's pay serious attention to improve their efficiency and effectiveness in managing *waqf* to prove their accountability to the stakeholders. Also in the study, an evident of 86.1% of the respondents agreed that financial indicators were commonly used in SIRC's in contrast to non-financial indicators (13.9%). Given that SIRC's are public sector organisations that does not carry out profit motive business, profit related indicators could be less appropriate though they are undeniably important. Hyndman and Anderson (1998) affirmed though financial indicators are important, charitable contributors would be primarily concerned in the utilisation of resources for altruistic rather than economic reasons. Looking from the *waqif* perspective, they would be more interested to know how the resources were utilised according to the *waqif*'s intentions.

The frequency of performance review is another issue worth to be discussed for. The most common frequency review in SIRC's was the quarterly basis review (37.5%) while monthly basis (31.2%) took the second place (Siraj, 2012). It can be agreed that although measuring performance is needed, the frequency of the performance review can keep the *waqf* institutions moving towards the correct direction in achieving their goals.

5. PERFORMANCE INDICATORS FOR WAQF INSTITUTIONS

In corporate environment, financial indicators remain as the fundamental tool and is said to reflect the capital market's obsession with profitability (Scarlett, 2008). Financial information provides user with valuable insights about the financial validity and value of a company. However, financial indicator will impact the profit and loss account because it encourages management to cutting back expenses such as research and development (R & D) revenue expenses that will impact on the cost side of the

account. Financial indicator only provide one dimensional view of corporate activities. Scarlett (2008) also added, “The less you understand the business, the more you rely on accounting numbers. The nearer you get to the operation, the more non-financial performance indicators you realise could be valuable aids to better management tools’. On another note, emphasizing money measurement will cause the organisation’s long term viability becomes threatened. Therefore, relying solely in financial measurement will give an incomplete set of management tools.

Khairi et al. (2014) used five ratios to analyse financial statements of JCorp’s subsidiaries which are liquidity ratio, asset management ratios, debt management ratio, profitability ratio, and market value ratios. Both companies have strong financial position and sufficient liquid assets to fund their business operations. In term of asset management, KPJ Healthcare proved to have a better ratio. For instance, its inventory turnover ratio for 2011 and 2012 is higher than Kulim (M) Berhad. Findings also showed that between 2011 and 2012, Kulim (M) Berhad has a healthy condition in managing debt (39.9% in 2011 and 42.3% in 2012) of their operation. Kulim (M) Berhad has a slightly higher profitability ratio with a recorded high percentage of operating margin and profit margin of 20.7% and 22.9%. KPJ Healthcare is in good position compared to Kulim (M) Berhad in the market value analysis which is 0.019 times to 0.021 in 2011 and 2012 respectively. Khairi et al. (2014) stated that this analysis of financial statements is an important tool in assessing company’s performance.

Similarly, Nathasa Mazna Ramli et al. (2014) examined the performance of *waqf* institutions using financial and operational measures. Net income ratio, operating income ratio, income growth, administrative efficiency, program efficiency, growth of program, fundraising efficiency, and cash availability were the indicators used. The study analysed five year (2008-2012) annual reports of four Islamic State Religious Councils. They found that in terms of *waqf* collections, all *waqf* institutions have increasing amount of *waqf* funds. The institutions are also able to generate income from their core activities. However, results from the program expenses is not very high though the amount increased from year to year. The study highlighted that the institutions might not have a number of projects and programs relating to the role as the trustee.

Performance measurement indicators in NPOs should be distinguished from forprofit organization indicators. Some of the measures in NPOs should be a non-monetary measures. This is due to some aspects of organisation activity cannot be expressed in money. Unfortunately, measures such as social impacts and public benefits are much more difficult to measure because they are often intangible and hard to quantify in monetary forms (Shafii et al., 2014). Shafii et al. (2014) further supported her statement by exploring two different *waqf* institutions and discovered that measuring financial ratios alone could be problematic. Though ratios can provide meaningful comparison between similar institutions, they possess several weaknesses. For example, Operating Income (OI) ratios does not indicates good financial performance when used in *waqf* institutions. In fact high rate of OI means there is low level of program expenses, therefore is not a good indicator for Program Efficiency. This has resulted in a greater need for a specific performance measurement indicators for NPOs.

Meanwhile, Mohd Noor et al. (2012) conducted a study to propose a performance measurement framework in zakat institutions emphasize that performance management and measurement systems developed in Islamic based organization must have the mean to monitor and maintain organizational control. This is to ensure that an organization pursue action plans that lead to the achievement of overall goals and objectives (Keehley & Abercrombie, 2008). Hence, to build a performance indicator for *waqf* institutions, various dimensions must be taken into consideration. In line with these views, Siraj (2012) stated that opinions from all stakeholders, which include top management, operating managers, and the public, particularly the *waqif* should be taken into account when developing performance indicators. Her study then shows the result where Chief Executive Officer (CEO) are the greatest contributor (91.4%) in the development of performance indicators in SIRC, followed by Head of Division (71.4%). One of the respondents used External Consultants (2.9%) to help them develop the indicators.

Going beyond financial measures is what have been suggested by researchers (Shafii et al., 2014; Dewi et al., 2013; Kloot, 1999; Scarlett, 2008; Kaplan and Norton, 2005) of late. The use of non-financial indicators in addition to financial indicators will assist to a broader spectrum of organisational performance (Kloot, 1999). On the same thought, Kaplan and Norton (2005) testified that there is a widespread recognition that the dimensions of performance are broader than the financial performance itself. Financial performance indicators measure and make visible only limited aspects of an organisation's performance. Considering the above principles, Dewi et al. (2013) recommended a performance measurement ratios for *waqf* institutions using six ratios; program efficiency ratio, operating expense efficiency ratio, margin or rental activities ratio, return on investment ratio, fundraising efficiency ratio, and distribution efficiency ratio. Besides these ratios, she also proposed input, output and outcome based indicators as measurement indicators.

Shafii et al. (2014) proposed indicators to measure performance which can be categorized into two; financial performance and operational performance. Ratios suggested are net income ratio, operating income ratio, income growth, administrative efficiency, program efficiency, growth of program, fundraising efficiency, and cash availability. Important measures suggested by Dafterdar (2007) is to measure performance to ensure expected outputs and outcomes of *waqf* are achieved in accordance with the conditions of the *waqif*. Given the above suggestion *waqf* institutions which is presented in Table 1 below:

Table 1: Measurement Indicator for *Waqf* Institutions

Category	Ratio	Performance Measures	Formula
Financial Performance	Net Income Ratio	Whether operating activities resulted in a surplus or deficit	$\frac{\text{Change in net assets}}{\text{Total income}}$
	Margin of rental activities	Extent to which income generated from rental activities and how property were managed	$\frac{\text{Rental revenue} - \text{rental expense}}{\text{Rental revenue}}$
	Return on Investment	To evaluate efficiency of investment to obtain adequate return	$\frac{\text{Investment Income}}{\text{Average Investment}}$
	Income Growth	Extent to which the organisation is able to generate income from its activities	$\frac{\text{Inc year} - \text{Inc year (n-1)}}{\text{Inc year (n-1)}}$
Operational Performance	Operating Expense Efficiency Ratio	To see if management is able to fund day to day operations (salary expense and other administrative expense)	$\frac{\text{Operating Expenses}}{\text{Total Expenses}}$
	Program Efficiency Ratio	To identify how much money generated by waqf assets is being spent to achieve waqf objectives	$\frac{\text{Program Expenses}}{\text{Total Expenses}}$
	Growth of program	The increase of core activities	$\frac{\text{Prog Ex. Year n} - \text{Prog Ex. Year (n-1)}}{\text{Year (n-1)}}$
	Fundraising efficiency	Extent to which the organisation is able to generate surplus from the donation	$\frac{\text{Surplus}}{\text{Total donation}}$
	Distribution Efficiency Ratio	Whether waqf funds have efficiently distributed to eligible beneficiaries	$\frac{\text{Distributed benefit}}{\text{Investment income}}$

Source: Extracted from Dewi et al. (2013), Shafii et al. (2014)

6. CHALLENGES OF PERFORMANCE MEASUREMENTS IN WAQF INSTITUTIONS

Measuring performance in *waqf* institutions can be challenging due to lack of uniformity of accounting practices. Absence of guidelines and mandatory regulations lead to different presentation and disclosure of financial information for the reason that the power to decide the extent and type of disclosure remains with the SIRC itself (Mohd Zain et al., 2013). Comparing performance between each *waqf* institutions will be inaccurate because of different accounting practices. This is agreed by Atan et al. (2013) who wrote that it is not an easy way to measure performance in *waqf* institutions due to the absence of profit motive, difficulties in measuring outputs, lack of similar objectives and lack of consensus in evaluating performance.

Study conducted in Tabung Wakaf Indonesia (TWI) by Dewi et al. (2013) showed that TWI had a relatively good performance considering that it is a well-known institutions managed by professionals and is registered as legal Indonesian *waqf* institutions. However, several performance indicators cannot be measured due to unavailability of data. Issues on missing documentation and improperly recorded *waqf* properties are the main gap found in *waqf* institutions according to scholars (Ihsan, 2007; Shafii et al., 2014; Mohd Zain et al., 2013).

Disclosure practice of *waqf* in SIRC's of their *waqf* reporting is also a problem. Disclosure of financial statement items of the SIRC's need to be segregated by type of fund due to the different in nature and restriction by shariah (Mohd Zain et al., 2013). Using Financial Reporting Practices Disclosure Index (RFPDI), the extent of disclosure for each SIRC's is calculated based on the ratio divided by the maximum potential score for the SIRC. The results are then expressed in percentage form. From the study, the overall disclosure for *waqf* financial statement items is at moderate level even though they have the resources to prepare for a more comprehensive financial reports. Meanwhile 25% of the samples scored less than 50% that falls under the low level of disclosure.

Obstacles in measuring performance highlighted by Shafii et al. (2014) was the number of available full time employees and volunteers, financial resources and information system support. In line with this, Conaty (2012) outline five organisational attributes that contribute to the challenges for performance measurement; (1) the inter-stakeholder relationship – there is a complex stakeholder set on NPOs there managing and understanding the complex relationship is seen critical to overall performance measurement and management; (2) there are tensions across priority objectives – significant tension between the priority objectives of the primary service delivery stakeholders; (3) culture and institutional clashes – impacts of cultural and institutional differences; (4) power distribution – the role of power distribution is central to public sector performance yet little misunderstood, (5) interdependent stress – partial loss of identity and autonomy that may arise in interdependent and dependent relationships.

7. GOVERNANCE FOR WAQF INSTITUTIONS

Governance according to Nijmeddin (2007) who quoted Nadler et al. (2006) is the ability to achieve organisational goals through some form of performance measurement. While effective governance refers to the practice used by the board members that meet or exceed the objectives and goals of an organisation within a specified ethical and legal standards, timelines, and budgets. It can also be defined as the process of governing and organisation which involve the activity of decision making to provide services to the public. Hyndman and McDonnell (2009) viewed governance in NPOs as “relating to the distribution of rights and responsibilities among and within the various stakeholder groups involved, including the way in which they are accountable to one another; also relating to the performance of the organisation, in terms of setting objectives or goals and the means to attaining them”. Meanwhile The United Nations Economic and Social Commission for Asia and the Pacific (2008) defined governance as the process of decision making and the process by which decision are implemented.

Financial and ethical abuse in NPOs resulted in empowering governance especially in assessing boards' performance. Governance forms the framework for all aspects of an organisation's activities. Thus, a good governance promotes public confidence since decision are made in a transparent and accountable way. It also leads to a better decisions as managers are informed by good information and data. Good governance will also support ethical decision making since managers always opt for the right thing to do with resources entrusted to them. Having to account for choices made in a transparent way indirectly encourage honest judgement in governing process. Overall, the need to measure governance is to promoted governance accountability and leadership effectiveness. Most importantly, governance need to be measured as good governance minimised the possibility of poor organisational performance.

Malaysian Code of Corporate Governance (MCCG) outlined eight principles to encapsulate broad concepts of good corporate governance that companies should apply. The principles introduced are as follow:

1. Establish clear roles and responsibilities
2. Strengthen composition
3. Reinforce independence
4. Foster commitment
5. Uphold integrity and manage risks
6. Ensure timely and high quality disclosure
7. Strengthen relationship between company and shareholders

Nathasa Mazna Ramli et al. (2015a) conducted a study by analysing Waqaf An-Nur Corporation's (WANCorp) annual report to examine their internal governance structure. The study reported that the corporation is represented by 13 BOD members and 2 treasurers with BOD were embodied by members with different background. The BOD are also represented by directors Johor Corporation's (JCorp) as WANCorp is a subsidiaries established by JCorp. There is no female director in the board but there is an appropriate balance of skills among them and it also represent both management and shareholders' interest. Unfortunately, Audit Committee, Risk and Management Committee, Nomination Committee, Remuneration Committee and Shariah Committee were not disclosed in the report. KPMG were listed as their external auditor but they did not mention any internal auditor of the company. Three risk are mention in the reports namely credit risk, market risk and liquidity risk. Since they does not publish information on Nomination Committee, how the boards are elected is unknown. Fees paid to boards were disclosed in financial statements and they are not eligible for any benefits from shares. Though they do not have a Shariah Committee, they do have Department of Business Development and Shariah Compliance which is believed to assist they BOD in shariah matters.

Another study was then conducted by Nathasa Mazna Ramli et al. (2015b) to examine the governance process and existence of shariah governance in Indonesian *waqf* institutions. Two institutions, Institution I and Institution II, were selected as sample. Based on case study method, they found that Institution I is chaired by a Director and Chief Executive Officer (CEO). The appointment of the CEO is made only on trust basis of whom they believe is capable to manage the organisation. In addition, the

appointment and recommendation are made by observing their character and leadership style. *Shura* (a consultative council where a group of people gather to make decision) a consultative council. The appointment of the CEO is seen as weakly selected as there is no committee established to properly nominate the directors. Meanwhile in Institution II consists of Executive Agency and Advisory Council each led by a Chairman and two Vice Chairman who are elected by the members. BODs were represented of at least twenty person and a maximum of thirty people from various elements of society. Unlike Institution I, Institution II's members are appointed and dismissed by the President of Indonesia and are appointed for a term of three years. Both institutions is audited by external auditor every financial year but there is no internal auditor as their directors are competent enough to manage the institutions.

From Islamic perspectives, compliance towards Shariah Governance is important especially for Islamic institutions. Bank Negara Malaysia (BNM) plays an important role in ensuring that these institutions operates in accordance with shariah principles (Nathasa Mazna Ramli et al., 2015a). A two-tier SG is introduced by BNM with shariah advisory body being the first component centralised at BNM. The second component which is Shariah Committee is an internal body establish at firm level. The introduction of Shariah Governance Framework is to enhance the role of board, SC and the management in matters related to shariah. Effective on 1 January 2011, the framework was imposed and all Islamic institutions are required to comply with this framework. BNM outlined eight elements of SGF which consist of Board of Directors (BOD), Shariah Supervisory Board, Internal Shariah Review, Shariah Audit, Shariah Risk Management, Shariah Research, Management and Shariah Secretariat.

Miller (2001) stated that NPOs' governance is the main target of NPO watchdogs. They are primarily concern on transforming governing boards to ensure that NPOs are accountable for their objectives that have been set by the funding entity (Nijmeddin, 2007). Because of the attention from public on how NPOs managed their funds, there is a compelling case for a continuing appraisal of the question of how performance should be approached, viewed and managed (Conaty, 2012). Investor particularly put governance on par with financial indicators when evaluating investment decision (Wilkes, 2004). Therefore, Bouckaert and Halligan (2008) proposed performance governance which consists a staged evolutionary set of four models; performance administration, management of performance, performance management and finally performance governance. Also, Bouckaert and Halligan (2008) described, performance governance expands the span of the performance framework (from policy objectives driven by needs, to inputs, through to process, outputs, outcomes and stakeholders trust) and the depth of the performance framework through policy levels fields.

Shafii et al. (2014) proposed shariah governance framework for NPOs which consists board of directors, shariah committee, management, assets management and investment, risk management committee, shariah review and shariah audit. Governance from Islamic perspective can be linked to the term shariah which literally means 'the way to the source of life' and in technical sense, it is now used to refer to a legal system in keeping with the code of behaviour called for by the Holy Quran and the Sunnah (Lewis, 2005). Holding the principles of shariah, every human being must

conform to Islamic law and behave according to the ethical standards set out in Islamic principles. Lewis (2006) clarified these principles define what is true, fair and just, the nature of corporate responsibilities, the priorities to society, along with some specific governance standards. As an Islamic institutions, *waqf* institutions must adhere to Islamic governance which has specific set of business ethics and financial principles.

Governance in Islam need to adhere to shariah which claims sovereignty over all aspects of life, ethical and social, and to encompass criminal as well as civil jurisdiction as viewed by Lewis (2005). He also agreed that contrary to western governance Islamic governance necessarily has a wide commission, with obligations extending to suppliers, customers, competitors and employees, embracing the spiritual as well as the temporal needs of the Islamic community. The major difference between Islamic and conventional governance is the objectives of the company. While conventional company objectives may be varied in NPOs, Islamic institution seek to fulfil his purpose to serve Allah as His servant. Therefore, in Islamic society, they will avoid having conflicting interest among them (Kasri, 2009). Islamic model of corporate governance also advocates comprehensive approach by emphasizing the elements of ethics as propounded in al Quran and al Sunnah (Hasan, 2012). There is no significant difference in the effective governance tools in Islamic and conventional governance. The only addition in Islamic governance is the roles of shariah committee and shariah audit. Important tools such as internal control, internal and external audit and risk committee are practically the same. Further elaboration on the distinctiveness of corporate governance theories from Islamic and western perspectives as summarized by Hasan (2012) can be illustrated in Table 2 below:

Table 2: The Distinctiveness of Corporate Governance Theories from Islamic and Western Perspectives

Aspects	Shareholder Model	Stakeholder Model	Islamic Model
Episteme	Rationalism and Rationality Ethics is social construct	Rationalism and Rationality Ethics is socially construct	Faith-based rationalism: <i>Aqidah</i> , Shariah and <i>Akhlaq</i> Ethics is holy revelation
Rights and interest	To protect the interest and rights of the shareholders	The right of community in relation of the corporation	To protect the interest and rights of all stakeholders but subject to the rules of shariah and ethics
Corporate goal	Shareholders profit	Stakeholders and social welfare	Maqasid shariah (protection of the welfare of the people, which lies in safeguarding their faith, life, intellect, posterity and wealth (Al-Ghazali, 1937)); Ethics is part and parcel of maqasid shariah
Nature of Management	Management dominated	Controlling shareholder dominated	Concept of <i>Khalifah</i> (Vicegerency), <i>shura</i> (consultation) and

			subject to shariah and ethics
Management Boards	One-tier board No specific Committee on ethical issues	Two-tier boards: Executive and supervisory Board/ No specific committee on ethical issues	Shariah board or any institution that responsible on the shariah and ethical issues
Nature of Business	No specific restriction on any kind of business	Less prioritised No specific restriction on any kind of business	Only shariah and ethical permissible activities are allowed

Source: Hasan (2012)

8. INTERNAL GOVERNANCE INDICATOR FOR WAQF INSTITUTIONS: A PROPOSED FRAMEWORK

Since financial ratios alone cannot be the utmost measures of success in *waqf* institutions, these organisations have to develop the performance measures which can be better measure efficiency and effectiveness (Nathasa Mazna Ramli et al., 2014). Loo et al. (2015) highlighted that governance failure is one of the major motives behind the need of internal governance, particularly board assessment for organizations. Therefore, based on discussions in the previous section, this study proposes the following framework:

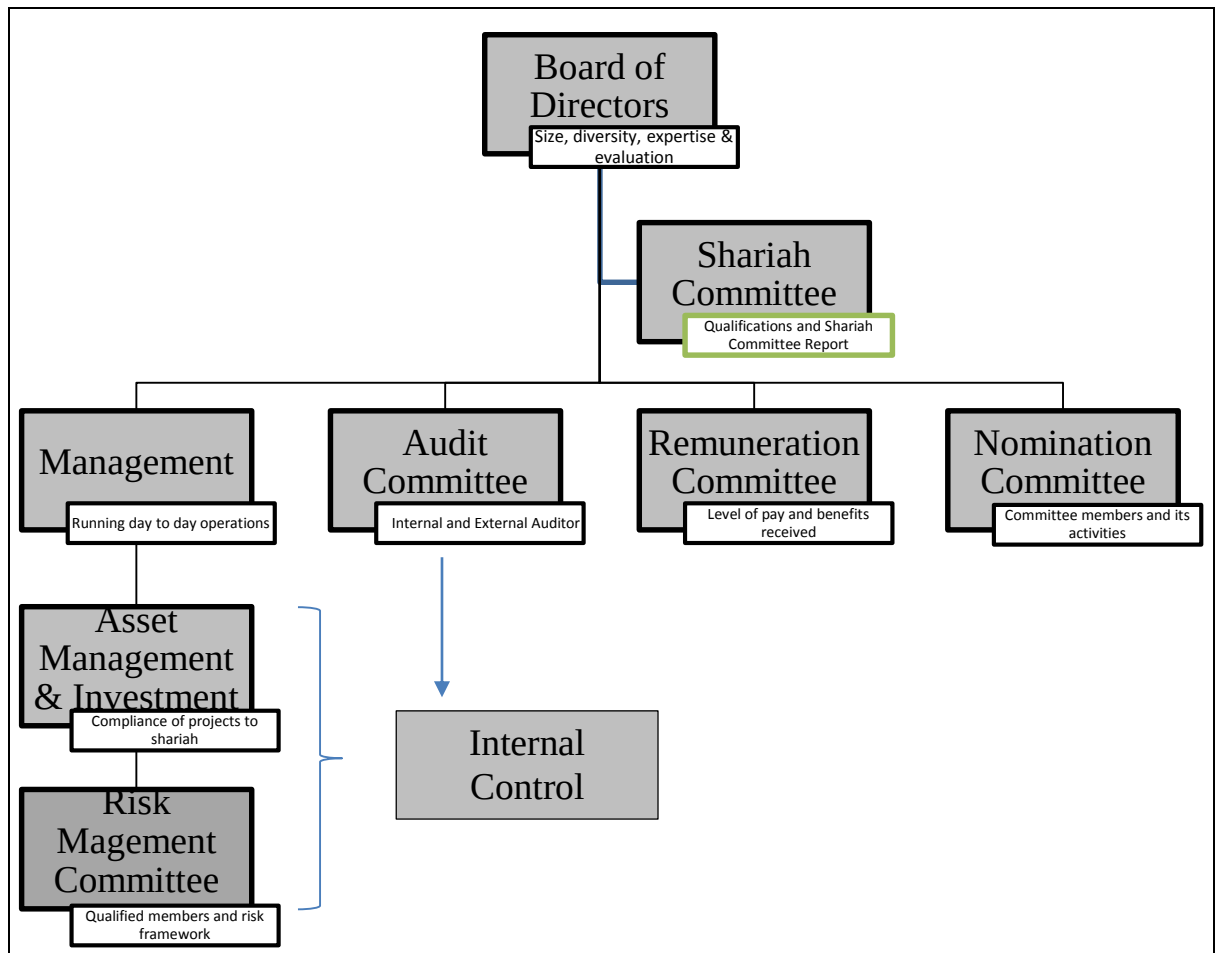


Figure 3: Proposed Internal Governance Performance Measurement Framework for Waqf Institutions

Based on the above framework, it is shown that BOD played important part in the internal governance system. BOD as the appointed members to govern the company hold the utmost privilege and power to establish corporate management related policies and the authority to make decision on major company issues (Nathasa Mazna Ramli et al., 2014). For that reason, their performance should be measured individually to determine if they are capable in performing their duties with the best interest of their stakeholders. Although BOD performance is assessed annually, individual assessment is indeed vitally needed to analyse their competencies and independence as they are responsible in making decision on stakeholders' behalf. On the other hand, BOD should comprises a fair representation of both management and shareholders' interest. Likewise, it should be represented by various individuals with variety of personalities, experience, educational background and expertise. However, only few charities use the annual report to disclose such skills which make it very difficult for reader to understand what particular skills or experience the members bring to the board (UK Charity Governance Review, 2014). In *waqf* institutions, the BOD should be represented by members with non-shariah and shariah background. It would be a privilege if the members are experts in both areas.

Board representatives should comprise a balance of power for an efficient decision making. UK Charity Governance Review (2014) identified that 22% of the top 100

charities in the UK have a female chair while only 1.5% of FTSE 350 (an index where a market capitalisation weighted stock market index incorporating the largest 350 companies listed on the London Stock Exchange) companies. A good gender diversity balance is good as it ensures effective operation of the board itself considering what the female members can contribute. Unfortunately, limited disclosures on the information of the members make it impossible to judge other areas of diversity such as ethnicity, background and age. The review found that only 15% of charities provide short biography on the background of the board members. The optimum number of members serving on the board found by the review is 12.8 people being the average. In addition, the board should undertake a formal and rigorous annual evaluation of its own performance and that of its committee and individual directors as suggested by the UK Corporate Governance Code.

BOD should establish several committees to monitor the firm. Audit committee, Nominating Committee, Shariah Committee and Remuneration Committee are established by BOD to strengthen the composition of the company. Responsibilities of Audit Committee as suggested by MCCG are to ensure that the company's financial statements adhere with applicable financial reporting standards. They should also review and monitor the suitability and independence of external auditor. On the other hand, the Nominating Committee responsibilities include assessing and recommending to the board the candidature of directors, appointment of directors to board committees, review of board's succession plans and training programs for the boards. An important governance structure of *waqf* Institutions is to have a Shariah Committee. Shariah Committee is responsible to advise the board on shariah matters of its operations. Remuneration committee should be established to promise fair remuneration that reflect the board's responsibilities, expertise and complexity of the company's activities. As suggested by the Charity Review, *waqf* institutions could consider giving more information about pay reviews and benchmarking to help maintain public confidence and trust.

The most common committee after the Audit Committee is having the Remuneration Committee in their governance structure. Transparency on remuneration is highly encouraged and can be disclosed in the annual report that shows level of pay to the BODs including any benefits they are eligible for. Method and the regularity of pay should also be provided apart from any due regards for any conflict of interest between the members. 54% among the top 100 UK charities do not report the details of what the Audit Committee has done during the year. This is indeed unfortunate because Audit Committee is established to monitor and review the effectiveness of the company's by reporting to the board on how it has discharged its responsibilities. The review also encouraged to provide brief biographies of the members. 15% of the charities in the UK give details beyond the basic requirement by law (the name, date of appointment and date of resignation). The biographies allows readers to gain some understanding of what these members bring to the board and how they will work together.

Through Remuneration Committee, there should be a disclosure on who sits on the committee and information on their activities throughout the year. Nomination Committee should provide an analysis of skills required on the board. The appointment of Shariah Committee should be approved by Bank Negara Malaysia

(BNM). BNM has set out minimum requirement of the committee to at least either have qualification or possess necessary knowledge, expertise or experience in the Islamic Jurisprudence (*Usul al-Fiqh*) or Islamic transaction or commercial law (*Fiqh al-Muamalat*). The management is responsible to ensure the *waqf* management is well managed according to the objectives of the institutions. Meanwhile assets management and investment is established to make sure *waqf* projects and investments are assessed and conducted based on Maqasid al-Shariah. Lastly, Risk Management Committee is responsible to monitor that the assets management and investments is shariah compliant. Thus, it must be equipped with risk management personnel who possess sufficient experience and qualifications, including market and product knowledge as well as sound and practical knowledge of risk disciplines to provide specialised analysis and perform effective risk reviews.

Very little attempt is made to conceptualize internal control as a governance system. Solomon and Solomon (2004) believed that without an effective internal control, companies can undergo substantial financial losses as a result of unanticipated disasters. COSO (1992) stated that internal control is broadly defined as process, effected by an entity's board of directors, management and other personnel – designed to provide reasonably assurance about the achievement of the entity's objective with regard to reliability of financial reporting, effectiveness and efficiency of operations and compliance with applicable laws and regulations. The COSO framework also proposed five components of internal control objectives that need to be focused which are; (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication and (5) monitoring activities.

9. SUMMARY

There is a great deal of literature on performance measurement and accountability in government however only few studies attempted to look into performance measurement and governance in *waqf* institutions. Since the purpose of *waqf* institutions is not to maximise profit but focus on delivering services to the public through proper administration of funds, the credibility of the governing bodies of these institutions remain as the major concern. With increased accountability that oftentimes aimed at the stakeholders, one of the right way to assessed performance is through governance. Scandals and wrongdoings have destroyed public confidence in governance and stakeholders are required to be accountable for these matters. Hence, how governing process is monitored and evaluated is a popular interest from the public. Nonetheless, the main obstacles for performance governance is unstandardized accounting standards which sometimes makes it hard to measure performance. *Waqf* institutions basically follow general accounting standards when preparing their accounts. The general standard mainly focuses on reporting profit and loss account which seem insufficient for a nonprofit sector like *waqf* institutions. Though they follow the same standard, the problem with unstandardized accounting reporting is still a concern given that they are no specific guidelines and standards that were designed to suit *waqf* institutions.

This paper has proposed internal governance performance measurement framework for *waqf* institutions. The framework is developed based on the understanding of the importance of performance measurement, particularly non-financial indicators. The

framework has given basic indicator for internal governance evaluation, particularly to *waqif* to assess the waqf institutions. Discussion in this paper has opened further questions relating to internal governance evaluation. Particular questions on how to scores the existing internal governance of waqf institutions. Based on the framework developed in this paper, future research could develop an index as performance measurement tool. This tool would be suitable for external stakeholders. Besides that, questions also will arise relating governance process and board effectiveness. Future studies should be done relating to assessing the actual internal governance. This study can either be done through interviews and content analysis of documents. Another type of performance measurement tool can be developed, specifically for internal evaluation process. It is expected that future studies in these areas could enhance the accountability of the institutions and increase the confidence of stakeholders.

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GOVERNANCE OF SHARIAH-BASED COOPERATIVE INITIATIVES IN INDONESIA AND MALAYSIA

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ABSTRACT

Shariah-based cooperative is essentially the transformation of conventional cooperative through an approach which is in line with the Shariah principles. It could be one of the best solutions in supporting Islamic banking and finance for unbankable customers. Islamic cooperatives make up a considerable percentage of economic activity, yet their governance requirements and structures have historically tended to be ignored, or sometimes assumed to be similar to those for other organisations. For many authors, good governance is the key variable in the firm valuation besides the mitigation of agency conflicts. Hence, study of governance is important towards the achievement of the respective goals and objectives. This paper identifies some of the governance frameworks in Shariah-based cooperatives in Indonesia and Malaysia. For Indonesia's Shariah-based cooperatives, much of the discussion involves the regulatory provisions related to cooperatives and discussion on Shariah-based cooperative models in Indonesia. The paper also discusses the conventional and Shariah governance initiatives for Shariah-based cooperatives in Malaysia such as the establishment of Shariah Committee and other aspects of cooperative governance such as principles for Board governance and management. The discussion offered in the paper on governance of Shariah-based cooperatives is useful for regulators in both countries to promote growth of cooperatives as clear governance structures are vital to ensure integrity and accountability of cooperative management.

Keywords: non-profit organisations, cooperative, governance

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1. INTRODUCTION

Cooperatives are formed with the idea of mutual cooperation. Every cooperative movement is developed to render service to its members rather than to earn profit (Mohamad, Othman & Mohamed, 2013). Due to the features, cooperative has the potential to solve the issue of poverty alleviation and improvement of income distribution, which currently is a central focus of governments' economic policy making.

In some rural areas which includes less developed as well as developed countries such as Pakistan, Bangladesh, Uganda, Indonesia, Brazil and Canada, have shown that microfinance instrument has played a substantial degree of social intermediation. However, questions have been brought up around the significance of microfinance to be a portion of commercial banks' portfolios. This is because the operating routines of the commercial banks are found incompatible to support the poor group.

As such, non-government organization (NGO) which includes cooperative is found as a good arrangement for the lower income people. However, the NGO has restricted capacity and inadequate investment in microfinance due to small credit operation. Macroeconomic stability should be the targeted objective as to achieve financial viability and sustained economic development. The core competencies of cooperative require further research in ensuring the effectiveness and efficiency policy framework.

Institute of International Cooperative Alliance (ICA) (1995), defines a co-operative as an autonomous association of people, joined voluntarily to satisfy the needs and aspirations in the area of economic, social fellowship and civilization through a collective process and controlled democratically. The co-operative must contain some features; first, a group formed by the union. Second, they are composed of suppliers and users. Third, their act of cooperation is done voluntarily. Fourth, there is a profitable company in a group. Fifth, the business risk is shared and sixth all members agree to work together to provide a contribution, make sales and purchases by co-operatives and so on.

Similar to other businesses, cooperatives must remain productive and efficient, provide products and services to customers and have sound financial condition. However, cooperatives are different from other businesses in one particular nature that cooperatives are owned by the members, not shareholders. Therefore, cooperatives should develop different approach to philosophy, structure, ownership and governance (EY, 2012).

Along with the development of Islamic finance, Islamic cooperative has also been developed well. It is basically the revolution of conventional cooperative which operates based on Shariah principles. Islamic cooperatives are expected to support Islamic banking and finance for unbankable customers. The significant contribution of cooperatives are sometimes underestimated and neglected. The cooperative sector as a whole remains poorly understood and its specific governance challenges remain as yet largely unexplored (Shaw, 2006). Furthermore, Islamic cooperatives make up a considerable percentage of economic activity, yet their governance requirements and structures have historically tended to be undervalued and ignored. This paper

highlights current practices as well as absences in the cooperative governance system in Indonesia and Malaysia. In specific, this paper identifies some governance frameworks of governance in Shariah-based cooperatives in Indonesia and Malaysia. Taking as a starting point the distinct nature of cooperatives, issues of governance in cooperative sector is explored. For Indonesia's Shariah-based cooperatives, much of the discussion involves the regulatory provisions related to cooperatives and discussion on Shariah-based cooperative models in Indonesia. The paper also discusses the conventional and Shariah governance initiatives for Shariah-based cooperatives in Malaysia such as the establishment of Shariah Committee and other aspects of cooperative governance such as principles for Board governance and management. Therefore this study will fill in the gap of proposing the governance best practice framework for the Indonesian cooperative movement.

2. GOVERNANCE IN COOPERATIVE SECTOR

Good governance is now accepted as vigorous to achieving the sustainable economic growth. However until now little attention has been paid to the governance needs of other institutional forms of business such as cooperatives despite their considerable presence in many developing countries Shaw (2006).

Corporate governance is a very general phrase defined by the Cadbury Report (1992) as "the system by which companies are directed and controlled". It is concerned with structures and responsibilities within companies. It provides the structures through which the objectives of the companies are set, and the means of attaining those objectives, and how monitoring performance are determined. More specifically, corporate governance concentrates on the relations between the directors and managers of the corporation and other parties.

Saxena (2012) argued that governance in cooperatives is different as compared to private corporates. In cooperatives members have equal rights & representation in the decision making irrespective of their share-holding; while in private corporates the representation is decided by the capital invested by the shareholders, i.e. more capital more representation. Corporates bring their own brands & goods; and impose them without caring for the needs of local masses whereas the operations of cooperatives are need- driven of members; as the members are the consumers of goods.

The implementation of corporate governance is much more difficult in cooperative movement compared to public corporations due to some reasons including the application of one-member one-vote principal in cooperative, is the absence of external scrutiny for cooperative from the skilled investors, including analysts and financial institutions, as applied in the public companies, the lack of skills and experts (Othman, Mohammad & Abdullah, 2013). Other than that, lack of capital and lack of integrity among management have become another problem (Mohamad et al, 2013).

Specific studies into corporate governance issues as they impact on cooperatives in the developing world are very few and this, of course, presents considerable difficulty in reaching any definitive conclusions. However there are some clear starting points for an analysis of the key issues which can be derived from existing studies of the cooperative sector in general, several useful case studies, and discussions with

cooperative leaders from the developing world. Given the nature of the evidence, and the general characteristics of cooperatives in the developing world, a region by region approach has been adopted (Shaw, 2006).

A study conducted by Malo and Vezina (2004) has proposed a model of management and governance roles within cooperatives. It also links the tendency for the diminishing role of membership in governance to the expansion of the cooperative and a growing domination of commercial values fostered by a professional management distanced from cooperative values (Shaw, 2006). Cooperative governance is the act of steering cooperatively owned enterprises toward economic, social, and cultural success. It consists of answering key questions, defining roles and responsibilities, as well as establishing processes for setting expectations and ensuring accountability.

Effective corporate governance is playing a vital role in organizing an institution successfully. It is regarded as the process and structure used to direct and manage the business and affairs of a company towards enhancing business prosperity and corporate accountability with the ultimate objective of realising long term shareholder value, whilst taking into account the interests of other stakeholders. From the cooperatives perspective, it promotes discipline, transparency, independence, accountability, responsibility, fairness and social responsibility (Chibanda, Ortmann and Lyne, 2009). All these good values are perceived as requirements for good governance in an organization. However, accountability is said to be the key successful factor towards the good governance where it emphasize on transparency and compliance elements.

Transparency is regarded as a key requirement for successful feedback systems and good governance in any organizations including cooperative organizations. Timely available and reliable information is so crucial for the effective regulation and monitoring cooperatives by the government, members and public. Lack of transparency can lead to information asymmetries and reduces the ability of government, members and other stakeholders to monitor and regulate cooperatives.

Compliance, on the other hand, can be achieved through the monitoring and evaluation of procedures and outcomes, combined with transparency in reporting those findings. Issues on compliance arise due to the weak structure and the absence of good governance in some cooperatives (Mohamad and Othman 2013).

This in turn, results to the decrease in the ability of government, members and other stakeholders to monitor and regulate cooperative movements. Even though cooperative movements have no obligations to disclose their financial reports to the public, but somehow the obligation still exists for cooperatives to disclose information to the members of cooperative movements. Publicly available information of cooperative organizations is important because non accessibility may result in the loss of public confidence (Mohamad, and Othman, 2013).

At the international level, the Cooperative Governance Guideline is introduced to underline the general principles and minimum benchmark as well as governance requirement for the cooperatives as for the reference and continuous practice in their organization. A good governance should involve all parties, namely members as the

owner, the management of the cooperative that handles transactions and the Board as a designer and advisor to management for the owners in an effort to improve the performance of a cooperative. Following are the fifth-teen principles highlighted in the Cooperative Governance Guideline:

Principle 1: Cooperation shall be governed by the effective Board with the mission, strategy and cooperative values stated clearly.

Principle 2: The division of balanced and clear roles and responsibilities between the Board and cooperative management in terms of jurisdiction, responsibility and accountability.

Principle 3: The process of appointing a new member of the Board cooperation shall be conducted formally and transparent.

Principle 4: Re-election of eligible members of the Board of Cooperative to be performed at intervals time at least every three years.

Principle 5: Members of the Board of the cooperative shall calibre, capable and integrity, have the skills and reasonable experience as well as ability to focus and committed to society.

Principle 6: The Board should conduct meeting and supplied with comprehensive, timely and accurate information by the cooperative management from time to time.

Principle 7: A formal and continuous assessment on the overall effectiveness of the Board, member of Cooperative Board and Chief Executive Officer of Cooperative.

Principle 8: Procedure establishes the remuneration package of Board member cooperatives, committees and management shall ongoing formal and transparent. Policies and remuneration practices should be through a coordinated approach with culture, objectives, direction and performance cooperative.

Principle 9: Avoiding conflict of interest situations

Principle 10: A firm auditing requirement while maintaining an objective and professional relationship among the auditors, members Cooperative Board and management.

Principle 11: Applying an effective communication to member and stakeholders

Principle 12: Implementing effective risk management

Principle 13: Handling transparent cooperation will strengthen cooperative governance.

Principle 14: Applying cooperative principles and cooperative values in managing cooperative affairs.

Principle 15: Cooperative performance shall be evaluated based on the member's satisfaction towards the quality and available services.

Accordingly, the cooperative movement in Malaysia should be prepared for addressing the issues, challenges and external influence on maintaining the identity, concept, philosophy and practice of cooperatives. A better management of intellectual and human capital assets that exist in the movement cooperative may result in more enhanced compliance and better regulation of cooperative operations (Yeop, 2007).

3. GOVERNANCE INITIATIVES OF SHARIAH-BASED COOPERATIVES IN INDONESIA AND MALAYSIA

The cooperative in Indonesia is considered as one of the largest public society organizations as well as social enterprises with great potential in rural development and employment creation. According to International Labour Organization (2012) cooperatives also play an important role in economic development particularly rural development worldwide, including Indonesia. It is estimated that 50 per cent of global agricultural output is marketed through cooperatives.

According to the Indonesian Ministry of cooperatives and SMEs, the number of active cooperatives is 147,249 out of 209,488 per December 2014. Most of these cooperatives (around 70 per cent) are located in rural areas. The cooperative movement in Indonesia is considered as one of the largest domestic society organizations as well as social enterprises with great potential in rural development and employment creation (ILO, 2012). Definition of cooperatives in Indonesia is described in Act No. 25 year 1992 on cooperatives which state that the cooperative is a business entity consisting of persons or legal entities based on cooperative principles and the principle of brotherhood. In 2007, the ministry also issued the act no.39 on the supervisory guidelines. The act states that the Shariah-based cooperatives must provide regular auditable financial reporting and show the compliance on Shariah-regulations. There is no doubt that credibility for any organizations is positively linked to good governance which in turn has a strong positive link to the ability of the organisations to achieve their objects (Wells, 2012).

According to Indonesian cooperative act, the elements of cooperatives can be described as follows:

- 1) Cooperative is a business entity.
- 2) Cooperative may be established by a person or legal entity as well as a member cooperative.
- 3) Cooperative is managed based on the principles of cooperatives.
- 4) Cooperative is managed based on the principle of brotherhood.

The development of Indonesian cooperatives shows a significant improvement, but the quality is considered weak. It requires a strong commitment to build a cooperative being able to survive. Good cooperative governance must be in place and cooperative values must be implemented to survive and to provide benefits to its members. The development of cooperatives in Indonesia can be shown in the following table.

Table 2 The Development of Cooperatives in Indonesia

	2014	2013	2012
The number of cooperatives	209,488	203.701	194.295
The number of active cooperatives	147,249	143.117	139.321
The members	36,443,953	35.258.176	33.869.439
The employees	530,830	438.541	393.502
The equity(IDR)	105,800 T	89.536 T	51.422 T
The liabilities (IDR)	94,861 T	80.840 T	51.403 T
Revenue (IDR)	189,858 T	125.584 T	119.182 T
The distributable income for members	14,898 T	8.110 T	6.661 T

Source: Annual statement of Ministry of Cooperatives and SMEs 2012, 2013 and 2014

Indonesia has various types of cooperatives including conventional cooperatives, Baitul Maal wa Tamwil and also Shariah cooperatives which have different level of management controls. Matacena (1982) in Begalli & Capitello (2013) classified the level of autonomy of the cooperative into four different types as follows:

- 1) The *pure cooperative*, whose services benefit the members; its economic aim is to maximise the members' profit;
- 2) The *co-dependent integrated cooperative*, in which the cooperative and the members
- 3) constitute a system of firms; the cooperative is interested in its strategic, economic and financial development, and the members actively take part in the management and control of the cooperative. There is an integration in the aims of the members and the cooperative;
- 4) The *management controlled cooperative*, in which the members have limited control of the management of the cooperative, and the managers are the driving force; and
- 5) The *cooperative with only profit aims*, in which the cooperative legal form is maintained for legal and taxation reasons, but in reality, it works as a normal business.

3.1. Governance Initiatives in Indonesia

The ministry of cooperatives and SMEs issues acts No. 35.3/Per/M.KUKM/X/2007 on the soundness of Islamic financial cooperatives and No. 39/Per/M.KUKM/XII/2007 on the supervision of Islamic Financial Cooperatives. According to the practices in the abovementioned institutions, governance practices in cooperative sector have not clearly established. However, according to the act stipulated by the ministry of cooperatives and SMEs, the initiatives for cooperative governance can be highlighted. There are at least five functions and assessments as follows:

3.1.1. Management function

Koperasi Jasa Keuangan Syariah (KJKS) / Unit Jasa Keuangan Syariah (UJKS) cooperatives should assess management aspects which cover general management itself, institutional matters, capital and equity management, assets management and

liquidity management to ensure the soundness of the organization. The KJKS/UJKS cooperatives should ensure that the level of soundness would not decrease due to the violations of the internal and external policies and UJKS managers have not been given full authority to manage the business.

3.1.2. Supervisory function

Supervision is an activity of coaching, monitoring, inspecting, and assessing cooperative's soundness to ensure that by Islamic cooperative are run based on Shariah principles and maintain the trust of stakeholders. The cooperatives should has Internal Control System as a policy and procedure which is run by the supervisor, the board and management of KJKS and UJKS cooperative to provide reasonable assurance of the reliability of financial statement, and also the compliance with laws and regulations in supporting the effectiveness and efficiency of operations.

Supervisory function should control and ensure that KJKS and UJKS cooperative carrying out the activities in accordance with applicable laws and regulations. It should be able to improve the image and credibility of KJKS and UJKS as financial institutions being able to manage funds from members, prospective members, other cooperatives and or its members based on the cooperative principles.

3.1.3. Shariah Assessment

Assessment of compliance aspects is intended to assess the extent to which Islamic principles are implemented by KJKS / UJKS cooperative in carrying out its activities as Islamic financial institutions. The Shariah board members including the number, the effectiveness of Shariah board meeting, the appointment of Shariah board members. Ahmad and Al-Aidaros (2015) have shown that most auditors agree that there is a need to enhance their knowledge and expertise in Shariah auditing in order to improve and master Shariah accounting and auditing processes.

3.1.4. Audit and Performance Assessment

The elements that have to be monitored from the financial statements include organizational aspects, management aspects, financial aspect, products and services, members aspect, administrators, managers, supervisors and employees. The cooperatives should also identify the factors influencing the performance. Knowing those factors could trigger the cooperatives to boost the performance. Accordingly, Aini, Hafizah & Zuraini (2012) found that cooperatives' strategic planning and participation from their members are the identified factors that contribute to their overall success and performance.

3.1.5. Accountability and transparency

It is very important to develop the structure, systems and proper strategies that can allow cooperative to build their strength and bring lasting benefits to their members. With a good framework and an efficient oversight and monitoring structure can help cooperative in discharging its accountability to its members, donors and regulators. To promote transparency, cooperatives shall submit a regular report to the authorized parties consisting of: Monthly report, Quarterly Report; and Annual Report.

3.2. Shariah Governance of Shariah-based Cooperatives in Malaysia

The increasing number of cooperatives in Malaysia is a good indication that people are more confident with cooperatives as a way to improve their living in the context of economic, political and environment (Financial Report of Cooperatives, 2010). As such, it is very important to ensure a good conduct is practicing in the organization for its sustainability. Shariah is the basis of business practices and Islamic finance where adherence to Islamic tenets, principles and conditions specified in Shariah is the main objective. Compliance with the Shariah principles will strengthen public confidence in the credibility of the system of the Islamic Muamalat particularly in the cooperative movement.

The Malaysian Cooperative Commission (EC) as a regulatory agency of the cooperative movement has always given priority to all efforts which could ensure the overall business and operations of the cooperative activities are in line with Shariah principles. In order to achieve this goal, two levels of Shariah governance need to be established - the Shariah Advisory Body on the Commission and the Committee Shariah in the cooperative.

In this regard, the Commission has authority under the Cooperative Commission Malaysia Act 2007 to establish the Shariah Advisory Body of Cooperative Commission Malaysia (BPS-SKM) for regulating cooperative business activities. The guidelines issued under section 86B Cooperative Societies Act 1993 (the Act) to regulate cooperatives doing business or compliant activity, which include:

- a) compliance with the requirements of Shariah; and
- b) cooperative Shariah governance

BPS-SKM will be helping to increase public confidence in the cooperative movement. There is also a need to establish a relationship between BPS-SKM with Shariah bodies established within the cooperative. As such, Shariah bodies should be coordinated at the level of society and renamed the Shariah Committee of the cooperative and the Committee will serve as a complement to the BPS-SKM. Table 2 presents the differences between a full Shariah cooperative and product based cooperative.

Table 3 Differences between Shariah-based cooperative and Product-based Cooperative

	Activities / Requirement	Full Shariah Cooperative	Product Based Cooperative
1.	Shariah Recognition Certificate	√	X
2.	Approval on Shariah Compliance Product: • Current product • New product	√	√
3.	Yearly Report on Shariah Compliance	√	√
4.	Requirement on Appointment of Shariah Board	√	√
5.	Report on Shariah Board of Cooperative: • Appointment • Dismissal • Designation	√	√
6.	Accounting Disclosure	√	√

For normal co-operative, which only produce certain Shariah product without involving the business or activities fully compliant shall obtain the approval of compliance with Shariah products Commission. The accounting system should be maintained and co-operatives reported for Shariah products separately.

Cooperatives are required to appoint at least one officer for ensure business or activity is carried out in compliance with Shariah. This officer must have at least a Diploma in Islamic Finance or Fiqh and Usul al-Mua'malat al-Fiqh, or an officer experienced at least three years in the financial industry or Islamic business.

3.2.1. Cooperative Board

A Cooperative Board has the authority and ultimate responsibility for the overall cooperative governance. The Shariah compliance among cooperatives include:

- a) establish an appropriate mechanism to implement responsibility; and
- b) perform the oversight of the Shariah governance trip to ensure that it meets the capacity size, the complexity and nature of the business.

The Board, after discussion with the Shariah Committee, shall approves all policies relating to Shariah matters and shall ensure that the policy is implemented effectively. Although the Board has the final responsibility and accountability for the overall governance of the cooperative, the Board shall depends on the Shariah Committee on any decision, a view and opinion related to cooperative business.

3.2.2. Shariah Committee

Shariah Committee shall be appointed by the Board of the cooperative. This may be done through:

- (a) establishment of the internal Shariah subject to conditions and qualifications in Annex II;
- (b) the appointment of recognized external Shariah Committee such as IBFIM (Islamic Banking and Finance Institute Malaysia) and ISRA (International Shari'ah Research Academy for Islamic Finance); or
- (c) Shariah Committee of a cooperative group.

The Board have to confirm that the Shariah Committee understands their fiduciary responsibility in carrying out its duties. The Board also Shariah Committee shall monitor performance through periodic reports and results of meetings that is carried out. Furthermore, the Shariah Committee should be sensitive and responsible for all decisions, views and opinions relating to the Shariah cooperative affairs. It should identify issues which require attention and propose corrective measures, if necessary. The Shariah Committee shall report directly to the Board cooperative and frequently informed the Board on matters related Shariah. This reflects the status of Shariah Committee as an independent body.

The Shariah Committee shall consist of at least three members where the criteria of the Shariah Committee is as follows:

- i. Honesty, reputation and personal integrity - someone must have personal benefits such as honesty, integrity, diligence and fairness of decision;

- ii. Capacity and competence - someone must have appropriate skills, experience, abilities and commitment to responsibilities; and
- iii. Financial integrity - someone must take care of dependents or its financial position prudently.

The duties and responsibilities of the Shariah Committee as underlined in GP27 are as follows:

1. Responsibility and Accountability

Shariah Committee in carrying out its duties and responsibilities shall be responsible for all decisions and Shariah opinions provided by them.

2. To advise the Board and Co-operatives

Shariah Committee shall advise the Board and provide input to society on Shariah matters to ensure cooperative comply with Shariah principles at all times.

3. To endorse Shariah Policies and Procedures

Shariah Committee shall recommend policies and procedures compliant provided by the cooperatives and ensure that the content is consistent with the Shariah.

4. Recognizing and Confirming Documents

To ensure that the products comply with Shariah principles of cooperatives, the Committee Shariah shall certify and validate:

- (a) the terms and conditions contained within the form, contract, agreement or other legal documentation used in the implementation transactions; and
- (b) product manuals, marketing advertisements, sales illustrations and brochures used to describe produk.

5. Assist Stakeholders on Shariah Affairs

Parties associated with the cooperative such as lawyers, auditors or consultants can get advice on matters relating to Shariah from the Shariah Committee.

6. Advice on Matters to be referred to the Shariah Advisory Body - Cooperative Commission of Malaysia (BPS-SKM).

Shariah committee may advise the cooperative to negotiate with Shariah Advisory Body of the Cooperative Commission of Malaysia (BPS-SKM) on Shariah matters unresolved.

7. Provide a Written Shariah Opinion

Shariah Committee shall prepare a written Shariah opinion where the cooperative will be referring to the BPS-SKM for further discussions or, where the cooperative is applying to the Commission for approval of new products

3.2.3. Management of Cooperative

Proper understanding of management principles is very necessary and helpful for managers as these principles act as guidelines for managerial activities. By practicing these principles, managers can avoid various mistakes while dealing with people in the organization.

In the context of Shariah Cooperative, the management shall submit the complete and accurate information to the Shariah Committee promptly and be transparent about any areas which require clarification by Shariah Committee. This is to enable them to carry out their duties effectively. The management is expected to allocate resources and sufficient labor to support Shariah governance, budget allocations, reference materials as well as research, training and development.

The management is also responsible for providing education and continuous training programs related to internal party including the Board, the Shariah Committee and staff associated with Shariah and finance matters. The aim to ensure that each Shariah governance remain alert to the society developments. In addition, management has to make sure that all the employees understand each product offered by Shariah cooperative especially at the foundation level - the basic concept of Shariah, the similarities and differences between the Shariah and conventional cooperatives products.

The management should also be responsible to ensure that operations carried out in accordance with Shariah policies and procedures. The operation should be constantly review and update it to make it more responsive to market practices and current developments.

4. CONCLUSION

In the context of cooperative organization, governance is very crucial due to its purpose of upholding the integrity of an organization in fulfilling the purpose for which it was established. Therefore “cooperative governance” can preserve the cooperative identity. This paper highlights current practices as well as the absence in the cooperative governance system in Indonesia and Malaysia. The paper also highlights the conventional and Shariah governance initiatives for Shariah-based cooperatives in Malaysia and Indonesia.

The cooperative in Indonesia is considered as one of the largest domestic society organizations as well as social enterprises with great potential in rural development and employment creation. However, the quality improvement is not as significant as its development. It requires a strong commitment and good governance to build a cooperative being able to survive. Indonesian act Shariah cooperatives highlights the issues of Management function Supervisory function Shariah Assessment Audit and Performance Assessment, Accountability and transparency to ensure the soundness of the cooperatives.

Malaysia also has the increasing number of cooperatives indicating that people are more confident with cooperatives. Therefore, governance must be in place to ensure a good conduct is practicing in the organization for its sustainability. The clear roles of board management, the establishment of Shariah Committee and other aspects will enhance the credibility and soundness of cooperatives. The Board have to confirm that the Shariah Committee understands their fiduciary responsibility in carrying out its duties. The Board also Shariah Committee shall monitor performance through periodic reports.

As for Shariah cooperatives, Shariah is the basis of business practices and Islamic finance where adherence to Islamic tenets, principles and conditions specified in Shariah is the main objective. The Malaysian government also supports the development of Shariah cooperatives. It is shown in the guidelines issued under section 86B Cooperative Societies Act 1993 (the Act) to regulate cooperatives doing business or compliant activity including compliance with the requirements of Shariah and Cooperative Shariah governance.

This paper suggests that governance of Shariah-based cooperatives is useful for regulators in both countries to promote growth of cooperatives as clear governance structures are vital to ensure integrity and accountability of cooperative management. At the end, cooperative governance will also enhance the trust of the society to involve more in cooperative sectors.

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THEME: TAKAFUL, RAHN AND MUSHARAKAH APPLICATION

ENHANCEMENT OF *RAHN* (ISLAMIC PAWNING) PRODUCT STRUCTURE: A PROPOSAL

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ABSTRACT

This paper proposes a new product structure for rahn (Islamic pawning) product. The new structure is proposed due to concern over fiqh issue on safekeeping fee (*ujrah*) imposed to generate profit from the collateral service. Some shari'ah scholars viewed the practice of combining rahn and *ujrah* contracts in a hybrid transaction contravenes the very nature of the rahn contract, and its objectiveness as well as comprising the prohibited *bay' wa salaf* or *qarḍ jarra manfa'ah*. In order to avoid this contentious issue, the *bay' al-tawarruq* contract is proposed to be adopted. The separation between rahn as a trust based contract and *bay' al-tawarruq* as the underlying contract for profit generating will make the new product structure more legitimate.

Keywords: Islamic finance, *Rahn* (Islamic pawning), product development.

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1. INTRODUCTION

Rahn (Islamic pawning) product was introduced in Malaysia since 1992 by Terengganu Islamic Religious and Malay Customs Council (MAIDAM). The main objective in introducing rahn products is to offer alternative especially for Muslims in avoiding riba. This is because since the time the country was under the British colony, pawn broking businesses are dominated by Chinese community. Interest is charged on the collateral by the pawnbroker against the loan. If the loan is not paid within certain period, the pawned item will be offered for sale by the pawnbroker.

The current shari'ah principles of rahn products is structured based on a combination of various shari'ah contracts which are wadi'ah yad al-amanah (saving with trust), ujah (fee), qard (loan) and rahn (pawning). In this structure, the rahn operator will grant loan to customer and retain the gold jewelry as collateral, while charging fee for the safekeeping service. The gold jewelry will be valued at its prevailing market price. However, the amount granted as loan will depend on certain percentage determined by the bank and type of gold. The safekeeping period and fees are pre-determined and agreed upon by both parties (rahn operator and customer). At the end of the period, the loan must be settled with its outstanding safekeeping fee and the collateral will be relocated by the customer.

Despite being approved by Shari'ah Committee of rahn operators, the debate to further improve the product structure continues. The present paper focuses on the fiqh aspect of the enhancement. It highlights the shari'ah scholars' arguments on the safekeeping fee (ujrah) practice which changes the nature (muqtada' al-aqad) of the *rahn* contract.

2. METHODOLOGY

This paper adapts the discourse analysis technique as suggested by Guy Cook (1989). In this regards, the data from the existing structure, the classical text of Islamic jurisprudence and the interviews of the industry players will be reviewed in constituting a coherent unit, so that the enhanced structure is not only Shari'ah compliance but also can be suited to the industry and within their framework and policy. The existing problematic structure that referred to the institution's product, the opinions of Islamic jurists and the interviews are therefore discoursed altogether in considering the new structure. Below is the list of interviewees that are approached by the researcher.

Table 1: List of interviewees and their position, institution and date of interviews

Interviewees	Position	Institution	Date of interviews
Respondent 1	Head, Shariah Research and Review Department	Agrobank	21 June 2013
Respondent 2	Profesor and Senior Researcher	International Shari'ah Research Academy for Islamic Finance (ISRA)	14 January 2014

Respondent 3	Profesor and Executive Director	International Shari'ah Research Academy for Islamic Finance (ISRA)	28 January 2014
Respondent 4	Senior Executive, Shariah Advisory, Development & Secretariat	RHB Islamic Bank	26 June 2013
Respondent 5	Professor of Shariah and Economics	University of Malaya	8 May 2013
Respondent 6	Assistant General Manager	Bank Islam Malaysia Berhad	24 May 2013
Respondent 7	Chief Executive Officer	Bank Islam Malaysia Berhad	5 June 2013
Respondent 8	Head Shariah / Vice President of Shariah Division	Bank Kerjasama Rakyat	13 June 2013
Respondent 9	Senior Researcher	International Shari'ah Research Academy for Islamic Finance (ISRA)	21 May 2013
Respondent 10	Senior Researcher and Head of Islamic Banking Unit	International Shari'ah Research Academy for Islamic Finance (ISRA)	22 May 2013
Respondent 11	Shariah Legal Advisor	Research Division, Attorney General's Chambers	21 July 2013

3. LITERATURE REVIEW

Shamsiah (2013) and Khir (2013) consistently agreed about the unnecessary concept of ujrah to be embedded in ar-rahn contract. They uphold the view that ar-rahn is only served for securing the debt, and is not a method for generating profits. In fact, Khir (2012) analyzed that the concept of ujrah is a part of sale contract under bay' manfa'ah (sale of usufruct) and thus, it is prohibited to be applied with the qard (loan) contract. It is understandable due to the reasons why the concept of ujrah is wrongly used in ar-rahn product, as there is a ḥadīth that prohibits such practice. Meanwhile, Naim (2004) concluded that some practices adopted by the Islamic system are not truly in compliance with the teaching of the Islamic law. He also found that ar-rahn scheme still contains elements of usury in its transaction; hence he proposed a "good loan", which must be backed by the pawned item, and maintained that it is the responsibility of the government and the riches to prevent the public from continuously getting trapped in this financial system.

3.1. Current problems: The need of changes

In discussing the appropriateness of ujrah that based on the wadī'ah yad ḍamānah, which currently applied by most of ar-rahn institutions, there are two groups of scholars with contradicting views. The first group is proponent to the improvement of ujrah application, and the second group is an opponent to the ujrah application. Generally, the group of scholars that support the improving effort of ujrah application are the scholars from the sharī'ah division or department from respective financial institutions, particularly the banking institution. They supported the total rejection of ar-rahn scheme stating that using the principle of wadī'ah is impractical. They suggested that the structure does not need not be replaced, but enhanced. Based on the interview, the existing sharī'ah structure of ar-rahn is still acceptable as he claimed that the structure is widely accepted among the players in the Islamic banking and cooperative institution that conducts ar-rahn scheme. If the structure fails to suit the requirement of sharī'ah compliance, the Sharī'ah committee of the institution has to stop the operation of the product immediately. He opined that the operation of ar-rahn is allowed to continue as long as the Sharī'ah Committee of Bank Negara Malaysia and Majlis Fatwa does not prohibit such practice.

During the interview with respondent 6, he argued that the term ujrah leads to a controversial issue among the Islamic researchers as it is not really the case, and that he concerns more on the substance. If the imposition of ujrah fee in ar-rahn contract is considered inappropriate, another term can be suggested. However, he did not mention the appropriate terms that should be adopted to replace the term of ujrah. According to respondent 5, a Sharī'ah professor, said that the cost of holding the collateral by the institution must be written in details so that a safekeeping fee imposed upon the item can be justified. In another interview session with respondent 8 suggested the cost of holding the collateral can be imposed by institution through the creation of the sizes of storage box. For an example, the storage box of collateral can be categorized into several classifications such as a small, a medium or a big size. However, these type of charges can only be imposed for three types of fees, and such practice looks unattractive for the institution, despite the fact that it has been implemented in the Middle East countries.

Meanwhile, the second group is the opponents of the ujrah application. The scholars of this group are mainly the academicians and researchers, who sees it as misleading the sharī'ah principle in the contract. The criticisms over this concept have been widely discussed and written. During the interviews with two senior researchers of International Sharī'ah Research Academy for Islamic Finance (ISRA), they consistently agreed about the finding in their research in 2008 and 2012 about the unnecessary concept of ujrah to be embedded in ar-rahn contract, as they stated that ar-rahn is only served for securing the debt, and is not a method for generating the profits. In fact, Khir (2012) analyzed that the concept of ujrah is a part of sale contract under bay' manfa'ah (sale of usufruct) and thus, it is prohibited to be applied with the qard (loan) contract. It is understandable due to the reasons why the concept of ujrah is wrongly used in ar-rahn product, as there is a ḥadīth that prohibits such practice as following:

لَا يَحِلُّ سَلْفٌ وَبَيْعٌ وَلَا شَرْطَانِ فِي بَيْعٍ، وَلَا رَيْحٌ مَا لَمْ يُضْمَنْ، وَلَا بَيْعٌ مَا لَيْسَ عِنْدَكَ

(Ḥadīth. Al-Sajastaniyy. Sunnan Abī Dawūd: vol.3 #3506)

“Do not allow a loan (in combination with) and a sale, do not have prerequisites to sell, do not gain a profit if it is guaranteed, and do not sell what you do not have”

In a *ḥadīth* narrated by Nasā’iyy also stress the same thing with different words:

أخبرنا إسماعيل بن مسعود عن خالد عن حسين المعلم عن عمرو بن شعيب عن أبيه عن جده أن رسول الله صلى الله عليه وسلم نهى عن
سلف وبيع وشرطين في بيع ورجح ما لم يضمن

(Hadith. Al-Nasā’iyy, Sunan al-Nasā’iyy: v.7 #4629)

“Ismā’īl bin Mas’ūd had told us from Khālīd from Hussein al-Mu’allim from ‘Amrū bin Shu’ayb from his father from his grandfather: Verily Rasulullah forbids combination of salaf (debt) and sale, two conditions within a sale, and profit as long as it not guaranteed (without taking a risk).”

In addition, respondent 10, argued that the safekeeping fee imposed by the institution exceeds the reasonable rate of that safe deposit box, hence it corroborates the presence of ribā elements. This higher rate of fee can be seen through the calculation of annual fee against the loan that is given at 13% in banking institutions, and 11.9% as the average charge in a whole ar-rahn shop owned by the cooperative societies. Even though the rate seems higher, the product is widely engaged by the small middle income group, and makes it relatively expensive for them.

Moreover, respondent 10 also stressed that the product received an overwhelming response from the public as it has unique and attractive elements such as a quick approval, rollover functionality, and a guarantee of getting back the pawned jewelry. This situation however reveals the real motives of customers who are willing to pay more safekeeping fees than they really should, and that they subscribes to ar-rahn scheme merely for the purpose of obtaining the financing facility.

Table 3.1: The proponent and opponent view to the improvement of *ujrah* application

	Proponent to the improvement of <i>ujrah</i> application	Opponent to the <i>ujrah</i> application
Type of scholars	The <i>sharī’ah</i> division or department from respective financial institutions, particularly the banking institution	The academicians and researchers
Justifications	The total rejection of <i>ar-rahn</i> scheme stating that using the principle of <i>rahn</i> , <i>wadī’ah</i> and <i>ujrah</i> is impractical	The concept of <i>ujrah</i> that embedded to <i>ar-rahn</i> contract is unnecessary
	The existing <i>sharī’ah</i> structure of <i>ar-rahn</i> is still acceptable as he claimed that the structure is widely	The concept of <i>ujrah</i> is a part of sale contract under <i>bay’ manfa’ah</i> (sale of usufruct) and thus, it is

	accepted among the players in the Islamic banking and cooperative institution	prohibited to be applied with the <i>qard</i> (loan) contract.
	Existing concept of <i>ar-rahn</i> is allowed to continue as the <i>Sharī'ah</i> Committee of Bank Negara Malaysia and Majlis Fatwa does not prohibit such practice	The concept of <i>ujrah</i> is wrongly used in <i>ar-rahn</i> product, as there is a <i>ḥadīth</i> that prohibits such practice

These two contradicting views can be simply understood by their points of differences. Both of them come from a different circumstantial ground and thus, affluence their perspectives on ar-rahn scheme to differ from one another. The scholars who supported the improving efforts are more indulgent in placing the juristic analysis of a transaction, while the others are firmer in their stance. In case of this issue, the scholars from the industrial background who involved directly in the operation are unwilling to eradicate entire principles used and replace them with the sale contracts. In the financial institutions, particularly from a banking point of view, the complete amendment from a loan that is backed by collateral to a sale contract will distress their main activities such as the operational system, the risks' management, and the costs of operation. Though not impossible to implement, the unnecessary contract of wadī'ah as what some scholars have claimed is not yet to reach a level where the authority is agreeable on stopping their product's operation.

In addition, the claim on the indirect connection between the safekeeping fee (*ujrah*) and the loan amount is somehow established in industries for some quite a long time; the situation is always being analogized to an issue of the sale's arrangement contract through the method of *tawarruq* and *'inah*. As the principle of *tawarruq* and *'inah* is still permissible in the financing products of Islamic financial institutions, a claim of the indirect connection between *ujrah* and *qard* cannot be considered as a form of prohibited contract, hence, a total rejection is not a priority issue for ar-rahn product. Unless a solid alternative for the current mechanism of *tawarruq* through *Sūq al-Sila'* could be sought, any further ideas will bring about the irrelevant pace in the perspective of industries.

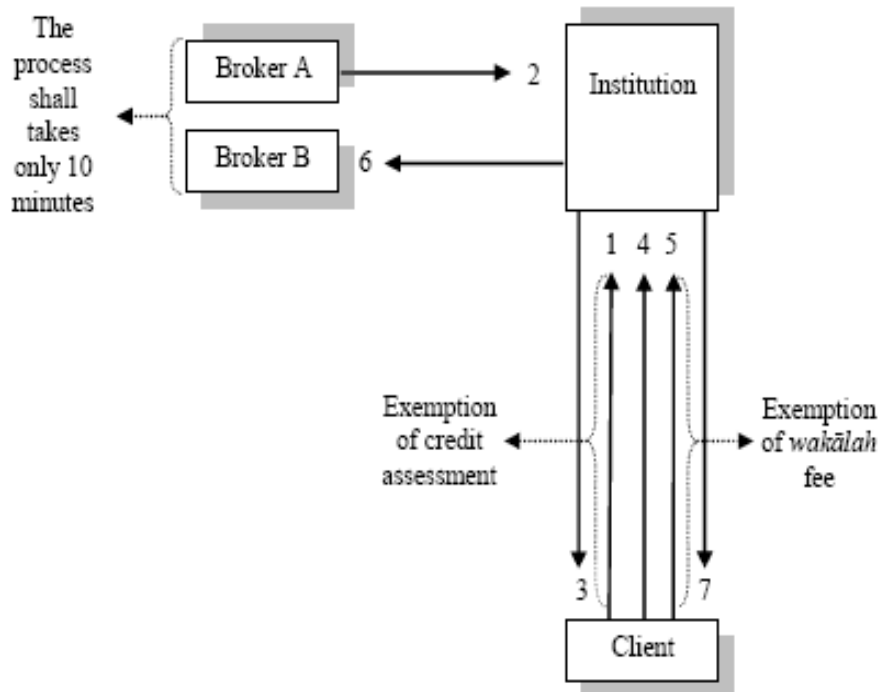
Accordingly, several proposals have been considered in order to improve the existing concept and researcher finally has proposed a number of improvements in some areas through the implementation of the combining concept of ar-rahn and *tawarruq*. The concept is once revealed by Khir in 2012 as it can free itself from the element of *riba* and thus, the operators are freed from the issue to determine the profit rate. However, several adjustment is been made in order to suit the requirement of the banking institution and the needs of customers.

4. *SHARĪ'AH* IMPROVEMENT

This paper proposes the *Sharī'ah* improvement that replaces the existing concept that has an issue of *riba*. In this regard, the principle of *tawarruq* is proposed to be adopted by *ar-rahn* institutions. A *tawarruq* can be defined as purchasing an asset with deferred price, either on the basis of *musāwamah* or *murābahah*, then selling it to a third party so as to obtain cash. (BNM, 2010:224) Based on analysis that was made on the arguments of both sides, the best option is to change the structure of *qard* -

wadī'ah - rahn to *tawarruq – rahn*, if the amount of financing is more than RM50,000. The flow of structure can be shown based on following figure:

Figure 1: A suggested structure: An enhanced structure of *tawarruq* and *rahn*[®]



1. At the first stage, the customer approaches the institution for cash financing. The institution then assesses customer's ability of engaging in such contract. This stage is practically critical, because most ar-rahn institutions are not assessing customer's credit ability in repaying the debt. The absence of customer's credit assessment is a great turning point for the success of this suggested structure. Thus, the exemption or very minimal assessment, which takes very short time is a must condition.
2. The institution buys a commodity from Broker A; normally, this process of buying a commodity is done through Sūq al-Sila' or Commodity Muṛābaḥah House. This trading platform that uses commodity such as crude palm oil as the underlying commodity is introduced by Bursa Malaysia in 2009 so as to facilitate Islamic financial transactions, particularly the application of commodity muṛābaḥah which is based on the principle of tawarruq. Usually, this process will include buying and selling transactions in ten minutes, since it is applied through the system in computer, as according to the respondent 4.

3. The institution sells the commodity to the customer at a mark-up price, and the customer pays the price in deferred payment basis, based on six months or above according to the agreed terms and conditions of the contract.
4. The customer's jewelry is pawned to the bank based on rahn contract in lieu of a debt, which he/she pays in the deferred time.
5. The customer appoints the institution as his/her agent to sell the commodity to a third party for getting the cash. This process is also conducted through mechanism of Sūq al-Sila', or Commodity Muṣābaḥah House. Once again, at this stage the institution must find a way for the exemption of wakālah fee that is resulted from the appointment of bank as the customer's agent. This fee may discourage the customers as the institution is already making a profit from the mark-up price.
6. As an agent, the institution sells the commodity to the third party, who is known as broker B. But this time, the selling price is based on the current market price that makes the difference of what customer should pay to the institution.
7. The difference that creates the cash will then be given straight away to the customers, or credited into customer's account depending on agreed financing.

This structure suggestively allows the institution to generate a legitimate profit, as it does not involve qarḍ as the underlying contract for profit generating. In fact, the profit is purely generated from a mark-up sale via tawarruq arrangement that the parties entered into. Nevertheless, this structure associates the issue of organized tawarruq (tawarruq munazzam), which is controversial in terms of its legitimacy. In principle, the majority of Sharicah scholars approve the permissibility of the classical tawarruq contract. However, they are far from unanimously agreeing with the legality of organized tawarruq (tawarruq munazzam) as practiced in contemporary Islamic finance. Those who allow it stipulate specific conditions to avoid prohibited elements such as the three-way 'inah. The modern scholars who reject the current practice of organized tawarruq argue that it is a legal trick to circumvent the prohibition of riba. In counting back those arguments, this selected structure shall depend on the following justifications:

i. An absence of ownership transfer

Many institutions are reluctant to own the jewelry that has been transferred to their ownership contract due to the cost, and operational risk's factors. On the other hand, the composite contract of tawarruq and rahn as what is suggested in this work, does not involve the transfer of the jewelry's ownership to the institution and this can reduce their risk of market's deficiency for resale. The reselling of the jewelry can be harder market for the institution to deal with, since it has now become a used item and the buyer will perceive it as a cheaper item. This situation occurs when the original seller fails to repurchase the sold jewelry in the first contract of bay sarf, which has taken place earlier. It also reduces the risk of the institution against losses resulting from the gold price fluctuations in the market. Thus, this structure makes the jewelry to be functioned as a security to the commodity's trading activities executed at bursa suq al-sila' in a tawarruq contract, instead of just being an object of matter.

ii. The *rahn* based product should carry the real concept of *ar-rahn*

Although, there are various products sharing the same principles of *sharī'ah*, or products that have shared the same name by using different *sharī'ah* principles, yet it is hard to compare them with the product of *ar-rahn* itself. The customers always perceive the *rahn* based product as their source of instant cash. Thus, their jewelry held by the institution cannot be considered as a transfer of an ownership, as it would alienate the customers and discourage the policy makers of the institutions (as what structured in *bay sarf*) in transferring an ownership. Either the clients or the institutions does not perceive pawning as the main contract, but rather a derivative mechanism to the contract of debt; this perspective is in line with the original ruling of *sharī'ah* about *ar-rahn*. If the pawned jewelry is not deemed as collateral in lieu of a loan given, but a contracted matter in a sale contract as what has proposed in *bay al-sarf*, then *ar-rahn* product is pointless as the product's label carries the element of pawning. People will get jumbled if the term 'pawning' only appears as the product's label, and afterwards the item's ownership goes through the legal impact that is affected by the product structure. Therefore, the structure of the product must reflect the actual concept that is supposedly meant for, or else it should be ready for the product rebranding; it will cause transformation on a massive scale for hundreds of the existing *ar-rahn* institutions. Alternatively, the jewelry is remained as a security item for the main contract, either the debt or through sale agreement if the structure of *tawarruq* - that is backed by *rahn* - is executed.

iii. The stronger connection of *qard* and sale

The Islamic scholars acknowledge that the structure used today has a link with the prohibition of *bay' wa salaf* as mentioned in the *ḥadīth*. Even though the connection between the concept of *ujrah* and *qard* indirectly links to the product, yet it has a significant dependency upon each other. This happens since the object is served for two different contracts, which vary in nature and its contract objectiveness. Moreover, some institutions have distinguished the rate of *ujrah* fee for the pawned jewelry; with or without the offer of loan. For example, Ar-Rahnu of Koperasi Perbadanan Melayu Johor (KPMNJ) charges RM0.15 as *ujrah* fee for each of RM100 of *marhūn* value without a need to borrow cash, while imposing a higher rate of RM0.70-0.75 if a customer needs cash. This clearly shows a significant relationship between determining process of *ujrah*, and the amount of loan in debt contract that is offered by the institution. Furthermore, a study done by Khir shows, that there is an unnecessary inclusion of principles in the product which are *ujrah* and *wadī'ah*. He held that the unnecessary inclusion of a contract in a deal is an indicator of the presence of a *ḥilah* element (Khir, 2010), for this particular case, the structures including the principles of *ujrah* and *wadī'ah* are unnecessary. This occurs since the original concept of *rahn* has already covered the function of *ujrah* and *wadī'ah*.

iv. An instrument of *tawarruq* is not prohibited

One may argue that *tawarruq* structure has a problem from the viewpoint of some contemporary *fiqh* scholars. However, the scholars who disagree about the current practice of an organized *tawarruq* claimed that it is a legal trick to escape the prohibition of *ribā*. They took the resolution of Majma' Fiqh as a basis of their claim (The International Council of the Islamic Fiqh Academy, 2009:13). In response,

Laldin (2014) insisted that the resolution of Majma' Fiqh - which refers to the prohibition of the use of tawarruq instrument - is not binding. Furthermore, the contemporary scholars such as Shaykh 'Abd al-Sattar Abū Ghuddah, Shaykh Nizām Ya'qūbiyy and Dr. Mohamed A. Elgari disagreed with the ruling. This resolution is then being refuted by the Shariah Standard 2010 that permitted such practice. (AOOIFI, Monetization, 2010:528) There are many scholars who allow such practice, as they claim that the current structure of tawarruq which is implemented in the institution is excluded from what the resolution has concluded. They define that tawarruq munazzam is an arrangement in which the contracting parties have no choice, but to follow only the specified transaction flow from head to toe; for instance, just as the delivery or the sale of goods to the other parties is not allowed. (Hashim, 2014) For an instance, the commodity should be well identified so as to become distinct from the other assets of the seller, or recording the numbers of its identifying documents such as storing certificates. (AOOIFI, Monetization, 2010:525) Based on an interview with respondent 2, Profesor and Senior Researcher at International Shari'ah Research Academy for Islamic Finance (ISRA) about tawarruq executed in Malaysia's financial institution, it was discussed that if the buyer at any level has a complete freedom in taṣarruf - either to take delivery, or sell goods to any party - then it is not included in the "tawarruq munazzam". The Bursa Suq al-Sila' in Malaysia is given this liberty; thus, his viewpoint of such practice is not included in tawarruq munazzam. Moreover, they also viewed that these instruments are included in the category of *makhārij*²⁰⁹, which is supposed to be temporary. (Hashim, 2014)

v. A permitted tawarruq structure shall fulfill the specific condition as resolved by AOIFI Shariah Standard

AOIFI Shariah Standard had permitted such practice; general evidence can be traced in the texts of the Quran and the Sunnah that permit sale transaction. (AOOIFI, 2010) It has also been confirmed by two resolutions issued by; the Islamic Fiqh Academy of the Muslim World League; the Standing Committee of the Supreme Board of Sharia Scholars of the Kingdom of Saudi Arabia (Fatwa No. 19297); as well as the fatwas of several shari'ah supervisory board. Therefore, tawarruq is an exit for avoiding ribā rather than a trick for performing it, since it is usually practiced by those who do not want to be involved in interest-based borrowing. It has been reported by 'Abd Allāh Ibn Mubārak that Sayyidah 'Ā'ishah (God bless her) practiced it. However, its permissibility depends on the specific condition that must be fulfilled by the transacting parties. Among others are:

- i. The prohibition of composite contract between purchasing the commodity and reselling them, which is justified by the fact that joining them together would impose a commitment on the client to sell the commodity right away. Hence, such immediate transfer of the ownership of the commodity may not enable the client to receive it. This is again the same reason for prohibition of proxy-related commitment.

²⁰⁹ *Makhārij* refers to *ḥiyal al-mubāḥah* which means permitted *ḥiyal*. (Kuwait 1404-1427H: 36:241) *Ḥiyal* specifically means the use of acumen and ingenuity to avoid difficulty in one's commitment to Shari'ah rulings, especially in financial and economic matters. ('Ashūr, 1998:251)

- ii. The permissibility of resorting to the proxy of the institution when the client, by virtue of law, is unable to sell the commodity directly is meant to safeguard the deal from being nullified by the law.
- iii. The ruling that institution should provide detailed information about the commodity to the client, aims at preventing the fictitious transactions and helping the client to obtain the liquidity. Such requirement holds true; whether the subject matters are in the form of a commodity, car, and shares of company, international goods, or local goods. The latter are more suitable for monetization due to the easiness of ensuring their existence and the chance available to the client to actually hold them, if he so desires.
- iv. The ruling that the institution should provide the client with full description or a sample of the commodity is actual, rather fictitious.
- v. Monetization should be subjected to strict controls and restrictions, so that institutions fulfill the main objectives underlying their presence and the interest of customers to make dealings with them.

5. CONCLUSION

In conclusion, this structure has manifest gains over other structures that have been earlier debated. The use of rahn in this structure consistently meets the purpose for which the rahn contract was constituted by the Sharī'ah, i.e. as an assurance contract. In this structure, profit generation is placed in the right position, which is a trading contract, while ar-rahn remains a trust-based security contract. Thus, this structure does not try to employ rahn for a purpose that contravenes the very nature of the rahn contract, and its objectiveness. As a result, this structure is ultimately safe from the prohibited elements of bay' wa salaf or qarḍ jarra manfa'ah, which regularly arise from the structures such as that of ijārah (additional exchange contracts), and ar-rahn contract. In addition, there is no conflict of muqtaḍa al-'aqd between wadī'ah and rahn. This structure significantly enables the bank to generate a legitimate profit, since it does not involve qarḍ as the underlying contract for profit generating. In fact, the profit is purely generated from a mark-up sale via *tawarruq* arrangement that the parties enter into.

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TAKAFUL BENEFITS AS THE HIBAH AT TAKAFUL IKHLAS SDN. BHD: AN OVERVIEW

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ABSTRACT

Takaful is a form of protection to assist one self, family and loved ones. It is obligatory for Muslims to prepare themselves for life in the present, future and after their demise. Hence, to ensure these are achieved, an individual must plan his estate and property management whilst he is alive, and after his death. In short, Islam's property management aims to enable an individual to gain goodness now and for life in the hereafter. Takaful benefits become Islamic inheritance which guarantees the continuity of life for the family after the death of the contributor. Gifts (*Hibah*) is an act of giving by a giver to a recipient that was made through love and affections. In reality, the implementation of *Hibah* takaful in Malaysia is well accepted with a rapid growth. Documentation aspects are the essential roles in avoiding disputes over inheritance after the death of giver. This paper focuses on the concept of *takaful*, the *takaful* benefits and practice of *Hibah* takaful at Takaful Ikhlas Sdn. Bhd. The documentation of *Hibah* Form in Takaful Ikhlas prior and after enforcement of Islamic Financial and Services Act (IFSA) 2013 is subject to discuss also.

KEYWORDS: Takaful Benefits, *Hibah*, Takaful Ikhlas, Islamic Inheritance Law

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1. INTRODUCTION

Takaful system has been applied ever since the early years of Islam. It was implemented based on 2 concepts: '*Aqilah and al-Qasamah*'. '*Aqilah*' system was introduced by Rasulullah immediately after his migration (hijrah) to Madinah. A fund known as '*kunz*' was set up through contributions of each member in the tribe (kabilah). The money from the fund was utilized to assist the heirs of a murderer, in the case of killing without intention, to provide compensation (diyah) or for ransom payment of prisoners of war. '*Al-Qasamah*' system, on the other hand, was a system of payment to the heirs of a murder victim whose killer was unknown, or for a murder case in which evidence was insufficient. This is comparable to a warranty, in the form of compensation as paid to the victim or heirs in modern Takaful (Ahmad Ma'sum Billah: 2007).

Sudan's Islamic Insurance Company was the first to be established in 1979, followed by countries in Europe in the early 1980s. In 1979, Arab Islamic Insurance Company was launched in Saudi Arabia, subsequently Islamic Takaful Company in Luxembourg by Dar al-Maal al-Islami (DMI) in London in 1983. There is also an Islamic Insurance Company known as Syarikat al-Takaful al-Islamiah in Australia (Mohd Fadzil Yusof: 1996a).

In South East Asia, Malaysia was the pioneer through the establishment of Syarikat Takaful Malaysia Sdn Bhd (STM), which started operation on 2nd of August 1984. Its objective was to offer quality and professional Takaful (Islamic insurance) products and services to both Muslims and non-Muslims in the country. The catalyst for the Takaful industry was the decision of the Malaysia National Fatwa Committee in 1979 which decided that life insurance was an illegitimate contract as it contained the elements of usury (*riba*), gambling (*maisir*) and trading in risk (*gharar*) (Bank Negara Malaysia, 2004).

In May 1993, Brunei Darussalam followed the footsteps of Malaysia through the establishment of Takaful IBB Berhad. Syarikat Takaful Indonesia was incorporated and started its operation in August 1994 in the Republic of Indonesia, through technical cooperation with Syarikat Takaful Malaysia. The fast development of Takaful was made intense by the establishment of Takaful businesses. Three takaful companies started operation: in Jeddah, in Bahamas in 1983 by Dar al-Maal al-Islami and Insurance and re-insurance Company (IIRCO) in Bahrain by al-Barakah Group in 1986. Next, in Northern Africa, Bait al-Tamwil Company began its operation in 1986 from Tunis to offer Takaful re-insurance services for Islamic countries, especially those which had been colonised by France.

In brief, there are several motivating factors to the formation of Takaful. First, Muslims become more aware in practising wholesome Islam in their daily life. Second, Muslims wish to re-enact Islamic Financial system which is free of usury (*riba*), gambling (*maisir*) and trading in risk (*gharar*) for *ummah* development. Third, Islamic banking institutions that offer products that require Takaful businesses to have insurance protection services.

2. DEFINITION AND TAKAFUL CONCEPT

Takaful, a verb derived from the root word '*kafala*' means safeguarding, guaranteeing and protecting. Al-Quran uses the word to mean protecting, (Holy Quran:Ali 'Imran: 37 and Taaha: 40). The word '*kafala*' gets a prefix '*ta*', which results in '*takafala*'. Hence the word '*Takaful*' is derived, which means mutual protection, mutual guarantee and mutual safeguard. Literally, an agreement is made within a group of participants, whereby in the case of one participant is befallen with a misfortune: disaster/accident/illness/death, he will receive an amount of money or monetary benefits from the existing to assist in the difficulty faced by the participant (<http://www.Takaful-malaysia.com>).

Takaful can be defined as a contract or agreement made within a group in which the members reach a consensus to mutually assist each other on any loss or damage. It is a protection plan based on relationships between individuals.

Legal definition of Takaful is (Takaful Act 1984) ;

A scheme based on brotherhood, solidarity and mutual assistance which provides for mutual financial aid and assistance to the participants in case of need whereby the participants mutually agree to contribute for that purpose

Every soul will face death (Holy Quran:al-'Ankabut: 57, Holy Quran:al-Anbiya':35 dan Holy Quran:Ali 'Imran: 185). We can only plan for our life but it is apparent that only Allah determines all. Takaful is one of the instruments in Islamic property management which warrants self, family and property protection. Risk from an event or occurrence may result in negative consequence and effect that may befall an individual. As Muslims, it is compulsory for us to believe that risks are the provision (Qada'and Qadar) of Allah s.w.t. It is a form of a test of faith (Holy Quran:al-Baqarah: 155-157). At times, trials by Allah are results of the attitudes and undertakings of human beings themselves. (Holy Quran:al-Rum: 41).

However, we are not allowed at all to be passive without making any effort or attempt to avoid risks or minimizing them (Holy Quran:al-Ra'd:11). One should try his best in everything that he does and believe in *tawakkal*. The concept of *tawakkal* is submitting to God after we have tried our best. Rasulullah s.a.w taught his companions the concept of *tawakkal*, whereby only after one's camel is tied we should leave to God on its safety. Besides that risk management requires intelligence and efficiency to minimize any negative impact. The story of the prophet Nuh (the prophet Noah) building a huge ark to prepare for the great flood (Holy Quran:Huud: 37, Holy Quran:al-Mukminun: 27) is much related to the efficacy of risk management.

The prophet Yusuf (the prophet Joseph) commanded the Egyptians to prepare for a 7-year economic crisis and long draught (Holy Quran:Yusuf: 47-48) and the prophet Yaakub (the prophet Jacob) instructed his children to enter Egypt through different roads and doors to avoid any undesirable circumstances (Yusuf: 67). Thus all narrations in al-Quran provide references and guides that reveal risk management practised by the prophets.

3. TAKAFUL VS. CONVENTIONAL INSURANCE

The concept of conventional insurance is equivalent to Takaful, i.e. protection warranty contract for any misfortunes. However, the implementation of the warranty on the unfortunate participant is different whereby the protection in conventional insurance is not provided mutually among the participants but from the company to the participantS (Mohd Fadzli, 1996).

The takaful system has many benefits as compared to conventional insurance, which is profit-oriented. The advantages of Takaful system can be summarized as follows:

- 1- The warranty of financial protection based on Islamic (Sobri Salamon: 1989)
- 2- Periodic premium payment for family Takaful (refer table 1)
- 3- Profit-sharing between company and participants through *mudharabah* contract (refer Takaful models)
- 4- Family benefits after the death of the participant.
- 5- Spiritual benefits (Mohd Fadzil Yusof: 1996)

The aspect of spiritual benefits has proven that Takaful holds a greater, unparalleled advantage as compared to the conventional insurance system. Islam as *ad-Deen* (a way of life) is the most complete in fulfilling the requirements of life, now and beyond, physically, mentally and spiritually. These advantages of Takaful can be explained further through:

- i) mutual responsibility through the concept of *tabarru'* (al-Nisa':114)
- ii) mutual cooperation through the concept of *ta'awwun* (al-Maidah:2)
- iii) mutual protection in difficulty (*kafalah*)

In this respect, Takaful does not only for Muslims but is also offered to non-muslims alike. The multi-racial Malaysian society, differing in culture and religion, is encouraged to embrace Takaful. The general principle of upholding Islamic society (muamalat) is justice and equality.

Besides that, the advantages of Takaful can also be implemented on stakeholders like the customers, government, managers, investors and shareholders. This can be summarized as in table 3.

Table 1: The advantages of Takaful

Stakeholders	Takaful Advantage
Customers	Fulfilling the demands on several products on protection and savings at reasonable cost, comparable to those by conventional insurance
Government	Capable of utilizing knowledge and skills to manage and govern Takaful schemes with competitive remuneration package
Managers	Establish Takaful as an alternative to conventional insurance in comprehensive Islamic financial system.
Investors/shareholders	Provide reasonable returns on investments comparable to conventional insurance

Source: Bank Negara Malaysia (2004)

The difference between Takaful and conventional insurance must be emphasized to highlight the benefits of Takaful as the best alternative insurance instrument.

Table 2: The summary of the differences between Takaful and Conventional Insurance

Takaful	Conventional Insurance
Combination of <i>tabarru'</i> , <i>mudharabah</i> and <i>wakalah</i> contracts	Buy and sell contract (without material, clear contract (akad) made i.e. the policy) – buying and selling is evidently corrupt (<i>fasid</i>).
Participants' mutual assurance	The company guarantees premium payor (commercial in nature)
Participants' money is not company money	Participants' money is owned by the company
- managers as governors and pay Takaful benefits from Takaful fund -lack of fund is covered by interest-free loan (<i>qardhul Hasan</i>)	-the company is responsible in paying insurance benefits (from its assets)
Legal investment from <i>syara'</i> point of view	No restriction except for credibility
-profit-sharing -balance of profits is placed in participants' monetary fund	Profit is totally owned by the company (profit-motivated)
Distribution of profits is based on <i>mudharabah</i> contract or profit performance fee	Distribution is based on company's decision
Surpluses, profits or returns are held by the Takaful fund to be re- distributed to participants	Participants do not have rights on surpluses
Syariah Regulatory Council (Takaful Act 1984. Section 8 (5) (b))	None
Abide by <i>syara'</i> and free from usury (<i>riba</i>), gambling (<i>maisir</i>) and trading in risk (<i>gharar</i>).	Does not abide by <i>Syara'</i> and contains elements of usury (<i>riba</i>), gambling (<i>maisir</i>) and trading in risk (<i>gharar</i>).
Payment of trade <i>zakat</i> (trade obligatory alms)	no <i>zakat</i>

Source: Takaful Malaysia Guideline(2010)

The advantage of takaful as compared to conventional insurance is very obvious. It is a comprehensive system with the objective of elevating Islam's economic and financial system. The Takaful industry has been established for 26 years in Malaysia and this effort of developing a dynamic, versatile and efficient Takaful industry would not be successful without the superior co-operation of Malaysia's Central Bank and Takaful operators.

4. THE BENEFITS OF TAKAFUL AS AN INSTRUMENT OF INHERITANCE

This discussion refers to the benefits of Takaful as an instrument of inheritance. The author will discuss a product in the family takaful category, and its relations to the laws of Islamic inheritance. Besides this, the benefits to the family upon the death of the participant provide significant implications to this discussion.

When a participant dies before the maturity of the family takaful protection scheme, his heirs will receive payments from the takaful benefits as follows (Sobri Salamon: 1989):

- a) All the premiums which have been paid by the participant before he dies as accumulated in the participant's account, and the investment profits which are allocated based on *al-Mudharabah* agreement.
- b) The balance of the premiums which should be paid by the participant if he is still alive and maintains his participation. This balance is calculated from the date of the participant's death until the protection scheme matures. This balance of premium payments will be deducted from the special accounts of all other participants based on the consensus as contained in the Takaful agreement.
- c) The balance from the special accounts of all participants which is allocated for him. This balance is retrieved after all other expenses in managing family takaful, like benefit payments to participants' heirs, the death of other participants and other related expenses.

Fuqahas (Muslim Jurists) have differing opinions on the *Hibah* of takaful benefits to the nominee mentioned in the benefit's nomination form. Based on the basic principle, *Hibah* must be done while the participant is still alive. However, takaful benefits are only effective after the participant's death. The status of the takaful benefits is disputable; whether it is the property of the deceased participant and distributed based on Islamic law of inheritance (*faraid*) or be made *Hibah* (gift). The Shariah Advisory Committee (SAC) of the Central Bank of Malaysia (CBM), in its 34th meeting on 21st April 2003, decided on the application of *Hibah* in the distribution of takaful benefits as follows:

- 1- The benefits can be made *Hibah* as it is the absolute rights of the participant.

- 2- The status of *Hibah* in the Takaful plan is permanent and will not become a will. This *Hibah* is conditional. It is offered to the recipient for a certain period of time. In this context, takaful benefits are linked to the death of the participant and the maturity of the certificate. In other words, if the participant is still alive when the certificate matures, the benefits will be the property of the participants; whilst if the participant dies before the maturity of the certificate, *Hibah* will take effect.
- 3- The participant has the rights to revoke *Hibah* before the certificate matures, as *Hibah* is only absolute after *al-Qabd*.
- 4- The participant has the rights to revoke *Hibah* to a person and pass it to somebody else, or he can totally revoke his participation in the Takaful, if the recipient dies before the certificate matures.
- 5- The Takaful nomination form should be adjusted and mentioned clearly the status of the nominee: as a beneficiary or trustee.

The practice of Takaful Ikhlas, a company providing takaful benefits, for its family takaful products, is to provide a *Hibah* proposal form if the participant plans to make *Hibah* after his death. The company also specifies that the *Hibah* recipients should be parent(s), legitimate spouse, children or siblings. This is to protect the welfare of the nearest kin. Takaful with *Hibah* integration concept will be more competitive in nature as compared to conventional insurance which obviously is without this application.

Hibah can also be adapted as an additional concept to Takaful products and can be practiced by other Takaful operators as in the product by Takaful Ikhlas, Education Plan. This product is offered to parents with children. The parents will act as premium payor (*Hibah* provider) and the children will be the Takaful participants. This type of *Hibah* is necessary as it abides by all rulings and conditions.

The most important element regarding Takaful policy is the nomination of the recipient. This is to facilitate property management after the death of the participant. The nominee will act as trustee and not recipient (www.e-fatwa.gov.my). After the death of the participant, the trustee will be responsible to manage the property based on *faraid* ruling, *wasiyah* (will) or *Hibah* according to the requests of the participant or as agreed upon in the Takaful agreement. Therefore Takaful participant must ensure that the nominee is credible and able to manage the property. It must be noted that children named for nomination must reach puberty to qualify for *tasarruf* (management).

The appointment of *wasi* or trustee and *Hibah* is an important element in the distribution of property in Takaful. The participant gets a certain amount of monetary compensation should misfortune befalls on him. If the participant dies, a certain amount of money will be given to his heirs, either by *Hibah* or *wasi*. If a male participant provides *Hibah* on all the compensations to his wife, his wife therefore will get all properties without *faraid* ruling. However, if the participant appoints his wife as a *wasi*, the wife is responsible in distributing the compensation to his heirs based on their consensus atau through *faraid*. In general, the participant must make a wise selection in determining the best mechanism for property management while he

is alive. The functions and roles of nominee, *Hibah* proposal or trustee appointment should be well understood.

5. PRACTICE OF *HIBAH* IN SYARIKAT TAKAFUL IKHLAS SDN. BHD.

Hibah is adapted as an additional concept of Takaful products and is practiced by most Takaful operators such Education Plan product by Takaful Ikhlas Sdn. Bhd. (Othman Yaakob:2008). For example, this product is offered to parents with children. Parents act as a contribution payor (*Hibah* contributor) and their children are participants of the Takaful (*Hibah* Recipients). This kind of *Hibah* is permissible because it satisfied all the pillars and requirements. Pursuant to Takaful, the author thinks that it should be discussed separately in order to get ample space to discuss the concepts, principles and practices as an instrument of property management.

The method of '*Hibah* Proposal' is applied by Syarikat Takaful Ikhlas Sdn. Bhd. Through this method, the takaful participant (by filling up the *Hibah* Proposal Form) will only propose to the Participant Special Account Fund (*Tabarru'* Fund) one or more individuals will be beneficiaries to his takaful benefit. It should be stressed here that the *Hibah* has yet to happened, but it is mere "proposal" from the participant as to *Tabarru'* Fund donates to the proposed beneficiaries upon the death of the participant prior to maturity. Thus, the portion which is subjected to *Hibah* is the takaful benefits money upon the death of participant from *Tabarru'* Fund, while the payment from the account of participant is considered as an estate and will be distributed to the respective participant representatives via *Fara'id* rules.

However, those who could be named as beneficiaries to the benefit are limited to parents, a legitimate spouse, children and siblings (*Hibah* Proposal Form, Takaful Ikhlas Sdn. Bhd.). This purpose of having a limited list of beneficiaries is to protect the interests of the nearest kin who are under the responsibility of the participant. Although it is contrary to *Hibah* rules that give liberty to the property owner to give *Hibah* to any intended individual, on the other side of coin, the limitation of certain individuals who could be beneficiaries can be considered as being in line with the principle of *Siyasah Shar'iyah* as to protect the interest of individuals who are affected by the death of the participant and those who are still under responsibility of the participant (specifically children and wife). The author also believes that it is also consistent with the objectives of the participation of a payer/contributor to any takaful or insurance scheme, which is to provide personal and family protection that are under the responsibility of the participant in the event of death or disability of the participant. This protection concept is known as "Takafulable Interest" and it is equivalent to "insurable interests" concept in the context of conventional insurance (Section 152 of the Insurance Act 1996).

The *Hibah* Proposal method may be considered as an alternative to *Hibah* issue that requires *Hibah* implementation is subject to the death of participant as ruled by the Shariah Advisory Council of CBM above. Although the requirements such as '*umra* and *ruqba*' in *Hibah* is recognized by CBM, it is still an issue disputed by the Fuqahas. Thus, Takaful Ikhlas has made a stand that *khilafiyyah* matters (disputable matters not agreed by all Fuqahas) should be avoided in accordance with the Islamic legal maxim (*Qawaied Fiqhiyah*) which means, "Out of the disputable matter is

encouraged" (Al-Suyuti , tt :). Besides the conditional *Hibah* issue, the *Hibah* Proposal method is said to overcome the unsatisfied *qabd* issue because of takaful benefit is yet to exist when the *Hibah* was made. Since the declaration submitted by the takaful participant is 'proposal', it could be withdrawn and the list of beneficiaries of such benefits can also be amended by participant at any time.

In this case, the named takaful participant in the takaful product itself is the beneficiary of the received *Hibah*. This occurs when the parents became payers/contributors to their children in education takaful products. The modus operandi of this type of *Hibah* is easy to understand because the contributor for example a father becomes a donor by contributing to a certain amounts every month till the maturity period as a contribution for the benefit of his son (the participant) as a beneficiary. Once the contributions reach the maturity period, then the sum contributions (savings) with the profits (if any) will be handed over to the respective children. Similarly, he is also entitles for the benefits of participation in any takaful products. This application occurs in takaful products in which education saving in nature at Ikhlas (for example, Ikhlas Education Takaful). Moreover, *Hibah* in such product also could be seen as an action to provide specific rewards to participant by takaful company. Reward such as academic excellence award will be taken from the Tabarru' Fund (Participant Special Fund).

6. HIBAH PRACTICE IN TAKAFUL IKHLAS AFTER THE ENFORCEMENT OF ISLAMIC FINANCIAL SERVICES ACT (IFSA) 2013

The enforcement of the Islamic Financial Services Act (IFSA) on 30th June 2013 shows the changes of legal framework landscape that regulate the Islamic financial system in Malaysia. The statute that repeals the Islamic Banking Act 1983 (IBA) and Takaful Act 1984 (TA) provides the regulatory framework for Islamic financial activities by the institutions under the supervision of CBM.

IFSA is drafted to provide the regulation and supervision of Islamic financial institutions (IFIs), payment systems and other related entities as well as the supervision of Islamic money market and Islamic foreign exchange markets. This situation makes IFSA as a single statute for IFIs under the supervision of CBM; and has a wider scope of regulation compared to IBA and TA which were drafted in particular to regulate the Islamic banking institutions and takaful operators.

Pursuant to Section 6 (IFSA 2013), the creation of IFSA is to promote financial stability and compliance with Shariah for Islamic finance industry in Malaysia (which consist of Takaful industry) are in line with section 2(1) of the Central Bank of Malaysia Act 2009 (CBMA) that defines the Islamic financial business as "any financial business in ringgit or other currency which is subject to the laws enforced by the Bank and consistent with the Shariah."

Islamic financial services are authorized and regulated by IFSA. It can be divided into two categories which are "licensed business" and also "approved business". A business that is licensed by the Minister, on the recommendation of CBM, is a business that includes Islamic banking business, takaful business, international Islamic banking

business and international takaful business (refer to Section 8 (1) (a) and section 10). While approved business that are approved by CBM means businesses that related to business of operations of payment systems, Islamic payment instruments and issuance of designated Islamic payment instruments, takaful broking business, Islamic financial advisory business, Islamic money market and Islamic foreign exchange markets (refer to Section 8 (1) (b) and section 11).

Beneficiary Nomination aspect under Conditional *Hibah* is one of the most significant changes in the new Takaful legislation in which it is about the authority to make a nomination. IFSA gives the statutory right to a takaful participant, who attained the age of sixteen years old and above, took family takaful certificate or personal accident takaful upon his life, to nominate an individual to receive takaful benefits payable upon his death as beneficiary under the conditional *Hibah* (Paragraph 2 (1), Schedule 10). The participant also has right to put the nominee named as *wasi* only (ibid.). The beneficiary will receive the takaful benefits payable upon the death of the participant as his own because takaful benefits have been transferred to him through conditional *Hibah*.

In reality, takaful benefits shall not form part of the estate of a deceased takaful participant or be subject to his debts (Paragraph 3(1) and (2), Schedule 10). On the contrary, an individual who receive benefits as *wasi* shall distribute the takaful benefits in accordance with the will of the deceased takaful participant or the law relating to the distribution of the estate of deceased persons as applicable to that takaful participant (Paragraph 6 (2), Schedule 10). Nomination will be void if a nominee dies during the lifetime of takaful participant or the participant revokes the nomination by submitting a written notice to takaful operator or the participant may make a subsequent nomination (Paragraph 4 (1) (a) (b) (c), Schedule 10).

Legal provisions relating to the rights of participant to nominate a beneficiary under conditional *Hibah* could be seen as to give the opportunity to participant to ensure that the takaful benefits payable upon the death of participant will be fully obtained by the *Hibah* recipient. This right could be used to safeguard the interests of nearest kin of takaful participant such as spouse, children or parents. However, this provision may also cause some issues as follows: -

Confusion may arise regarding the ownership status of the takaful benefits under the conditional *Hibah* despite the SAC has approved its use since conditional *Hibah* is similar to *Hibah ruqba'* (Shariah Resolutions in Islamic Finance: 2007). Moreover, *Hibah ruqba'* as opined by the majority of fuqahas (Wahbah Al-Zuhayli: 2007; Muhammad Najib Al-Muti'i: tt; al-Nawawi: 1991; al-Nawawi: 2000) saying that ownership of *Hibah* will be transferred directly to the recipient and will not be returned to the contributor if the recipient dies during the lifetime of the contributor. (Ali Haydar: tt).

The conditional *Hibah* contract is likely to be misused by the participant as to deny certain successor rights to receive takaful benefits as IFSA does not clearly mention who is the individual that eligible to be named as beneficiary under the conditional *Hibah*. Since the statute neither interprets the definition of beneficiary nor the existence of legal provisions that requires the beneficiary to have a protectable interest on the protected person (takaful participant), this statute gives an absolute power to

the takaful participant to nominate any individual as beneficiary under the conditional *Hibah*. The situation is different with insurance laws under FSA when it limits certain individuals only such as spouse, children or parents (if there is no spouse or children) are eligible to receive policy money on the basis of statutory trust, while other nominees will receive policy money as an executor only. (refer to Paragraph 5(1)(a)(b) and 6(1) of Schedule 10 of FSA).

Before the IFSA 2013 came into enforce, Takaful Ikhlas applicants must fill in two nomination forms which are Nomination Form and *Hibah* Proposal Form. For a Muslim who has being named in the Nomination Form, he is responsible to manage the compensation that he received by distributing to the legal heirs in accordance to *Faraid* ruling or any order of the court as indicated by the 49th National Fatwa Committee Consultation for Islamic Affairs of Malaysia on 10th September 2000:

"Nominee in the Employees Provident Fund (KWSP), Bank Simpanan Nasional, Post Office, Banks, Insurance Companies and the Trade Unions seems to be like an executor or a testator of a will. Those individuals can receive money of the deceased from above-mentioned sources as to be distributed among legal individuals in accordance with the Islamic law of inheritance. "

While the named nominee in the *Hibah* Proposal Form, is considered as beneficiary and the specified percentage is allocated for him. After IFSA 2013 being enforced, *Hibah* Proposal Form was changed to Conditional *Hibah* Nomination Form. A participant who wishes to give the compensation that should be distributed among his heirs, must recommend to the trustee of *Tabarru' Fund* (Takaful Ikhlas Sdn Bhd) to give the money to the nominees whom being named in the Conditional *Hibah* Form, if he is befallen by death.

In this situation, after the death of takaful owner, the contributor is the takaful owner but Takaful Ikhlas Sdn Bhd who acts as a trustee and is responsible for *Tabarru' Fund*. As a result, the money that can be given is the sum of compensation in which he is entitled for, while the accumulated money in his personal investment account shall be distributed according to *Faraid* ruling or use to repay his debts.

7. CONCLUSION

Inheritance management in Malaysia plays a significant role in ensuring harmonious family relationship. Eventhough the laws of the country do not mention specifically the instrument contained in Islamic Inheritance, it's implementation however is very effective and efficient. The co-operation between the country's administrative, legislative and financial institutions provides positive implications to its development and sound implementation.

The benefits of takaful should be understood in depth because of its distinctive position from the view of Islam's rulings and implementation. There have always been disputes in the society after the death of the individual who has invested in Takaful, complicating the inheritance process. Therefore if this benefit of takaful is

managed systematically and abides by the rulings of Islamic inheritance, the rights of the heirs are protected.

In reality, *Hibah* practice in Malaysia is growing rapidly and well accepted. This could be proved by the existence of takaful operator such as Takaful Ikhlas Sdn Bhd. that offering Takaful *Hibah* to meet the real criteria of *Hibah* as an instrument of Islamic effective property management. Technical and legal aspects have to be observed and adjusted for the betterment of the company and its customers.

The enforcement of IFSA has brought significant changes to the laws of takaful in Malaysia, but arguably more extensive than the Takaful Act (1984). The newly added provisions also emphasize on the aspects of the duty of disclosure and the pre-contractual representations as well as nomination including matters relating to takaful benefit payments to beneficiary under the concept of conditional *Hibah*.

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**EVALUATION OF THE SURVEY ON APPLICATION OF
MUSHĀRAKAH AS FINANCING TOOL IN MALAYSIAN ISLAMIC
BANKS**

Jamil bin Ramly

IBFIM

1. INTRODUCTION

The purpose of this chapter is to evaluate the application of *Mushārah* or Profit-Loss-Sharing in terms of constructing, structuring and pricing to investigate *Mushārah* management to recognise the obstacles and factors influencing decision making and to investigate the implications of using the *Mushārah* mode of financing. The survey has been collected from respondents, of whom the majority are the staff of Islamic banks operating in Malaysia. The results show the high preference of *Mushārah* financing among bank staff's to be compatible with foreign Islamic banks such as in Brunei, Indonesia and Bangladesh, for examples that show the new trend of mobilizing funds for *Mushārah* contracts. The results indicate a lack of knowledgeable bankers in selecting, evaluating and managing prospective projects to be financed under *Mushārah* principles. This is a significant cause for the lack of *Mushārah* projects. The research exposes the key issues involved in anticipating court support for *Mushārah* banking products should they be challenged in court. This chapter should contribute to a better understanding of the implications of using *Mushārah* as a financing mode.

1.1. Some Key Questions And Hypothesis On The Practice Of *Mushārah* Contracts As Financing Tool

In a broader perspective, this study also has the purpose to value-add to the available literature on the challenges and practical problems of Islamic law in contemporary Muslim society. Taking *Mushārah*, it demonstrates the conflict seen from the present Muslim community in the use of the rules of the classical *fiqh* doctrine in the modern life. It discusses the dilemma between sticking to the established principles and meeting the complex demands of the contemporary period. In the context of the Islamic banking industry, it shows the continuous struggle between the fundamentalists who firmly uphold the classical jurists' doctrine and the modernists who appear very flexible in response to the changing demand of the financial market.

The identified restrictions are emphasized and suggestions are given to remove the restrictions. The implication of answers on questions quoted in the questionnaire paves the way for the future shapes of the Islamic banking in the application of *Mushārah*. The study is directly deals with the issue of preferences of IBIs as providers of funds and customers as users of funds, with variable views to resolve their conflicts in utilization of underlying contracts of *Mushārah* as tools of financing to support the requirement of *vis-à-vis* working capital, overhead expenses, asset purchasing and trade finance facilities in their business.

The study is also of general theoretical importance as well as of practical significance for policy makers and Islamic finance operators who intend to market *Mushārah* as legally-risk free.

The significance of this study should also allow the appreciation and understanding of the specific regulatory and supervisory framework which can facilitate and support the

implementation, fulfilment and application of *Mushārah* contracts in Islamic banking, as practiced in Malaysia.

1.1.1. Key Questions and Hypothesis on the Practice of the *Mushārah* Contracts as Financing Tool.

The study applies the combined qualitative and quantitative design method (Cresswell, 1994). This method is used because the areas under study are still in their infancy and are still trying to seek possible factors related to the IBIs' operational issues and recovery processes that lead to foreclosure in *Mushārah* financing facilities.

The analysis follows the generic bank's organisational structure of a credit department consisting of Basic Advance/loan unit in consumer, commercial and corporate. Each is responsible for evaluation of creditworthiness and repayment ability of financing facility of the applicants:

- Securities or collateral unit, serve as custodian of security document such as transfer of land, title documents, mortgages, lodgement and registration of security interests including conducting title searches;
- Credit Committee function as review and monitoring process, approval of major new financing facilities and major financing facilities renewals and to take charge of delinquent financing facilities;
- Compliance Process Unit taking charge of compliance with the bank's stated policy, completeness of lending and advancing documentation and consistency in assessment of application;
- Credit Follow-up and Recovery Unit shall look at financing facilities that became delinquent. This unit is responsible for recovery processes including foreclosure. The non-performing accounts and recovery processes reports are submitted for Credit Committee approval.

According to Niglas (2004), there is a possibility of using qualitative and quantitative data in every study, irrespective of the general strategy of a research or the concrete data gathering techniques. In this regard, the qualitative design approach is first conducted in order to investigate the possible attributes associated with the research. In deriving the hypothesis, these studies explore the theoretical implications for the design of the *Mushārah* financing model. This study also identifies the key factors in practice and relates them to the construction and structuring of the *Mushārah* as financing tools. This study considered four types of variable:

Table 1.1: Types of Variable and Hypothesis

Nos.	Types of Variables	Hypothesis
1	The key variables used to capture the construction and pricing of <i>Mushārah</i> contracts;	Hypothesis 1 (H1): “Banks will give high ranking to the specific attributes of the project in accepting or rejecting a <i>Mushārah</i> contract ex ante.” Hypothesis 2 (H2): “Banks will give high ranking to the specific attributes of the entrepreneur in a <i>Mushārah</i> contract.”
2	The key variables that underpin the restrictiveness of <i>Mushārah</i> contracts	Hypothesis 3, (H3): “Relating to accept or reject the project (or investment) decisions, compliance with <i>Shāri‘ah</i> considerations is a key requirement in the <i>Mushārah</i> contract”.
3	The key variables that underpin Monitoring and Contractual Governance Issues in <i>Mushārah</i>	Hypothesis 4, (H4): “Bank must take active role in monitoring the <i>Mushārah</i> project”.
4	The key variables that underpin <i>Mushārah</i> that relate to any test that may be applied by the court in the litigation process and foreclosure of <i>Mushārah</i> financing products.	Hypothesis 5, (H5): “<i>Mushārah</i> are legally acceptable financing tools for Islamic banking business.” Hypothesis 6, (H6): “There is no material difference between <i>Mushārah</i> principles and it is enforceable in the current Malaysian common law environment”. Hypothesis 7, (H7): “<i>Mushārah</i> products passed the underpin test-applied-by-court in the foreclosure process of financing products.”

1.2. Data Analysis And Research Findings

With relation to *Mushārah* financing as a *Shāriah* compliant product, Compliance Process Unit shall look into the *Mushārah* financing facility to ensure compliance with the bank's stated policy such as *Mushārah* being *Shāri'ah* compliant, issue guidelines for Basic Lending/Advance Unit to process and evaluate the creditworthiness and repayment capability. As such, the relevancy of the research questions that relate to:

- Panel A - Concept of application of *Mushārah* as financing tools in Islamic banking operation.
- Panel B – Factors Determining the Profit Sharing Ratio-pricing of *Mushārah*,
- Panel C – Financing Facilities relating to *Mushārah* tenure meant for small and running business, and Topic G – Operating Model of *Mushārah*, to ensure that the bank is using the right *Mushārah* model. Basic Lending/Advance Unit shall recommend their proposal to Credit Committee for approval. Credit Committee shall look into the acceptable criteria in approving such facility. Thus,
- Panel D – Credit/Project evaluation,
- Panel E – Decision in accepting or rejecting *Mushārah* comes under the purview of Credit Committee. Credit Follow-up and Recovery Unit in-charge of recovery of delinquent accounts, as such,
- Panel H – Incidence of Agency problems in *Mushārah* contracts, Topic I – The importance of taking an active role in monitoring the *Mushārah* project,
- Panel J – Monitoring System in *Mushārah*,
- Panel K – Important areas of activities to be monitored in *Mushārah*, and
- Panel L – Judgment Approach in Deciding Cases.

Distribution of mean, skewness and kurtosis of the *Musharakah* research data, ranking of attributes is as per the Table 6.2. Evidence of ranking all attributes analysis based on SPSS 6.0 Window Software Analysis is as per the Table 6.4.

1.2.1. Normality and Reliability of the Data

It is necessary to confirm the normality and reliability of the data to be utilized in the study before proceeding to conduct statistical tests on its significant and relational test. The normality test result revealed that the data has a normal distribution as evidenced in Table 6.2. The ranking attributes shows the concern on judgement on *Mushārah* based products and the monitoring mechanism in *Mushārah*. Retraining of bank staff is least important, perhaps with the issuance of guidelines has put the *Mushārah* based products *Shāriah* compliant.

Table 1.2: Distribution of Mean, Skewness and Kurtosis of the Mushārah Research Data.

Ranking of Attributes

Nos.	Description	Mean	Std. Deviation	Skewness	Std. Error Skewness	Kurtosis	Std. Error Kurtosis
L	Judgment Approach in Deciding Cases	3.3844	.41165	.589	.217	-1.344	.431
K	Important areas of activities to be monitored in <i>Mushārah</i>	3.3817	.45022	.511	.217	-1.613	.431
J	Monitoring System in <i>Mushārah</i>	3.2423	.37018	1.190	.217	-.173	.431
E	Decision in accepting or rejecting <i>Mushārah</i>	3.2249	.31261	.952	.217	-.212	.431
B	Factors Determining the Profit Sharing Ratio – Pricing of <i>Mushārah</i>	3.2194	.36906	.913	.217	-.401	.431
H	Incidence of Agency problems in <i>Mushārah</i> contracts	3.2129	.41652	1.044	.217	-.140	.431
C	Financing Facilities	3.1048	.31735	.693	.217	.698	.431
A	Concept of application of <i>Mushārah</i> (Profit-loss-sharing) as financing tools in Islamic banking operation	3.3026	.32754	.650	.217	-.148	.431
G	Operating Model of <i>Mushārah</i>	3.0759	.37404	.159	.217	1.090	.431
D	Credit/Project Evaluation	2.9587	.34656	1.052	.217	.641	.431
I	The importance of taking an active role in monitoring the <i>Mushārah</i> project	2.9005	.22683	1.338	.217	3.314	.431
F	Re-training of Staff	2.7849	.30708	-.007	.217	-.039	.431

The test was conducted using skewness and kurtosis measurements. It is concluded that the data is symmetric because most of the values for the skewness and kurtosis scoring are less than -1.0, for all the dimensional construct of the study, except for Topics G and I, which are above 1. It has been noted that a skewness and kurtosis of value ± 1.0 is considered as an excellent value (George & Mallery, 2006). Therefore the data for this study is considered as normally distributed and thus parametric tests were used.

Some basic statistics on the distribution of respondents on gender, age, education level and group classification of professionalism are summarized below.

Table 1.3: Distribution of Respondents

		Percent (%)
Gender	Male	56
	Female	44
Age Group	Below 23	3.2
	24 – 34	6.5
	35 – 49	82.3
	Above 50	8.1
Education Level	Diploma	1.6
	Bachelor	31.5
	Professional Qualification	8.1
	Postgraduate (master or PhD)	58.9
Professionalism	Finance/Consultant/Advisory	76.6
	Government/Regulatory	6.5
	Academic/Religious School	16.9
	Others	0.00

A majority of the respondents were male which constitutes 56% of the respondents. The bulk of the respondents belongs to age group 35 to 49 years old; correspondingly reflect the attitudes and perceptions of this age group as this group are categories of middle management and decision makers. Interestingly, the results indicate that the majority of respondents are well educated, with 58.9% of the respondents are holding postgraduate qualifications. The results of the survey are tabulated as in Table 1.4, evidence bases on SPSS 6.0 Window Software Analysis, on the ranking of all attributes of the questionnaires.

Table 1.4: Evidence bases on SPSS 6.0 Window Software Analysis

Ranking of All Attributes

Nos		Description	Mean	Std. Deviation	Skewness	Std. Error Skewness	Kurtosis	Std. Error Kurtosis
	A	Concept of application of <i>Mushārah</i> (Profit-loss-sharing) as financing tools in Islamic banking operation	3.3026	.32754	.650	.217	-.148	.431
a1	1	Islamic banking practice is based on the concept of <i>Mushārah</i> which theoretically is superior to conventional banking.	3.73	.448	-1.025	.217	-.966	.431
a2	2	The bank bears the risk of losses	3.48	.591	-1.107	.217	2.737	.431
a3	3	Cases relating to Islamic banking are brought to the Civil Court	3.46	.500	.182	.218	-2.00	.433
a4	4	Variability and uncertainty of the return	3.44	.499	.230	.217	-1.979	.431
a5	5	The rulings of the <i>Shāri'ah</i> Advisory Council under the Act are binding only upon arbitrators when sought, and not upon the Courts.	3.31	.573	-.381	.217	.954	.431
a6	6	Lack of globally accepted standard financial contracts and products practiced elsewhere that may create disputes	3.23	.523	.217	.217	-.116	.431
a7	7	The high cost required for monitoring	3.21	.615	-.157	.217	-.500	.431
a8	8	No access to information	3.14	.561	-.526	.217	2.691	.431
a9	9	The lack of right of control	3.13	.493	-.541	.217	5.144	.431
a10	10	The risk of low profit	3.13	.441	.45	.217	4.890	.431
a11	11	The demand for rigorous accounting	3.09	.526	-.235	.217	2.153	.431
	B	Factors Determining the Profit Sharing Ratio – Pricing of <i>Mushārah</i>	3.2194	.36906	.913	.217	-.401	.431
a12	1	Degree of risk	3.36	.483	.577	.217	-1.694	.431
a13	2	Type of project	3.35	.478	.652	.217	-1.601	.431
a14	3	Size of project	3.34	.475	.690	.217	-1.549	.431
a15	4	Time horizon of project	3.23	.479	.612	.217	-.524	.431
a16	5	Pricing of the Islamic banking products are similar to	2.78	.832	-.777	.217		

Nos		Description	Mean	Std. Deviation	Skewness	Std. Error Skewness	Kurtosis	Std. Error Kurtosis
		conventional banking pricing mechanism					.265	.431
	C	Financing Facilities	3.1048	.31735	.693	.217	.698	.431
a17	1	Use <i>Mushārah</i> as a financing tool: Participating in short-term and low-yield projects,	3.03	.359	.439	.217	4.915	.431
a18	2	Use <i>Mushārah</i> as a financing tool: in a running business	3.09	.338	1.541	.217	4.662	.431
a19	3	Use <i>Mushārah</i> as a financing tool: Financing the small business	3.05	.334	.887	.217	5.881	.431
a20	4	Use <i>Mushārah</i> as a financing tool: Participating in long-term and low-yield projects,	1.60	.835	1.218	.217	.530	.431
	D	Credit/Project Evaluation	2.9587	.34656	1.052	.217	.641	.431
a21	1	In banks <i>Mushārah</i> product, the banks need to participate in the enterprise, and book as investment in accounting entry.	2.90	.590	.022	.217	-.133	.431
a22	2	Realisation of returns of the <i>Mushārah</i> is based on the maturity of the project.	3.30	.493	.482	.219	-.773	.435
a23	3	Criteria for <i>Mushārah</i> project selection is assessed and negotiated on its own merits.	3.13	.650	-.132	.217	-.631	.431
a24	4	<i>Mushārah</i> products are offered to small business enterprises that have the capacity to repay (that meet the credit criteria).	3.10	.474	.323	.217	1.223	.431
a25	5	In banks <i>Mushārah</i> product, the treatment is similar to other banks financing products and book as “bank financing asset”.	2.98	.755	-1.015	.219	1.518	.435
a26	6	Criteria in evaluating project to be utilized under <i>Mushārah</i> product are similar to credit evaluation of other financing facilities.	2.93	.734	-.761	.217	.983	.431
a27	7	Realisation of returns of the <i>Mushārah</i> is based on amortization of the capital and profit over the specific tenure/terms.	2.92	.569	-.561	.219	1.760	.435
a28	8	<i>Mushārah</i> products are offered to small business enterprises as seed capital.	2.42	.929	-.131	.217	-.904	.431
	E	Decision in accepting or rejecting <i>Mushārah</i>	3.2249	.31261	.952	.217	-.212	.431

Nos		Description	Mean	Std. Deviation	Skewness	Std. Error Skewness	Kurtosis	Std. Error Kurtosis
a29	1	Reputation of the agent manager/customer/partner	3.32	.469	.768	.217	-1.433	.431
a30	2	Compliance with Islamic rules	3.50	.502	.016	.218	-2.033	.433
a31	3	Experience and qualification of the agent manager/ customer/ partner	3.39	.489	.469	.217	-1.809	.341
a32	4	Profitability of project	3.32	.469	.768	.217	-1.433	.431
a33	5	The financial track records	3.27	.496	.444	.217	-.447	.431
a34	6	Degree of uncertainty of project	3.25	.453	.900	.217	-.457	.431
a35	7	The time horizon of profits	3.14	.345	2.136	.217	2.605	.431
a36	8	Current financial position	3.10	.457	.416	.217	1.501	.431
a37	9	Social and environmental	3.03	.525	-.302	.217	2.157	.431
a38	10	The security offered by the assets	2.94	.762	-1.122	.217	1.644	.431
	F	Re-training of Staff	2.7849	.30708	-.007	.217	-.039	.431
a39	1	The bank staff will have to acquire many new skills and learn new procedures to operate the <i>Mushārah</i> system.	3.35	.529	-.232	.217	1.288	.431
a40	2	Because of the required new skills in <i>Mushārah</i> system, many personnel of trained and experienced staff will be needed to carry them out.	3.14	.565	-.814	.219	3.927	.435
a41	3	The banks staffs do not have to acquire any new skills and learn new procedures to operate the <i>Mushārah</i> system as the treatment of credit processes are similar to other normal financing tools.	1.88	.750	.672	.217	.420	.431
	G	Operating Model of <i>Mushārah</i>	3.0759	.37404	.159	.217	1.090	.431
a42	1	The entire effort of an Islamic bank is directed towards money management and it is not geared to act as an entrepreneur, trader, industrialist, contractor or caterer	3.37	.516	.198	.218	-1.152	.433
a43	2	<i>Mushārah</i> system has not been tested in court yet	3.37	.548	-.072	.217	-.870	.431
a44	3	Islamic bank has anticipated the outcome of the court ruling should <i>Mushārah</i> cases be	3.03	.441	.163	.217	2.282	.431

Nos		Description	Mean	Std. Deviation	Skewness	Std. Error Skewness	Kurtosis	Std. Error Kurtosis
		referred to court.						
a45	4	The practice of Islamic banking was indifferent to those of interest based benchmark	2.54	.840	-.631	.217	-.431	.431
	H	Incidence of Agency problems in <i>Mushārah</i> contracts	3.2129	.41652	1.044	.217	-.140	.431
a46	1	Incentive to consume more perks	3.27	.444	1.071	.217	-.866	.431
a47	2	Overinvestment problem	3.20	.441	.912	.217	.367	.431
a48	3	Overconsumption of personal benefits	3.21	.447	.873	.217	.223	.431
a49	4	Reduction of effort (shirking)	3.19	.472	.569	.217	.393	.431
a50	5	Underinvestment problem	3.19	.472	.569	.217	.393	.431
	I	The importance of taking an active role in monitoring the <i>Mushārah</i> project	2.9005	.22683	1.338	.217	3.314	.431
a51	1	Periodical management report	3.25	.435	1.169	.217	-.644	.431
a52	2	Making available help and advice	3.24	.430	1.220	.217	-.520	.431
a53	3	Involvement in strategic decision	3.15	.354	2.039	.217	2.194	.431
a54	4	Representation of the board	3.02	.285	.543	.217	9.777	.431
a55	5	Providing management staff	2.97	.311	-.785	.217	7.518	.431
a56	6	Not to play any role in the management.	1.78	.802	.416	.217	-1.325	.431
	J	Monitoring System in <i>Mushārah</i>	3.2423	.37018	1.190	.217	-.173	.431
a57	1	To ensure compliance with terms	3.29	.456	.935	.217	-1.144	.431
a58	2	To ensure information's validity	3.27	.448	1.025	.217	-.966	.431
a59	3	To maximise the agent's effort	3.24	.430	1.220	.217	-.520	.431
a60	4	To improve the exposure of risks	3.23	.425	1.273	.217	-.386	.431
a61	5	To get information signals	3.21	.409	1.444	.217	.086	.431
a62	6	To ensure efficient allocation	3.21	.409	1.444	.217	.086	.431
	K	Importance areas of activities to be monitored in <i>Mushārah</i>	3.3817	.45022	.511	.217	-1.613	.431
a63	1	Financial performance	3.41	.494	.365	.217	-1.898	.431
a64	2	The agent's ability	3.40	.493	.399	.217	-1.871	.431
a65	3	The agent manager's/ customer's/	3.38	.519	.148	.217	-1.195	.431

Nos		Description	Mean	Std. Deviation	Skewness	Std. Error Skewness	Kurtosis	Std. Error Kurtosis
		partner's personal benefits						
a66	4	Investment portfolio	3.37	.485	.541	.217	-1.736	.431
a67	5	Monitoring the production	3.37	.485	.541	.217	-1.736	.431
a68	6	The probability of default	3.36	.481	.601	.218	-1.666	.433
	L	Judgment Approach in Deciding Cases <i>The judge/Evaluator/Assessor look into the following:-</i>	3.3844	.41165	.589	.217	-1.344	.431
a69	1	The suitability of the said Islamic banking product and the appropriateness of the application of <i>Shāri'ah</i> underlying contract in the financing product	3.54	.500	-.164	.217	-2.006	.431
a70	2	The Islamic prudential regulations: supervision of Islamic banks	3.46	.500	.164	.217	-2.006	.431
a71	3	The issue of “What element if any, is involved which is not approved by the religion of Islam”	3.43	.497	.297	.217	-1.943	.431
a72	4	Liability created under Islamic transaction	3.40	.493	.399	.217	-1.871	.431
a73	5	The structuring of the facility – The modus operandi of the Islamic financing structure	3.39	.489	.469	.217	-1.809	.431
a74	6	Derivation of legal profit in Islamic transaction	3.38	.487	.505	.217	-1.774	.431
a75	7	Exit Strategy and Mechanism in Islamic financing	3.37	.485	.541	.217	-1.736	.431
a76	8	Any transacted Islamic banking business must be presumed to be in order at the outset unless rebutted later	3.36	.515	.212	.217	-1.145	.431
a77	9	Perception of fairness	3.36	.483	.557	.217	-1.694	.431
a78	10	A bank has a <i>locus standi</i> in acting as agent to the customer	3.31	.558	-.609	.217	2.809	.431
a79	11	Hidden cost factor in financing facility – unfair and exploitative	3.31	.497	.440	.217	-.859	.431
a80	12	Foreclosure proceedings come under the civil law jurisdiction	3.31	.463	.850	.217	-1.299	.431
		End of Questionnaires						

1.3. Results Of The Survey

Several authors tried to show, with the variable degrees of successes, that the Islamic operations of profit-and-loss-sharing (PLS) are theoretically superior to the traditional operations of bank from different outlooks (for example, Khan and Mirakhor, 1987). Conversely, in application of PLS scheme, the practices skewed more towards non-PLS financing schemes. In the following paragraphs, the major difficulties found from the 'field study' and 'questionnaire survey', are discussed.

The results from univariate analysis are reported here in terms of the main four types of variables considered, as illustrated in Table 6.1, and the result of the survey, evidence bases on SPSS 6.0 Window Software Analysis on the ranking of all attributes are as per the Table 6.4. This study have examined that the Islamic banking practice in the application of *Mushārah* as financing tools adheres to *Shāri'ah* principles of *Mushārah*. *Mushārah* financing are used for short-term, medium and long-term financing for small businesses, small-and medium size business and corporate customers. For business activities of low risk, bank is willing to take their share at lower yield as compared to the high risk project. The higher the risk, the higher is the profit-sharing ratio. In evaluating the project, bank follows strictly their credit policy manuals and directives published by BNM from time to time. Most of the criteria in credit appraisal for *Mushārah* financing are similar to that of conventional in evaluating the small and medium size company and corporate client.

In order of priority, decisions in accepting or rejecting *Mushārah* financing facilities based on reputation of the managing partners. The nature of business ventures must be of *Shāri'ah* compliant. Experience and qualification of the managing partner is of important selection criteria. Positive track record is of advantage to the customer in applying the *Mushārah* financing. Banks looks into the profitability of the project and also reviews the financial track record of the potential client. Follow next, is the evaluation of the degree of uncertainty of the project to value whether the bank may accept that particular kind of risk profile. Other factor that a bank considers in credit evaluation including the time horizon of profit, gestation period before the project is fruit; sustainability or the capability to endure positive financial position of the company. The bank is also giving a high value ranking of company's sensitiveness of social and environment. For the valued customers of the bank, the security is secondary. However, for the project that is of high risk, the bank shall consider the level of security, normally in the form of liquid assets and/or landed property to be charged to the bank as collateral.

1.3.1. Characteristics of Modern *Mushārah* Contracts as Financing Tools.

Panel A of Table 6.4 reports results relating to the understanding of the basic concepts of the application of *Mushārah* as financing tools in Islamic banking operation with average mean (hereafter symbol ' μ ') of 3.3026 and a standard deviation (hereafter symbol ' δ ') of 0.32754. From Panel A, item No. a1, the result shows that the respondents agree that theoretically *Mushārah* is superior to the conventional banking. The bank

also bears the risk of losses agreeing and the risk of low profit with $\mu > 3$ and $\delta < 0.5$. These represent the three most important variables that become the components of *Mushārah* contracts. The results indicate that the respondents understand the *rukn* and *shart* (essential elements and necessary conditions) of *Mushārah*.

The mean of variables; the high cost required for monitoring; the lack of right of control and no access to information; and cases relating to Islamic banking are brought to the Civil Court score $\mu > 3$, with a small standard deviation of $\delta = 0.4$ representing considerable importance.

The demand for rigorous accounting; the ruling of SAC not binding upon the Court; and lack of globally accepted standard financial contracts that may create disputes, which this study expects are not important issues pertaining to the *Mushārah* financing products, surprisingly shows a mean of above 3 with standard deviation of range between 0.4 to 0.5 ($\mu > 3$, $\delta < 0.5$). With such a result, it can be concluded that the operation of the *Mushārah* as practiced by Islamic banks in Malaysia is in consonance with the concept and philosophy as advocated by the classical Islamic jurists on *Muḍarabah* and *Mushārah* application. The results are consistent with the expected characteristics of *Mushārah* contracts.

Respondents are aware of SAC ruling that is not binding upon the court. However, under the CBMA 2009, SAC is now the authority for ascertainment of Islamic law for the purpose of Islamic banking business, Takaful business, Islamic development financial business and any other business that is based on *Shāri'ah* principles and is supervised and regulated by BNM. Judges can no longer apply alien interpretations to *Shāri'ah* issues.

1.3.2. The Construction and Pricing Mechanism of *Mushārah* Financing.

Banks are familiar with credit initiation and analysis process. *Mushārah* financing is being treated similar to the loan credit initiation and analysis process. The objective is to ensure that banking facilities extended by the bank meet *Mushārah* assessment policy guidelines and those assessment standards and procedures established in the policy are observed in location where the bank is active. The project assessment policy, should clarify what types of projects are acceptable to the bank, what is the project purposes, tenor, collateral, structure, and guarantees the bank will accept in its *Mushārah* activities. The project evaluation policy establishes threshold requirements that any prospective entrepreneur or agent manager (*Mushārik*) must meet. The initiation of the project analysis process should follow a typical diagnostic process flow, beginning with screening of potential projects and data collection, followed by identification, analysis and measurement of risks, and then moving to a series of specific risk evaluation and risk mitigation actions in preparing for an approval decision.

Panel B presents statistics of the main factors in the regulation of the price mechanism from *Mushārah* with $\mu = 3.2194$ and $\delta = 0.36906$. The results show that degree of risk is the highest-rated factor in determining the profit sharing ratio for the distribution of cash flow. Type of project, time horizon of the project and size of the project are rated at

100%. In *Mushārah*, this study anticipated that the pricing mechanism is totally different from that of conventional banking loan system in determining the price or cost of the facility. However, in a16, 11.3% strongly disagree, 13.7% disagree, 60.5% agree and 14.5% strongly agree that the pricing mechanism is not different from that of conventional. These results confirm the findings as conducted by Khalil et al (2002)²¹². In their previous research, they found that variables in terms of degree of risk, uncertainty of project, tenure and project size are factors that determine the pricing of profit and loss sharing ventures.

The survey result satisfy the Hypothesis1 (H1), banks will give high ranking to the specific attributes of the project in accepting or rejecting a *Mushārah* contract ex ante.

As far as entrepreneur is concern, in general, the granting of credit depends on the confidence the bank has in the entrepreneur's credit worthiness, which encompasses the entrepreneur's ability and willingness to pay. Banks utilise a number of financial tools to evaluate the credit worthiness of a potential entrepreneur. Much of the evaluation relies on analyzing the entrepreneur's balance sheet, cash flow statements, inventory turnover rates, debt structure, management performance, and market conditions. Banks favour entrepreneurs who generate net earnings in excess of debt or repayment obligations and any contingencies that may arise. Panel D relates to the credit evaluation or project evaluation in determining project viability of *Mushārah* financing products with the average score of $\mu 2.9587$ and $\delta 0.34656$.

As such, analyses of entrepreneur's criteria satisfy Hypothesis 2 (H2), banks will give high ranking to the specific attributes of the entrepreneur in a *Mushārah* contract.

1.3.3. Key Variables that underpin the Restrictiveness of *Mushārah* Contracts as Financing Tool.

Panel C represents underlying contracts of *Mushārah* utilized as financing tools in banking with average score of $\mu = 3.1048$ and $\delta = 0.31735$. In Panel C item a17, the result shows that 4.8% disagree, 87.1% agree and 8.1% strongly agree, of the respondents that current practice of the *Mushārah* are in short-term and low-yield projects but for item a20; 1.6% disagree, 87.9% agree and 10.5% strongly agree, for *Mushārah* financing to participate in long-term and low yield projects. The score is $\mu = 1.60$ and $\delta = 0.835$. This phenomenon indicates that the banks are willing to absorb short-term-low-yield projects to promote *Mushārah* underlying contracts.

Banks do not participate in high risk low yield projects, especially long-term-low-yield projects. Small and Medium Size Entrepreneurs (SME), plays a major role in productive

²¹² Abdel-Fatah A.A.Khalil, Cilin Rickwood and Victor Murinde (2002), Evidence on agency-contractual problems in *Muḍarabah* financing operations by Islamic banks (pg 57-80).; a review compiled by Munawar Iqbal in the book titled Islamic banking and finance: a new perspectives on profit and sharing and risk; Edward Elgar Publishing.

sectors. Yet it seems challenging to offer them the PLS financing package, specifically under the *Mushārah* scheme, even though there is excess liquidity in the banks. The result also shows that 59.7% strongly disagree, 24.2% disagree, 12.9% agree and 3.2% strongly agree, of the respondents accommodating *Mushārah* as financing tools for running business. The score is $\mu = 3.09$ and $\delta = 0.338$. The result indicates that *Mushārah* is to be treated as a financing tool such as revolving working capital, but, not entering into a partnership in the enterprise.

Entrepreneurs and businesses persistently need revolving credit facilities to support the running business with short-term capital in the form of working capital and trade financing line for on-sight purchases, sundry expenses and foreign exchange facility. The *Mushārah* system is not readily available to cater to all of these needs as separate financing facility. Banks are not used to this kind of omnibus facility for a single customer; even if there is complete trust and exchange of information between the bank and the business due to the uncertainty of estimating the contribution of such short-term financing on the return of a given business. For Islamic banking that utilizes *Mushārah* financing facilities as financing products, and booked as financing asset and not to be treated as investment, thus, there is no issue in giving out financing facilities, even to a running business; simply because each product is treated separately as different bank's products. For example, a working capital requirement in the form of purchasing materials, as a one single transaction, overhead expenses as another separate transaction.

Accounting and Credit/Project Evaluation Treatment

It is interesting to note that academic and Shāri'ah consultants prefer to record the *Mushārah* accounting entries as investment, while bankers and financial consultants favour those *Mushārah* financing products being booked as another bank product and recorded as "bank financing asset". Those banks that transact *Mushārah* under the special purpose vehicle (SPV) record *Mushārah* activities under the investment accounting entry.

Panel D reveals that there are two types of *Mushārah* treatment depending on the bank's operational set-up. Banks with SPV and banks without SPV have a different treatment on *Mushārah* financing activities:

Bank Activities	Bank with SPV	Bank without SPV
Accounting treatment	Banks participate in <i>Mushārah</i> and book as investment in accounting entry. ($\mu = 2.90$ and $\delta = 0.59$)	Banks provide <i>Mushārah</i> facility and book the said <i>Mushārah</i> as financing asset. ($\mu = 2.98$ and $\delta = 0.76$)
Credit evaluation and project assessment	Criteria for <i>Mushārah</i> project selection is assessed and negotiated on its own merit. ($\mu = 3.13$ and $\delta = 0.65$)	Criteria for <i>Mushārah</i> selection are similar to credit evaluation and project assessment of other financing facilities. ($\mu = 2.93$ and $\delta = 0.73$)
Realisation of returns and/or profit	Realisation of returns or profit of the <i>Mushārah</i> is based on the maturity of the project. ($\mu = 3.30$ and $\delta = 0.49$)	Capital together with Profit or return are amortised. ($\mu = 2.92$ and $\delta = 0.57$)
<i>Mushārah</i> provide capital	<i>Mushārah</i> facilities provide seed capital to small business enterprises. ($\mu = 2.42$ and $\delta = 0.93$)	As bank other product, <i>Mushārah</i> does not provide seed capital, but <i>Mushārah</i> financing facility. ($\mu = 3.10$ and $\delta = 0.47$)

From panels A, B, C and D, the results are consistent with the expected characteristics of *Mushārah* contracts. It is useful to note that the partner(s) - the manager in contract *Mushārah*, has significant controllable power, because they are appointed and mandated with all the rights of control of the project. Therefore, it is not surprising that banks place emphasis in the qualifications of the agent and his reputation. The practices of the *Mushārah* financing facilities are consistent and in compliant with AAOIFI standards and BNM guidelines. The results support Hypothesis 5 (H5), which predicts that *Mushārah* are legally acceptable financing tool for Islamic banking business.

Decision in Accepting or Rejecting Mushārah

Panel E relates to decision in accepting or rejecting *Mushārah* in evaluating their potential partners with the average score of $\mu = 3.2249$ and $\delta = 0.31261$. The results support Hypothesis 1 (H1), which predicts that banks will give a high ranking to the specific attributes of the project in accepting or rejecting a *Mushārah* contract ex ante. The results support Hypothesis 2 (H2), which predicts that banks will give high ranking to the specific attributes of the entrepreneur. In addition, the results support Hypothesis 3 (H3), which predicts that compliance of the project with Shāri'ah considerations is a significant requirement for banks to accept or reject the project.

Panel E presents descriptive statistics of the main determinants in relation to the bank's assessment in reaching a decision to accept or reject a *Mushārah* contract. It is shown

that reputation; experience and Islamic rules are the most important variables in accepting or rejecting Mushārah. The mean of these variables is above $\mu > 3.33$ with standard deviation of $\delta = 0.47$. Profitability of project; the financial track records, current financial position; degree of uncertainty of project and time horizon of profits variables represent considerable importance, while social, environmental and security offered by the assets factors have moderate importance.

Accordingly, the banks assess the riskiness of an investment, type, size and time horizon of the project, and the appropriate rate of return for each Mushārah contract. This finding is consistent with the conventional doctrine of portfolio theory with respect to the relationship between risk and expected return.

Re-training of Staff

Panel F reveals that Islamic banks need to train or retrain staff in handling Mushārah financing facilities. From the survey, the average score of $\mu = 2.7849$ and $\delta = 0.30708$ illustrate that the employees of the bank will acquire new skills and learn new procedures to operate the Mushārah financing system, score $\mu = 3.35$ and $\delta = 0.527$. Because of the required new skills in Mushārah financing system, many trained and experienced staff will be needed to carry them out ($\mu = 3.14$ and $\delta = 0.565$). Such result ($\mu = 1.88$ and $\delta = 0.750$), nullifies the claim that states that the bank staff do not have to acquire any new skills and learn new procedures.

Operating Model of Mushārah as Financing Tools

Panel G, Operating Model of Mushārah, scores an average of $\mu = 3.0759$ and $\delta = 0.37404$. The overall structure of an Islamic bank is directed toward money management and not to act as an entrepreneur, trader, industrialist, contractor or caterer with a scoring of $\mu = 3.37$ and $\delta = 0.516$. At the time of the research survey, there is no registered Mushārah financing system that has been tested in court ($\mu = 3.37$ and $\delta = 0.548$). Islamic banks have anticipated the outcome of the court ruling should Mushārah cases be refereed to court ($\mu = 3.03$ and $\delta = 0.443$). The respondents have established a statement that the practice of Islamic banks is different from conventional banking practices. However, the scoring of $\mu = 2.54$ and $\delta = 0.84$ indicates that some of the respondents thought that the practice of Islamic banking operations is similar to that of conventional.

1.3.4. Key Variables that underpin Monitoring and Contractual Governance Issues in *Mushārah* Contract

Under the PLS concept, the Islamic bank does not participate directly in management decisions. Rather, it relies completely on the business venture's trustee or entrepreneur. This trustee is clearly an agent of the Islamic bank and, therefore, is inherently subject to agency conflict of interest. Thus, under *Mushārah*, the Islamic bank experiences the agency problem with its associated costs. Islamic banks operate primarily in developing

countries, where there is a high degree of financial market imperfection and a prevailing presence of inefficiency and corruption.

Panels H, I, J and K indicate the incidence of agency problems, and thus the importance of the bank taking an active role in monitoring a *Mushārah* project, the requirement of monitoring system; and the importance areas of activities to be monitored in *Mushārah*. The results support Hypothesis 4 (H4), the importance of taking an active role in monitoring the *Mushārah* project.

The Incidence of Agency Problems in Mushārah Contract

As Panel H of table 6.4 indicates, incentive to consume more perks score $\mu = 3.27$ and $\delta = 0.44$, over-investment agency problems scored high rated with $\mu = 3.20$ and $\delta = 0.44$, overconsumption of the agent by personal benefits rated with $\mu = 3.21$ and $\delta = 0.447$, while the incentive to consume more perks with $\mu = 3.27$ and $\delta = 0.444$ while reduction of effort (shirking) score rated $\mu = 3.19$ and $\delta = 0.472$ and underinvestment was rated at $\mu = 3.19$ and $\delta = 0.472$. With reference to the premises of agency theory, these results can be construed as a replication of the salient features of the *Mushārah* contract, particularly the ‘discretionary power’ characteristic and loss to be borne by *Mushārah* partners according to their capital contribution ratio of the partners.

As a result, since the bulk of the capital/fund of the project should be provided by the bank, these features may motivate the partner, specifically in a *Mushārah* contract, to invest in projects with low or negative net present values and may create incentives for the agent to consume unnecessary perquisites. On the other hand, the diminishing (reduction) of underinvestment and shirking agency problems may be attributed to the extreme linearity feature of *Mushārah*. These phenomena specifically appear in *Mushārah* contract where the banks take the option of appointing the partner as the managing partner.

The above results are in accordance with that reported in Panels I, J, and K relating to governance and monitoring system in *Mushārah*. This study takes note that a complex governance structure might be needed to guide the contractual relationship of *Mushārah*. The results of the descriptive statistical analysis suggest that monitoring and managing the incentive of the managing partner, via an appropriate contractual governance structure appears to be of great significance in controlling and overcoming agency problems.

The Importance of Taking an Active Role in Monitoring a Mushārah Project.

Panel I presents the degree of the importance of different mechanisms that are used to take an active role in monitoring *Mushārah* contracts, with an average mean of $\mu = 2.90$ and $\delta = 0.22$. Periodic management reports on project performance ($\mu = 3.25$ and $\delta = 0.43$) and making available help and advice on how to manage the project ($\mu = 3.24$ and $\delta = 0.43$). This result is consistent with one feature of the *Mushārah* contract, namely that the agent enjoys the right to control and manage the project. Representation on the

company board ($\mu = 3.02$ and $\delta = 0.285$) and direct involvement in decisions affecting strategic policies ($\mu = 3.5$ and $\delta = 0.354$) also show a high level of importance. The extreme cases of not playing any role in project management ($\mu = 1.78$ and $\delta = 0.802$) and providing management staff to the project ($\mu = 2.97$ and $\delta = 0.311$) have low scores.

Monitoring System in Mushārah.

Panel J displays the descriptive statistics relating to the aims of the monitoring system in *Mushārah* contracts. The main aims are to ensure that resources are allocated to their most profitable uses ($\mu = 3.21$ and $\delta = 0.409$); to ensure compliance with terms in the contractual agreement ($\mu = 3.29$ and $\delta = 0.456$); to ascertain the validity of the information reported by the agent ($\mu = 3.27$ and $\delta = 0.448$); to maximize the agent's effort ($\mu = 3.24$ and $\delta = 0.43$); to get information signals ($\mu = 3.21$ and $\delta = 0.409$); and to improve the exposure of risks ($\mu = 3.23$ and $\delta = 0.425$).

Importance Areas of Activities to be monitored in Mushārah.

Panel K displays the important areas of activities to be monitored in *Mushārah* financing. In monitoring the *Mushārah* project, respondent rated ($\mu = 3.37$ and $\delta = 0.485$). Bank is also required to monitor the financial performance of the agent manager ($\mu = 3.41$ and $\delta = 0.494$). In monitoring the *Mushārah* project, the bank needs to predict and anticipate the probability of default of the *Mushārah* project ($\mu = 3.36$ and $\delta = 0.481$). The bank has to reassess and revalue the agent's ability in managing the project ($\mu = 3.40$ and $\delta = 0.493$) as well as to observe the investment portfolio to be in line with the terms present ($\mu = 3.37$ and $\delta = 0.485$). It is and also important to the bank to monitor the personal benefits of the agent manager ($\mu = 3.38$ and $\delta = 0.518$), in the form of privileges, gratitude, bonuses and incentives.

These results can be interpreted as a reflection of the allocation of control rights in *Mushārah* contracts. Since the managing partner in *Mushārah* is assigned great discretionary investment power over the assets of the project, it is to be expected that the bank places emphasis on:

1. the efficiency of the allocation of the resources in the project
2. the extent to which the agent is compliant with the contract's terms, and
3. verification of the faithfulness of the agent

The reports suggest the mechanics which might help in mitigating the risk involved in *Mushārah*. It clearly demonstrates that Islamic finance involves sharing risks; banks therefore must be able to assess and manage the risk effectively. The main point should be stressed on moral values (both personal and business) which reflect many societies across the globe, specifically those that have been influenced by the religion. Islamic doctrine therefore suggests that well-being of humanity in this world and the hereafter converges because of adherence to these values. Islamic banks have shied away in their efforts to increase PLS akin to *Mushārah* assets with their portfolios by the presence of asymmetric information, adverse selection and moral hazard. In mitigating the risks,

banks have traditionally used contractual obligations to counter such problems, yet solutions based on Islamic injunctions could serve to mitigate agency risk. Human beings must be an *ihsan* man i.e. the gnostic knowledge of mankind - human beings who are in a state of intense awareness of the presence of their Lord, and therefore behave and perform any activity to their best effort and performance to please their Lord.

1.3.5. Key Variables that underpin the Test that may be applied by Court in Litigating Process of *Mushārah* Financing Products

Panel L is the key court-test-factors in court decision making. The results shows that the suitability of Islamic banking products and the appropriateness of the application of *Shāri'ah* underlying contract in the financing product score $\mu = 3.54$ and $\delta = 0.50$. The issue of "What element if any, is involved which is not approved by the religion of Islam" is has $\mu = 3.43$ and $\delta = 0.497$, whilst the structuring of the facility – the modus operandi of the Islamic financing rated $\mu = 3.39$ and $\delta = 0.489$.

The Islamic prudential regulations: supervision of Islamic banks rated $\mu = 3.46$ and $\delta = 0.55$. The bank must have a *locus standi* in acting as agent to the customer, and the modus operandi of the Islamic financing structure received 100% scores, while descriptive statistics of those areas in exit strategy in Islamic financing, supervision of Islamic banks, foreclosure proceedings, and liability created under Islamic transactions, are the most important areas to be evaluated by a judge or assessor in the *Mushārah* setting, according to respondents. The mean of these variables is $\mu > 3.31$ with a $\delta < 0.50$, representing a considerable importance.

It is found that even perception of fairness, and hidden cost factor in financing facility – unfair and exploitative factors have high importance, also with mean score $\mu > 3.31$ and $\delta < 0.50$. These results suggest that in drafting the structuring of *Mushārah* financing, the banks are required to obey and adhere to religious norms as well as court rulings.

The result supports Hypothesis 5 (H5) which predicts that there is no material difference between *Mushārah* principles and it is enforceable in the current Malaysian common law environment.

The result also support Hypothesis 7 (H7) which predicts that *Mushārah* products passed the underpin test-applied-by-court in the foreclosure process.

2. CONCLUSION

To relate to the Malaysian Islamic banking environment, there is a tendency to move to *Mushārah* generic financing facilities, including retail and corporate banking. The identified products under purview are the home financing under *Mushārah Mutanaqisah*, with the bridging, contract and project financing under terminal *Mushārah* (i.e. *Mushārah* with a maturity period), and venture capital under the hybrid of *Mushārah*.

Gathering from this research survey, the factors that have been identified, which have impeded the development of *Mushārah* hybrid products so far, revolve around understanding the basic building blocks of concept and operational aspect of *Mushārah* contracts – the concept of their application of as financing tools in Islamic banking. This is mainly due to the basic distribution of product knowledge to the public at large - lacking of public awareness about Islamic economic system. As such, IBIs and BNM has provided motivation by introducing Capacity Building programs, with the aim to increase talent and competencies in Islamic finance. The Government has provided incentives to Institutes of Higher Learning by sanctioning the Islamic finance syllabus content and curriculum development to create a pool of talented personnel to be competent in Islamic banking, Takaful, Capital Market and Wealth Management to be standard in all colleges and universities that offer Islamic finance as major or elective modules.

At the industry's institute level, IBFIM, MII, IBBM and SIDC, offer professional courses, licensing examinations and continuous professional development (CPD). These were introduced under government incentive Capacity Building Project to cater for the employees of the financial institutions to enhance their knowledge and capability to manage Islamic banking and finance. The study notes that there are not *Shāri'ah* constraints in promoting *Mushārah* financing, but it is the management business decision conduct that must be managed by IBIs. Should the IBIs impose *Mushārah* financing as a target in meeting key performance indicators (KPI), the management will find ways and means to achieve it. In banking operations, the requirement in meeting the capital adequacy ratio (CAR) is another hurdle in *Mushārah* financing as it has been classified as the highest in the risk profile. The risk profiles need to be re-evaluated, as such, the Central Bank, IFSB and AAOIFI need to lobby for international standards of best practices, such as Basle III to accept the concept, principles and modus operandi of *Mushārah* financing facilities.

Another important issue relates to legal risk, has *Mushārah* financing passed the Court test? With BNM support, there is not a *Shāri'ah* issues in promoting the *Mushārah* financing. *Mushārah* financing has all the support as it is court friendly. After all, the bank will have *locus standi* and *fatawa* from the *Shāri'ah* standpoint.

THE REALIZATION OF MAQASID AL SHARIAH IN TAKAFUL SCHEME

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ABSTRACT

Islamic law or shariah provides rules and regulations for Muslims in conducting their daily life, whether in the matters relating to aqidah, ibadah, akhlak and muamalat. The main objectives of shariah also known as maqasid shariah is to protect the five important things that are closely related to the existence of human beings, namely religion, life, lineage, intellect and property. Given the importance of wealth in human's life, shariah further outlined five aspects of maqasid in the protection of wealth. Takaful, an Islamic insurance instrument engineered based on shari'ah principles that are free from riba, maisir and gharar can be an effective tool to facilitate Muslims in realizing the five maqasid matters mentioned. In light of the above issue, the paper will address how takaful can be an effective tool to help realize all the maqasid al shariah, especially in relation to wealth protection. The paper will also present the basic concept and central ideas of both maqasid shariah and takaful.

Keywords: Takaful, maqasid al shariah, wealth management, Islamic insurance

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1. INTRODUCTION

Islamic law or shariah encompasses every aspect of human activities and it is suitable for application since its revelation till the Day of Judgment. It has provided the rules that govern and protect the human life and making life itself easy and enjoyable. One of the important needs in life is the need to acquire and spend one's wealth. Wealth is part of the signs of Allah's bounty to His servants. Islam puts emphasis on the importance of wealth management and protection to ensure that wealth are acquired and spent in accordance to shariah. There are many Quranic ayah that provide proof that Islam acknowledges wealth or materials as part of important needs of human life. Allah says:

“Do not hand over to those of weak understanding your properties which Allah has made a mean to support you.”

(Surah Al Nisa': 5)

In modern terms, wealth is very much related to properties, either physical or financial. In order to transform activities of acquiring these wealth into positive activities, the shariah comprehensively outlined several aspects of maqasid al shariah for mankind in pursuing their economic activities. Ibn Ashur, a prominent scholar in the maqasid al shariah study, has outlined five aspects of maqasid in protecting wealth or properties. Takaful, an Islamic insurance based on shariah principles, can be an effective tool to facilitate Muslims in this matter.

The organization of the paper is as follows: the first part provides an introduction to the paper. The second and third part provide the explanation on the concept and classifications of maqasid al shariah. The concept of maqasid al shariah in wealth management will be covered in section four. The paper will also describe the basic concept and central ideas of takaful and its practice in Malaysia. Finally, the paper will analyze how the application of takaful can help realize the maqasid al shariah, especially with regards to wealth protection.

2. DEFINITION AND CONCEPT OF MAQASID AL SHARIAH²¹⁴

The phrase Maqasid al Shariah comprises two separate Arabic words: maqasid and shariah. Maqasid triliteral root word is qasada with various meanings as to intend, to mean. Another derivative from qasada is qasd which means intention (niyyah), purpose, aim, end, goal and objective (ghayah). Meanwhile, the terms shariah is also an Arabic

²¹⁴ Definition of maqasid al-shariah is quoting from Hazizan Md. Noon in his paper entitled 'A Preliminary Exploration into The Relevance of Maqasid Al-Shariah Principles in the Social Science: The Case of Sociology presented in International Conference on Islamic jurisprudence and the Challenges of the 21st Century.

word derived from its trilateral sha-ra-'a. Shara'a fi thus means to begin, to start, to commence, to go into, to enter upon. But sharra'a has an elementary meaning of 'creating' like to enact. Thus, the word shariah is understood as law (qanun) or code. Hence, al-Shariah al Islamiyyah is translated as Islamic law or law of Islam. The use of shariah in the context of Islam always refers to 'Islamic shariah either in the sense of Islamic law.

Hence, when the two words are combined, maqasid al-shariah is variously translated as the objectives of Islam law, goals of Islam and so on. There are many other definitions provided by the Islamic scholars of Maqasid (objectives of Shariah) and among these definition is the definition provided by the Ibn Ashur. Ibn Ashur defined maqasid based on two aspects, namely:

- The general aspect which is the purpose and wisdom behind the enactment of all or most of the shari'ah ruling. This definition is more related to the general objective of shari'ah.
- The specific aspect, which is related to specific objectives that are designed to achieve specific benefits to people in their daily activities,

As mentioned by Hashim Kamali (2007) the Shariah is generally predicated on the benefits to the individual and the community, and its laws are designed so as to protect these benefits and to facilitate the improvement and perfection of the conditions of human life on earth. The Quran is expressive of this when it singles out the most important purpose of the Prophethood of Muhammad:

"We have not sent you but as a mercy to the worlds"

(al-Anbiya', 21:107)

This can also be seen in the Quran's characterisation of itself as "a healing to the (spiritual) ailments of the hearts" and "a guidance and mercy" for the believers and mankind (Yunus, 10:57). Undoubtedly, the shariah of Islam as a complete way of life and a universal call to all mankind has objectives and aims. These objectives revolve mainly around the interest and well-being of man in this world and in the hereafter. In fact, the core interest of shariah lies in its attempt to remove hardship and mischief on man and bring ease and benefits to his life. Put clearly, the shariah stands for whatever thing that falls within man's interest and happiness.

3. CLASSIFICATIONS OF MAQASID AL SHARIAH

The different injunctions of shariah aimed at protecting the interest of mankind and preventing evil from them. The objective of shariah can be divided into three categories, namely the essentials dharuriyyat), the complimentary (hajiyyat) and the embellishments (tahsiniyyat). All the different injunctions of shariah aim at realization of one or the other kinds of the above objectives (Nyazee, Imran, 2000).

3.1. The Essentials (al-Daruriyyah)

The essentials refers to the matters on which the religion and worldly affairs of the people depend on them, their neglect will lead to total disruption and disorder and it could lead to evil ending. These must be protected and all measures that aim at safeguarding them must be taken, whether by the individual, or by government authorities. These values include the five fundamental matters in life.

3.1.1. Protection of al-din

Protection of al-din at personal level is achieved through the observance of the different kind of ibadah, where all the six pillars must be protected. Protection of al-din at the wide scope involves defending Islamic faith particularly if it is attacked by the enemy of Islam (Nyazee, Imran 2000).

3.1.2. Protection of life (al-nafs)

The protection of nafs (human soul) is very important and this is the reason why it is placed at the second level of necessity. There are many verses in al-Quran which emphasized that killing someone is forbidden.

3.1.3. Protection of dignity or lineage (al-‘ird)

Protection of lineage includes the protection of individual rights to privacy and not exposing or accusing others of misbehaviours. Islam has also regulated the relationship between man and women in order to protect their dignity. The prohibition of adultery in Islam is manifestation of the protection of dignity and lineage. Punishment for those involves in false accusation and adultery is meant to protect dignity.

3.1.4. Protection of intellect (al-‘aql)

An intellect is a great gift from Allah s.w.t to mankind and it is one of the capacities that differentiate man with animals. The manifestation of the protection of intellect is obvious when Islam provide the right to freedom of expression, encourages its followers to acquire knowledge, and forbids them from any activities detrimental to mind. In addition, punishment for those who involve in activities detrimental to mind also supports this principle.

3.1.5. Protection of property or wealth (al-mal)

Property is one of the necessities of humankind and it should be acquired in legitimate ways. To protect wealth, Allah has revealed severe punishment for those who obtain property illegally. Islam encourages doing business, such as buying and selling, avoiding of the laziness and tawakul (hoping without any trial) and any injustice to business, such as riba and gharar. Apart from that, Islam has provided guideline that must be observed in financial activities.

3.2. The Complementary (al-Hajiyyah)

The complimentary interest or *al-hajiyyah* on the whole supplement to the five essential interest and it refers to kind of interests whose neglect leads to hardship of the individual or the community. The neglect, however, does not lead to the disruption of normal life. The actions will make human life easier and to solve some difficulties. In ibadah for example, performing the solat jama and qasar for the musafir is one of the hajiyyat in Islam. In muamalat, the permissibility of trading and other kind of transactions such as lease (ijarah), mudharabah, salam etc.

3.3. The Embellishments (al-Tahsiniyyah)

The embellishments or *al-tahsiniyyah* refers to interests whose realization leads to improvement and the attainment of that desirable. The disappearance of it will not interrupt the normal life; however, it might lead to the lack of comfort in life. Example of such in muamalat includes the prohibition of selling items that has no value and selling of public properties etc.

4. CONCEPT OF MAQASID AL SHARIAH IN PROPERTY OR WEALTH MANAGEMENT

As we have seen in the above section, shariah had established the five basic needs of human protected by the shariah; the religion, life, lineage, intellect and wealth or properties. Thus, it can be concluded that the protection of the wealth or properties is part of the ultimate goals of shariah. Given the importance of wealth in the people's life, Islam has laid down the principles and guidelines on how to deal with things that fall under the category of wealth, such as money and properties. These guidelines and principles are imperative, especially in the context of managing and administering wealth for the benefit of the masses.

Ibn Ashur in his book, 'Maqasid al Shariah', further explained the maqasid of shariah in wealth or properties and divided it into five aspects, namely:

- i. Wide Circulation of Wealth
- ii. Preservation and Protection of the Wealth
- iii. Transparency in Wealth Management
- iv. Certainty of the Ownership of the Wealth
- v. Justice in the Circulation of Wealth

4.1. Wide Circulation of Wealth

The circulation of wealth is one of the great objectives of shariah. The circulation and marketability of the wealth has been precisely mentioned as one of the primary objective of maqasid shariah in business transaction by Ibn Ashur. Ibn Ashur defined the circulation of the wealth as 'implies the fair circulation of wealth in the hands of as many people as possible'. This means that the properties should be circulated among the public

and actively transferred from one hand to another in the form of expenditures and investments.

It is very important for maqasid al shariah perspective to keep the circulation of the wealth and avoid all types of monopoly of monetary in the hands of few people (Ahcene Lahsasna, 2009). Thus, it is not allowed in Shariah to purposely keep properties in all its form idle. Allah says:

“And for those hoarding gold and silver and do not spent them in the way of Allah, announce unto them a most grievous penalty.”

(Surah At Taubah :34)

For this purpose, shariah allowed many forms of financial transactions, such as contract of sales, lease, partnership, forward contract (salam) and many more to facilitate proper circulation of property ownership among the public. In addition to that, Shariah has also allowed minor gharar in business transaction as an exception to the general rule, based on the need and necessity of the public (Ahcene Lahsasna, 2009).

4.2. Preservation and Protection of the Wealth

Preservation and protection of the wealth is one of the primary maqasid in shariah. It can be considered as the whole aspects of the concept of maqasid shariah in wealth. This objective was clearly stated in the Holy Quran:

“O you who have attained faith, do not devour one another’s possessions wrongfully not even by way of trade based on mutual agreement, and do not destroy one another”

(4:29)

The Prophet (pbuh) has also stated that:

“No Muslim’s property should be allowed to be taken from him without his own accord”

The above text are very strong and clear statement indicating the importance and the value of protection of the wealth, whether for individual people or for the community and society. It also shows that it is a great sin of any aggressive action against the wealth of property of the community.

4.3. Transparency in Wealth Management

This aspect requires that all financial transactions must be conducted in a manner that all parties are clear about all the important facts of the transactions by avoiding all causes of disputes, clashes or damages to any party. It was for this reason that the Quran recommended the Muslims to write down all future obligation transaction to be kept as a record. The purpose of writing down the debt transactions is to make all information and facts of the transactions clear and transparent in terms of subject matter, obligations and rights of all parties as a source of reference in cases of disputes in the future. This in

particular is very relevant to the modern financial transactions which are always in the form of formal contracts duly signed by the related parties (Akhtarzaite Abd Aziz, 2006).

In addition to the above, shariah also required security in some business transaction such as loan and mortgage or guarantor upon a transaction. Specific example of transparency in Islamic financial transaction would be as follows:

4.3.1. Musharakah

The transparency in musharakah can be observed in the ratio which is fixed and predetermined and is made known to all parties involved in advance. The profit and loss will be shared in the exact proportion of the two parties according to total investment capital of the contracting parties.

4.3.2. Mudharabah

In mudharabah contract, it is a requirement for the validation of the contract that the two contracting parties to agree on the proportion of the actual profit to which each of them are entitled.

Account audit, sound finance management, declaration of ownership are among the tools that could be used in order to achieve the transparency in finance. These tools can play important role in making the finance and wealth in the business activities transparent, so that dispute could be avoided and corruptions could be reduced.

4.4. Certainty of the Ownership of the Wealth

The purpose of this aspect is that the rights of a party or parties to the ownership of the wealth or properties must be certain and there should be no doubt to the rights, unless there is certain public interest which could prevent individual privilege ((Akhtarzaite Abd Aziz, 2006). Ibn Ashur outlined that the rights implies three elements:

- i. Individual's or Individuals' right to ownership
- ii. Freedom of disposal of property within the boundaries of shariah requirements
- iii. Guarantee over the privilege of ownership and prevention of encroachment against the rights without the owner's consent.

The holy Quran guaranteed the right of ownership whereby Allah says:

"O you who believe do not take the properties among you by illegal means unless by way of trade and mutual consent." (Surah Al Nisa:29)

This provides an evidence that it is an objective of the Shariah to guarantee the freedom of ownership and there is no way that the right can be transferred to others unless by contract of exchange or charity by the consent of the owners.

4.5. Justice in the Circulation of Wealth

Islam sees justice as a very general and comprehensive concept. It is a primary requirement in all aspect of human life. In terms of justice in wealth or in financial transaction, justice means putting the properties in their proper places as it was meant by the Creator and commanded by Him. It starts with the right to acquire the property, to perform all the responsibilities related to the properties and to find the wisest manner to spend or invest the properties (Akhtarzaite Abd Aziz, 2006).

5. CENTRAL IDEAS AND GENERAL PRINCIPLES OF TAKAFUL

5.1. Nature of takaful contracts

Islamic insurance or takaful differs from conventional insurance contract because it is based on the concept of al-mudharabah, a profit sharing scheme and is free from the elements which are considered unlawful by shariah. Takaful is based on the divine principles of mutual co-operation and solidarity. In this scheme, the nominee is not an absolute beneficiary, but a mere trustee who is under the obligation to receive the benefits from the policy and distribute them accordingly among the legal heirs.

For life policy or family takaful, if the participant dies at any time before the policy matures, the beneficiary is expected to claim the total paid contributions, the share of profits, bonus proceeding from the paid contribution, which all based on al-mudharabah financing. If however, the participant is alive when the policy matures, he/she is entitled to claim from the operator the total paid contribution and also the share of profits, bonus accordingly.

In the case of general takaful, it is mutually understood by both the operator and the participant that the participant's payments will be given out as contributions based on the principle of al-musahamah. The participant should hold the right to claim the paid contributions after deducting the charges due to the operator according to al-mudharabah financing techniques. If there is no loss, the operator is unilaterally bound to pay the agreed compensation to the participant for the particular loss.

5.2. Features of takaful

Under the Islamic teachings, an insurance practice must possess certain fundamental characteristics before an insurance contract can be considered valid. The fundamental characteristics could be classified into four main categories (Maasum Billah, 2007):

5.2.1. Sincerity

Every transaction should be entered into with with sincerity and pure intentions in order to achieve the desired result from Allah (s.w.t).

He (swt) says:

...And they have been commanded no more than this to worship Allah (swt), offering him sincere devotion.

(Al-Quran, Surah al- Bayyinah 98:5)

Parties transacting in a takaful contract must be sincere and not to make personal gain, but to be bound by the transaction based on the principles of mutual co-operation, solidarity and brotherhood towards rescuing one from unexpected losses and damages. This is because Allah (swt) never looks at material gains, but the sincerity in the hearts of His creatures.

In addition to that the transacting parties in a takaful contract must put all their trust and faith in Allah (swt) in order to get His protection from any consequential unpredicted loss. This is because the operator is not liable to guarantee the ultimate protection, but merely compensating the participant against loss or damage. It is Allah (swt) that has the absolute power to protect.

5.2.2. Absolute shariah principles

The Takaful Act 1984 provides that a takaful policy is enforceable if its aims and operations do not involve any element which is not approved by the Shariah. Hence, it is a pre-requisite for the validity of a takaful contract that none of its aspects should contravene any express or implied Shariah ruling.

5.2.3. Moral attributes

Takaful participants must conform to moral sanctions which include the principles of utmost good faith, honesty, disclosure and truthfulness. These principles could be justified by the following sanction of the Holy Quran. Allah (swt) commands:

...Do not misappropriate your property among yourselves in vanities...

(Al-Quran, Surah an-Nisa, 4:29)

The contracting parties should not be greedy to gain something, but should instead build their purposes and aims based on the principle of mutual co-operation and rescuing a person from unexpected loss or disaster.

6. PRODUCTS AND MODELS OF TAKAFUL IN MALAYSIA

Similar to its conventional counterparts, takaful operators offer both general takaful and family takaful products. General takaful is the alternative to general insurance, whilst family takaful is the alternative to life insurance (Engku Rabiah Adawiah & Hassan Scott, 2008).

6.1. General Takaful Products

General takaful are basically contracts of joint-guarantee on a short-term basis (normally one year), between groups of participants to provide mutual compensation in the event of a defined loss. The schemes are designed to meet the needs for protection of both the individuals and corporate bodies in relation to material loss or damage resulting from a catastrophe or disaster inflicted upon properties, assets or belongings of participants.

There are many types of general takaful products. Examples of general takaful products offered in Malaysia are Fire Takaful, Motor Vehicle Takaful and Miscellaneous Takaful, which includes Personal Accident Takaful, Workmen Compensation Takaful, Fidelity Guarantee Takaful and etc. The following section will describe briefly these examples of general takaful products.

6.2. Family Takaful Products

Family takaful scheme can be said to be similar to the coverage provided by life insurance policies, offered by the conventional insurance. It is a long term saving and investment program with a fixed maturity period. It provides mutual financial assistance among its participants through a financial program that pools efforts to help the needy in time of need due to untimely death and other mishaps resulting in personal injury or disablement. Basically family takaful products in Malaysia can be divided into two main plans, which are The Individual Plan and The Mortgage Takaful (Engku Rabiah Adawiah & Hassan Scott, 2008).

In family takaful, each contributions paid by the participant is normally credited into Family Takaful Fund which is then divided into two separate accounts, Participant's Account (PA) and Participants' Special Account (PSA). Most of the contribution will be credited into the PA, which is for the purpose of savings and investment. The balance is credited into the PSA, as donation (tabarru') or risk, for the company to pay takaful benefits to other participants who may suffer a loss.

In takaful contract, the participant knows how much he/she will get back from each account should he/she die or when the policy matures.

If the participant dies, his /her beneficiary will get:-

- the contribution (premium) paid
- any profit credited into his/her PA
- remaining monthly contribution he/she would have paid if he/she had lived, from the PSA

If the participant is still alive when the policy matures, he/she is entitled to:

- all contributions (premium paid)
- any profit credited into his/her PA
- proportionate surplus, if any, arising from the PSA

7. TAKAFUL AS A MEANS TO REALIZE THE FIVE MAQASID

Takaful could provide an effective means towards the realization of the Maqasid al Shariah in wealth management as well as in financial. All the five maqasid could be realized by way of the objectives of the schemes provided, the issuance of a cover note (temporary document), the process of underwriting and the distribution of takaful benefits.

7.1. The Objectives of Family Takaful

Family takaful is an alternative scheme for conventional life insurance. It mainly has three objectives and through the application of these objectives that the first maqasid of shariah in wealth, which is the wide circulation of wealth can be realized. The scheme enables its participants to save regularly by paying specified contribution, to invest the savings with the intention to gain profits in Shariah compliant investment avenues and to avail the takaful proceeds to the legal heirs and dependents in the case of premature death. Even if the participant wants to surrender the policy, he is still entitled to receive the surrender benefits, which is the proportion of his paid contributions credited into the PA plus any profits made from the paid contribution. All the above arrangements are the means to realize the purpose of wide circulation of wealth.

7.2. Issuance of Cover Note

A cover note is a temporary document issued by the takaful operator before the issuance of the certificate, especially in the case of general takaful. The cover note can be used as a proof to make a fair claim against the risk if it occurs before the permanent takaful certificate is issued. This arrangement and stipulation can be observed as the means to realize the purpose of transparency in wealth, certainty of the wealth's ownership and justice in the circulation of wealth.

7.3. The Concept Of 'Utmost Good Faith'

The concept of utmost good faith specifies that the participants of a takaful scheme must disclose the truth of the facts or the matters affecting the policy. It is also stated in the Takaful Act 1984, under section 28 that the participants are under the duty to disclose in the proposal form fully and faithfully all the facts which they know or ought to know, otherwise the policy may be void. It is therefore, the duty of the participants to disclose all the material facts affecting the contract to avoid the possibility of benefiting from the tabarru' funds fraudulently at the expense of other participants. This requirement can achieve the purpose of transparency in wealth management and justice in the circulation of wealth.

7.4. The Process Of Underwriting

Underwriting is the process by which takaful operators consider and decide whether to accept the participation of cover made by a proposer and also the terms to be imposed. The purpose is to maintain equity among the participants, whereby each participant

should contribute according to the expected loss probabilities that he might transfer to the tabarru' fund. The takaful operator should estimate the potential loss exposure presented by the participant and charge a rate attributed to the tabarru' fund which commensurate with that exposure (Ahmad, Syed Wassem, 1991). This arrangement is an effective means towards the purpose of achieving the transparency in wealth management and justice in the circulation of wealth.

7.5. The Distribution of Takaful Benefits

In the case of the death of the participant before the maturity, the takaful benefit or compensation shall be distributed on the basis of Islamic law of inheritance, as it is considered as part of the participant's estate. The nominees in the policy are considered as a mere trustee to administer the distribution of the takaful benefit after the participant's death. The stipulation to administer the takaful benefit in accordance to the Islamic law of inheritance is in no doubt in parallel with the maqasid of certainty of the ownership of the wealth. This ensures the deserving parties' rights to the inheritance as prescribed by the Holy Quran and Sunnah after one's death.

8. CONCLUSION

The general maqasid of shariah is to protect the five elements essentially needed for every human, namely: religion, life, lineage, intellect and property or wealth. The inclusion of wealth protection shows the importance of wealth in human life. Given the importance of wealth to human, Islam through the maqasid al shari'ah, outlined five aspects to protect wealth, which are wide circulation of wealth, preservation and protection of the wealth, transparency in wealth management, certainty of the ownership of the wealth and justice in the circulation of wealth. The paper has analyzed how takaful, an Islamic insurance, engineered based on the shari'ah principles is able to realize the five maqasid. Through a well structured plan, takaful by way of objectives of the schemes, the issuance of a cover note, the concept of Utmost Good Faith, underwriting process and the distribution of takaful benefits are able to materialize all the five aspects of maqasid in wealth protection.

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THEME: SUKUK AND SHARIAH COMPLIANCE ISSUES

A COMPARATIVE STUDY OF ASSET BASED AND ASSET BACKED SUKUK FROM THE SHARIAH COMPLIANCE PERSPECTIVE.

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ABSTRACT

The aim of this article is to compare between asset based and asset backed sukuk structures and their compliance to the shariah. The article has been intended to figure out the motives that asset based sukuk structure is the most market player and dominant in the sukuk market in the face of the critics that have been elevated by many scholars since 2007. The two structures of Asset backed and Asset based Sukuk are compared in their technical and commercial features using literatures based methodology, which is based on a qualitative approach. It is highlighted that asset backed sukuk structure is more compliant to the Shariah compare to Asset based Sukuk this is in form and substance than asset based structure. This article found that there are three reasons that could be explained why asset based sukuk structure is the most dominant in the market up to 2014 namely shariah, legal framework and market demand. The research is intended to figure out why these two structures are not in the same level of demand in market and to create civic awareness in the importance of compliancy to shariah in the form of substance. This research expected to contribute regulators in the form of that they can amend some of their governing and regulatory frameworks in order to be created a conducive environment for the sukuk market players to move towards asset backed structure.

Keywords: Market demand, Asset Based, Asset Backed, Shariah, regulatory Framework Sukuk

1. INTRODUCTION

Sukuk (plural of sakk) are one of the important instruments in Islamic capital and money markets. Bahrain based AAOIFI (2007) defines sukuk as certificates of equal value representing undivided shares in ownership of tangible assets, usufruct and services or (in the ownership of) the assets of particular projects. On the other hand, bond is defined as a pure debt security issued to finance any activities and whose price solely depends on the creditworthiness of its issuer (Godlewski et al, 2011). The above definitions clearly differentiate sukuk from bond both in concept and structure. As a consequence, some scholars are in the opinion that it is rather inappropriate to call sukuk as an "Islamic bond". Although the sukuk term has been used since the classical period of Islam, the current form of sukuk has taken the attention of the world only since 2002. A report by Bloomberg mentions that during 2002-2007, the volume of global sukuk issuance increased from below USD5billion in 2002 to USD30.8billion in 2007ⁱ. This data clearly shows us that sukuk has become one of the areas in Islamic finance with spectacular growth for the last decade. However, the tremendous growth in the industry as it has been mentioned earlier had been disrupted in 2008 due to a statement released in November 2007 by Shaikh Muhammad Taqi Usmani, Chaiman of the AAOIFI shariah board, declaring that up to 85% of the sukuk issued up to then may not have been fully shariah compliant. As a result, the volume of business for sukuk fell from USD 30.8billion in 2007 to USD 1.4billion in 2008 (DiVanna and Sreih, 2009). The statement also prohibits the usage of some credit enhancements mechanisms in equity based sukuk due to their non-compliance with Shariah. The above mentioned announcement has also resulted in the appearance of shariah compliance risk as one of the risks faced by sukuk holders (Hidayat and Abubakar, 2011). This type of risk is not clearly noted in the sukuk market within 2002-2007 periods. But, the following years (2008-2011) have witnessed the appearance of this risk in the market leaving us with some important notes to be understood. One of the notes is the issue of asset based and asset backed sukuk. Therefore, this study attempts to explore this issue using library/literature based methodology in order to explain why the issue still remains hot in the market despite it has been raised since the early 2008. In other words, the objectives of this study are:

1. To figure out and analyze the Shari ah Compliance of asset based and asset backed sukuk structures from shariah perspective.
2. To explore the reasons why asset based Sukuk structure became dominant in the market
3. To identify the relevancy of Asset backed Sukuk structures investment in the developing countries.

2. LITERATURE REVIEW ON ASSET BASED AND ASSET BACKED SUKUK

In the beginning of its appearance, sukuk was only categorized as "trade or asset based" and "equity or participation based". For example, Islamic financial services board (IFSB) guideline No 2 released in 2005 defines the former as a sukuk where the underlying assets offer fairly predictable returns to the sukūk holders, such as in the case of Salam, Istisna and Ijārahⁱⁱ. The latter category is defined as sukuk where the returns are determined on a profit and loss sharing in the underlying investment,

which does not offer fairly predictable returns” (IFSB, 2005). Eventually, after some default cases in sukuk market in 2008 due to the global financial crisis, the issue of the ownership in the sukuk asset appeared, resulting in the popularity of categorizing the sukuk into asset based and asset backed structures (Abdullah, 2012). According to Securities Commission Malaysia (SCM), the classification of sukuk into asset based and asset backed is made based on the sukuk's technical and commercial features. In the first category, the underlying asset used to structure the issuance remains on the balance sheet of the originator after the issuance of the sukuk. In this category, the originator only passes beneficial ownership of the asset to sukuk holders, while still keeps its legal ownership. In other words, from legal perspective there is no true sale in asset based structure since sukuk holders do not have concern in the underlying asset. As a consequence, the sukuk holders cannot sell the asset to a third party. It also means the sukuk holders only have the recourse to the originator/obligor. On the other hand, asset backed sukuk can be defined as an Islamic security issued pursuant to a securitization transaction (SCM, 2009). Based on the above definition, it is clear that the securitization transaction is the most important feature of asset backed sukuk (Dusuki and Mokhtar, 2010). This transaction involves true sale and the transfer of legal ownership of the asset from the originator to a third party, which is normally a Special Purpose Vehicle (SPV). The SPV is in turn an explicit trustee of the sukuk holders that receives fees as the issuer of the sukuk, while the sukuk holders are the legal part-owners of the underlying asset that receive a return on investment based on the performance of the underlying asset (DiVanna and Sreih, 2009). In other words, for the payment, the sukuk holders rely solely on the underlying asset since the asset is already separated from the originator's book and there will be no recourse to the originator. Some important notes for the underlying asset are the asset must be acceptable according to shariah principles, able to generate cash flows and there must be no barrier that prevents the transfer of legal ownership of the asset from the originator to SPV (SCM, 2009). Table 1 below summarizes the differences between asset based and asset backed sukuk.

Table A. Differences between Asset Based and Asset Backed Sukuk

S/N	Categories	Asset Based	Asset Backed
1	Source of Payment	The source of payment comes from originator/obligor's cash flows.	The source of payment comes from the revenue generated by underlying asset
2	Presentation/disclosure of the asset	The asset stays on the balance sheet of originator/obligor.	The asset is separated from the originator's book.
3	Type of Sukuk holders' Ownership	Beneficial ownership with no right to dispose the asset.	Legal ownership with right to dispose of asset.
4	Recourse	Purchase undertaking at par from obligor is the ultimate recourse. The recourse is only to obligor and not the asset.	Sukuk holders only have recourse to asset thus asset plays genuine role in defaults.

3. METHODOLOGY

This article uses qualitative method research in order to compare the technical and commercial features between asset based and asset backed sukuk structures. The methodology reveals a range of experts' opinions in the field regarding the issue which is used to fulfill the objectives of the study.

4. DISCUSSION

Sukuk are Islamic certificates of investment. They signify co-ownership of productive resources, known as the “underlying assets.” Because income to sukukholders is generated by trading or real investment rather than mere lending, sukukholders earn profit rather than interest. As co-owners of productive assets, sukukholders face the risks of ownership. In particular, they face the risk that their assets may not generate profits or that may even incur losses. They also face the risk that the assets may be damaged or destroyed completely.

Risk taking is one of the requirements of earning lawful profits in Islam. Another requirement is to share profits and losses. For a person to claim a share of income generated by an investment he/she helps to finance, without taking responsibility for its outcome, is inconsistent with the ethos Islam. Income needs to be earned, if not by effort, then at the very least by taking risk.

Typically, sukuk are categorized into “trade-based” and “participatory,” depending on whether they are issued to finance trade or investment. As a result of some recent defaults of a number of sukuk and the near defaults of others, a new classification entered the sukuk discourse, that between “asset-backed” and “asset-based” sukuk.

Therefore Comparing the structures and features of the asset based and Asset backed sukuk was found that asset backed structure is more compliant to shariah principles than asset based sukuk. The reason is that asset backed nature of Islamic financing and some shariah issues in the asset based structure (Abdullah, 2012). Dusuki (2009) highlights some of the shariah issues of asset based sukuk:

1. The contradiction between legal documentation and shariah requirement.
2. Sukuk holders do not have right to sell the underlying asset.
3. The usage of wa'ad (purchase undertaking) in equity based sukuk has made the sukuk in substance debt based instrument.
4. SPV's independency

For point no 1, from shariah perspective, the underlying asset belongs to the sukuk holders. However, there is no indication in the legal documents of asset based sukuk that the sukuk holders own the underlying asset. Thus, only beneficial ownership is transferred and the underlying asset is just used to facilitate the shariah requirement. In other words, there is no true sale transaction in asset based sukuk. The sale transaction in this structure is made just to comply with shariah in form but not in substance. While in fact, all financial instruments must fulfill formal and substantial compliance in order to be labeled as shariah compliant securities (Dusuki, 2010). In addition, the return that the sukuk holders obtain is also not linked with the asset used in the deal.

For point 2, as it has been discussed earlier that sukuk holders do not have interest in the underlying asset, thus they cannot sell the asset to third parties. The restriction has not only raised a question whether asset based sukuk structure truly complies with shariah principles or not but also somewhat against the fairness principle (A'dalah) especially in the case of default. Are sukuk holders' interests adequately taken care given the fact that they don't have legal ownership of the underlying assets?

For point 3, unconditional purchase undertaking (wa'ad) at par acts as a guarantee of principal and return regardless of the performance of the venture. The purchase undertaking (waa'd) is an acceptable instrument when it is used by its own. But, when the wa'ad is combined with other credit enhancements, it changes a participatory contract in shariah (Musharakah and Mudarabah) into a resembled debt security. In other words, it creates indebtedness in trust contracts similar to conventional bond contract. It also means that asset based sukuk in substance is the same as conventional bond. According to AAOIFI standard on sukuk, a prospectus to issue any certificates (not only those which are equity based) must not contain any clause that the issuer is obliged to compensate certificate holders up to the nominal value in situations other than torts and negligence, or that he guarantees a fixed percentage of profit (Ayub, 2007). Referring to the standard, it is clear that asset based sukuk structure has shariah issues.

For point no 4, in asset based structure, sukuk holders through SPV have the recourse to originator/obligor in case the underlying asset does not provide enough cash flows. Thus, the SPV is credit-linked to the obligor. In this case, the rating bodies will not consider the SPV as an independent entity. According to many guidelines, a true sale requires the SPV to be an independent entity from originator. It again indicates that asset based structure does not fulfill the criteria of a true sale.

The above highlights also indicate that moving towards asset backed structure is highly recommended. In addition to better compliancy to shariah principles, asset backed sukuk structure also has many advantages to both originator and sukuk holders. Among them are (Khan, 2007; SCM, 2009): a. For an originator: asset backed structure has created a new source of funding for a financial institution and other companies. Asset backed structure also reduces asset and liability mismatch since it monetizes previously illiquid assets. It also transfers the risks of the asset into third party since the asset is separated from the book of the originator. b. For sukuk holders: Asset backed structure can be used by sukuk holders to diversify their investments, thus minimizing their investment risks. Sukuk holders are also free from the bankruptcy risk of the originator since they have recourse only to the underlying asset not to the originator. Surprisingly, despite the shariah issues in asset based sukuk and the additional advantages offered by asset backed sukuk, up to 2012, the asset based structure, is still the most common form of sukuk issued in the market. It is reported that currently around 90 percent of sukuk issuances are asset based (Pasha, 2012). Therefore, this study also attempts to find out some possible reasons that might explain why asset based is still preferable than asset backed sukuk based on literatures and industry experts' opinions. In general, the reasons can be classified into shariah, legal framework and market demand (SCM, 2009; Dusuki and Mokhtar, 2010; Abdullah, 2012; Pasha, 2012).

1. Shariah reasons: (a) limited numbers of suitable asset classes. One of the requirements of asset backed sukuk is the availability of underlying assets for a true sale. As it has mentioned earlier, the underlying assets must comply with shariah and some additional criteria in order to be qualified for a securitization transaction. For examples, loans and receivables are obviously not the options since they must be traded at par. With lack of suitable asset classes that fulfill the criteria, obviously asset backed structure is not preferable. (b) Another shariah reason is the argument raised by some shariah scholars about the permissibility of beneficial ownership in Islam. This argument has been used by shariah scholars as the basis for asset based sukuk approval. In other words, shariah wise, there are still many proponents to asset based sukuk despite the critics and issues raised by the opponents.

2. Legal framework: despite sukuk being viewed as shariah compliant instrument, in practice, the sukuk issuances are still governed mostly by common law (English law). As a consequence, sukuk issuance has to comply with accounting, tax and legal standards for a conventional bond (the closest conventional finance instrument to sukuk recognized by common law). Comparing the two sukuk structures, asset based sukuk is the most suitable structure for the issuance since it resembles the features of conventional bond. In addition, common law recognizes sales that fall short of true sales as valid sales (Abdullah, 2012). With asset based sukuk dominates the market no wonder that sukuk is also called "Islamic bond". In addition, it is also reported that in some jurisdictions, structuring asset backed sukuk is costly and time consuming (Pasha, 2012).

3. Market demand: (a) asset backed sukuk structure is more complex as compared to asset based, thus potential investors seem to be unfamiliar with the structure. As a result, asset back sukuk may be priced more expensive than asset based. (b) In addition, lack of trained and skilled personnel where not many can manage and analyze asset portfolios and structure of asset backed

Sukuk have made investors in the market looking for the sukuk that are structured as debt instruments. (c) Another argument is since many sukuk holders and potential sukuk investors are not shariah conscious, some of them even are non-Muslims, they are not concern so much with the issue of shariah compliancy thus preferring asset based sukuk structure that guarantees their capital and income. (d) In addition, most sukuk issuers want to raise capital without having to legally sell their assets. In other words, market prefers Islamic securities that fit the credit environment.

Based on the above explanations, it is clear that there is a dilemma between shariah concern, legal framework and market demand surrounding the issue of asset based Vs asset backed sukuk. In one side, there are shariah issues in asset based sukuk as they have been raised by many scholars. However, the legal framework of the sukuk which is based on common law is still more suitable to the asset based structure than asset backed structure. In addition, the market seems still prefer the asset based structure than asset backed structure. This dilemma also poses a question to all Islamic finance stakeholders: "should shariah always be accommodative to all these issues in favor of legal framework and market demand?". Since shariah gives rooms for different interpretations of its principles especially in the cases of transactions (muammalah),

there are always ways to find legitimacy in form for what something wrong in substance.

Therefore, in order to solve this issue, it is important to refer it to one of the primary sources of knowledge in Islam which is the sayings (hadith) of the prophet (p.b.u.h). In one of his sayings, the prophet said: "All deeds depend on intention". Since the wisdom behind the establishment of Islamic finance is to dedicate all aspects of our lives to the teachings of Islam, all acts should be based on sincere intention (Hidayat, 2010). Therefore, it is very important for all Islamic finance stakeholders to purify their intentions thus any decisions made will reflect shariah principles both in form and substance. As a result, god's willing (Insha'Allah), the welfare of the society (maslahatul ammah), other objectives of shariah (maqasid al-shariah) and most importantly the blessing of Allah will be achieved.

According to the Fatwa from (ISRA) The International Sariah Research Academy for Islamic Finance, dated on October, 2013 Edition stated that ASSET-BACKED SUKUK Asset-backed sukuk are a type of asset/business venture that is fully shifted to the Special Purpose Vehicle (SPV) with elements of a true sale. The asset is the only object of recourse for the sukuk -holders. Thus, the impairment of the asset or non-performance thereof reflects directly in the value of the sukuk that the investors hold. According to the Islamic Financial Services Board (IFSB), in an asset- backed sukuk, the investors will bear any losses due to the impairment of the asset(s); likewise the Sukuk investors have recourse to the asset(s) and not to the originator. Thus, in time of default, investors will not be able to recourse to the originator, but instead, they have to recourse directly to the asset; exposing them to losses if there is any impairment to the asset. In addition, asset-backed sukuk lead to full- transfer of the legal ownership of the underlying asset(s). To further comprehend on the issuance of asset-backed sukuk, the transaction steps are as delineated in the table below

Steps	Description
1	The originator will sell the Sariah compliant assets to and SPV. In the ABS Guidelines 2004, it clearly states that any transfer of assets to an SPV in a securitization transaction (this includes Islamic financing receivables) must comply with the criteria of a true-sale
2	The SPV then issues the asset-backed Sukuk to the investors. The money paid by the investors in subscribing to the asset-backed sukuk includes the proceeds of the issuance that will be used to pay the originator in return for the sale of the assets
3	An asset-backed sukuk provide sukuk-holders with an undivided proportionate beneficial interest in the assets, thus permitting them to receive the streams of cash flow attached to the assets.

Table 2 Descriptions of Asset-Backed Sukuk

Source – Securities Commission

Compare to the Asset based Sukuk , also has been released fatwa by (ISRA) The International Sariah Research Academy for Islamic Finance, dated on October, 2013 Edition, the details of this fatwa focused on the Asset-based sukuk are a type of asset/business venture that involve full recourse to the originator or issuer, but not to the asset. There occurs no true sale of the underlying asset by the originator to the sukuk investor. Instead of the sukuk investor attaining real ownership of the asset, the sukuk investor will only attain beneficial ownership. The asset-based sukuk are

structured mainly to replicate the conventional bonds. In addition, the dividends are calculated as a percentage of the total amount “invested” rather than as a percentage of total profits (similar to the way interest payments are determined as a percentage of the total amount of a given loan). Asset-based sukuk are also commonly referred to as “Islamic bonds” and from a legal perspective in term of taxation, asset-based sukuk are treated as bonds. According to IFSB, in an asset-based sukuk, the investors have to recourse either to the originator (via purchase undertaking) or the issuer (via guarantee). To further comprehend the method of issuing asset-based sukuk, the table below delineates the transaction steps for ijarah sukuk as an example.

Steps	Transaction
1	The sukuk investors will pay sukuk proceeds to the Special Purpose Vehicle (SPV)
2	Upon receiving the proceeds, the SPV then issue the sukuk certificates to the sukuk Investors.
3	The SPV will then purchase an asset from the obligor/ originator and obtains the ownership of the asset.
4	The SPV in its capacity as a lessor (act on behalf of investors) will lease through an ijarah agreement the same asset back to the obligor.
5	The obligor in its capacity as a lessee will pay rentals to the SPV of the asset
6	The rentals will be distributed back to the sukuk holders.

Table 2: Ijarah Asset-Based Sukuk Structure Transaction Steps Source – Al Maghlouth (2009)

5. CONCLUSION, RECOMMENDATION AND SUGGESTIONS

The issue of asset based Vs asset backed sukuk has been one of the hot and debatable topics in Islamic finance industry since 2008. Since the issue has not been resolved yet, this study attempts to comparatively analyze the two structures from shariah perspective based on available literatures. It is found that asset backed sukuk structure is more compliant to shariah both in form and substance than asset based structure. This study also identifies a dilemma between shariah concern, legal framework and market demand as a factor that leads to minimum application of asset backed sukuk structure in practice. Therefore, it is important to urge the legislators in countries where Islamic finance is operating to come out with legal framework that is suitable and preferable to issue asset backed sukuk. A practical solution is currently being developed by the Bahrain-based International Islamic Financial Market (IIFM). The institution is developing a template aimed to help sukuk issuers to overcome legal and operational difficulties in issuing asset-backed sukuk in their jurisdictions (Pasha, 2012). The template comes with a master agreement aimed to provide a standardized platform from which issuers could structure asset backed sukuk in line with their own jurisdictions and increase awareness about the product.

In addition to the above practical solution, it is also the time for all Islamic finance stakeholders to create more awareness to the market players that Islamic finance is not just about complying with shariah in form but also in substance. Only when compliancy with both is fulfilled, a financial instrument can be labeled as shariah compliant (Dusuki, 2010). Finally, it is only through compliancy with shariah both in form and substance, the welfare of the society (maslahatul ammah), other objectives of shariah (maqasid al-shariah) and most importantly the blessing of Allah will inshaallah be achieved.

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USUL AL-FIQH AND QAWA'ID AL-FIQHIYYAH AS THE MEANS IN DETERMINING MAQASID AL-SHARI'AH IN SUKUK STRUCTURE WITH SPECIAL REFERENCES TO THE GOVERNING LAW AND INTEREST RATE BENCHMARKS: A PRELIMINARY RESULT

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ABSTRACT

Maqasid al-shari'ah is the set of objectives or wisdoms aimed by the implementation of Islamic law in governing and guiding the life of *mukallaf*. According to the previous scholars, they agreed that the five elements namely, *din* (religion), *nafs* (soul), *nasl* (lineage), *'aql* (intellect) and *mal* (wealth), must be protected in order to fulfil the objectives by giving the priorities to the sequence accordingly. In the Islamic financial practices, *hifz al-mal* is the main objective that must be reflected any transactions and relationships between parties or individuals. However, the components lie behind *maqasid al-shari'ah* in *hifz al-mal* are keep on changing depends on the nature and other influenced factors on *mukallaf* behaviour and action. In this study, the two major sciences in Islamic jurisprudence, *usul al-fiqh* and *qawaid al-fiqhiyyah* will be used as the determinant on *maqasid al-shari'ah* on the two studied structures, the governing law and interest rate benchmarks. This study finds that the two sciences mentioned above could be a reliable determinant tool in establishing *maqasid al-shari'ah* in general, specifically in *sukuk* structure.

Keywords: Sukuk, *Maqasid al-Shari'ah*, *Usul al-Fiqh*, *Qawaid al-Fiqhiyyah*

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1. INTRODUCTION

Maqasid al-Shari'ah is the ultimate objectives that lie behind the ruling of Islamic jurisprudence. They act as a guide for scholars and jurists in ruling the Islamic law extrapolated from *nas al-syar'ie* (evidences of Islamic jurisprudence). The upmost objective of the *Shari'ah* is to promote the well-being of the people, which lies in

safeguarding their faith (*din*), their self (*nafs*), their intellect (*aql*), their posterity (*nasl*) and their wealth (*mal*). Whatever ensures the safeguard of these five serves public interest and is desirable and whatever hurts them is against public interest and its removal is desirable²¹⁸. In Islamic finance, *Maqasid al-shari'ah* is not also be the objectives for the major ruling such as sale, lease and partnership, it also be the objectives for the subset elements under any particular contract either it in the form of party involved or the relationship. In this study, two main structures for *sukuk* will be the subject of this study that always been utilized in today's *sukuk* transactions.

2. THE OBJECTIVES OF THE STUDY

The research aims for:

1. Determining the *maqasid al-shari'ah* that aimed by *sukuk* structures, in particular, governing law and interest rate benchmarks (IRB), guided by the sciences of *Usul al-Fiqh* and *Qawa'id al-Fiqhiyyah*.
2. Connecting *maqasid al-shari'ah* with the reasons and rationales of the studied structures by the means of *Usul al-Fiqh* and *Qawa'id al-Fiqhiyyah*.

3. RESEARCH METHODOLOGY

The data are collected from the interview process from seven selected interviewees from industrial experts and academicians. The interview processes in average are conducted within 30 to 50 minutes. The questions asked are open ended questions in order to obtain independent opinions of them. Then, the data will be coded based on the appropriate *usul al-fiqh* and *qawaid al-fiqhiyyah* segments and interpreted solely by the researcher. In specific, *maqasid al-shari'ah* behind the governing law and IRB might be established through the means derived from the two sciences.

4. THE GOVERNING LAW

The Islamic economic principals must be reflected the actual practices in today's economic market in order to realize the economic justice. The aspect that is needed to be

²¹⁸ Mohd Shahid M.N et al. 2013. The Structure Of *Sukuk Ijarah*: An Initial Analysis From The Perspective Of *Maqasid Al-Shari'ah*. A paper presented in The 5 th Islamic Economic System Conference (iECONS) 2013.

fortified for that reason is developing strong and dynamic regulatory and supervisory system to monitor the behaviour of market players²¹⁹. Therefore, the structured governing law is a need in Islamic finance activities.

Mukhtar al-Khadimi stipulates four conditions for a accepted and applied necessity in Islamic law:

From the ranking view, *hajat* falls on the second after compulsories where by abandoning *hajat* it leads to the difficulty not definitive harm like *dhorurah*.

It is allowed in order to ease human matter and provide smoothness in their daily life activity and business.

It will never makes the forbidden thing becomes permissible.

The ruling under *hajat* reason is permanently contrasted to the relaxation that is only temporary in certain circumstances²²⁰.

The *shari'ah* law is always considered as supporting law in financial transactions especially in countries that governed by the civil primary law. The problem will arise if anyone of the parties disputed in the case refuses to refer to *shari'ah* law, arbitration of *shari'ah* boards or claims that the peremptory law is civil law where *shari'ah* rules could be denied²²¹.

Malaysia is only the country in the world that performed distinctively in organizing the activities of Islamic Capital Market including *sukuk*. The achievement obtained was supported by the four crucial components in Malaysia's structural and institutional framework, namely:

1. A common law jurisdiction
2. A dual banking system
3. A creative and innovative approaches showed to Islamic finance
4. The Labuan International Offshore Financial Centre (IOFC)²²².

²¹⁹ Hossein Askari, Zamir, Iqbal, Nouredin Krichne and Abbas Mirakhor. Risk Sharing in Islamic Finance: The Islamic Finance Alternative. Singapore: John Wiley and Sons. p. 240.

²²⁰ Al-khodimi, Nuruddin Mukhtar. n.d. Al-Hajat Al-Syar'iyyah : Haqiqatuha, Adillatuha wa Dhowabituha. Vol. 14. Issue Rabi' al-Akhir 1423H. p. 8.

²²¹ Al-Shamsi, Jasim bin Salim. 2005. Restricting Resorting to [Civil] Laws in Contract [Disputes] and Accepting the Arbitration of the Shar'iah Boards Instead. *The 5th Annual Shariah Supervisory Boards Conference for Islamic Financial Institutions* in Bahrain organized on 19-20 November 2005.

²²² Maha Hanaan Balala. 2011. Islamic Finance and Law: Theory and Practice in a Globalized World. London: I.B Tauris Co. Ltd. p. 165.

Although Malaysia adopts the common law framework in governing and judging Islamic finance matters, some of the aspects which seemed contravene with Islamic law were changed and replaced in order to make them fit with the Islamic finance principles. Relying on common law jurisdiction is acceptable moreover it found that these mechanisms are in line with the concepts used by Muslim scholars in ruling the law such as *ijtihad* (independent reasoning), *qiyas* (analogical reasoning) and '*urf* (customary practices)²²³. The laws of United Kingdom or United States usually to be chosen as the governing law for international *sukuk* issuance²²⁴.

Norhashimah (2007) suggests the establishment of Islamic division under high court structure in order to deal with the cases of Islamic banking and related cases such as *takaful* and Islamic capital market, complementing with trained judges and lawyers with Islamic financial transactions law. This idea was perceived as a good effort in upholding Islam as the federal official religion without breaching any legal framework in Malaysia, also as preparation step to be the global centre for Islamic banking and finance²²⁵.

The countries that are dominated and almost totally governed religiously where the investors are among wealthy individuals such as in Dubai, Qatar and Saudi Arabia have performed well in Islamic finance²²⁶. So, the robust and pure Islamic finance law shall strengthen and protect the industry from any destructive crisis that considered as the mean to *maqasid al-shari'ah*. From the perspective of law and its risk, Muhammad Haidar and Junaid Haider find that *sukuk* faces high regulatory risk since it is now regulated by English Law, European Law and American Law instead of pure Islamic law²²⁷.

Ahmad Hidayat Buang (2007, pp. 321-322) cites the following reasons in support of the civil courts trying and adjudicating Islamic finance matters:

(1) Banking and commerce are matters within the jurisdiction of federal law and, hence, civil courts. Islamic banking and business are considered as matters of banking and commerce.

²²³ *Ibid.*

²²⁴ Wan Abdul Rahim Kamil. 2007. Introduction to Sukuk. *Malaysian Sukuk Market Handbook: Your Guide to the Malaysian Islamic Capital Market*. Kuala Lumpur: RAM Rating Services Bhd. p. 48.

²²⁵ Norhashimah Mohd Yasin. 2007. Legal Aspects of Islamic Banking: Malaysian Experience. *Islamic Banking and Finance: Fundamentals and Contemporary Issues*. Jeddah: Islamic Research and Training Institute (IRTI). p. 225.

²²⁶ Maha Hanaan Balala. 2011. *op.cit.* p. 173.

²²⁷ Muhammad Haidar and Junaid Haider. 2012. Islamic Capital Market: Sukuk and Its Risk Management. Saarbrücken: LAP Lambert Academic Publishing. p. 59.

2) The *Shari'ah* court could not have the jurisdiction simply because it deals

only with Muslims. Islamic banks do business with all types of customers.

including non-Muslims, and many transactions are related to federal law such as company, contract, bankruptcy, bills of exchange and so on.

(3) The *Shari'ah* court does not have the necessary procedural rules to engage with the complex nature of business cases. Civil court is not only equipped with these rules but has the experience and power to carry out orders and make judgments on such matters.

(4) The laws relating to Islamic banking and finance themselves provide for the use of the civil court in case of dispute²²⁸.

In 2009, Malaysian Parliament have passed the new Central Bank of Malaysia Act (CBMA 1958) and been enforced on 25th November on the same year that improved the roles of SAC in assisting civil court on the issues related to the *shari'ah* matters.

According to the act, section 56 (1) provides that 'where in any proceedings relating to the Islamic financial business before any court or arbitrator any questions arises concerning a *shari'ah* matter, the court or the arbitrator, as the case may be, shall :

- a. Take into consideration any published rulings of the SAC, or
- b. Refer such question to the SAC for its ruling'²²⁹.

5. INTEREST RATE BENCHMARKS

The Conference of the Fiqh Academy of the OIC held in Jeddah 10-11 April 1993, had issued the resolution regarding the use of conventional benchmarks by Islamic financial institutions is acceptable from *Shari'ah* perspective in determining the profit margins. The undeniable fact in financial market today is the rate of interest is not possible to be omitted due to the lack of new idea and explanation to replace it.

Syeikh Muhammad Taqi Usmani strongly urges Islamic financial institutions should avoid the use of conventional benchmark rates because the advance of Islamic basic philosophy might not be achieved. Kuwait Finance House also allows the use of LIBOR for the same reason until the alternative is found.

²²⁸ Hakimah Yaacob. 2011. Analysis of Legal Disputes in Islamic Finance and The Way Forward: With Special Reference to A Study Conducted at Muamalat Court, Kuala Lumpur, Malaysia. *ISRA Research Paper*. Kuala Lumpur: ISRA Publication. p. 6-7.

²²⁹ Abdul Hamid Mohamad and Adnan Trakic. 2012. The Shari'ah Advisor Council's Roles in Resolving Islamic Banking Disputes in Malaysia: A Model to Follow?. *ISRA Research Paper*. No. 47. Kuala Lumpur: ISRA Publication. p. 5-7.

Among the elements agreed between banks as the financier and customer as financing customer is profit and loss sharing ratio. The ratio is determined through several factors such as bargaining power of the customer, profit forecast of the principles (for instance *mudarabah*), market interest-rate, customer's customers characteristics, marketability of the goods traded and the length of financing .

The common misconception in prohibiting interest on loans in Islam is a denial of the time value of money. Despite *shari'ah* prohibits the increment in loan but it does not affect the permissibility of making profit through the business with the permissible underlying asset. This might be distinguished by creating clear distinction between investment and loan. Investment aims to earn profit by running economic activity while loan is one way of charity act to help others with the long period objective is to encourage economic expansion.

Abbas Mirakhor (2014) clarifies the selection of rate, for instance LIBOR as benchmark is step to make the transactions become easier between international banks besides it also accepted for its credibility, consistency and known by all parties easily. Mohd Azmi Omar, Azman Md. Noor and Ahamed Kameel (2010) suggest Islamic benchmark should be characterized as guidance for Islamic instrument pricing the products, transparent to all parties, includes calculated risk, represents real economic activities, free from excessive profit (*ghabn fahish*) and considers the economic trends progresses and future forecasts in pricing process .

With the understanding above, *sukuk* that stipulates certain benchmark of profit earning is generally accepted despite the benchmark itself is derived from conventional finance because it is only a rate of profit for particular investment in order to inform the investor besides promoting transparency in business venture and the determination in achieving the profit for the wellness of investor.

6. RESEARCH FINDING

6.1. Governing Law

The Opinions from Interviewees

Theme coding : *Doruriyat* and *Shari'ah* law

Respondent	The statement
All respondent in consensus	Despite the law governing for <i>sukuk</i> in Malaysia today is not totally derived from <i>shari'ah</i> sources, it is <i>doruriyat</i> to have structured law as exists today to administrate the market towards the justice. The best governing law is the law derived, structured and administrated by <i>shari'ah</i> law and judged by pure <i>shari'ah</i> court. They agree the steps taken by court to consult experts' opinion

	in judging Islamic finance cases and also arbitration appointment are the best effort so far to achieve <i>maqasid al-shari'ah</i> within the legal framework in Malaysia. Therefore, the true efforts has been made over the period to lessen the contradiction between <i>Shari'ah</i> and the civil law although it not be done in fully complied with <i>maqasid al-shari'ah</i> .

Theme coding : *Maslahah*

Respondent	The statement
R2	As long as the law aims for the justice and did not structured intentionally to breach <i>shari'ah</i> fundamentals, it is accepted as legal governing law .
R3	The law is only governs the contract by parties in business and no strong reason to reject this law. Furthermore, the law in Malaysia has experienced significant change towards Islamic requirements by reflecting Islamic values and principles.
R5	In this case, looking to SC roles as ' <i>al-hakim</i> ' (the rules) and, as long as it doesn't stipulate any rule and conditions contravene with <i>shari'ah</i> principles, it is acceptable in SC regulated the law for the <i>maslahah</i> of the parties involved reflecting their need and interests considering to the nature of ICM.
R7	The existing governing law still promoting <i>maslahah</i> and avoiding harm and hardship, besides it was structured by reflecting the opinions and experiences of market's experts.

Theme coding : *Akhaf al-dararain* and *al-al-taisir*

Respondent	The statement
R7	Looking to the lack of experience and less exposure for the judges in <i>shari'ah</i> court in dealing with financial matters, it is better for the civil court judges to proceed their duty in judging Islamic financial cases where it is <i>akhaf al-al-dararain</i> .
R1	The regulatory framework in Malaysia not allow any other law administrates financial matters except the civil law in civil court, hence it acceptable to embrace the maxim 'hardship begets facility' in the circumstances.
R 5	In Malaysia perspective, <i>al-hakim</i> or the judge for the Islamic capital markets is Securities Commission Malaysia. So, the commission have regulated the law for products in the capital market by reflecting to the legal framework in Malaysia, the capital market environment and <i>shari'ah</i> requirements that were endorsed by the experts and distinguished scholars in the industry.

Theme coding : *Doruriyat* and *Maslahah*

Respondent	The statement
R3	The governing law aims <i>maslahah</i> for investors, companies as well as the regulator itself preserving the concept of justice and transparency in transactions. This law is <i>doruriyat</i> in administrating the business's relationship in the capital market.
R2	The efforts to ensure <i>maqasid al-shari'ah</i> might be achieved despite under the existing civil law, are the establishment of <i>muamalah</i> court ²³⁰ by high court of Malaysia. It expectedly brings <i>maslahah</i> for any parties involved in ICM in the event of dispute.
R1	The governing law is needed in any contract and transaction and definitely governing <i>sukuk</i> transactions that consisting of many other sub-transactions or flows of money that managed by several parties is <i>doruriyat</i> to the fair and transparent governing law.

Theme coding : The progress

Respondent	The statement
R4	In overall view, the governing law for <i>sukuk</i> in Malaysia is not fulfil the requirements of <i>maqasid al-shari'ah</i> . Despite that, the developments, efforts by authorities and roles contributed by <i>shari'ah</i> advisors, scholars and researchers have strengthened and aligned the instrument towards those objectives.

²³⁰ It is worth to know that the *Muamalat* court mentioned by the interviewee is not referred to the separated independent court, but it only one division from the High Court or known as *Muamalat* Division. The establishment of this court division is only dedicated to hear Islamic finance cases besides to accommodate the administrative purpose. Abdul Hamid Muhammad and Adnan Trakic. *Ibid.* p.11.

The Analysis

- i. Governing law is *doruriyat* in any business transactions where many parties involved in the relationship that aims to ensure the contract deeds are fulfilled and protect their rights. In the event of dispute between them, it might be settled in the court that also guided by the governing law in the verdicts.
- ii. For today situation, the prevailing governing law is derived from the west, and have been practiced, tested and evolved for long period in financial market depends on the need, place and time. Despite the law is not derived from *shari'ah* sources directly, it still plays it roles in promoting the justice, giving the rights to their owners and solving disputing parties in fulfilling the contract deeds. Looking to the current situation, supporting by the several outside factors like political, economic and demographic, the pure *shari'ah* based governing law is almost impossible to be realized. Hence, adherence to the law is concluded as '*masyaqqah tajlib al-al-taisir*'.
- iii. The Malaysian civil court have experienced for decades in judging Islamic finance cases using the governing law consulted by *shari'ah* experts' opinions. There were positive progress and improvement have been initiated by authorities in order to facilitate the *shari'ah* law within the legal framework of Malaysia and the established of special court of the High Court 4 (muamalat) Civil Division is one the result. With the evidences, it is *akhaf al-darain* to mandate –for the time being- the prevailing governing law before the establishment of *shari'ah* court with the legal expertise that relied totally on the purity of *shari'ah* law.
- iv. *Maslahah*²³¹ is another significant attribute brought by the governing law to *sukuk*. Among *maslahah* are administrating the relationship, ensuring the effectiveness of transactions, protecting rights, upholding justice and fairness and preventing the continuous dispute and conflict.
- v. Despite the *shari'ah* based governing law is still absent, we may not reject totally the existing governing law since it still enforceable in ensuring the contracts and obligations in the business are fulfilled. The least will be applied and not rejected despite of the rejection of the best (*al-maisur la tasqutu bi al-ma'sur*).
- vi. There still a weakness in managing Islamic transactions by non-*shari'ah* framework. For instance, the case of Beximco vs Shamil Bahrain Bank.

The Proposed Parameters Derived for *Maqasid al-Shari'ah* in Governing Law

²³¹ *Maslahah* that changes due to changes in time, people, place and custom. Therefore, if the *maslahah* changes, the Islamic ruling based on that particular *maslahah* may change as well. This is also one of the features of the *shari'ah* that shows flexibility, for it consistently reflects the development of the market and community.

Source: Mohamad Akram Laldin. 2010. Understanding the Concept of *Ma'la'ah* and Its Parameters When Used in Financial Transactions. *ISRA International Journal of Islamic Finance* • Vol. 2 • Issue 1 • 2010. p.69.

- i. The objective is to uphold justice.
- ii. No contradiction in principles and foundation.
- iii. Managing and judging the dispute between parties involved in any contract under the regime governing law.
- iv. *Sukuk* was structured and complied with *shari'ah* in the form of contract and agreement.
- v. As long as the law aims for the justice and not obviously encourages any action that breaches the *shari'ah* principles, it is accepted.
- vi. SC as *al-hakim* or regulator have shown best effort in regulating *shari'ah* framework within the existing law that reflected to the *shari'ah* principles and the law itself.

6.2. Interest Rates Benchmark

The Opinions from Interviewees

Theme coding: Free from *riba*

Respondent	The statement
All respondents in consensus	1. There is no <i>riba</i> element in benchmarking <i>sukuk</i> 's profit using interest rates. 2. Reliance on any benchmark is not directly affected the status of <i>shari'ah</i> compliant of <i>sukuk</i> as long as it was structured in accordance to <i>shari'ah</i> guidelines. For them, it is only as a mechanism to perform <i>sukuk</i> profit forecast.

Theme coding : *Hajiyat* and *al-taisir*

Respondent	The statement
R5	ICM lacks with the information to create their own benchmark and it is compulsory for the market player to refer to conventional benchmark for the need of <i>sukuk</i> issuance, without breaching any <i>shari'ah</i> fundamentals. Recently, Thomson Reuters has introduced its own interbank benchmark rate (IIBR) indicates average expected cost for the short term funding between Islamic financial institutions.
R7	It is <i>doruriyat</i> to rely on the existing benchmark since there is no other Islamic benchmark that are accepted widely in the market.
R1	ICM doesn't have for time being reliable benchmark rates for <i>sukuk</i> . Therefore, ICM products need to rely on this benchmark for the requirement of the market. Besides, relying on the tested and trusted benchmark is deemed as <i>al-taisir</i> since it is not prohibited directly from the text of Al-Quran and prophetic traditions.

R3	Looking to the ability and possibility of ICM to create their own benchmark, it is <i>hajiyyat</i> for them to rely on conventional benchmark provided by LIBOR or KLIBOR and so on. From my opinion, ICM might create its own benchmark based on the structure of <i>sukuk</i> issued, for instance, <i>sukuk ijarah</i> 's benchmark is relied on current rental rate. But, the lack of data is an obvious obstacle for any regulator to create their own benchmark.
R4	For current financial market situation, it is <i>dharurat</i> for Islamic financial instruments to rely on interest rate benchmark seeing the dominance of conventional system in our financial deals.

Theme coding : *Al-taisir*

Respondent	The statement
R7	Reliance on interest rate benchmark actually applies the concept of <i>al-taisir</i> and 'hardship begets facility' as long as it doesn't obviously and intentionally breach <i>shari'ah</i> principles. Furthermore, it is more realistic with the market's need and fulfilled the criteria of <i>sukuk</i> 's marketability that represents <i>maqasid al-shari'ah</i> . Reluctant in using the benchmark actually may only reduce the rating score of <i>sukuk</i> simultaneously undermine the confidence level among investors
R4	IRB helps <i>sukuk</i> to achieve <i>maqasid al-shari'ah</i> in bigger context by issuing more competitive <i>sukuk</i> in the market to replace the existing conventional bond practices, and later improves the number of Islamic investment funds for investors and creates job opportunities for public.

The Analysis

- i. The nature of ICM and the requirements by SC Malaysia determine the necessity of relying on IRB based on KLIBOR or LIBOR for any *sukuk* issued. Hence, the signs *doruriyyat* in this practice could be expected through several assumptions that will be explained later.
- ii. As far as *al-al-taisir* is concerned in transactions, benchmarking *sukuk* products using interest rates definitely be the best way for issuer to price the *sukuk*'s profit with the widely known and trusted method, benchmarking to the interest rates that

- issued by authorized and well information organizations. Refusal to accept the practice, might lead *sukuk* to problematic issuance and unattractive securities.
- iii. Benchmarking *sukuk* with conventional interest rates doesn't change the structure of the *sukuk* that have been approved as *shari'ah*-compliant. The elements of *gharar*, *riba* and *jahalah* are avoided as the fundamentals for any Islamic products as a mean to obey the *shari'ah* law.
 - iv. *Ma'alat al-af'al* (consequences of the action) allows us to assume several implications if the benchmarking is neglected. First, the marketability of *sukuk* may be affected negatively without any trusted benchmark to project the profit. Second, the investor's acceptance on *sukuk* might be declined significantly if the known practice among them is unapplied. Third, no approval may be given to any *sukuk* that reject the benchmark as practiced globally for many years since ICM itself is surrounded by interest-based market. These three assumptions are quite enough to locate *sukuk* in difficult circumstances contrasted with the practice of 'hardship begets facility'.
 - v. It is known as a standard practice for any *sukuk* securities issued in Malaysia to declare the expected profit by benchmarking it with any IRB. Since, it is only benchmarking that was approved from *shari'ah* view that it free from any *riba*, *gharar* and *jahalah*, and '*uruf* today also accepts the practice and considers it as the fair method to project profit for securities, so *al-'adat muhakkamah* is applied in this situation to achieve *maqasid al-shari'ah*.

7. THE PROPOSED CRITERIA DERIVED FOR *MAQASID AL-SHARIAH* IN INTEREST RATE BENCHMARK

1. Using interest rate benchmark for *sukuk* is not forbidden and breaches the principles since it is not a loan contract.
2. The regime governing law dictates all securities must be benchmarked by interest rates that seemed as *doruriyat*.
3. Interest rate benchmark is known and trusted by *sukuk* stakeholders that grants the transparency of transaction.
4. Despite using same benchmark, *sukuk* is distinguished from conventional bond by its structures and contracts.
5. The existing benchmark rate also plays vital role in forecasting the profit rate since there are many difficulties faced by regulators to create new benchmark.

Diagram 1 : Proposed *Maqasid al-Shari'ah* for The Governing Law that derived from the means of *Usul al-Fiqh* and *Qawa'id al-Fiqhiyyah*

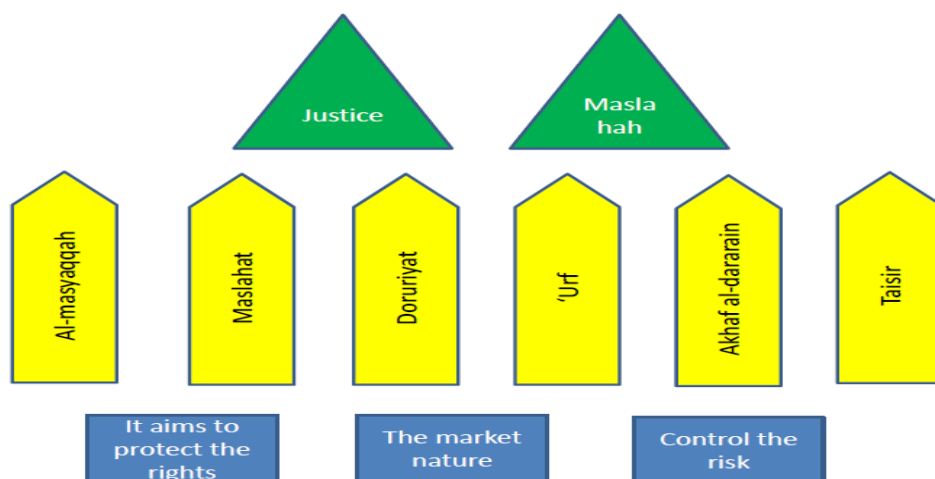
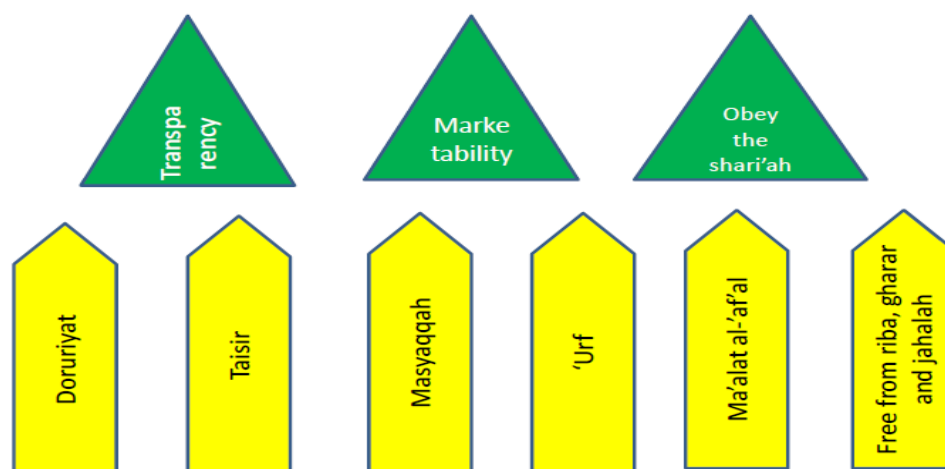


Diagram 2 : Proposed *Maqasid al-Shari'ah* for Interest Rate Benchmarks that derived from the means of *Usul al-Fiqh* and *Qawa'id al-Fiqhiyyah*



8. CONCLUSION

From the discussion and findings above, *maqasid al-shari'ah* is not exempted in any part or section in economic activities including *sukuk* structure. Some of *maqasid al-shari'ah* have been discussed by previous or traditional scholars – based on their analysis from their periods' practices – and some of them could be explored by contemporary scholars using the same methodologies suited with the known current practices. In nowadays market, fulfilling the list of *maqasid al-shari'ah* is seemed very difficult and hard to be realized in today's economic surrounding, however, by determining the specific *maqasid* and adhering to the concept guided by *usul al-fiqh* and *qawa'id al-fiqhiyyah*, achieving *maqasid al-shari'ah* is almost might be realized by fulfilling the specific criteria as discussed above.

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ANALAYZING THE CHARACTERESTICS OF ISLAMIC *SUKUK* ISSUANCES' DISTRIBUTION DURING 2001 – 2014

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ABSTRACT

Islamic *sukuk* is noticed as the remarkable growth financing and investment tools in Islamic economics. In deed it's characterized by its most expansion in public and private sectors, in all fields and levels, for both Islamic and non-Muslim countries. For period 2001 – 2014, the annual growth rate of Islamic *sukuk* reached (890%). While geographic aspect shows Malaysia topped the list of issuer countries, with (67%) of total issued *sukuk*, on the other hand, GCC portion was (22%) of total *sukuk* issuances for same period, while Europe was hardly reached (2%) of such issues. Furthermore, Luxemburg stock exchange described as the favorite listed market for new issues of international Islamic *sukuk*, the issuers listed about (65%) of their international *sukuk*, which represents (17%) of total value of *sukuk* (local and international). On the contrast, Islamic *sukuk* is still less than (1%) of international conventional bonds that issued over the world, and there are some critical debates about *shari'a* non-compliance *sukuk*, which estimated between (28%) and (85%) of issued *sukuk*, regarding some respectful Islamic scholars.

Key Words: Islamic *Sukuk*, *Sukuk* Characteristics, Trend Analysis, *Shari'a* Compliance and Issuances Distributions.

1. INTRODUCTION

Islamic law (*shari'a*) is characterized by its ultimate justice and goodness in all its provisions, in worships and transactions. Therefore, Islam care about economics, in all of its fields and stages; to organize different sides of wealth, finance, income, consumption and investment, as well as meriting, income obtaining and distribution, in order to increase human well-being level. The most important aspect of such care is concerning about different tools of finance and investment, that complained with Islamic law, which lead to develop many financial techniques, with special respect to Islamic *sukuk*, the most remarkable tool in Islamic finance.

Linguistically, "*sukuk*" is a plural of "*suk*" in Arabic language, it means "a monetary document", it also means: "to push a door strongly, in order to close it". Furthermore, *sukuk* is an inflictive word from Persian language, and its original root is "*juck*" (Iben Mandhoor, 1994). But idiomatically, it refers to "certificates of equal value representing undivided shares in ownership of tangible assets, benefits and services, or in the ownership of assets in particular projects or special investment activity". Moreover, Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) define it as "Investment *sukuk*" to differentiate it from stocks and debt securities (conventional bonds), AAOIFI had identified 14 different kinds of Islamic *sukuk* (AAOIFI, 2010).

Islamic law described as a key steer for Islamic *sukuk*. Also, it has a solid role in financing and investment activities, which made it the most expansion financing method in both public and private sectors, in all fields and levels, in several Islamic and non-Muslim countries as well. Therefore, International Islamic Financial Market (IIFM) reported that the total amount of *sukuk* Issuances in 2013 was approximately US\$ (138) billion, and increased up to (118) times of total issued *sukuk* during 2001 (IIFM, 2014).

Furthermore, the major part of trends for surplus and deficit units toward Islamic *sukuk* refers to its crucial role in financing large development projects, that requires gathering a large amounts of national savings and funds, which seek reasonable levels of return, safety and liquidity, to ensure satisfying the needs of financing transaction parties, in line with *shari'a* compliance. That led to a high degree of spreading *sukuk* over the world.

Therefore, this paper aims to represent a discretionary attempt to highlight in analyzing the most important circumstantial and qualitative characteristics of the Islamic *sukuk* issuances, which was summarized in two main parts, the first part concerns about circumstantial characteristics of time and geographic dimensions of issued *sukuk*, by recognizing its relatively distribution during the study period, or by presenting the relativity importance of its geographical distribution between countries and regions of the world.

On the other hand, the second part reviewed the qualitative characteristics that recognizing the economic sectors funded by *sukuk*, in addition to clarify the nature of

adopted Islamic financing forms of *sukuk*, and some other aspects and quality indicators. Then, it was ended by some findings & results, and followed by some key recommendations.

2. STUDY METHODOLOGY

2.1. Objectives of the study

This study aims to identify characteristics of the issuances of Islamic *sukuk*, according to the following two directions:

2.1.1. Circumstantial characteristics

- Distribution *sukuk* according to year of issuance.
- Distribution *sukuk* according to state and country of issue (Islamic countries compared with non-Muslim countries).
- Distribution *sukuk* according to its listed market (local issues versus international issues that are listed outside the boundaries of the issuing country).
- Distribution *sukuk* according to its duration (short-term comparing with long-term issues).

2.1.2. Qualitative characteristics

- Distribution *sukuk* according to legal form of the issuing firm.
- Distribution *sukuk* according to its financing tools (*morabaha*, *mosharaka*, *modaraba*, *ijara*, ... etc.)
- Distribution *sukuk* according to its economic sector (industry, agriculture, government, transport, construction, services,...)
- Distribution *sukuk* according its compliance with Islamic law (*shari'a*).

2.2. Research period

This study covers the annual time series from 2001 until 2013, depending on the published figures in IIFM fourth annual report, which issued during December 2014, which represents the latest version until preparing of this study.

Furthermore, the current research will adopt another partial periods, in order to cover some aspects of descriptive analysis, that required for research targets, in particular, January 1st till July 31st of 2014, regarding the 4th annual Islamic *sukuk* report, that published by IIFM.

2.3. Research constraints:

This study faced by some constraints regarding the differences among and between some figures published in the 4th report of IIFM, as follows:

☞ **Local issues of Islamic *sukuk*:**

- Page 5 of IIFM report, indicates that the total value of local *sukuk* is US\$ (551.190) billion.
 - Also, page 9 of IIFM report, displays that the total value of local *sukuk* (regarding its legal form) is US\$ (551.190) billion.
 - On the contrast, page 18 of the same report, states the total value of local *sukuk* (regarding its geographic distribution) is US\$ (551.357) billion, (please, refer to page 8 of the current study).
 - Furthermore, page 22 of the same report, indicates the total value of local *sukuk* (regarding its financing methods) is US\$ (554.200) billion, (please, refer to page 11 of the current study).
- ☞ Therefore, and for the purpose of recent study, and because it's unknown why such differences is appeared, the current study will adopt the figures as shown in its own tables in IIFM 2014 report without any adjustments.
- ☞ 4th IIFM report was adopted as the main data source for the current study, such report covers the period from January 1st 2001 till July 31st 2014, and because the researcher could not segregate the aggregation figures regarding every single partial period, so, the current study adopt the whole period as mentioned in IIFM report.

3. KEY CIRCUMSTANTIAL CHARATERESTICS OF ISLAMIC *SUKUK*:

This section concern about analyzing the historic and geographic trends for the issued Islamic *sukuk*, to identify the extent of historical development of issuing movements, and to focus on the areas of issuing such *sukuk*, according to the geographical regions and countries across the world, and as shown here after.

3.1. Distribution *sukuk* according to year of issue:

Islamic *sukuk* was characterized by its rapid growth compared with other Islamic financing tools, as shown in the following table. From viewing the values of *sukuk* issuances during the study period, a remarkable straight expansion represents increasing growth from year to year, with one exception, the starting year of global financial crisis during 2008, which caused a clear decline in volume and numbers of issued *sukuk*.

Overall, the annual growth rate average of issued *sukuk* reached a remarkable level of (890%), during the study period, which means, the annual increase average represents (9) times of total issued *sukuk* during 2001 (IIFM, 2014). While, the annual growth rate of Islamic finance size is ranged between (20% and 25%) in general. On contrary, conventional financing growth rate is hardly reached (10%) per year (IDB, 2011).

However, the above mentioned steady and rapid increase in volume of Islamic *sukuk* require from those in charge of Islamic affairs (economists and politicians) to work

seriously and together for advancement of Islamic banking and finance to become more attractive to investors (locally and internationally) to better spread across the world (At-Talib, 2013), take into account that the relative importance of total Islamic financial assets is still less than (1%) of total assets of the conventional financial assets that used over the world (Grewal, 2011).

3.2. Distribution *sukuk* according to state of issue (Islamic countries compared with non-Muslim countries):

This part of study analyze geographic dimension of Islamic *sukuk* divided by countries, in which Islamic *sukuk* was issued. As noticed, the statistics indicated that (57) Islamic countries are member countries of Organization of Islamic Cooperation (OIC) (formerly Organization of the Islamic Conference), distributed among the four continents in the world^(*), starting from Asia to Africa, through Europe and Latin America.

Table No (1) Islamic *sukuk* issuances

(Amounts in Millions of US\$)

Year	Amount of Issues	Annual Growth %	Common Size % (1)	Common Size % (2)
2001	1,172	-	0.18%	0.20%
2002	1,371	16.98%	0.21%	0.23%
2003	7,057	414.73%	1.06%	1.18%
2004	9,465	34.12%	1.42%	1.58%
2005	13,698	44.72%	2.05%	2.28%
2006	33,837	147.02%	5.06%	5.64%
2007	50,041	47.89%	7.49%	8.34%
2008	24,264	-51.51%	3.63%	4.04%
2009	37,904	56.21%	5.67%	6.32%
2010	52,978	39.77%	7.93%	8.83%
2011	92,403	74.42%	13.83%	15.40%
2012	137,499	48.80%	20.58%	22.92%
2013	138,170	0.49%	20.68%	23.03%
Total (Average)	599,861	899%	89.79%	100.00%
Jan 1st – Jul 31st, 2014	68,196	-	10.21%	-
Grand Total	668,057	-	100.00%	-

^(*) Islamic Counties are divided into contents as following: Africa: (27) countries, Asia: (20) countries, Europe: (8) countries, and (2) counties in Latin America, for more details, please refer to:

- Islamic Center for Development of Trade, Annual Report on Intra – OIC Trade, 2014.

(Average)				

Source: IIFM, 2014, p. 4.

Common Size % (1): portion of each partial period regarding the period from 01/01/2001 – 31/07/2014.

Common Size % (2): portion of each partial period regarding the period from 01/01/2001 – 31/12/2013.

Furthermore, table No. (2) displays geographical concentration degree for Islamic *sukuk* issued in some countries and territories, it confirms that the *sukuk* issuances referred to (28) states – including (19) Islamic countries – distributed to (4) geographic regions, with total value US\$ (668) billion over the study period. Furthermore, the issuance number was (5,155) issues, which means the value average is about US\$ (130) million for every single issuance.

The bellow mentioned table also shows that Malaysia has topped the list of the countries that issuing *sukuk*, with a total amount of US\$ (447) billion, that constituted over (67%) of total issuances of Islamic *sukuk* in the world for the whole study period, then Saudi Arabia came in the second place by (8.2%) of total volume, followed by UAE (8.1%), Indonesia (3.6%), Qatar (3.3%), Sudan (2.44%), and Bahrain (2.39%). The total average of these countries amounted to approximately (95%) of total releases during the same period.

On the other hand, and regarding the depth and width of *sukuk* market in Malaysia, no doubts it leads to hold the first position globally. On contrary, the relative importance of Islamic *sukuk* in Malaysia during 2010 did not exceed (0.4%) of total conventional bonds that issued over the world (Islamic International Rating Agency (IIRA), 2011), which should reaffirm the necessity of using *sukuk* in both finance and investment operations in Muslim countries, especially that many western countries are moving towards the Islamic *sukuk*, even that UK recently announced that London will be the Islamic *sukuk* global center.

Therefore, the contents of the bellow mentioned table show that the relative distribution of the *sukuk* issuances according to the regions; is biased to South East Asian countries, as they accounted approximately (73%) of total issues, then the Arab Gulf and Middle East region came in the second place that represents about (22%) of total amounts, while Africa came in the third place by (3%) of total *sukuk* issuance, and European countries & the United States of America came on the tail of the list, with portion about (2%).

Regarding the division of the issuing countries of *sukuk* according to their religion, the above mentioned table points out that approximately (99.4%) of total value and number of Islamic *sukuk* came from Islamic countries. On contrary, non-Muslim countries (represented by Singapore, Japan, Hong Kong, Germany, United Kingdome, USA, and France) issued no more than (0.6%) of total value of Islamic *sukuk* that issued during the above period. Taken into account, these issues do not include the Islamic countries issuances that listed in the international markets in non-Muslim countries, as follows here after.

Table No (2) Geographic distribution of *sukuk* issuances

(Amounts in Millions of US\$)

State / Region	Total <i>sukuk</i> issuances						Average per issue
	Issues Amount	% (1)	% (2)	Numbers of issues	% (1)	% (2)	
South East Asia:							
Malaysia	446,913	91.770%	66.881%	3,964	91.126%	76.896%	112.7
Indonesia	24,238	4.977%	3.627%	196	4.506%	3.802%	123.7
Pakistan	8,288	1.702%	1.240%	59	1.356%	1.145%	140.5
Brunei	5,567	1.143%	0.833%	105	2.414%	2.037%	53.0
Singapore	1,499	0.308%	0.224%	16	0.368%	0.310%	93.7
Hong Kong	196	0.040%	0.029%	2	0.046%	0.039%	98.0
Japan	190	0.039%	0.028%	3	0.069%	0.058%	63.3
China	97	0.020%	0.015%	1	0.023%	0.019%	97.0
Maldives	3	0.001%	0.000%	4	0.092%	0.078%	0.8
Sub Total (1)	486,991	100%	72.878%	4,350	100%	84.384%	112.0
GCC and ME:							
Saudi Arabia	55,080	36.651%	8.243%	73	14.484%	1.416%	754.5
UAE	54,237	36.090%	8.117%	82	16.270%	1.591%	661.4
Qatar	22,050	14.672%	3.300%	19	3.770%	0.369%	1,160.5
Bahrain	15,954	10.616%	2.388%	312	61.905%	6.052%	51.1
Kuwait	2,459	1.636%	0.368%	14	2.778%	0.272%	175.6
Yemen	253	0.168%	0.038%	2	0.397%	0.039%	126.5
Oman	130	0.087%	0.019%	1	0.198%	0.019%	130.0
Jordan	119	0.078%	0.018%	1	0.198%	0.019%	119.0
Sub Total (2)	150,282	100%	22.490%	504	100%	9.777%	298.2
Africa:							
Sudan	16,310	97.182%	2.441%	27	10.757%	0.524%	604.1
Senegal	201	1.198%	0.030%	1	0.398%	0.019%	201.0
Gambia	139	0.828%	0.021%	221	88.048%	4.287%	0.6
Nigeria	133	0.792%	0.020%	2	0.797%	0.039%	66.5
Sub Total (3)	16,783	100%	2.512%	251	100%	4.869%	66.9
Europe & USA:							
Turkey	12,231	86.328%	1.830%	32	64.000%	0.621%	382.2
USA	934	6.592%	0.140%	4	8.000%	0.078%	233.5
UK	687	4.849%	0.103%	8	16.000%	0.155%	85.9
Germany	178	1.256%	0.027%	2	4.000%	0.039%	89.0
Kazakhstan	77	0.543%	0.012%	1	2.000%	0.019%	77.0
Luxemburg	60	0.423%	0.009%	2	4.000%	0.039%	30.3
France	1	0.007%	0.000%	1	2.000%	0.019%	1.0
Sub Total (4)	14,168	100%	2.120%	50	100%	0.970%	283.4
Grand Total	668,224	-	100%	5,155	-	100%	129.6
Islamic States	664,382	99.425%	-	5,116	99.243%	-	129.9
None-Muslim States	3,842	0.575%	-	39	0.757%	-	98.5
Grand Total	668,224	100%	-	5,155	100%	-	129.6

Source: IIFM, 2014, pp. 15+18.

% (1): portion of each country comparing the total issues of the same region.

% (2): portion of each country comparing the total issues over the world.

3.3. Distribution *sukuk* according to its listed market (local - international):

In general, governments and enterprises issuing their Islamic *sukuk*, and its orientation towards local investors, with the aim to get benefits from national savings, for economic development in that country, depending on its own resources, In contrast, some governments and enterprises were working on marketing their issues of Islamic *sukuk* in the global financial markets, that located in the non-Muslim countries, for several particular reasons, including the large size of *sukuk* issues, and lack of local savings, in addition to ensuring the success of the underwriting process of these *sukuk*.

For Example, Luxembourg stock exchange lists about (65%) of total value of international *sukuk* issuances (Price Waterhouse Cooper PWC, 2012), they represent nearly US\$ (76) billion, represented about (17%) of total value of *sukuk* throughout the period 2001 – 2013 (IIFM, 2014), as it's shown in Table No (3) here after, while most of the remaining third (about 35%) goes to other markets, such as London financial market, which is incorporated during year 2013 (4) large issues out of (5) issues (IIFM, 2014).

Furthermore, the total issuance of international *sukuk* in the Arab states represented more than (73%) of total international *sukuk* issuances. Such result does not fit with the economic logic, due to the fact that these countries have high levels of income and savings and a remarkable improvement for its financial markets and banking institutions.

Table No. (3) Distribution *sukuk* according to listed market (local - international)

(Amounts in Millions of US\$)

Listed market	Size of issues		Number of issues		Average of issue size
	Value	%	Number	%	
Local	551,357(*)	82.51%	4,858	94.24%	113
International	116,867	17.49%	297	5.76%	393
Total (Average)	668,224	100.000%	5,155	100.000%	130

Source: IIFM, 2014, pp 15+18.

As noted from the above mentioned table, the average value of a single international issue amounted to US\$ (393) million, compared with about US\$ (113) million of the average value for local issue, which confirms that the size of the issue is a key factor in trend towards to international markets instead of local financial markets.

Furthermore, it is worth mentioning, that most of the international issues originated in the Arab world, are issued by the Gulf Cooperation Council (GCC) states and listed approximately US\$ (85) billion in the global markets, with a portion of (73%) of total international issued *sukuk* (IIFM, 2014). Moreover, it was noticed that UAE was

(*) Local Islamic *sukuk* is amounted to US\$ (551.357) billion, while there are two other different values for local *sukuk*, please refer to the current study's constraints, p. 4.

formed (about 39%), Saudi Arabia (18%), Qatar (8%), Bahrain (6%) and Kuwait (2%) of total international issuance of *sukuk* in the world during the study period.

On the other hand, international Islamic *sukuk* that issued by Arab states, represents more than (57%) of total issued *sukuk* in these countries, with amount US\$ (150) billion, and this case doesn't fit with the economic logic, especially regarding the high levels of national savings, depth and width of its financial markets and banking institutions.

Therefore, *sukuk* has become the strongest segment in Islamic finance (Zin and others, 2011), it has a crucial role to involve in the international financial markets and generate significant cross-border flow of funds to finance the mega projects.

3.4. Distribution *sukuk* according to its accrual period

Sukuk are considered as financing tool and investment method at the same time, and consequently, the maturity periods give a clear indicator about the nature of fund targets, the daily operational transactions require getting short-term financing that due within a year, while investment operations and capital expenditure need long-term financing, regarding the matching principle in finance.

On the other hand, surplus units might demand a short-term investment rather than a long-term, consequently, this will generate a pressure on the deficit units, and this will force them to issue a short-term *sukuk* that could be renewable from year to another, consistent with investors' expectations and their tendencies. Moreover, short-term *sukuk* classified as an elastic tool for central banks, to manage banking liquidity positions (IIFM, 2014).

Regarding contents of the following table, it could be identified the duration of the Islamic *sukuk* issued during research period, as it is noticed, the majority percentage of issues (57%) is a long-term, which explains funding activities linked with a developmental nature in general. On the contrast, the short-term Islamic *sukuk* comprising (43%) of total Islamic *sukuk* issued during the same period, which may represent the issued *sukuk* used to provide liquidity for the implementation of daily operations and transactions.

Table No. (4) Distribution *sukuk* according to its accrual period

(Amounts in Millions of US\$)

Maturity period	Size of issues		Number of issues		Average of issue size
	Value	%	Number	%	
Short-term	285,242	42.70%	2,765	53.64%	103
Long-term	382,815	57.30%	2,390	46.36%	160
Total (Average)	668,057	100.00%	5,155	100.00%	130

Source: IIFM, 2014, p. 30.

In addition, it is noted from the above mentioned table that the average value of short-term issue is amounting up to US\$ (103) million, compared with US\$ (160) million

per issuance of long-term, which confirms that the issue size of long-term is usually relatively large compared with short-term issues.

4. KEY QUALITATIVE CHARACTERISTICS OF ISLAMIC *SUKUK*:

The previous part was focused on the most important circumstantial trends of issuing Islamic *sukuk* during 2001-2014, while in this part; the study will concern about the qualitative trends, by recognizing the nature of legal form of *sukuk* issuer, in addition to *sukuk* types, and its distribution on the economic sectors. As well as, to identify the adherence extent of Islamic *sukuk*, regarding *shari'a* compliance.

4.1. Distribution of *sukuk* according to legal form of its issuer:

Table No. 5 shown the relative distribution of Islamic *sukuk* issuers according to its legal form, its mentioned that central government sector has contributed to issue more than (57%) of total issues of *sukuk* values during the study period. Such result is very logical, and fit with the economic theory, regarding the incremental amounts in governments deficit from year to another (Nasser and Bin Zaid, 2014).

While the private sector placed the second rank with share about (29%) of total issued *sukuk*. The quasi-government sector (or the public independent institutions) hold (14%) of total issued *sukuk* during research period, for the quasi-government sector, in general, they focus on public utilities, which need large amounts to fund their projects, with special concern in the international financial markets.

Table No. (5) Distribution of *sukuk* according to legal form of its issuer

(Amounts in Millions of US\$)

Type of Issuers	Local <i>sukuk</i>		International <i>sukuk</i>		Total <i>sukuk</i>	
	Value	%	Value	%	Value	%
Government (Sovereign) sector	348,016	63.14%	31,898	27.29%	379,914	56.87%
Private sector	171,390	31.09%	24,946	21.35%	196,336	29.39%
Quasi-government sector	31,784	5.77%	60,023	51.36%	91,807	13.74%
Total	551,190	100.00%	116,867	100.00%	668,057	100.00%

Source: IIFM, 2014, pp. 9-10.

On the other hand, it's obviously noticed that, the largest percentage of Islamic *sukuk* during the study period went to public sector (governments and public institutions), and by (71%) of total *sukuk*. While, the private sector get only about (29%) of total value of Islamic *sukuk* issued during the same period.

Furthermore, it was noticed that private sector portion of issued *sukuk* was decline after the international economic crisis (IIFM, 2014), and these portions will be remain stable for several years (Rasameel, 2014). In other words, it seems, the governments

and quasi-government issuances will continue to dominate, shape and underpin the *sukuk* market in the near future (Pruvost, 2014).

4.2. Distribution of *sukuk* depending on its financing tools:

As mentioned previously, AAOIFI has identified 14 different kinds of Islamic *sukuk*, such kinds were distributed into debt *sukuk*, *mosharaka sukuk*, convertible *sukuk*, *wakala sukuk* and hybrid *sukuk* (AAOIFI, 2010).

On the other hand, the size of issuances of debt *sukuk* is reached approximately US\$ (493) billion (of different types of *sukuk*) during the study period, with relative importance of more than (73%) of total *sukuk* issuances within the same period, as shown in Table No. (6) below. While the total value of *mosharaka sukuk* did not increase than US\$ (107) billion, with relative importance barely reached (16%), and the rest are distributed among the other types of *sukuk* with (11%) (IIFM, 2014).

Based on the above results, current researcher believes that the finance structure of Islamic banks does not differ from the funding structure through Islamic *sukuk*, both of them depends on *morabaha* and debt funding much more than equity funding. So, deficit units have to work hard, in order to provide more funds by issuing Islamic *sukuk* to finance their activities and programs by the available debt tools in a relatively short period.

Such result is very matching with a previous research conducted in cooperation between Arab Monetary Fund (AMF) and the Economic Research Forum (ERF) on a group of Islamic banks in selected Arab and Islamic countries (Aggrawal & Yousif, 1996). It indicated that when debt financing and *mosharaka* funding be available to Islamic banks, the orientation of these banks will always be short-term debt financing, consequently, *morabaha* has averaged about (95%) of total financing granted by these banks during 1990s.

However, it should be taken into account that, equity (*mosharaka* and *modaraba*) *sukuk* are riskier than debt *sukuk*, because *sukuk* holders share in profit and loss as well, therefore, Islamic bankers and *sukuk* issuers prefer the debt *sukuk* rather than equity *sukuk*, for its high level of marketability. So, the *sukuk* holders should not be blamed for their conservative mode in risk management. Furthermore, debt *sukuk* is very suitable with all financing purposes, especially for government and quasi institutions.

Table No. (6) Distribution of *sukuk* according its types^(*)

(Amounts in Millions US\$)

Kind of <i>Sukuk</i>	Issued <i>Sukuk</i>	
	Size of Issues	%
1. Debt <i>Sukuk</i>:		
<i>Morabaha Sukuk</i>	305,723	45.56%
<i>Ijara Sukuk</i>	142,530	21.24%
<i>Bai' Bethaman Ajel Sukuk</i>	34,775	5.18%
<i>Salam Sukuk</i>	6,643	0.99%
<i>Istisna'a Sukuk</i>	3,487	0.52%
Sub Total (1)	493,158	73.49%
2. Equity <i>Sukuk</i>:		
<i>Mosharaka Sukuk</i>	87,262	13.00%
<i>Modaraba Sukuk</i>	19,977	2.98%
Sub Total (2)	107,239	15.98%
3. Other <i>Sukuk</i>:		
<i>Hybrid Sukuk</i>	36,414	5.43%
<i>Wakala Sukuk</i>	27,658	4.12%
<i>Convertible Sukuk</i>	6,598	0.98%
Sub Total (3)	70,670	10.53%
Grand Total	671,067	100.00%

Source: IIFM, 2014, pp. 21-22.

4.3. Distribution *sukuk* according to its economic sector:

Islamic *sukuk* could be distributed according to the economic sectors that benefit from it. In general, the economy is divided into several sub sectors, such as industry, agriculture, transport, communications, tourism, government and other economic sub-sectors.

For this part purpose, the study depended on the partial period between 2005 and 2012 (up to September) (Nasser and Bin Zaid, 2013). Therefore, the above mentioned table refers to the economic sectors that funded by Islamic *sukuk* during the partial period 2005 - 2012, it is noted that the governments has issued approximately (57%) of total *sukuk*, this result is totally consistent with the relative importance of the *sukuk* issued by the government sector according to legal form of *sukuk* issuer (please, refer to item 4-1 of the current study).

^(*) Local Islamic *sukuk* is amounted to US\$ (554.200) billion, while there are two other different values for local *sukuk*, please refer to the current study's constraints, p. 4.

Table No 7 Total *sukuk* issuances (2005 -2012)

(Amounts in Millions of US\$)

Economic Sector	Amount of Issues	Common Size %
Public Sector	228,538	56.83%
Financial Services	54,828	13.63%
Transportation	31,355	7.80%
Energy	22,708	5.65%
Real Estate	22,364	5.56%
Constructions	11,421	2.84%
Gas and Oil	11,266	2.80%
Telecommunications	5,920	1.47%
Services	4,369	1.09%
Agriculture	1,498	0.37%
Industry	1,356	0.34%
Tourism and Entertainment	1,327	0.33%
Whole Sales	940	0.23%
Retail Sales	760	0.19%
Others	3,516	0.87%
Grand Total	402,166	100.00%

Source: Nasser and Bin Zaid, p. 55.

On the other hand, the above mentioned table shows that the services sector (including government) has received about (78%) of total issued *sukuk* during the period 2005 - 2012, while a paradox result represented by the agriculture sector, which received less than (0.4%) of total issued *sukuk* during the same period. Such result was repeated in industry sector as well, with same share, these results, would be leaded a lot of attention and efforts to give the first priority to those sectors, because they are the most prejudicing sectors with citizens lives.

4.4. Distribution *sukuk* according *shari'a* compliance:

In spite of the continues follow-ups from international Islamic *fiqh* academy and AAOIFI, and their valuable efforts to ensure full compliance of issued *sukuk*, in its all stages, beginning from the issuing procedures, to ending phase, by liquidating it.

And regarding the direct communication and control of the members of the *shari'a* compliance committees, including reading every single detail of issuing *sukuk* prospectus. But there are many legitimate *shari'a* non-compliance cases of issued *sukuk*, in every single phase, during it underwriting procedures, returns distribution, trading and liquidation.

Shari'a non-compliance *sukuk* was estimated by respected scholars and consultants, such estimations were varied from (28%) of total *sukuk* (until the end of September 2012) (Hasan and Hamza, 2013) and (85%) of issued *sukuk* (Al-Manee'a, 2010) and (Hattab, 2009) of total issued *sukuk*.

And according to statement for Sheikh Abdullah Al-Manee'a (member of senior scholars in Saudi Arabia), that indicated the fears of spreading *shari'a* non-compliance *sukuk*, he said in one of his published researches that presented in a public symposium (Al-Manee'a, 2010):

“Shari'a compliance committee of Bahrain airport sukuk (among its members: Dr. Abdul-Sattar Abo Ghodda, Sheikh Muhammad Taqi Usmani and Abdullah Al-Manee'a) was impressed from the shining and glittering of sukuk, without thinking in its reality. So they made a clear decision (fatwa) that it's pure halal, and it's possible to use it. And after spreading these sukuk in markets in amount exceeded US\$ (30) billion, it's noticed that it's usurious formula under a fake shari'a compliance formula, and under the pretext of Islamic identities, ..., therefore I announced that It's haram and it's not possible to use it, and later Sheikh Usmani did when he had announced that it's a usurious formula, and it's pure haram.”

Recently, Usmani made a clear statement regarding this kind of *sukuk*, when he displayed that there is a large amounts of prevented Islamic *sukuk*, but the realized facts are it pears most characteristics of conventional bonds, in particular; guarantee of capital pay back, and depending on LIBOR (Usmani, 2014). Furthermore, Quradaghi has published in his official web site that most of the issued *sukuk* are pure *haram* (www.qaradaghi.com).

However, it's confirmed that, *sukuk* prospectuses are full complained with *shari'a* at the beginning of *sukuk* pre-issuing procedures, but, it seems, the daily executive transactions lead to such *shari'a* non-compliance *sukuk*.

5. FINDINGS AND RECOMMENDATIONS:

5.1. Findings

1. The annual growth rate of issued *sukuk* reached approximately (900%) for study period, which means the annual growth rate amounted (9) times of what was issued during year 2001, while the annual growth of Islamic finance in general rates ranging between (20% and 25%), and the conventional financing growth rate barely up to (10%) annually.
2. *Sukuk* issuances referred to (28) countries, including (19) Islamic countries, distributed over (4) geographic regions, with a total value of US\$ (668) billion over the whole research period, with (5,155) number of issues, that represented an average of US\$ (130) million per issue.
3. Malaysia topped the list of *sukuk* issuer countries with a total amount of US\$ (447) billion, constituted more than (67%) of total issuances of Islamic *sukuk* over the world, then Saudi Arabia came in the second place by (8.2%), followed by UAE (8.1%), Indonesia (3.6%), Qatar (3.3%), Sudan (2.44%) and Bahrain (2.39%).

The total portion average of these countries amounted approximately (95%) of total issues during the same period.

On the contrast, the capacity of *sukuk* issuance market in Malaysia which held the first place globally, but the relative importance of Islamic *sukuk* in Malaysia during 2010 did not exceed (0.4%) of total conventional bonds that issued over the world during the same year.

1. It is mentioned that about (99.4%) of total value and number of Islamic *sukuk* issuances refer to Islamic countries, while the non-Muslim countries (represented by Singapore, Japan, Hong Kong, Germany, UK, USA, France, China and Luxemburg) issued only (0.6%) of total value of Islamic *sukuk* issued during the above period.
2. Luxembourg stock market holds approximately (65%) of total value of international issuances of *sukuk*, valued at US\$ (76) billion, which constitute about (17%) of total value of *sukuk*.
3. It was observed that the great share of *sukuk* issuances (57%) refer to long-term issues, which could be interpreted a link with investment development projects, while the short-term Islamic *sukuk* comprising (43%) of total Islamic *sukuk* issued during the same period, it probably represents that *sukuk* have been issued to provide liquidity to implement the daily operations and transactions, and as a monetary policy tool to steer banking liquidity positions.
4. Government sector has contributed to issue more than (57%) of total issues of *sukuk* during the study period, while the private sector came in the second place with portion average about (29%). Furthermore, semi-government sector came in the third place, and by (14%) of total *sukuk* issuance during the same period.
5. Size of debt *sukuk* issuance amounted US\$ (493) billion, with relative importance more than (73%) of total *sukuk* issuance, while the value of the *mosharaka sukuk* rarely reach US\$ (107) billion, with relative importance hardly reached (16%), and c remaining distributed among the different types of other *sukuk*, represented (11%) approximately.
6. Furthermore, services sector (including government) got about (78%) of total *sukuk* which issued during the period 2005 – 2012, while the paradoxically that the agriculture sector has received less than (0.5%) of total *sukuk* issued during the partial period above, also, the same position was repeated with industry sector.
7. Some respectful Islamic scholars and consultants estimated *shari'a* non-compliance *sukuk* between (28%) and (85%) of total issued *sukuk*.

5.2. Recommendations:

1. Activate using *sukuk* in finance and investment operations in Muslim countries, especially since many western countries are moving toward Islamic *sukuk*, even that United Kingdom recently announced that London will be the global center for Islamic *sukuk*.

2. List all issues of Islamic *sukuk* within the domestic Islamic financial markets, and if necessary limited to insertion at particular Islamic countries and Islamic financial markets, such as Malaysia and Turkey.
3. Activating the funding tool of *mosharaka*, through focusing on issuance *mosharaka sukuk*, which lead to share risks and returns, and thereby achieve greater equity level in the distribution of income and wealth.
4. Giving the highest priority to agriculture and industry sectors, in investment and financing operations through *sukuk*, because it represents the most impinge sectors on the citizens live.
5. Follow up the reasons for the existence of *shari'a* non-compliance in some *sukuk* and work hard to treatment it, by take the necessary actions and efforts to ensure that it will not be repeated or appear in the futures.
6. Pay more attention for preparing IIFM report, especially there is some differences among and between its published figures in local Islamic *sukuk*, as mentioned above in study constraints (pages 3+4 of this study).
7. IIRA should have a viable role in *sukuk* issuing, by giving more weights for full *shari'a* compliance *sukuk*, instead of focusing only on the financial and operating performance indicators. Therefore, the highest level *shari'a* compliance *sukuk* must give the highest rating degree, in order to minimize *shari'a* risk in Islamic *sukuk*.

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THEME: WEALTH, INVESTMENT AND SHARIAH ISSUES

تمويل المشروعات الصغيرة والأصغر في مؤسسات التمويل الإسلامي من وجهة نظر المستثمرين في اليمن

Abdullah Mohammed Ayedh

ملخص البحث

هدفت هذه الدراسة إلى التعرف على واقع التمويل الإسلامي للمشروعات الصغيرة والأصغر في مؤسسات التمويل الأصغر الإسلامي في اليمن من منظور المستفيدين، حيث قام الباحث باستخدام المنهج التحليلي الوصفي ومنهج التحليل الكمي الإحصائي، من خلال الاستبانة واختبار رأي المستفيدين من التمويلات الإسلامية. و توصل الباحث إلى مجموعة من النتائج، منها: أن المستثمرين لديهم ميول في العمل الحر و قدرة للحصول على النقود من أجل تحسين أحوالهم المادية والمعيشية، وكذلك أن المستثمرين يفضلون التمويل من المؤسسات التمويلية الإسلامية هرباً من الربا المحرم، كما أظهرت النتائج أن صيغة المراجعة هي أكثر استخداماً. وتوصي الدراسة بالتالي: ينبغي للحكومة أن تعمل على تشجيع المشروعات الصغيرة، ودعمها لمؤسسات التمويل الأصغر من خلال التسهيل في التراخيص والعفو الضريبي وتخفيف القيود الجمركية. كما ينبغي على المؤسسات التمويلية في اليمن تطبيق بقية صيغ التمويل الإسلامي التي تتناسب مع مكونات المشروعات إلى جانب صيغة المراجعة، وكذلك تطوير قدرات العاملين في مجال التمويل الإسلامي وتعزيز توعيتهم بأهمية التمويل الإسلامي للمشروعات الصغيرة.

مقدمة

تزايد الاهتمام بشكل كبير في الآونة الأخيرة بتنمية المشروعات الصغيرة والأصغر، وأصبحت تمثل طرحًا يحتل أولويةً متقدمةً على أجندة الاقتصاد القومي لغالبية الدول وخصوصًا الدول النامية، ومنها البلدان العربية والإسلامية، وذلك لأسبابٍ عدة، فهي في الأجل القصير تمثل حلًا ضروريًا للإسهام في حلّ مشكلتي البطالة والفقر اللتين تعاني منهما دول عالمنا العربي والإسلامي من جهة، ومنطلقًا لزيادة الطاقة الإنتاجية من جهة أخرى.

وقد زاد الاهتمام بتنمية المشروعات الصغيرة والأصغر في الجمهورية اليمنية من قبل المنظمات الدولية والهيئات المانحة، حيث نمت مواردها وانتشرت فروعها، فعلى مستوى اليمن مثلاً بلغ عدد المؤسسات وبرامج التمويل الصغير والأصغر 12 مؤسسة وبرنامجًا وعدد فروعها 416 برنامجًا موزعة على أنحاء الجمهورية، وبلغ إجمالي محفظتها التمويلية 2,920 مليار ريال يمني. وعدد المستفيدين 41,650 مستفيدًا، ونُفِّدَ 314,127 قرصًا حتى نهاية 2010م، غير أنّ هذا التمويل والانتشار يظل محدودًا إذا ما قورن بعدد السكان في اليمن والبالغ أكثر من 24 مليون نسمة، في الوقت الذي يقترب معدل عدد الفقراء من 35% من إجمالي عدد السكان، كما تبلغ نسبة البطالة أكثر من 58%. كل ما سبق يدفعنا للقول أنّ التمويل الإسلامي للمشروعات الصغيرة والأصغر، تقف أمامه الكثير من الصعوبات والتحديات والمعوقات التي تحد من تطوره وانتشاره وسهولة الحصول عليه، من قبل العملاء والمستفيدين (أصحاب المشروعات الصغيرة والأصغر) في اليمن²³².

وبالنظر إلى واقع المشروعات الصغيرة والأصغر في الجمهورية اليمنية محلّ الدراسة نجد أنّها تشكل ما نسبته (95,80%) من إجمالي عدد المنشآت الصناعية، ويعمل بها (42%) من إجمالي عدد العاملين في قطاع الصناعات التحويلية²³³.

²³² الصندوق الاجتماعي للتنمية - اليمن، التقرير السنوي لعام، 2010م، ص 68.

²³³ الجهاز المركزي للإحصاء، التقرير النهائي للمسح الصناعي، اليمن، عام (2004م)، ص 34.

وتعتمد هذه المشروعات في تطورها ونموها بصورة كبيرة على توفر التمويل اللازم لها، لأنّ التمويل يُعتبر القوة المحركة لزيادة نشاطاتها وتنوّع مجالاتها لتلبية احتياجات المجتمع، ويُعدّ نقص التمويل من أهمّ المعوقات التي تواجه هذه المشروعات بالإضافة إلى معوقات أخرى، كالمعوقات الادارية، والتسويقية، والنقص في اليد العاملة المدربة، والمعوقات المتعلقة بالجوانب التشريعية والقانونية.

وقد بدأ التمويل الإسلامي في اليمن في نهاية التسعينات من القرن الماضي، وبالرغم من حدوثه، إلا أنّ التمويل الإسلامي استطاع خلال فترة وجيزة التوسع والانتشار على مستوى اليمن، وحقق إنجازات مهمة، جعلته واحدة من أهم الأدوات المؤثرة في الاقتصاد اليمني، وبالرّبط بين التمويل الإسلامي والتمويل الأصغر الإسلامي فإنّ كليهما يؤخذ عليهما الاقتصار على منتج المراجعة في تقديم خدمات التمويل الإسلامي، وقد ذُكر في هذا الجانب أنّ البنوك الإسلامية رغم النجاحات التي حققتها إلا أنّها قصرت نشاطها التمويلي على صيغ المراجعة ولم تنشط في مجالات التمويل والاستثمار الأخرى، كالمشاركة والمضاربة والاستصناع وغيرها من صيغ التمويل الإسلامي²³⁴.

والتمويل الصغير في اليمن بدأ خلال العام 1997م عن طريق الصندوق الاجتماعي للتنمية، ومنذ ذلك الوقت برغم الجهود الحثيثة التي بذلها الصندوق الاجتماعي مع كثير من المانحين، إلا أنّ انتشار خدمات التمويل الصغير لازال محدوداً، ولا يغطّي 8% من الاحتياج الفعلي لخدمات التمويل الأصغر، ويعزو كثير من الممارسين محدودية الانتشار الى: (1) أنّ المجتمع اليمني بطبيعته مجتمع متدينّ ويتحرّى الوقوع في الربا أو حتى شبهة الربا، فينفر من الخدمات الإسلامية خوفاً من شبهة الربا في بعض تعاملاته. (2) وإلى نسبة الفوائد وهوامش الأرباح المرتفعة التي تفرضها مؤسسات وبنوك التمويل الأصغر والتي قد تصل في بعض الأحيان إلى 36% سنوياً. (3) وإلى الضمانات التي تطلبها مؤسسات التمويل الأصغر والتي تمثل عائقاً

²³⁴ مجلة الشرق الأوسط، 29 ابريل 2008م، العدد (10745)، الاسترجاع 7 فبراير 2011م، من:

<http://www.aawsat.com/details.asp?issueno=10626&article=468746#.UjLhbvWQadg>

أمام انتشار التمويل الأصغر. 4) وكذلك إلى المنتجات التقليدية وعدم وجود تحديد في المنتجات سواء الإسلامية أو التقليدية²³⁵.

وبذلك فإنّ موضوع هذه الدراسة يُكسبها أهمية خاصة، وذلك من منظور، أنّ المشروعات الصغيرة والأصغر اعتمدت عليها العديد من التجارب الاقتصادية الناجحة في العالم، ومن بينها اليابان والصين والولايات المتحدة ، وقد كان النمط التمويلي التقليدي هو السائد، والقائم على آلية الإقراض الربوي بفائدة في تلك الدول؛ لهذا جاءت المحاولات الجادة والتجارب العديدة في كثير من الدول الإسلامية للتحرر من براثن الربا وما يجره من ويلات، وتقدم البدائل الإسلامية القائمة على فقه المعاملات المالية الإسلامية امتثالاً لقول الله تعالى: (وأحلّ الله البيع وحرم الربا)²³⁶.

ولما لهذا الموضوع من أهمية كبيرة إذ يُعد من الدراسات الهامة والملمسة للواقع المعاش وخاصة في المجتمع اليمني، من أجل الإسهام والدفع بعجلة التنمية الاقتصادية والاجتماعية.

الدراسات السابقة

بالرغم من أهمية موضوع التمويل الإسلامي للمشروعات الصغيرة والأصغر فإنها لم تأخذ نصيبها الكافي من الدراسة والبحث، وذلك نظرًا لحدوثها، ولعدم إيلائها أهمية كبرى في معظم البلدان الإسلامية التي تعتمد على الاقتصاد الاستهلاكي، وقد وقف الباحث على الدراسات التالية:

- 1- دراسة، (الدماغ، 2010م)²³⁷. حيث هدفت هذه الدراسة إلى التعرف على التمويل المقدم من مؤسسات الإقراض NGOs ودوره في تنمية المشروعات الصغيرة النسوية في قطاع

²³⁵ شروط المرجعية لتنفيذ دراسة منتجات التمويل الأصغر الإسلامية في اليمن، الاسترجاع في، 2 أكتوبر 2012م، من: https://arabic.microfinancegateway.org/files/126115_file_.docx

²³⁶ البقرة: آية (275).

²³⁷ حنين جلال الدماغ " دور التمويل في تنمية المشاريع الصغيرة"، (دراسة تطبيقية على المشاريع النسائية الممولة من مؤسسات الإقراض في قطاع غزة)، بحث ماجستير، جامعة الأزهر غزة، كلية الاقتصاد والعلوم الإدارية، 2010م.

غزة للفترة (1995-2008م). وكانت نتائج دراسة الدماغ كالتالي حيث تفضل صاحبات المشاريع الصغيرة في قطاع غزة الحصول تمويل إسلامي، خصوصاً القرض الحسن.

2- دراسة (راشد، 2007م)²³⁸. هدفت راشدة في دراستها إلى التعرف على دور المشروعات الصغيرة في التنمية الاقتصادية باليمن، ودور المصارف الإسلامية في تمويلها، كما اهتمت الدراسة بدراسة بعض العوائق التي تواجه تمويل المشروعات الصغيرة في اليمن. وخرجت الدراسة بنتائج أهمها: أنّ هناك عوائق تواجه تمويل المشروعات الصغيرة ومن أهمها، غياب القضاء العادل والسريع وأيّده أفراد العيّنة مانسبته (94%)، يليه عدم وجود ضمانات كافية لدى أصحاب المشروعات الصغيرة وكانت درجة التأييد ما نسبته (86,67%)، وكذلك قلّة دراسة جدوى صحيحة ما نسبته (82,8%).

3- دراسة (الغوري، 2010م)²³⁹. هدفت الدراسة للتعرف على بعض المعوقات التمويلية التي تواجه تمويل المشروعات الصغيرة في الجمهورية اليمنية، وكذلك التعرف على أساليب تمويل هذه المشروعات المختلفة، والبحث عن حلولٍ لعلاج المعوقات التمويلية. ، وقد توصلت الدراسة إلى النتائج التالية: وحدة تمويل المشروعات الصغيرة في اليمن ضئيلة جداً، نسبة الضمان التي تطلبها البنوك والبرامج التمويلية في اليمن أعلى من مبلغ التمويل الممنوح، والضمانات المطلوبة من أصحاب المشروعات الصغيرة تتفاوت بين ذهب وعقار ووديعة استثمارية. البنوك وبرامج التمويل تحجم عن منح تمويل المشروعات الصغيرة في حالة عدم توفر الضمانات الكافية. وهذه الدراسة ركزت على المعوقات من المنظور المالي فقط أكثر من غيره.

²³⁸ عمر علي محمد راشد، إسهامات المصارف الإسلامية باليمن في تمويل المشروعات الصغيرة، بحث استكمالاً لمادة مشروع البحث في المصارف الإسلامية، كلية العلوم المالية والمصرفية، الأكاديمية العربية للعلوم المالية والمصرفية، صنعاء، 2007م.

²³⁹ فؤاد أحمد الغوري، معوقات تمويل المشروعات الصغيرة في الجمهورية اليمنية (دراسة ميدانية على البنوك والمؤسسات التمويلية)، بحث مقدم استكمالاً لمادة مشروع البحث في الإدارة المالية، الأكاديمية العربية للعلوم المالية والمصرفية، كلية العلوم المالية والمصرفية، صنعاء، مارس، 2010م.

4- دراسة (المعهد الإسلامي للبحوث والتدريب، 2008م)²⁴⁰. هدفت الدراسة إلى التحري حول التحديات التي تواجه التمويل الأصغر الإسلامي، وتقديم الحلول المقترحة التي يمكن من خلالها مواجهة تلك التحديات، وتناولت الدراسة التمويل الأصغر الإسلامي على مستوياته الثلاثة: المتناهي الصغر والصغير والمتوسط، وطرحت الدراسة مبادرات إستراتيجية كحلول لتلك التحديات، وكان من النتائج التي توصلت لها الدراسة: أنه على المستوى متناهي الصغر تنبع التحديات الكبرى التي تواجهها الجهات التي تقدم التمويل الأصغر من هيكلها التنظيمية المتنوعة، والقضايا ذات الصلة بالالتزام بالشرعية وغياب تنوع المنتجات وضعف الروابط مع البنوك وأسواق رأس المال.

5- دراسة (البحيصي، 2006م)²⁴¹. هدفت الدراسة إلى تقييم صيغ التمويل الحالية للمشروعات الصغيرة في قطاع غزة وقدرتها على ملائمة احتياجات هذه المشاريع، وقد خرجت الدراسة بنتائج منها: أن الكثير من أصحاب المشروعات الصغيرة والأصغر في قطاع غزة تواجههم عوائق مالية عند البدء بتنفيذ مشاريعهم، وأن الفائدة الربوية المرتفعة تعتبر من أهم الأسباب التي تجعل صغار المستثمرين في قطاع غزة يُحجمون عن توجيههم نحو البنوك أو مؤسسات الإقراض للحصول على التمويل اللازم لمشروعاتهم، حيث أظهرت الدراسة أن نسبة الأرباح المرتفعة في صيغة المراجحات التي تعرضها البنوك الإسلامية سبباً مباشراً في عدم توجه أصحاب هذه المشروعات لهذه البنوك لتمويل مشروعاتهم.

نستفيد من هذه الدراسة في بعض المحاور التي تهتم بها دراستنا وذلك في جانب العوائق، والدور الحكومي، وكذلك في جانب الحلول المقترحة لموجهات تحديات الأرباح العالية التي

²⁴⁰ المعهد الإسلامي للبحوث والتدريب، عضو مجموعة البنك الإسلامي للتنمية. (2008). تنمية التمويل الأصغر

الإسلامي: التحديات والمبادرات. جدة -السعودية. نسخة الكترونية. الاسترجاع 12 مارس 2011م، من <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&v>.

²⁴¹ عصام البحيصي، نحو أساليب حديثة في تمويل المشروعات الصغيرة دراسة استطلاعية لأصحاب المشروعات الصغيرة في قطاع غزة، بحث مقدم إلى مؤتمر تنمية وتطوير قطاع غزة، كلية التجارة في الجامعة الإسلامية بغزة، فلسطين، في الفترة من 13-15 فبراير 2006 م.

تعيق أصحاب المشروعات الصغيرة والأصغر عند تقدّمهم بطلب التمويل اللازم لدعم مشاريعهم الاستثمارية.

6- دراسة (خطاطبة، 1992م)²⁴². هدفت الدراسة إلى التعرف على واقع المشروعات الصغيرة في الأردن وآفاق تطويرها في المستقبل، وكيفية معالجتها بأساليب التمويل الإسلامي الحالي من الربا. وقد تطرقت الدراسة إلى مصادر التمويل اللاربوي، وتطرق أيضاً إلى صيغ التمويل الإسلامي ومدى ملائمتها للمشروعات الصغيرة، كما تناولت دور البنوك الإسلامية في حل مشكلة التمويل التي تواجهها تلك المشاريع.

7- دراسة (Frasca, 2008)²⁴³. هدفت الدراسة إلى التركيز على استخدام التمويل الإسلامي في تمويل المشروعات الصغيرة والأصغر (مشروع الحديدة للتمويل الأصغر الإسلامي باليمن)، ومقارنتها مؤسسة لتمويل الأصغر التقليدي (مشروع صندوق بجبل الحص بسوريا). وأظهرت نتائج الدراسة أنّ مؤسسات التمويل الأصغر الإسلامي بإمكانها أن تقدم خدمات متميزة في مجال التنمية الاقتصادية والاجتماعية، وتستطيع أن تقوم بتغطية تكاليفها وتحقق أرباحاً وذلك من خلال تمويلها المشاريع الصغيرة والأصغر.

8- دراسة: (CGAP، 2008م)²⁴⁴. ناقشت هذه الدراسة التمويل الأصغر الإسلامي وبيّنت نموه المتزايد على مستوى العالم، وتطرقت أيضاً إلى عدد من الدراسات التي قامت بها المجموعة الاستشارية لمساعدة الفقراء والتي بيّنت أنّ هناك طلباً كبيراً جداً على التمويل الأصغر الإسلامي، وأشارت إلى التحديات المحتملة أمام التمويل الأصغر الإسلامي، ومن هذه التحديات (تصميم برامج قابلة للاستمرار، ضعف ثقة بعض العملاء في أنّ المعاملات

²⁴² جميل خطاطبة، التمويل اللاربوي للمؤسسات الصغيرة في الأردن، رسالة ماجستير، غير منشورة، (كلية الشريعة والدراسات الإسلامية، جامعة اليرموك، الأردن، 1990 م).

²⁴³ Farsca, Alexandra (2008), " A Further Niche Market: Islamic Microfinance in the Middle East and North Africa" Center for Middle Eastern Studies & McCombs School of Business, University of Texas at Austin, November. Electronic reference Retrieved September 15, 2009. , From:

الاسترجاع 9 ابريل 2011م، من:

<http://www.microfinancegateway.org/gm/document1.9.33302/A%20Further%20Niche%20Market.pdf>

²⁴⁴ المجموعة الاستشارية لمساعدة الفقراء، (CGAP, 2008)، التمويل الأصغر الإسلامي: سوق متخصصة ناشئة، نسخة

الالكترونية، تاريخ الإطلاع 10 نوفمبر 2012 م.

<http://www.arabic.microfinancegateway.org/content/article/detail/26137>

متوافقة مع الشريعة الإسلامية، الحاجة إلى بناء القدرات على جميع المستويات، قلة تنوع المنتجات وصيغ التمويل المستخدمة، النظر إلى الصناديق المعتمدة على الزكاة والصدقات أنها خيرية وغير مسترّدة).

9- دراسة (Aliyev، 2007م)²⁴⁵. هدفت الدراسة إلى التعرف على واقع التمويل الإسلامي في أذربيجان والوقوف على أهم المشاكل التي يواجهها التمويل الصغير والتمويل الأصغر الإسلامي في أذربيجان، وتحديد إمكانية التغلب على تلك المشاكل. وخُصّصت الدراسة إلى أنّ الفرصة متاحة بشكلٍ جيد أمام التمويل الإسلامي في أذربيجان وأنّ تطوير التمويل الإسلامي يحتاج إلى تكاتف الجهود من قبل جهات عدة من بينها التحالف الدولي لمؤسسات التنمية الإسلامية والمنظمات الدولية غير الحكومية، والحكومة والمنظمات غير الحكومية المحلية في أذربيجان والجماعات الدينية والأوقاف، ومؤسسات التمويل الأصغر القائمة .

10- دراسة (Dhumale&Sapcanin,1998)²⁴⁶. هدفت الدراسة إلى التعرف على الصلة بين النظام المصرفي الإسلامي والتمويل البالغ الصغير، وقد أوضحت الدراسة أنّ النظام المصرفي الإسلامي وبرامج التمويل بالغ الصغير يمكن أن يكمل أحدهما الآخر من جوانب أيديولوجية وعملية على حدّ سواء، وتوصلت الدراسة إلى أنّ الأساليب المصرفية الإسلامية يمكن أن تتيح حصول الآلاف من أصحاب المشروعات الصغيرة الفقراء على التمويل البالغ الصغير وقدمت لذلك نموذجي المضاربة والمراجحة بشكل تطبيقي مفصل، وبيّنت الدراسة أنه في ظل أوضاع معينة يمكن أن يكون نموذج المضاربة (تقاسم الأرباح) ونموذج المراجحة (الشراء + إعادة البيع) ملائمين للتمويل بالغ الصغير، وأشارت الدراسة إلى أنّه قد تبرز أنواع أخرى من

²⁴⁵ Aliyev , Fuad (2007) ,*Problems and Prospects of Introducing Islamic Microfinance in Azerbaijan Republic*. Paper for the 17th conference on monetary and foreign exchange policies (May,15 - 16, 2007),Tehran Iran.(م)

²⁴⁶ Dhumale, Rahul and Amela Sapcanin(1998), “*An Application of Islamic Banking Principles to Microfinance*. Technical Note.” United Nations Development Programme and World Bank. Electronic reference Retrieved June 12, 2008 :م2011 ابريل 10 الاسترجاع From:<<http://www.gdrc.org/icm/country/wana/wb->

القروض الإسلامية مثل القرض الحسن (قرض بدون فوائد مع وجود رسوم خدمة)، كما أشارت الدراسة إلى أنه من المفترض أن تسهم المزيد من التجارب والتطبيق الميداني في زيادة المعرفة وتحسين الفهم بالآليات الفعالة لتقديم القروض باستخدام مبادئ المعاملات المصرفية الإسلامية.

11- دراسة (بلانيت فاينانس PlanetFinance، 2008م)²⁴⁷. هدفت الدراسة إلى مساعدة مؤسسات التمويل متناهي الصغر في مصر لتوسيع نطاق خدمات التمويل بشكل مستدام . وقد أجريت الدراسة بمقابلة (2470) مقرض وست مجموعات نقاش مركزة من خلال عينة عشوائية حيث أشارت نتائج الدراسة أنّ نسبة (44%) من العملاء الذين تركوا التعامل مع المؤسسات التمويلية للمشروعات الصغيرة والأصغر يرجع إلى طبيعة المنتجات والخدمات التي تقدمها المؤسسات المالية والتي لا تتلائم وطبيعة احتياجاتهم التمويلية. وفيما يتعلق في المفاضلة بين القرض التقليدي والإسلامي، أشار (87%) من المبحوثين أنهم ليسوا مهتمين بالحصول على قرض إسلامي، بينما أبدى (7%) اهتمامهم بالقرض الإسلامي إذا ثبت أن القرض التقليدي أكثر كلفة، و(7%) فقط من العملاء التقليديون مهتمون بنظام التمويل الإسلامي، والسبب الأول الذي أبداه (35%) عينة الدراسة تفضيل المنتجات التقليدية هو حرية الإنفاق، والسبب الثاني هو الحاجة إلى الحصول على النقد لدى (8%) فقط.

12- دراسة (الأسرج، 2010م)²⁴⁸. يهدف هذا البحث إلى دراسة دور التمويل الإسلامي في تنمية المشروعات الصغيرة والمتوسطة، من خلال دراسة قنوات تأثير التمويل الإسلامي على المشروعات الصغيرة والمتوسطة، وعرض أهم صيغ التمويل الإسلامي

²⁴⁷ بلانيت فاينانس PlanetFinance، أثر التمويل متناهي الصغر في مصر: دراسة مسحية، جمهورية مصر العربية، الصندوق الاجتماعي للتنمية، 2008. نسخة الكترونية، تاريخ الإطلاع 1: أبريل 2010 م.

http://www.undp.org/Portals/0/National_Microfinance_Impact_Survey_Arabic.pdf

²⁴⁸ حسين الأسرج، دور التمويل الإسلامي في تنمية المشروعات الصغيرة والمتوسطة، بحث مقدم الى مؤتمر"المصارف الإسلامية ودورها في التنمية الاقتصادية والاجتماعية"، بكلية الآداب والعلوم الإنسانية بني ملال، المغرب، 2012م.

للمشروعات الصغيرة والمتوسطة، ومزايا التمويل الإسلامي، ثمّ لقاء الضوء على أهم معوقات استخدام التمويل الإسلامي، وخُصّصت الدراسة بالتائج التالية: تبدو أهمية صيغ التمويل الإسلامي في قدرتها على تحقيق العدالة بين طرفي المعاملة، كما تضمن هذه الأدوات استخدام التمويل المتاح في مشروعات تنمية حقيقية تفيد المجتمع، تضمنت الشريعة الإسلامية العديد من الضوابط الشرعية التي تكفل حسن استثمار المال وتنميته ومن أهمّها عدم الاكتناز، تتمثل أهم مزايا التمويل الإسلامي في توفير رؤوس الأموال وتدعيم القدرة التمويلية للإستثمار.

من خلال عرض الدراسات السابقة لاحظ الباحث أنّ الكثير منها قد أشارت إلى أنّ هناك طلباً مرتفعاً على التمويل الإسلامي للمشروعات الصغيرة والأصغر على سبيل المثال (خطاطبة, 1992) و (1992, Aliyev) و (الأسرج, 2010)، مما يدل على ضرورة الاهتمام بالتمويل الإسلامي للمشروعات الصغيرة كوسيلة فعالة للحدّ من مشكلتي الفقر والبطالة عن طريق زيادة عدد المستفيدين من برامج التمويل الإسلامي للمشروعات الصغيرة والأصغر، والذي يتناسب مع الكثير من المجتمعات ذات الأغلبية المسلمة، كما أشارت إليه بعض الدراسات السابقة إلى التحديات التي يواجهها التمويل الإسلامي للمشروعات الصغيرة والأصغر.

منهجية الدراسة

لقد تبنت الدراسة منهجية البحث الوصفي، والميداني التحليلي، وقد تمّ التركيز على عيّنة الدراسة في أمانة العاصمة صنعاء في اليمن، حيث تم توزيع (300) استبانة على أصحاب المشروعات في مناطق متعددة من العاصمة اليمنية صنعاء، وتم استرداد (259) استبانة أي مايعادل نسبة (86%) وهي نسبة مشجّعة جداً.

وقد تحققت الدراسة من مستوى ثبات وصدق (Reliability) إستبانات الدراسة من خلال طريقة معامل ألفا كرونباخ (Cronbach's Alpha). وكانت النتيجة جيدة حيث كانت قيمة معامل ألفا كرونباخ مرتفعة لجميع فقرات الإستبانة كانت (0,81).

نتائج الدراسة

توزيع أفراد العينة حسب النشاط الرئيسي للمشروع

جدول 1 توزيع أفراد العينة حسب النشاط الرئيس للمشروع

الرتبة	%	التكرار	اسم النشاط
1	53.7	139	التجارة
3	8.5	22	الخدمات الغذائية
4	7.3	19	خدمة الاتصالات
2	30.5	79	خدمات أخرى
	100.0	259	المجموع

يوضح الجدول السابق والشكل أدناه أنّ (53,7%) من أفراد هذه الدراسة تنحصر مشاريعهم في النشاط التجاري، وأنّ (30.5%) من أفراد هذه الدراسة تتوزع مشاريعهم في الأعمال الخدمية المتنوعة، كما أنّ (8.5%) من أفراد هذه الدراسة تتوزع مشاريعهم الصغيرة والأصغر في الخدمات الغذائية كالمطاعم والبوفيهات والكفتريات وغيرها من الخدمات الغذائية، في حين أنّ (7.3%) من أفراد هذه الدراسة تتوزع مشاريعهم الصغيرة في خدمات الاتصال. وهذا يشير إلى أنّ معظم أصحاب المشروعات الصغيرة والأصغر تتركز مشاريعهم الاستثمارية بدرجة أولى في مجال النشاط التجاري يليه الأنشطة الخدمية بنسب متفاوتة، لما لهذه الأنشطة من أهمية لديهم، كونها سهلة الإنشاء وتكاليف إنشائها غير مكلفة وتُدرّ عليهم أرباحاً سريعة أكثر من غيرها من الأنشطة الأخرى وهي أيضاً قليلة المخاطر. وهذه النسب قريبة من نتيجة دراسة هاني، وغانم.

2- توزيع أفراد العينة حسب اسباب اختيار المشروع

توزيع أفراد العينة حسب اسباب اختيار المشروع 2 جدول

م	السبب	التكرار	%	الرتبة
1	الرغبة في العمل الحر	65	25.1	3
2	تحسين الحالة المادية	70	27.0	2
3	الحصول على النقود	75	29.0	1
4	كل ما سبق	49	18.9	4

	المجموع	259	100.0	

يبين الجدول رقم (2) ترتيب وتوزيع أصحاب المشروعات الصغيرة والأصغر حول أسباب اختيارهم لمشاريعهم الاستثمارية، حيث جاء في المرتبة الأولى: أنّ سبب الاختيار للمشروع هو الحصول على النقود وكانت نسبته (29,0%)، يليه في المرتبة الثانية تحسين الحالة المادية بنسبة (27,0%)، وفي المرتبة الثالثة كان سبب الاختيار للمشروع هو الرغبة في العمل الحر بما نسبته (25,1%)، وفي المرتبة الرابعة والاختيرة كان سبب الاختيار هو كلّ ما سبق بما نسبته (18,9%).

وهذا يدل على أنّ أصحاب المشروعات الصغيرة والأصغر لديهم هوية في العمل الحر ولديهم قدرة في الحصول على النقود من أجل تحسين أحوالهم المادية وهذا بدوره يؤدي إلى التخفيف من الفقر والحدّ من البطالة والإسهام في التنمية الاقتصادية والاجتماعية.

3- توزيع أفراد العينة حسب التعامل مع مؤسسات تمويل غير اسلامية

توزيع أفراد العينة حسب التعامل مع مؤسسات تمويل غير إسلامية 3 جدول

السؤال	التكرار	نعم النسبة %	لا النسبة %	التكرار
هل تعاملت مع مؤسسات التمويل غير الإسلامية	52	20.1	79.9	207

يوضّح الجدول السابق والشكل رقم (3) توزيع أفراد العينة حسب التعامل مع مؤسسات تمويل غير إسلامية، حيث جاء في المرتبة الأولى أصحاب المشروعات الصغيرة الذين لم يتعاملوا مع مؤسسات تمويلية غير إسلامية بمانسبته (79,9%)، وفي المرتبة الثانية الذين تعاملوا مع مؤسسات تمويلية غير إسلامية مانسبته (20,1%).

وهذا بدوره يبيّن بجلاء أنّ أصحاب المشروعات الصغيرة يفضّلون التمويل من المؤسسات التمويلية الإسلامية حيث كانت نسبتهم مرتفعة جداً بالرغم من العوائق المتعددة التي تواجههم عند تقديمهم لطلب التمويل الإسلامي، أمّا بالنسبة للذين تعاملوا مع مؤسسات التمويل التي تُموّل بصيغ غير متوافقة مع الشريعة الإسلامية، فقد يكون إمّا لجهلهم وعدم معرفتهم بالتمويل الإسلامي أو الضرورة هي التي أجبرتهم للحصول على النقود لمواجهة ظروف الحياة.

4- توزيع أفراد عينة المستفيدين حسب صيغ التمويل

4 الصيغ التمويلية التي حصل بموجبها المستفيدون على التمويل جدول

م	الصيغة	التكرار	%
1	المراجعة	242	93.4
2	المشاركة	2	.08
3	المضاربة	7	2.7
4	الاستصناع	3	1.2
5	الإجارة	5	1.9
6	السَّلم	0	0
7	القرض الحسن	0	0
	المجموع	259	0.100

يلاحظ من الجدول رقم (4) أنَّ الصيغة التي حصلت بموجبها على التمويل الإسلامي "مراجعة" احتلت المرتبة الأولى بتكرار (242) ونسبة مئوية (93,4%)، في الوقت التي بلغت فيه نسبة الصيغ الأخرى إلى نسبٍ متدنيةٍ جدًا وبعضها لم تفعل وتُستخدم، فقد جاءت صيغة المضاربة في المرتبة الثانية بتكرار (7) ونسبة مئوية (2,7%)، يليها في المرتبة الثالثة الإجارة المنتهية بالتمليك بتكرار (5) ونسبة مئوية (1,9%)، وفي المرتبة الرابعة والأخيرة صيغة الاستصناع بتكرار (3) ونسبة مئوية (1,2%)، وبقية الصيغ لم يُذكر لها أي نسبة نتيجة عدم استخدامها في تمويل المشروعات الصغيرة والأصغر؛ مما يؤكد أنَّ أكثر الصيغ التمويلية استخدامًا وانتشارًا عن غيرها هي صيغة المراجعة، كونها الصيغة المناسبة لتمويل المشروعات الصغيرة من وجهة نظر العملاء (أصحاب المشروعات الصغيرة والأصغر)، المزيد من التوضيح في الرسم التالي:

الخاتمة

أشارت الدراسة الميدانية من خلال التحليل الإحصائي للاستبانة الموزعة على المستفيدين (أصحاب المشروعات الصغيرة) الذين حصلوا على التمويل الإسلامي إلى النتائج التالية:

أ- أظهرت النتائج أنَّ الغالبية من أفراد هذه الدراسة تتوزع مشاريعهم في الأعمال الخدمية المتنوعة وذلك بنسبة (68%)، و(53,7%) من أفراد هذه

الدراسة تنحصر مشاريعهم في النشاط التجاري، وأنّ (22%) من أفراد هذه الدراسة تتوزع مشاريعهم في الخدمات الغذائية، في حين أنّ (19%) من أفراد هذه الدراسة تتوزع مشاريعهم خدمات الاتصال، لما لهذه الأنشطة من أهمية لديهم، كونها سهلة الإنشاء وغير باهظة التكاليف وتدرّ عليهم أرباحاً سريعة أكثر من غيرها، من الأنشطة الأخرى، وهي أيضاً قليلة المخاطر. وهذه النسب قريبة من نتيجة دراسة هاني وغانم

ب- أظهرت النتائج أنّ الأسباب الداعية لاختيار المشاريع كانت على النحو التالي:

(29,0%) من أجل الحصول على النقود، (27,0%) من أجل تحسين الحالة المادية، و(25,1%) الرغبة في العمل الحر، و (18,9%) كل ما سبق؛ وهذا يدلّ على أنّ أصحاب هذه المشروعات لديهم ميول في العمل الحر و قدرة على الحصول على النقود من أجل تحسين أحوالهم المادية.

ج- كما أظهرت النتائج أنّ (79,9%) من أفراد هذه العينة لم يتعاملوا مع مؤسسات تمويلية غير إسلامية، وهذا بدوره يدلّ على أنّ أصحاب المشروعات الصغيرة يفضّلون التمويل من المؤسسات التمويلية الإسلامية هرباً من الربا المحرّم.

د- أظهرت نتائج الدراسة أنّ صيغة المراجعة هي أكثر الصيغ استخداماً لدى المستفيدين، إذ سجّلت ما نسبته (93,4%) من المجموع الكلي للتكرار.

التوصيات

- 1- أن تسعى مؤسسات التمويل الأصغر إلى تطبيق صيغ أخرى من صيغ التمويل الإسلامي إلى جانب صيغة المراجعة للآمر بالشراء مثل: (الإجارة المنتهية بالتملك والمشاركة والسلم والاستصناع).
- 6- توصي الدراسة الجهات المانحة -التي تقدّم تمويلًا للمؤسسات العاملة في اليمن -بتوجيه تمويلاتها لمؤسسات التمويل الأصغر الإسلامي؛ مما يعمل على

تحقيق التنمية الاقتصادية الحقيقية من خلال تمويل المشاريع المتناهية في الصغر، والتي هي العمود الفقري للاقتصاد اليمني، وتشكل ما نسبته أكثر من (90%) من المشاريع القائمة في اليمن.

7- الأخذ بالتمويل طويل الأجل كخيار جيد لنجاح المشروعات الصغيرة والأصغر.

8- توصي الدراسة بالتخصص المهني في إنشاء المشروعات الصغيرة والأصغر مما يساعد على استمراريتها ونموها.

9- توصي الدراسة بالعمل على إيجاد برنامج محاسبي متكامل للمشروعات الصغيرة يساعد في حلّ المشكلات التي تواجهها.

10- توصي الدراسة الجهات الرسمية التقليل من الضرائب التي تحد من نمو المشروعات الصغيرة والأصغر.

11- توصي الدراسة الجهات الرسمية (الجانب الحكومي) إعادة النظر في قانون الضرائب وتخفيفها على المؤسسات المالية الإسلامية بقدر تمويل هذه المؤسسات للمشروعات الصغيرة والأصغر.

12- توصي الدراسة المؤسسات المالية الإسلامية بتسهيل إجراءات الضمانات حتى يتسنى لطالبي التمويل الحصول على التمويلات المناسبة لمشاريعهم الاستثمارية.

13- توصي الدراسة المصارف الإسلامية بالعمل على إنشاء وحدات متخصصة في إطار المؤسسات المالية الإسلامية لتمويل المشروعات الصغيرة والأصغر، مستفيدة من التجارب الناجحة في هذا المجال.

17- إصدار قانون خاص بالمشروعات الصغيرة والأصغر يتضمن المزايا والحوافز التي تتمتع بها المشروعات الكبيرة ضمن قانون تشجيع الاستثمار الخاص بالمشروعات الكبيرة.

18- توصي الدراسة بقيام المؤسسات المالية الإسلامية بإنشاء صندوق تعاوني لمواجهة المخاطر التي قد تتعرض لها أثناء قيامها بتمويل المشروعات الصغيرة.

19- توصي الدراسة بإنشاء مراكز تأهيل وتدريب لأصحاب المشروعات الصغيرة والأصغر وبث ثقافة التمويل الأصغر بين أفراد المجتمع.

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ROLE OF THE PURPOSES OF AL-SHARI'AH IN ECONOMIC DEVELOPMENT

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ABSTRACT

Praise be to Allah Lord of the universe, blessings and peace of Allah be upon the chosen and trustful, our prophet Mohammad who was sent as a mercy for the universe, his people and all his companions, and those who followed them in doing good until the day of judgment. Purposes of al-Shari'ah have a significant role in controlling the processes of economic development and to achieve different objectives; because by observing the collection of money from legitimate resources, and invest permissible ways and achieve the interests of people in life and hereafter, and ensuring the security of people from hunger and fear, and realizing the community sustainable continuous development, and well-being. By observing it the rich and poor all of them will live in happiness under a comprehensive humanitarian economic development, provide service to the nation to collect dividends and interests, and seeks to achieve the physical and moral strength of the nation. This Research aims to highlight the following: 1. The relationship between economic development and Purposes of al-Shari'ah; 2. Islamic Methodology in economic development; 3. Islamic economic development features; 4. The role of economic development to achieve security from hunger and fear. In order to achieve these goals, the research consists of an introduction, preface and four chapters and conclusion. The introduction provides and includes the importance of the subject, reasons for this choice, research problem, objectives of the research, research methodology and research plan.

- Preface** : Defining terminologies of the topic.
Chapter 1 : discusses the economic development mechanisms.
Chapter 2 : revealing the challenges of economic development in the era of globalization.
Chapter 3 : highlights the role of Purposes of al-Shari'ah in controlling economic development process.
Chapter 4 : reveals the role of Purposes of al-Shari'ah in achieving economic development goals.
Conclusion : Explanation of statement of the most important results.

The research will discuss everything that would enrich the subject in various aspects.

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بسم الله الرحمن الرحيم

موضوع البحث: دور مقاصد الشريعة في التنمية الاقتصادية

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مقدمة البحث

الحمد لله رب العالمين، والصلاة والسلام على المصطفى الأمين، سيدنا محمد رسول الله رحمة للعالمين، وعلى آله وصحبه أجمعين، ومن تبعهم بإحسان إلى يوم الدين، وبعد:

فإن مقاصد الشريعة لها دور كبير في ضبط عملية التنمية الاقتصادية، وتحقيق أهدافها المختلفة؛ لأنّ بمراعاتها تُجمع المال من مواردها المشروعة، وتُستثمر بالطرق المباحة، وباعتبارها يحقق المال مصالح الناس الدنيوية والأخروية، ويضمن للناس الأمن من الجوع والخوف، وبها تتحقق للمجتمع التنمية المستدامة، والرّفاهيّة المستمرة، وبمراعاتها يسعد الغنيّ والفقر في ظلّ تنمية اقتصادية إنسانية شاملة، تقدّم خدمة الأمة على جمع الأرباح والفوائد، وتسعى لتحقيق القوّة الماديّة والمعنويّة للأمة.

أهميّة الموضوع وأسباب اختياره:

إنّ أهميّة هذا الموضوع وأسباب اختياره تكمن فيما يلي:

- 1- إنّ التنمية الاقتصاديّة تُعتبر مطلباً هاماً في مقاصد حفظ المال الذي يُعتبر من الضروريّات الخمس.
- 2- إنّ المقصد الشرعيّ الأساس في المال هو تحقيق مصالح التّاس الدّنيويّة والدّينيّة، كتوفير وسائل الحياة الضروريّة والحاجيّة والتّحسينيّة للإنسان، والعناية بالمظاهر الدّينيّة.
- 3- إنّ المقصد الشرعيّ في المال لا يمكن أن يتحقّق للتّاس إلا بتنميته واستثماره بالطّرق المشروعة، وعدم تبذيره والإسراف فيه.
- 4- حاجة الأمة في هذا العصر الذي يعتبر عصر المال والتكنولوجيا إلى معرفة التوجيهات الشرعيّة للسياسات العامّة في الاقتصاد الإسلامي من أجل ضمان السعادة الدنيويّة والأخرويّة.

مشكلة البحث:

مشكلة هذا البحث تكمن في ما يلاحظ من انتشار الحيل والطرق المحرّمة في مجالات التنمية الاقتصادية في العالم الإسلامي بفعل العولمة الاقتصادية. وهذه المشكلة يحاول الباحث حلّها من خلال الأهداف الآتية.

أهداف البحث:

يهدف هذا البحث إلى بيان ما يلي:

- 1- علاقة التنمية الاقتصادية بمقاصد الشريعة،
- 2- المنهج الإسلامي في التنمية الاقتصادية،
- 3- مميزات التنمية الاقتصادية الإسلامية،
- 4- دور التنمية الاقتصادية في تحقيق الأمن من الجوع والخوف.

منهج البحث:

لقد سلكنا في إنجاز هذا البحث منهجين: الأول: المنهج الوصفي، والآخر: المنهج التحليلي.

ففي المنهج الوصفي، قمنا بجمع المادة العلمية من النصوص الشرعية وأقوال العلماء والباحثين، واستعرضناها بعد التنقيح والتمحيص، ثم صنفناها على المباحث الأربعة التي انبنى عليها البحث.

وفي المنهج التحليلي، قمنا بمناقشة ما توفّرت لدينا من المادة العلمية وتحليلها بما يناسب موضوع البحث، من أجل تقرير ما يترجّح في تحقيق أهداف البحث.

خطة البحث:

لتحقيق الأهداف المذكورة، جاء بناء البحث على مقدمة، وتمهيد، وأربعة مباحث، وخاتمة.

المقدمة، وتتضمّن أهميّة الموضوع وأسباب اختياره، ومشكلة البحث، وأهداف البحث، ومنهج البحث، وخطة البحث.

التمهيد: وفيه بيان مصطلحات العنوان.

المبحث الأول: يناقش آليات التنمية الاقتصادية،

المبحث الثاني: يكشف عن تحديات التنمية الاقتصادية في عصر العولمة،

المبحث الثالث: يبرز دور مقاصد الشريعة في ضبط عملية التنمية الاقتصادية،

المبحث الرابع: يكشف عن دور مقاصد الشريعة في تحقيق أهداف التنمية الاقتصادية.

الخاتمة: وفيها بيان أهم نتائج البحث مذيّلة بتوصيات ومقترحات.

التمهيد: وفيه بيان مصطلحات العنوان.

أولاً: تعريف مقاصد الشريعة:

أ) المقاصد لغة: جمع مقصد، وهو ما تقصده وتريد الوصول إليه مطلقاً، ومنه القصد، أي: الاعتدال والوسطية والاستقامة. قال تعالى: ﴿وَعَلَى اللَّهِ قَصْدُ السَّبِيلِ وَمِنْهَا جَائِرٌ﴾.²⁵⁰

وقال تعالى: ﴿وَأَقْصِدْ فِي مَشْيِكَ﴾.²⁵¹

ثانياً: تعريف الشريعة.

ب) وأما الشريعة في اللغة: فهي الطريقة والمنهج.

ج) والشريعة اصطلاحاً: هي مجموعة الأدلة من الكتاب والسنة والاجتهاد، التي جاءت لتنظيم أمور الدين والدنيا معاً.

فيكون معنى مقاصد الشريعة في الاصطلاح ما يأتي:

هناك تعريفات لبعض المتأخرين من العلماء الباحثين، نعرض بعضها، ثم نتّوج ذلك بتعريف شامل جامع مانع، فنقول:

²⁵⁰ - القرآن الكريم. سورة النحل. ج 14: 9.

²⁵¹ - القرآن الكريم. سورة لقمان. ج 21: 19.

1 . تعريف محمد الطاهر بن عاشور: مقاصد التشريع العامة هي المعاني والحكم الملحوظة للشارع في جميع أحوال التشريع أو معظمها، بحيث لا تختص ملاحظتها بالكون في نوع خاص من أحكام الشريعة...²⁵²

هذا التعريف على الرغم من دقته وشموله غير أنّ فيه تطويلاً، والتطويل في التعريف غير محمود.

2 . تعريف الأستاذ علال الفاسي: المراد بمقاصد الشريعة: الغاية منها، والأسرار التي وضعها الشارع عند كل حكم من أحكامها.²⁵³

3 . تعريف الأستاذ الدكتور أحمد الريسوني: إنّ مقاصد الشريعة هي الغايات التي وضعت الشريعة لأجل تحقيقها لمصلحة العباد²⁵⁴.

وبناء على التعريفات السابقة يمكن أن نستخلص تعريفاً، يعتبر جامعاً ومانعاً، حيث جمع ما قصرت عنه تلك التعريفات، وهو ما سميناه: التعريف المختار.

4 . التعريف المختار: مقاصد الشريعة هي غاياتها وأسرارها التي تتضمن حفظ مصالح العباد في العاجل والآجل معاً. وقد ورد عند الإمام الشاطبي ما يؤكّد هذا التعريف ويقوّيه، وهو قوله: "إنّ وضع الشرائع إنّما هو لمصالح العباد في العاجل والآجل معاً".²⁵⁵

ثالثاً: تعريف التّسمية.

أ) التّسمية في اللّغة: من التّماء، وهو الزيادة والكثرة.

²⁵² . ابن عاشور، الشيخ محمد الطاهر. (1421هـ / 2001 م). مقاصد الشريعة الإسلامية. تحقيق محمد الطاهر الميساوي. ط2. الأردن: دار النفائس. ص251.

²⁵³ . الفاسي، الأستاذ علال. (1411هـ / 1991 م). مقاصد الشريعة الإسلامية ومكارمها.. ط4. الدار البيضاء: مطبعة النجاح الجديدة. ص7.

²⁵⁴ . الريسوني، الدكتور أحمد. (1411هـ / 1990 م). نظرية المقاصد عند الإمام الشاطبي. ط1. الولايات المتحدة الأمريكية: المعهد العالمي للفكر الإسلامي. ص7.

²⁵⁵ . الشاطبي، أبو إسحاق إبراهيم بن موسى. (1417هـ / 1997 م). الموافقات في أصول الشريعة. تحقيق الشيخ إبراهيم رمضان. ط3. بيروت: دار المعرفة. ج2. ص322.

ب) وفي الاصطلاح: عرف ابن عابدين النماء بقوله: "وفي الشرع هو نوعان: حقيقي، وتقديري. فالحقيقي: الزيادة بالتوالد والتناسل والتجارات. والتقديري: تمكّنه من الزيادة بكون المال في يده أو يد نائبه".²⁵⁶

فالتّسمية -إدّا- هي عمليّة تفاعليّة بين عناصر الإنتاج المختلفة من أجل الزيادة في الدخل. وهذا يعني أنّ التّسمية تتعلّق بالمال الذي يعتبر ضرورة من ضروريّات الحياة، فلذلك أوجب الشّارع طلبه، وتنميته، وتوزيعه، وقيد ذلك كلّ بضوابط صارمة تجعل كل الأنشطة المتعلّقة بالمال، من مرحلة الكسب إلى مرحلة الاستهلاك تسير تحت ظلّ الحلال.

رابعاً: تعريف الاقتصاد.

أ) وأما لاقتصاد: فهو في اللّغة: الاعتدال والتّوسط في الأمور. من ذلك قوله تعالى ﴿وَأَقْصِدْ فِي مَشْيِكَ﴾.²⁵⁷ (لقمان:19) أي: توسّط فيه بين البطء المثبّط والسّرعة المفرطة. قال ابن كثير في تفسير الآية: "أي: امش مشيًّا مقتصداً ليس بالبطيء المثبّط، ولا بالسّريع المفرط، بل عدلاً وسطاً بين بين".²⁵⁸ وقوله تعالى: ﴿وَمِنْهُمْ مَّقْتَصِدٌ﴾.²⁵⁹ وهو المتوسّط بين الظّالم لنفسه، والسّابق بالخيرات. قال ابن كثير في تفسير الآية: "يقول تعالى: ثم جعلنا القائمين بالكتاب العظيم، المصدّق لما بين يديه من الكتب، الذين اصطفينا من عبادنا، وهم هذه الأئمة، ثم قسمهم إلى ثلاثة أنواع، فقال: ﴿فَمِنْهُمْ ظَالِمٌ لِّنَفْسِهِ﴾ وهو: المفرط في فعل بعض الواجبات، المرتكب لبعض المحرّمات. ﴿وَمِنْهُمْ مَّقْتَصِدٌ﴾ وهو: المؤدّي للواجبات، التّارك للمحرّمات، وقد يترك بعض المستحبّات، ويفعل

²⁵⁶ - ابن عابدين. (1421هـ/ 2000م). حاشية رد المحتار على الدر المختار. (د.ط.). بيروت: دار الفكر. ج2. ص263.

²⁵⁷ - القرآن الكريم. سورة لقمان. ج21: 19.

²⁵⁸ - ابن كثير. (1420هـ/ 1999م). تفسير ابن كثير. تحقيق سامي بن محمد سلامة. ط2. د.م: دار طيبة للنشر والتوزيع. ج6. ص339.

²⁵⁹ - القرآن الكريم. سورة فاطر. ج22: 32.

بعض المكروهات. ﴿وَمِنْهُمْ سَابِقُ بِالْخَيْرَاتِ بِإِذْنِ اللَّهِ﴾ وهو: الفاعل للواجبات والمستحبات، التارك للمحرّمات والمكروهات وبعض المباحات".²⁶⁰

ب) وفي الاصطلاح:

- 1) يعرف الاقتصاد بأنه: العلم الذي يبحث في كيفية إدارة واستغلال الموارد الاقتصادية النادرة لإنتاج أمثل ما يمكن إنتاجه من السلع والخدمات لإشباع الحاجات الإنسانية من متطلباتها المادية التي تتسم بالوفرة والتنوع في ظلّ إطار معيّن من القيم والتقاليد والتطلعات الحضارية للمجتمع، كما يبحث في الطريقة التي توزّع بها هذا الناتج الاقتصادي بين المشتركين في العملية الإنتاجية بصورة مباشرة، وغير المشتركين بصورة غير مباشرة في ظلّ الإطار الحضاري نفسه.²⁶¹
- 2) وعرف د. محمد إبراهيم الخطيب الاقتصاد الإسلامي بأنه: العلم الذي يبحث في كيفية إدارة واستغلال الموارد الاقتصادية النادرة لإنتاج أمثل ما يمكن إنتاجه من السلع والخدمات لإشباع الحاجات الإنسانية المادية في ظلّ إطار من القيم الإسلامية.²⁶²
- 3) وعرفه د. محمد باقر الصدر بأنه: المذهب الاقتصادي الذي تتجسّد فيه الطريقة الإسلامية في تنظيم الحياة الاقتصادية.²⁶³

ملحوظة: التعريف الأوّل والثاني في الحقيقة خرجا عن نطاق التعريف إلى بيان وظيفة علم الاقتصاد، فلذلك استلزمنا هذا التطويل. وأما التعريف الثالث فهو جيّد في نظري كتعريف جامع مانع للاقتصاد الإسلامي.

ولكنّي أختار أن يعرف الاقتصاد عموماً بأنه: هو علم يدرس النظام المالي؛ من حيث الإنتاج، والاستثمار، والتوزيع والاستهلاك، والترشيد في ذلك كلّ.

والاقتصاد الإسلامي: هو علم يدرس النظام المالي في إطار الضوابط الشرعية، من حيث الإنتاج، والاستثمار، والتوزيع، والاستهلاك، والترشيد في ذلك كلّ.

²⁶⁰ - المرجع السابق. ج6. ص 546.

²⁶¹ - الموقع الإلكتروني: الإسلام اليوم: <http://www.islamtoday.net/>

²⁶² - انظر: د. محمد إبراهيم الخطيب. (1424هـ/2003م). مبادئ الاقتصاد الإسلامي. (د.ط.). د.م: دار المؤيّد. ص1.

²⁶³ - انظر: محمد باقر الصدر. (1411هـ/1991م). اقتصادنا. (د.ط.). بيروت: دار التعارف للمطبوعات. ص9.

المبحث الأول: آليات التنمية الاقتصادية

المقصود بالآليات: الوسائل والأنشطة التي تحرك التنمية الاقتصادية، وهي لا شك تتمحور حول عناصر الإنتاج، التي هي: الأرض (الموارد الطبيعية)، والعمل، ورأس المال، والتنظيم. فهذه العناصر الأربعة هي التي تحرك التنمية الاقتصادية.

فالأرض تحتلّ مركز الصدارة ضمن هذه العناصر. قال الشيخ محمد الحبيب ابن الخوجة: "وللأرض المكانة الأولى في هذه الأصول الثلاثة. والمراد من الأرض كلّ ما يصل إليه عمل الإنسان في الكرة الأرضية بما فيها من بحار وأودية ومعادن ومنايع مياه وغيرها، إلا أنّ الحظ الأوفر من ذلك للأرض".²⁶⁴ نعم إنّ الأرض تحتوي على العديد من الموارد الطبيعية مثل الأرض الصالحة للزراعة، المعادن، المياه، الهواء، البترول، الغاز.. الخ وكل هذه الموارد الطبيعية يتم استخدامها في العملية الإنتاجية لإنتاج السلع والخدمات المختلفة بالتضافر مع عناصر الإنتاج الأخرى.

وأما العمل فيعتبر العنصر الثاني للإنتاج وهو وسيلة استخراج معظم منافع الأرض. ويقصد بالعمل كعنصر من عناصر الإنتاج ذلك المجهود الجسمي أو الذهني الذي يقوم به الأفراد لإنتاج السلع والخدمات ويتمّ قياس عنصر العمل من خلال عدد ساعات العمل ويحصل العامل على أجر مقابل عمله الذي يتحدّد بالساعات. وعلى قدر عمل الإنسان يكون انتفاعه وجزاؤه.²⁶⁵ فالإنسان مستخلف في الأرض لينمي مواردها ويستثمرها في أمور الدّين والدنيا، فيكون بذلك صالحا ومصلحا. قال الأستاذ عبد القادر العافية: "فالإنسان الخليفة سخر الله له جزءا من هذا الكون لينميّه ويستثمره وسخر له كلّ ما يحيط بهذا الكوكب من فضاء وسماء وشمس وقمر ونجوم وكواكب، وأباح له التمتع بما في

²⁶⁴ - المرجع السابق. قال ابن عاشور: "المراد من الأرض: الكرة الأرضية بما فيها البحار". وذلك عند تفسير قوله تعالى: (إِنَّ اللَّهَ لَا يَخْفَىٰ عَلَيْهِ شَيْءٌ فِي الْأَرْضِ وَلَا فِي السَّمَاءِ هـ) آل عمران: 5. انظر: ابن عاشور، الشيخ محمد الطاهر. (1997م). التحرير والتنوير. (د.ط). تونس: دار سحنون. ج3، ص151.

²⁶⁵. ينظر تعريف الإنتاج. الموقع الإلكتروني: <http://mawdoo3.com/> ، بتصرف.

الأرض من كنوز ظاهرة وباطنة، قال تعالى: ﴿هُوَ أَنشَأَكُم مِّنَ الْأَرْضِ وَاسْتَعْمَرَكُمْ فِيهَا﴾.²⁶⁶ إلى أن قال: وليستحق الإنسان عن جدارة هذا التسخير ينبغي أن يكون صالحا مصلحا".²⁶⁷

وأما رأس المال: فيقصد به في المفهوم الشرعي أصل المال الذي يستخدم في الإنتاج أو لكسب الربح. ويصدق عليه مجموعة الأموال التي سبق إنتاجها والتي تستخدم في عملية الإنتاج. ورأس المال بهذا المعنى ينقسم إلى قسمين وهما:

- رأس المال الثابت وهو يتمثل في رأس المال الذي يستخدم في العملية الإنتاجية مرّات عديدة دون أن يطرأ عليه تغيير مثل الآلات، والمباني، والعُدَد، والطّرق، والجسور، والمدارس، والجامعات.

- رأس المال المتداول هو رأس المال الذي لا يمكن أن يستخدم إلا مرة واحدة في العملية الإنتاجية ويدخل بعد ذلك في تركيب السلعة مثل المواد الأولية كالحقن والوقود.²⁶⁸

وفي الفكر الوضعي يعرف رأس المال بأنه: "أدوات الإنتاج التي لا تستخدم لأغراض الاستهلاك المباشرة، وإنما للمساهمة في إنتاج سلع أخرى، ومن ثمّ يشمل العُدَد والآلات والمواد النّصف مصنوعة، والمواد الخام الوقود، ويلاحظ أنّ رأس المال يتواجد نتيجة تضافر النّعم والعمل".²⁶⁹

أما المنظّم أو التّنظيم: فيقصد به الشّخص أو مجموعة الأشخاص الذين يؤلّفون بين عناصر الإنتاج وذلك بهدف إنتاج مجموعة من السلع أو الخدمات بحيث يتحمّل هذا المنظّم - غالبا - مخاطر هذه العملية. وعادة ما يكون المنظّم هو صاحب المشروع ولذلك فهو الذي يتحمّل مخاطر المشروع وهو أيضا الذي يحصل على الربح الذي يحقّقه المشروع في حالة نجاح المشروع.²⁷⁰ وهذا العنصر في الحقيقة يؤوّل إلى العنصر الثاني الذي هو العمل الصادر من الإنسان المستخلف، ولهذا كان الأوائل من الاقتصاديين يعتبرون عناصر الإنتاج ثلاثة فقط، وهي: الأرض، والعمل، ورأس المال.

²⁶⁶ - القرآن الكريم. سورة هود. ج12: 61.

²⁶⁷ الأستاذ عبد القادر العافية. (1410هـ/ 1989م) أخلاقيات الاقتصاد الإسلامي. مقال منشور في سلسلة ندوات ومناظرات، رقم: 15، في الاقتصاد الإسلامي. كلية الآداب والعلوم الإنسانية، جامعة محمد الخامس بالرباط. ص54.

²⁶⁸ - تعريف الإنتاج. الموقع الإلكتروني: <http://mawdoo3.com/> ، بتصرّف.

²⁶⁹ - نزيه حماد. (1414هـ) . معجم المصطلحات الاقتصادية في لغة الفقهاء. (د.ط). المعهد العالمي للفكر الإسلامي. ص140.

²⁷⁰ - تعريف الإنتاج. الموقع الإلكتروني: <http://mawdoo3.com/> ، بتصرّف.

المبحث الثاني: تحدّيات التنمية الاقتصادية في عصر العولمة

وإذ وقفنا على آليات التنمية الاقتصادية في المبحث الأول، ففي المبحث الثاني يحسن بيان التحدّيات المحدقة بالتنمية الاقتصادية في عصر العولمة وبخاصة في العالم الإسلامي. ويمكن أن نحمل تلك التحدّيات في الأمور الآتية:

أولاً: تحدّيات السياسات الاقتصادية الغربية.

ثانياً: تحدّيات أخلاقية ودينية.

ثالثاً: تحدّيات بيئية.

وبعد هذا الإجمال نعود للتفصيل، فنقول:

أولاً: تحدّيات السياسات الاقتصادية الغربية، وهي تتمثل في اجتياح السلع الغربية أسواق العالم الإسلامي، وتفضيل المسلمين تلك السلع على السلع المحليّة أو الصّادرة من دول إسلاميّة أخرى أيّما كان نوعها، وهذا أمر في حدّ ذاته يثبّط العزائم ويضعف هم المنتجين الاقتصاديين في العالم الإسلامي، الأمر الذي يكرّس التبعيّة الاقتصادية الغربيّة، وبسط سلطانها الاقتصادي على العالم الإسلامي بما فيها من الصالح والطالح.

ثانياً: تحدّيات أخلاقية ودينية، وأقصد بها انتشار المعاملات الماليّة المحرّمة في العالم الإسلامي تحت سلطان البنوك الربوية والأسواق الماليّة العالميّة المبنيّة على الغرر والربا وأكل أموال الناس بالباطل، إلى جانب وجود وسائل التكبّس المحرّمة في الإسلام وهي تعتبر عند أربابها مصادر إنتاجيّة وتنمويّة ضخمة، كالقمار، ومصانع الخمور، والمراقص الليليّة الخليعة، وغير ذلك من القرصنة الإلكترونيّة الحديثة التي اجتاحت العالم بأسره.

ثالثاً: تحدّيات بيئية، وأقصد بذلك التّفايات الصناعيّة وما يترتّب عليها من الأضرار البيئيّة، التي تنعكس سلبيّاً على صحّة المجتمع. من أمثلة ذلك تلوّث المياه، والقضاء على النباتات، وإفساد الأراضي الصّالحة للزّراعة، وهذا التلوّث غالبه بتصرّف مُتعمّد من المنتجين سواء على المستوى الدّاخلي أو الخارجيّ. فعلى المستوى الدّاخلي مثلاً: نفايات البترول، ونفايات المصانع، وغيرها من نفايات المنتجين المحليّين على اختلاف صنائعهم. وعلى المستوى الخارجيّ، تعمّد بعض المنتجين في الدّول الغربيّة من طرح نفاياتها الصناعيّة في المياه الإقليميّة لبعض دول العالم الثالث.

وقد يكون ذلك عن غير قصد، مثل حوادث غرق البواخر المحملة بالبترول أو المواد السامة الأخرى.

فهذه التحديات والآليات التي ذكرت قبلها، تحتاج إبراز دور مقاصد الشريعة في ضبطها من أجل تحقيق أهداف التنمية الاقتصادية، وهذا ما سيكشف عنه المبحثان الثالث والرابع فيما يأتي.

المبحث الثالث: دور مقاصد الشريعة في ضبط عمليّة التنمية الاقتصادية

إنّ التنمية الاقتصادية لا بدّ أن تنضبط بمقاصد الشريعة؛ لأنّ التنمية المسيّبة لا يهتمّها إلا تحقيق الغايات، بصرف النظر عن الوسائل المستخدمة للوصول إلى تلك الغايات، فهنا تأتي مقاصد الشريعة لتنضبط عمليّة التنمية من خلال مجموعة من الضوابط، نذكر منها:

- عدم استخدام الوسائل المحرّمة في التنمية الاقتصادية.
- أن تكون التنمية من أجل إسعاد المجتمع ورفاهيّته.
- مراعاة الدّين ومؤسّساته في التنمية الاقتصادية.
- أن تكون التنمية من أجل تنظيم سير الحياة.
- عدم الإضرار بالبيئة، والاستغلال المفرط للموارد الطبيعيّة.

وبناء على هذه الضوابط المذكورة، لا يجوز للمسلمين أن يستثمروا أموالهم في الخمر والمخدّرات، و القمار، وكلّ ما يفسد أخلاق المجتمع ويقود أفرادها إلى الانحراف.

وهكذا يجب اعتبار الإنسان عنصراً أساساً في عمليّة التنمية، من حيث الكسب ومن حيث الانتفاع. فتكون التنمية خصيصاً لإدخال الرفاهية على المجتمع وتغيير نمط حياتهم إلى ما هو أفضل بقدر الإمكان.

كما يجب أن تكون على رأس قائمة التنمية حفظ الدّين، وذلك بتوفير التّعليم الدّيني وتطوير مناهجه، والعناية بدور العبادات، وتحقيق حرّية التّدين.

وإذا إنّ حياة الإنسان مرتبطة ببيئته فلا بدّ أن تشمل التنمية الاقتصاديّة البيئة المحيطة بالإنسان، من إجراء المياه، وتعبيد الطّرق، وتوفير وسائل النّقل والعناية بالرقابة العامّة على سير الحياة، وبذلك تنضبط العمليّة التنمويّة، فتؤدّي التنمية الاقتصاديّة أهدافها المنشودة.

المبحث الرابع: دور مقاصد الشريعة في تحقيق أهداف التنمية الاقتصادية.

إنّ مقاصد الشريعة الماليّة تتلخّص في كسبه بالطرق المشروعة، وتوزيعه بالعدالة، واستهلاكه بالطرق المشروعة، وهذه المقاصد تعتبر ضوابط وقيوداً توجّه التنمية الاقتصادية نحو تحقيق أهدافها، التي تتلخّص في محاربة الفقر، والجهل، والمرض، والبطالة، وتحقيق الاستقلالية الاقتصادية.

أولاً: محاربة الفقر:

إنّ من أهمّ أهداف التنمية الاقتصادية محاربة الفقر، ولبيان دور مقاصد الشريعة في محاربته، نشير إلى أنّ الإسلام وقف بالمرصد ضدّ الفقر؛ لأنّ الفقر خطر عظيم على العقيدة، وعلى الأخلاق والسلوك، وعلى الفكر الإنساني، وعلى الأسرة والمجتمع. فحاربه بوسائل شتى، تارة بالحثّ على الكسب المشروع، وتنمية المال واستثماره، وتارة بتحريم التّسوّل، وذلك من خلال نصوص كثيرة من الكتاب والسنة، نذكر منها على سبيل المثال ما يأتي:

1. كلّ الآيات القرآنية التي تحثّ على الإنفاق في سبيل الله.
2. سئل رسول الله - صلى الله عليه وسلم - أيّ الكسب أفضل؟ قال: «كسبٌ مبرورٌ».²⁷¹ والكسب المبرور هو الكسب الحلال الخالي من كل شبهة.
3. «التاجر الصدوق الأمين مع التّبين والصّدّيقين والشهداء».²⁷² فالحديث فيه دلالة على أهميّة التجارة المبنية على الصّدق، وأنها تضمن السعادة الدنيويّة والأخرويّة. فسعاده في الدنيا بأنّ الله سبحانه وتعالى يبارك له في تجارته، والسعادة الأخرويّة كونه يحشر مع التّبين والصّدّيقين والشهداء، وهؤلاء هم أصحاب الدرجات العلى يوم القيامة.

²⁷¹ - البيهقي، أبو بكر أحمد بن الحسين بن علي. (1344هـ). السنن الكبرى. ط1. حيدر آباد، الهند: مجلس دائرة المعارف النظامية. كتاب البيوع. باب إباحة التجارة. ج5. ص263. وصحح إرساله. والحاكم، أبو عبد الله محمد بن عبد الله النيسابوري. (1411هـ/1990م). المستدرک علی الصحیحین. تحقیق مصطفی عبد القادر عطا. ط1. بیروت: دار الکتب العلمیة. کتاب البيوع. ج2. ص12. وصححه الحاكم والذهبي.

²⁷² - الترمذي، أبو عيسى محمد بن عيسى نب سورة بن موسى بن الضحاك. (1395هـ/1975م). سنن الترمذي. تحقیق أحمد محمد شاکر وآخرون. ط2. مصر: شركة مكتبة ومطبعة مصطفى البابي الحلبي. أبواب البيوع. باب جاء في التجار وتسمية النبي صلى الله عليه وسلم إياهم. ج3. ص507. حسّنه الترمذي، وضعفه الألباني.

4. وقوله عليه الصلاة والسلام: «ما أكل أحد طعاما قطّ خيرا من أن يأكل من عمل يده وإنّ نبيّ الله داود عليه السّلام كان يأكل من عمل يده». ²⁷³ فهذه الأحاديث كلّها تؤكّد على ضرورة عمل الإنسان، وبذل أقصى ما يمكنه من جهد؛ لأنّ ذلك أسلم طرق الكسب، وأبعدها من الحرام والشبهة.

5. حثّ النّبيّ صلى الله عليه وسلّم على إحياء الأراضى: فقال عليه الصلاة والسلام: «من أحيا أرضا ميتة فهي له». ²⁷⁴ وإحياء الأرض يكون باستثمارها بأي نوع من أنواع الاستثمار، كإحيائها بالزراعة، أو بغرس الأشجار النّافعة، أو بإجراء الماء فيها بالحفر أو بالشق، أو ببناء المنشآت الصناعيّة وغيرها من وجوه الاستثمار. ولا شكّ أن تطوير هذه الجوانب يحقّق القوّة الاقتصاديّة للأمة، ويوفّر لها الاكتفاء الذاتي في أمور كثيرة، ولا سيّما الأمور الضروريّة.

6. وقد أثنى الرسول صلى الله عليه وسلّم على من يستثمر المال، ويمكن أن نستنتج ذلك من حديث عروة البارقي، وفيه قال: «أعطاه النّبيّ صلى الله عليه وسلّم دينارا ليشتري به أضحية أو شاة، فاشتري شاتين فباع إحداهما بدينار فأتاه بشاة ودينار، فدعا له بالبركة في بيعه، كان لو اشترى ترابا لربح فيه». ²⁷⁵ فتصرّف عروة هذا يعتبر أساسا في طرق استثمار الأموال وتنميتها. بحيث لا يكون رأس المال عرضة للاستهلاك الفوري.

ولا شكّ أنّ هذه النّصوص المتقدّمة المقصد الأساس منها هو محاربة الفقر في المجتمع المسلم، وضمان حدّ الكفاية لكل فرد من أفراد المجتمع. وكلّها تدلّ بمنطوقها ومفهومها على تنمية المال واستثماره حتّى يعود نفعه على كلّ شرائح المجتمع لا على المالك وحده؛ لأنّ المال لا ينمّي لذاته، وإنما ينمّي لهدف تعميم نفعه، وإدخال الرّفاهية على المجتمع.

ثانيا: محاربة الجهل:

²⁷³ - البخاري، أبو عبد الله محمد بن إسماعيل. (1407هـ/ 1987م). صحيح البخاري. تحقيق د. محمد مصطفى ديب البغا. ط3. بيروت: دار ابن كثير. كتاب البيوع. باب كسب الرجل وعمله بيده. ج2. ص730.

²⁷⁴ - أبو داود، سليمان الأشعث السجستاني. (د.ت). سنن أبي داود. (د.ط). بيروت: دار الكتاب العربي. كتاب الخراج والإمارة والفيء. باب في إحياء المواث. ج3. ص142. والترمذي. (1395هـ/ 1975م). سنن الترمذي. تحقيق أحمد محمد شاكر وآخرون. مرجع سابق. جامع الأحكام. باب ما ذكر في إحياء المواث. ج3. ص654. وقال الترمذي حديث حسن غريب. وصححه الألباني، وشعيب الأرناؤوط.

²⁷⁵ - أبو داود. (د.ت). سنن أبي داود. مرجع سابق. كتاب البيوع. باب في المضارب يخالف. ج2. ص462.

إنّ من أهمّ أهداف التنمية الاقتصادية كذلك محاربة الجهل، وهذا الهدف لا يتحقّق إلّا في ظلّ اعتبار مقاصد الشريعة التي منها توفير التعليم لكلّ أفراد المجتمع. ذلك أنّ الجهل عدوّ الإنسان، ومن المهلكات التي تقضي على الشعوب، وتدمّر حياتهم، لذا وقف الإسلام له بالمرصاد كما وقف ضدّ الفقر. ويعتبر محاربة الجهل من أبرز مقاصد التنمية الاقتصادية؛ لأنّه لا تنمية بدون علم، والعلم ضدّ الجهل، وعليه فإنّ بداية المسيرة التّموّية والخطوة الأولى منها هي تطوير التعليم، ولنا مثل أعلى في القرآن الكريم، حيث كانت الآية الأولى نزولاً على رسول الله صلى الله عليه وسلم منه، هي (اقرأ) القراءة في أبعادها المختلفة: الدنيّة والدنيويّة. قراءة الكتاب المنزل والكون المنظور باسم الله تعالى، تلك هي القراءة التي تميّز بين العالم والجاهل، ذلك التميّز الذي قال الله تعالى عنه: ﴿قُلْ هَلْ يَسْتَوِي الَّذِينَ يَعْلَمُونَ وَالَّذِينَ لَا يَعْلَمُونَ ۚ إِنَّمَا يَتَذَكَّرُ أُولُوا الْأَلْبَابِ ٩﴾.²⁷⁶

وهذا المقصد يتأصل في أنّ الإنسان هو محرّك التنمية الاقتصادية والمستفيد من نتائجها، فلا بدّ من تأهيل هذا الإنسان وتنمية كفاءاته العلميّة والمعرفيّة، حتّى يقود مسيرة التنمية الاقتصادية بكلّ ثقة وطمأنينة. وقد اهتمّ المسلمون قديماً بالعلم ونالوا فيها قصبات السبق، ووقفوا أموالاً طائلة، وعقارات ضخمة تصرف ريعها على أهل العلم وطلّابه، تقرّباً إلى الله تعالى، وسعيّاً في محو الأميّة ومحاربة الجهل.

ثالثاً: محاربة الأمراض والأوبئة:

إنّ التنمية الاقتصادية في ظلّ النظام الاقتصادي الإسلامي مقيدة بالمقاصد الشرعيّة، التي منها حفظ النفس من الهلاك، فإذا كان إدخال الرفاهية على المجتمع من أبرز مقاصد التنمية الاقتصادية،²⁷⁷ فإنّ هذا المقصد يستلزم توفير الصّحة لكلّ أفراد المجتمع، والتخطيط المناسب لمواجهة الأمراض والأوبئة، التي تحتاج دول العالم الثالث، وتقضي على رأس مالها البشري، وتضعف إنتاجها الاقتصادي.

ويمكن تحقيق هذا الهدف بالآليات التالية:

1- توفير الخدمات الصّحيّة في كلّ مناطق الدّولة.

²⁷⁶ - القرآن الكريم. سورة الزمر. ج 23: 09.

²⁷⁷ - يؤيد هذا ما قالته اللجنة التحضيرية لمؤتمر الأمم المتحدة للعلوم والتكنولوجيا من أجل التنمية: "إن المسلم به عموماً هو ان التنمية ليست مرادفة مجرد النمو ولكنها تتضمن اعتبارات أخرى عديدة تتعلق أساساً برفاهية الإنسان". انظر: جامعة أم القرى. التخطيط والتنمية في الإسلام. (د. ط.). ص 9.

- 2- توفير مستشفيات وعيادات طبيّة على نطاق واسع في الدّولة.
- 3- تموين المستشفيات بكلّ ما تحتاجه من الأدوات الصّحيّة، وتزويدها بأطباء في التّخصّصات المختلفة بما يسدّ حاجة المجتمع صحّيّاً.
- 4- تكوين أطباء في مجالات التّخصّص الطّبيّة المختلفة.
- 5- التّوعية الصّحيّة المستمرّة.
- 6- الاهتمام بالتّنمية المستدامة.
- 7- تكوين أطباء بيطريّين، يقومون بتفتيش اللّحوم ومنتجاتها، ويشرفون على عمليّات الذّبح والسّلخ، ويعملون على فحص الحليب ومشتقّاته في المختبرات الخاصّة، قصد حماية المجتمع من الأمراض الّتي تنقلها الحيوانات.
- 8- رقابة الدّولة الرّاجرة على الأدوية والأطعمة المحليّة والمستوردة، بواسطة خبراء ثقات في علم الصّيادلة والتّغذية.

ففي عصور الإسلام الزاهرة، كانت التّنمية الاقتصاديّة شاملةً للإنسان والحيوان، والبيئة. فوجدت أوقاف مهمة على شكل مستشفيات لعلاج أصناف الأمراض. وأخرى خاصة بعلاج الحيوانات؛ ذلك أنّ صحّة الحيوان ضمان لصحّة الإنسان، كما أنّ العناية بالبيئة جزء من العناية بالإنسان نفسه. وقد عرفت المستشفيات في تاريخ الإسلام بالبيمارستان، وهي كلمة فارسية تعني مستشفى، وكانت تعتبر مجمّعات كبيرة تضم أقساماً مختلفة حسب الأمراض، كما تضم قسماً لتعليم الطّب والصّيادلة. ثم أصبحت هذه البيمارستانات أماكن خاصّة للمجانين، دون سائر المرضى، لما تدهورت أحوالها.²⁷⁸

رابعاً: محاربة البطالة:

البطالة: هي عدم مزاولة أيّ عمل مشروع منتج بصفة دائمة أو مؤقتة، من إنسان بالغ عاقل قادر غير مشغول بطلب علم ونحوه.

²⁷⁸ د. محمد عبد الرحمن يونس. فضاء البيمارستان والعلوم الطبية والصيدلانية في المدينة العربية والإسلامية، حكايات ألف ليلة وليلة نموذجاً. موقع المعهد الأوروبي لدراسات العربية. www.averrowsuniversity.org. وبيمارستان. من الموقع الإلكتروني الحر: www.wikipedia.org. بتتصرّف. وكتاب مساق تاريخ الطب. ص31 وما بعدها. موقع الجامعة الإسلامية - غزة www.iugaza.edu.ps

وبناء على هذا المفهوم، تعتبر البطالة من المشكلات الاجتماعية الخطيرة على الفرد والمجتمع، لما يترتب عليها من حالات نفسية سيئة على العاطلين الشباب مما ينعكس سلباً على المجتمع بأسره. وذلك أنّ أغلب هؤلاء الشباب العاطلين قد يبلغ بهم الفقر والحاجة إلى درجة اليأس من الحياة، وكرهية المجتمع، وربما إلى الانحراف السلوكي من شرب الخمر وتعاطي المخدرات، الأمر الذي لا يتوقف ضرره عليهم وحدهم بل ينعكس سلباً على زوجاتهم وأولادهم إن كانوا متزوجين وإلى المجتمع بأسره. وقد يصل الأمر إلى تكوين عصابات إجرامية. فالمجتمع الذي يكون أغلب شبابه عاطلين عن العمل لا شك أنّه مجتمع مهدّد بكلّ أنواع الإجرام. وأنّه مجتمع محكوم عليه بالتخلف الاقتصادي.

لذا كانت محاربتها أساساً للتنمية الاقتصادية؛ لأنّه لا تنمية في ظلّ تغييب القوى العاملة في مسرح التنمية. وإذا رجعنا إلى المبادئ الإسلامية السامية نجد أنّ البطالة مذمومة مطلقاً بصرف النظر عن أسبابها المختلفة، ذلك أنّ الإسلام حثّ على العمل. كما تقدّم. من أجل ضمان حدّ الكفاية أو الكفاف، وحرّم التسوّل إلا لأشخاص معيّنين وفي حدود ضيقة.

خامساً: تحقيق الاستقلالية الاقتصادية:

إنّ القوّة الاقتصادية لها دور كبير في استقلالية الدّول، وإبراز مكانتها؛ لأنّ بها تُكوّن الدّولة جيشها الذي تحمي حرماها، وتضفي عليها هيبةً وجلالةً بين أقرانها؛ وقد أمر الله تعالى المؤمنين بإعداد القوّة في أبعادها المختلفة، من أجل تحقيق الاستقلالية والهيبة، قال تعالى: ﴿وَأَعِدُّوا لَهُمْ مَا اسْتَطَعْتُمْ مِنْ قُوَّةٍ وَمِنْ رِبَاطِ الْخَيْلِ تُرْهِبُونَ بِهِ عَدُوَّ اللَّهِ وَعَدُوَّكُمْ وَعَآخِرِينَ مِنْ دُونِهِمْ لَا تَعْلَمُونَهُمُ اللَّهُ يَعْلَمُهُمْ﴾.²⁷⁹ وقال عليه الصلاة والسلام في بيان معنى هذه القوّة: «ألا إنّ القوّة الرّمي، ألا إنّ القوّة الرّمي، ألا إنّ القوّة الرّمي».²⁸⁰ وإعداد هذه القوّة كما يكون بتدريب الرجال على الرمي وطرق القتال، يكون بالمال؛ لأنّ المال هو الوسيلة للحصول على آلات الرمي المختلفة التي استطاع الإنسان أن يصنعها في هذا العصر، من طائرات، ودبابات، وصواريخ.. الخ. فلا قوّة إلا بالجيش المدرب، ولا جيش إلا بالمال فهما أمران متلازمان. ولا يمكن تحقيقهما إلا بعقل مدبّر، وسياسة رشيدة، وعدل يحمي ذلك كلّ.

²⁷⁹ - القرآن الكريم. سورة الأنفال. ج 10: 60.

²⁸⁰ - مسلم. (د.ت). صحيح مسلم. (د.ط). بيروت: دار الجيل. كتاب الإمارة. باب فضل الرمي والحث عليه، وذم من علمه ثم نسيه. ج 3. ص 1522.

ولا شك أنّ المال يضفي على مالكه جلاله وهيبه وقوة معنوية، يؤكد ذلك قوله عليه الصلاة والسلام: «**اليد العليا خير من اليد السفلى**».²⁸¹ قال النووي: "وفي هذا الحديث الحث على الإنفاق في وجوه الطاعات، وفيه دليل على أنّ اليد العليا هي المنفقة... والمراد بالعلو هنا علو الفضل والمجد ونيل الثواب".²⁸² ومما يدل على أنّ من مقاصد تنمية المال ضمان الأمن واستقرار الدولة، حثّه عليه الصلاة والسلام على تجهيز الجيوش في قوله: «**من جهّز غازيا في سبيل الله فقد غزا، ومن خلف غازيا في سبيل الله بخير فقد غزا**».²⁸³ هذا الحديث إلى جانب كونه حثّا على الإنفاق في ما يضمن القوة الأمنية للأمة، فإنّ فيه حثّا ضمّنًا على طلب المال واستثماره من أجل تحقيق هذه القوة الأمنية.

الخاتمة:

بعد جولة سريعة في رحاب هذا الموضوع: دور مقاصد الشريعة في التنمية الاقتصادية، توصلنا إلى مجموعة من النتائج، أهمّها ما يأتي:

1. إنّ مقاصد الشريعة تعتبر ضابطا أساسا للتنمية الاقتصادية.
2. ضرورة اعتبار الإنسان عنصرا أساسا في العملية التنموية.
3. إنّ أبرز تحدّيات التنمية الاقتصادية في هذا العصر: تحدّيات السياسات الاقتصادية الغربية في الهيمنة على الأسواق العالمية، وتحدّيات أخلاقية ودينية، تتلخّص في انتشار المعاملات المالية المحرّمة عبر المؤسسات التنموية والتمويلية الغربية في العالم الإسلامي، وتحدّيات بيئية، تتلخّص في النفايات الصناعية وما يترتّب عليها من الأضرار البيئية، والصحيّة.

²⁸¹ - متفق عليه. البخاري. (1407هـ/1987م). صحيح البخاري. تحقيق د. محمد مصطفى ديب البغا. مرجع سابق. كتاب الزكاة. باب لا صدقة إلا عن ظهر غنى. ج2. ص519. وباب الاستغفار عن المسألة. ج2. ص535. ومسلم، أبو الحسين مسلم بن الحجاج بن مسلم القشيري النيسابوري. (د.ت). صحيح مسلم. مرجع سابق. كتاب الزكاة. باب بيان أن اليد العليا خير من اليد السفلى وأن اليد العليا هي المنفقة وأن السفلى هي الآخذة. ج3. ص94.

²⁸² - النووي. أبو زكريا يحيى بن شرف (1392هـ). شرح النووي على صحيح مسلم. ط2. بيروت: دار إحياء التراث العربي. ج7. ص124.

²⁸³ - متفق عليه. البخاري. (1407هـ/1987م). صحيح البخاري. تحقيق د. محمد مصطفى ديب البغا. مرجع سابق. كتاب الجهاد والسير. باب فضل من جهز غازيا أو خلفه بخير. ج3. ص1045. ومسلم. (د.ت). صحيح مسلم. مرجع سابق. كتاب الإمارة. باب فضل إعانة الغازي في سبيل الله بمركوب وغيره، وخلافته في أهله بخير. ج6. ص41.

4. إنّ دور مقاصد الشريعة في ضبط التنمية الاقتصادية، يظهر في مجموعة من الضوابط، هي: عدم التنمية بالطرق المحرّمة، أن تكون التنمية من أجل إسعاد المجتمع ورفاهيته، أن تكون التنمية من أجل حفظ الدين، أن تكون التنمية من أجل تنظيم سير الحياة، وعدم الإضرار بالبيئة.
5. إنّ دور مقاصد الشريعة في تحقيق أهداف التنمية الاقتصادية، تتلخّص في أنّ مقاصد الشريعة الماليّة تتمحور حول حفظ المال كسبًا وتوزيعًا واستهلاكًا، وهذا الحفظ يستلزم كسب المال بالطرق المشروعة، وتوزيعه بالعدل، واستهلاكه بالطرق المشروعة. وهذه المقاصد تساعد في تحقيق أهداف التنمية الاقتصادية التي تتلخّص في محاربة الفقر، والجهل، والمرض، والبطالة، وتحقيق الاستقلالية الاقتصادية.

التوصيات ولمقترحات:

أُتَشَرَّفُ في ذيل هذا البحث بتقديم المقترحات التالية:

1. حثّ الحكومات الإسلامية على العناية بالتنمية البشرية، بتوفير التعليم النموذجي لأبناء المسلمين في شتى ميادين المعرفة، وبخاصّة، في مجال العلوم الدقيقة، كالطبّ والهندسة والتكنولوجيا الحديثة، وبالتّدرّيات المهنيّة والتّقنيّة.
2. الاعتماد على الكوادر الوطنيّة في مجال التنمية، وذلك بتوفير الآلات الحديثة والوسائل التّكنولوجيّة الحديثة للمتخصّصين في مجالات الهندسة المختلفة، ومجال الطبّ، وغيرهما.
3. استثمار الممتلكات العامّة التابعة للدّولة لمصلحة الدّولة والمجتمع وعدم عرضها للخصوصية، أو الخصخصة.

4. تشجيع الحكومات للقطاع الخاصّ ودعمه على الإنتاج والاستثمار في مجالات تسهم في التنمية الاجتماعيّة والاقتصاديّة، وتدخل الرّفاهيّة على الأفراد والأسر والمجتمع.

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THE CONCEPT OF SOCIAL SECURITY IN ISLAMIC ECONOMY

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ABSTRACT

Conventionally, Social Security refers to “an insurance system for human beings, without any discrimination and in all situations of their lives, aimed at protecting the members of society against any contingencies during their life time (health, housing, retirement, maternity, employment injuries, invalidity, family charges, unemployment, vocational training, recreation and death.” Based on the definition, it is observed that social security system or *nizam al-takaful al-ijtima’i* is indeed one of the vital components of an Islamic socio-economic system in protecting the well-being and survival of the ummah. It is designed to protect the real needs and consumption of individuals and families in the long-term as well as short-run phenomena with the involvement of government, society and individuals altogether. The Islamic social security system also consists of varying beneficiaries and responsible parties at various levels. Islam is abounded with different instruments of social security such as *zakah*, *waqf*, *sadaqah*, *hibah*, *kaffarah*, *diyafah*, *mirath* and *ghanimah*. The findings of this study could illustrate the Islamic social security framework that can be applied in modern economic systems. The findings could also indicate areas of concern in this area for future research.

Keywords: social security, safety net, *takaful ijtima’i*, *daman ijtima’i*, *ta’min ijtima’i*.

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1. INTRODUCTION

Takaful ijtimai is the most common term being used by the Islamic scholars to refer to the modern social security system. However, there are also other terms that may be used for the same purpose such as *daman ijtimai* or *ta'min ijtimai*. *Takaful* literally means mutual indemnity and *ijtimai* refers literally to society and public. *Takaful ijtimai* refers to the mutual assistance between members of society, be it a person, a society, an institution or a government. Thus, the term *takaful ijtimai* is general in nature. It refers to any kind of assistance without specifying a specific responsible party.

On the other hand, it is observed that the social security term in the modern conventional economy usually refers to the assistance provided by the government. Thus, it could be defined as “any government system that provides monetary assistance to people with an inadequate or no income” or “a government program that provides economic assistance to persons faced with unemployment, disability, or agedness, financed by assessment of employers and employees” (Farlex, 2015).

Muhammad Salih Hamdi (2004) in his work entitled “*Nazariyyat al-Istikhlaf di al-Amwal fi al-Iqtisad al-Islami*” has differentiated between the three terms: (i) *al-takaful al-ijtimai*, (ii) *al-daman al-ijtimai* and (iii) *al-ta'min al-ijtimai* which seem to be similar at the first glance. According to him, *al-takaful al-ijtimai* denotes the mutual cooperation and protection between the individuals, groups and government based on their faith in taking positive stance towards others in the society by helping each other and avoiding bad matters in order to create a better society. On the other hand, *al-daman al-ijtimai* is the guarantee and indemnity provided by the government to the citizens – Muslims or non-Muslims. *al-Ta'min al-ijtimai* refers to the scheme where the beneficiaries have to provide contributions in order to enjoy the benefit of mutual protection.

Based on the definition, it is observed that social security system or *nizam al-takaful al-ijtimai* is indeed one of the vital components of an Islamic socio-economic system in protecting the well-being and survival of the ummah. It is designed to protect the real needs and consumption of individuals and families in the long-term as well as short-run phenomena with the involvement of government, society and individuals altogether. The Islamic social security system also consists of varying beneficiaries and responsible parties at various levels. Islam is abounded with various instruments of social security. Islamic social security system could be analyzed from several viewpoints. This paper shall analyze the nature and levels of social security in Islam.

2. ISLAMIC SOCIAL SECURITY SYSTEM

The earliest modern literature work on the social security in Islam could be traced back to the work of Abu Zahrah (1974) entitled “*al-Takaful al-Ijtimai in Islam*”. Although Abu Zahrah (1974) did not provide any technical definition of *Takaful Ijtimai*, the general meaning of *Takaful Ijtimai* that could be derived from his opening explanation of the literal meaning is each individual with capacity in society is protecting each other for the realization of *maslahah* and avoidance of *mafsadah* in order to create a better society. This means that the main purpose of *Takaful Ijtimai* is to realize *maslahah* and avoid *mafsadah* at the society level. The following work by

‘Abd al-‘Al (1997) had followed the same approach by giving the literal meaning of *Takaful Ijtima’*.

Muhammad Salih Hamdi (2004) in his work entitled “*Nazariyyat al-Istikhlaf di al-amwal fi al-iqtisad al-Islami*” has discussed the topic of *al-Takaful al-Ijtima’i* in relation to the distribution of wealth (*al-tawzi’*) in an Islamic economy system. There are so many Quranic verses and Prophetic traditions that could prove the concern of the Shariah towards the social security within the society. Allah SWT²⁸⁸ said (al-Balad (90): 12-16): “*And what may let you know what the steep course is? (12) (It is) freeing of the neck of a slave, (13) Or giving food in a day of hunger (14) To an orphan near of kin, (15) Or to a needy person lying in dust (16).*”

- The Prophet SAW²⁸⁹ has encouraged the people to protect the orphans and single mothers by saying: “*I and the protector of orphan and single mothers are this close in the Hereafter (combining his forefinger and middle finger).*” Social security is important from the Islamic viewpoint due to the following reasons:
 - Realization of fairness and justice.
 - Fulfilment of the basic needs.
 - Protection of the five main elements of human (Shariah Objectives).
 - Encouragement for mutual cooperation between people.

3. BASIC FEATURES OF ISLAMIC SOCIAL SECURITY SYSTEM

Islamic social security system refers to the interdependence between the members of a community (*ummah*) for the preservation of public and private interests as well as prevention of material and moral damages. This requires every single member to feel that he/she has duties towards others in conjunction with the rights that he/she owns and enjoys, especially towards other person who could not realize and achieve their own basic and immediate needs.

3.1. Levels of Social Security System in Islam

The Islamic social security system could be divided into three categories based on their responsible parties. (i) Individual and family level, (ii) Society and community level and (iii) National and state level.

3.1.1. Individual and Family Level

Social security in Islam starts at the lowest level. The Prophet SAW said: “*Start (your spending) for the person under your responsibility / guardianship first.*” A person is

²⁸⁸ SWT stands for *Subhanahu Wa Ta’ala*, which means: “God, be He the Glorified in the Highest”. It is a respectful way to say the name of God in Islam.

²⁸⁹ SAW stands for *Salla Allah ‘Alayhi Wa Sallam*, which means: “May Allah bless him (the Prophet Muhammad) and grant him peace.” It is an etiquette in Islam to state this supplication verbally or written after stating the Prophet Muhammad’s name or his title. Some Islamic jurists view it as an obligation.

required to protect himself first and then other people who are close to him. The closest circle of people to a person in a community is his family. Thus, a person is responsible to protect his family first before he is responsible to protect other people in the community. In other occasion the Prophet SAW has praised the Abu Musa al-Ash'ari's clan by saying them: "*The Ash'arites (Ash'ariyyin), when they face hardship due to war or they lack of foods in the city, they will compile their foods in one garment and then they redistribute the foods between them based on equality, there are from me and I am from them.*" There are so many Quranic and Prophetic verses which promote the Muslims to do good deeds towards one's families and relatives. The main instrument at this level is *nafaqah*, *'aqilah*, *tanahud*, *mirath* and *diyah*.

3.1.2 Society and Community Level

Then, Islam insists on the mutual protection and assistance between the communities especially the neighbours, poor and needy people. Islam has provided several reasons for a person to provide foods to the poor and needy people. There are *sadaqah*, *udhiyyah*, *kaffarah*, *dam*, *'ariyah*, *waqf*, *al-ithar* and *diyafah*.

3.1.2. National and State Level

At the national and state level, social security system in Islamic economy refers to the instruments which the government is responsible to manage them such as *zakah*, *ghanimah* and *fay'*. The segregation between the state and national levels of Islamic social security instruments is inevitable in the Malaysian context as the Constitution clearly segregates the power and authority between the federal agencies and state institutions. The table below summarizes the categories of classical Islamic social security instruments based on their levels.

Table 4: Classical Instruments of Islamic Social Security and Their Levels

Individual and Family Level	Society and Community Level	State and National Level
• <i>Nafaqah</i> • <i>'Aqilah</i> • <i>Tanahud</i> - Pool of Resources (Asha'irites) • <i>Mirath</i> • <i>Diyah</i>	• <i>Sadaqah</i> • <i>Udhiyyah</i> • <i>Diyafah</i> • <i>'Ariyah</i> • <i>Al-Ithar</i> • <i>Waqf</i> • <i>Kaffarah</i> • <i>Fidyah</i> • <i>Dam</i>	• <i>Zakah</i> • <i>Ghanimah</i> • <i>Fay'</i> • <i>Nizam al-Taqa'ud</i> (Public Pension System)

3.2. Nature of Social Security in Islam

Another way of looking at the concept of social security system in Islam is by examining the nature of its instruments. Some of the instruments are obligatory and some of them are on voluntary basis. Some of the instruments are within the responsibility of the government and some are individual and social obligation.

3.2.1. Obligatory

The main and basic obligatory social security instrument in Islamic economy is *zakah*. There are two types of *zakah*: (i) *zakah* on wealth (*zakat al-amwal*) and *zakah* on body (*zakat al-abdan* or *zakat al-fitr*). Other obligatory instruments are *nafaqah wajibah*, *kaffarah*, *dam*, and *fidyah*.

3.2.2. Voluntary

Sadaqah (donation of physical wealth) is perhaps the biggest voluntary form of Islamic social security. During the era of the Prophet SAW, there were tribes who came to *Madinah* asking for help. The Prophet SAW has delivered a specific sermon for encouraging his companions to donate their wealth. The Prophet SAW had said: "Donate, even with a slice of a date." Starting with a person who donates some dates, the companions were then donating their wealth and foods until the sign of happiness seemed at the face of the Prophet SAW. This event was an example on how the Prophet SAW used the instrument of *sadaqah* for social security system. Other voluntary instruments are such as *udhiyyah*, *manihah*, *waqf* and *diyafah*,

The modern institutions of social security, either public or private institutions, such as "public pension system", "employee's protection system", "price subsidies" are examples of modern social security system and they are indeed notionally Islamic with certain conditions. They could be considered and accepted as a part of Islamic social security system. However, the non-Shariah compliant issues may arise from the non-Shariah compliant assets of the investment portfolio of these funds. Thus, if the country is planning towards establishing a comprehensive Islamic social security system, Shariah-compliant investment portfolio should be a required and compulsory for these funds.

4. CONCLUSION

This paper primarily observes that the term of *takaful ijtima'i* is the most accurate term in describing the concept of social security in Islam compared to other terms such as *daman ijtima'i* or *ta'min ijtima'i*. It is also learned that social security concept and principles are not alien to Islam. The concepts and principles were outlined clearly in the Holy Quran and Prophetic traditions. Social security in Islamic economy is based on the principles of brotherhood (*ukhuwwah*), solidarity (*wahdah*), mutual cooperation for promoting welfare and prohibiting evilness (*al-ta'awun 'ala al-birr wa al-taqwa wa 'adam al-ta'awun 'ala al-ithm wa al-'udwan*). Social security system was practiced throughout the history of Islamic civilizations beginning from the Prophet Muhammad SAW. Social security concept and principles are not limited to the classical instruments and it can be evolving with the evolvement of individual and society's needs and demands. Some of these instruments are for both Muslims and some of them are specifically designated for Muslims. New instruments could be innovated and introduced if they are meant to protect and preserve the needs of the people.

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THEME: FINANCIAL LITERACY AND EMPLOYABILITY

THE EXPLORATORY STUDY ON EMPLOYABILITY SKILLS AND PREFERRED EMPLOYMENT SECTOR: ANALYTICAL HIERARCHY PROCESS APPROACH

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ABSTRACT

Islamic banking industry has been growth to fulfil the needs the community in the last two decades. The development of Islamic banking industry may increase the job opportunities. In line with the industry, the higher education has taken the initiative to produce students who have the educational background in particular related to Islamic banking and finance to meet the industry requirement. However, the employability skills the Islamic banking students is still questionable. Therefore, the aim of this study is to determine the preferred employability skills that are possessed by Islamic banking students and their direction after the graduation. This research is employed quantitative approach via questionnaire that are distributed to the final year Islamic banking students. *Analytical Hierarchy Process* is employed to explore the employability skills possesses among Islamic banking students and their working preference in various industry. This study indicates that the students have balance employability skills and prefer to work in Islamic banking sector after the graduation.

Keywords: Employability skills, Islamic banking and finance students.

1. INTRODUCTION

Islamic banking industry has emerged since the establishment of the first Islamic banking in Malaysia, Bank Islam Malaysia Berhad in July 1983. In term of Islamic banking products and services, they highlights the Islamic value in line with their business and operation. The development of the contract and innovation in Islamic banking have been contributed by the dynamism and flexibility of Shari'ah (Laldin & Mohd Parid, 2010). Therefore, Islamic banking also may provide similar facilities to its counterpart, conventional banking such as financing and deposit (Mohamad, Borhan, & Sulaiman, 2012; Rosland, Hasbulah, & Borhan, 2013).

In order to enhance the development of the Islamic banking and finance and the ambition to become Islamic Finance Hub, Malaysian government act as the main contributor through funding Islamic banking sector, cater Islamic legal system and advisory body (Ariff & Rosly, 2011; Laldin & Mohd Parid, 2010; Sulaiman Abdullah & Jorlah, 2013). Based on Malaysian 10th Planning, Malaysian government inspires Islamic banking and finance sector to the global market through strengthen the initiative of Malaysian International Islamic Financial Centre (MIFC) (Prime Minister Department, 2010). Malaysian parliament also have endorsed the Islamic Financial Services Act 2013 to regulate Islamic finance institution such as Islamic banking and Takaful to ensure the Islamic banking and finance industry operate in line with Shari'ah principles. These show the serious commitment by the Malaysian government to support the Islamic banking and finance industry growth.

Malaysian government also have recognized the universities to conduct Islamic banking courses for undergraduate and postgraduate level. Higher education institution is crucial for meeting human capital needs for Islamic financial sector which may produce 50,000 graduates with Islamic banking and finance background (Khniifer, 2010; Sulaiman Abdullah & Jorlah, 2013; Tahir, 2009). Therefore, public and private universities put their effort to develop Islamic banking and finance courses. As a result, Universiti Teknologi Mara is the first university in Malaysia that offered Islamic banking courses which is launched in July, 1999. Higher demand for Islamic banking profesional also give the significant impact to the other institutions to offer related courses such as Universiti Malaysia Kelantan (UMK), International Islamic University Malaysia (IIUM), Universiti Utara Malaysia (UUM), Universiti Malaysia Sabah (UMS) and International Centre for Education in Islamic Finance (INCEIF). These institution play important roles in order to develop knowledgeable and skilled human capital (Kosmo, n.d.; Laldin & Mohd Parid, 2010; Tahir, 2009).

Nevertheless, jobs vacancies in Islamic banking sector still has a higher demand due to the shortage of qualified and skilled staff. At the same time, there are some of the workers are not graduated in Islamic banking and finance courses or do not have any knowledge regarding to Islamic banking (Khniifer, 2010; Sulaiman Abdullah & Jorlah, 2013; Utusan Malaysia, 2014). At the same time, many Islamic bank employers prefer to employ experience workers from conventional banking background (Khniifer, 2010). Therefore, one of the challenge in Islamic banking sector is to provide appropriate training and teaching for staff in order to increase the credibility and performance of the employees (Khniifer, 2010; Mohd Ghazali & Ismail, 2013; Sulaiman Abdullah & Jorlah, 2013). Consequently, Islamic banking staff should have

sufficient knowledge regarding to Islamic banking and it may increase the integrity of Islamic financial institution (Laldin & Mohd Parid, 2010). Therefore, Islamic banking and finance students should take these opportunities to be employed in this sector. Nevertheless, this study argues the employability skills possesses by the Islamic banking and finance students in order to fulfil the job vacancies that are offered by Islamic banking sector entirely. This study also argues whether the employability skills possesses by the students inspires them to work in Islamic banking sector in the future.

This paper is divided into five sections. It begins with an introduction which containing a brief discussion of the paper. Second section is the literature review on employability skills and section three discusses research methodology. Result in this study is in the fourth section. The last section is discussion and conclusion of this paper.

2. EMPLOYABILITY SKILLS

Rapid changes in technologies and economics require skilled and knowledgeable employees to adapt these changes (Omar, Bakar, & Mat Rashid, 2012; Thota, 2014). Skilled and knowledgeable employees also are important in order to face challenges in the workforce. Although employers have always required the best-skilled individuals, with increasing unemployment levels, growing competition for jobs and continuing economic depression and globalization, it is important for potential employee to be able to show their skills at all stage of their career and able to contribute themselves among variety of positions (Griffin & Annulis, 2013; Madar & Buntat, 2011; Miller, Biggart, & Newton, 2013). Meanwhile, the economic development also may contribute the unemployment rate due to the reduction in the number of jobs created and restructuring of firms (Omar et al., 2012).

To cope with the unemployment crisis, many literatures suggest that the graduate should possesses the employability skills. Lack of employability skills may contribute to the higher unemployment rate due to the employers are always looking to that skills in the early stage of employment and do not any longer recruit employees with higher CGPA (Dania, Bakar, & Mohamed, 2014; Rajan, 2010; Rao, 2014). Generally, employability is a terminology that is used to define skills and quality candidate posed when undertake vacancies which are offered by companies (Madar & Buntat, 2011) or the ability to be employed (Vanhercke, Cuyper, Peeters, & Witte, 2014). Meanwhile, employability skills can be defined as skills that can be transferred from one job to another job and is possible enough to cover careers available (Madar & Buntat, 2011), transferable skills that can be used in any organization and across all sectors (Omar et al., 2012; Sung, Chi Man Ng, Loke, & Ramos, 2013), skills that are to render individuals more appealing for employers (Oria, 2012) or job readiness skills (Shafie & Nayan, 2010). Therefore, the development of employability skills is important in order to develop students' employability skills and they will gain the first job after graduation and for graduates' future career development (Haasler, 2013; Kulkarni & Chachadi, 2014).

Previous study defined several skills that are comprised into employability skills. This study indicates four important skills as elements in the employability: first, technical skills; second, communication skills; third, social skills; and, interpersonal skills.

Several studies have shown that employers are looking to the employees who have technical skills to face challenges in the workplace (Finch, Hamilton, Baldwin, & Zehner, 2013; Gurcharan Singh & Garib Singh, 2008; Mishra, 2014; Rajan, 2010). Technical skills may add value to managerial performance by enhancing supervisor-subordinate relationship (Hysong, 2008). The students may be able to improve their technical skills for their professional development if they have a good attitude such continuous learning and improving themselves (Poon, 2014; Tzoc & Millard, 2013). Some studies also suggested that industrial training for the students is a good effort as the first exposure to them towards development of technical skills (Dania et al., 2014; Pillai, Khan, Ibrahim, & Raphael, 2012). The employers are also inspired to arrange a training for their employees in order to develop technical skills after the recruitment (Hinchliffe & Jolly, 2011).

Employees with a good communication skills is one of the most important skills that concerned by employers or human resource managers as suggested by Maxwell, Scott, Macfarlane, & Williamson, (2010) & Poon, (2014). Therefore, graduates who demonstrate effective communication will be more competitive than graduates who do not (Finch et al., 2013). However, previous studies indicated that the fresh graduates are lack of communication skills especially English communication skills (Griffin & Annulis, 2013; Gurcharan Singh & Garib Singh, 2008; Pillai et al., 2012; Warraich & Ameen, 2011). The students may develop their communication skills through working and business environment exposure where they may have effective communication with relevant parties for on-going development (Gwyneth, Ives, & Corke, 2013; Maxwell et al., 2010). Communication skills can be communicate effectively, able to comprehend and write reports, presentations and give and receive commands (Kulkarni & Chachadi, 2014).

Interpersonal skills is defined as the ability to communicate with others and absorb from criticism, survive with uncertainty and endure composed to meet changing need and gain high level of proficiency (Sail & Alavi, 2010). Interpersonal skills is one of the major skills that required by the employers even though the students rated that interpersonal skills is less important than other skills (Griffin & Annulis, 2013; Mishra, 2014). The students may be more competitive if they demonstrate good interpersonal skills (Finch et al., 2013). Interpersonal skills is essential in order to develop relationship and needed for job performance (Mishra, 2014; Rosenberg, Heimler, & Morote, 2012). Therefore, some literature suggest that appropriate teaching method, training and extra-curricular activities may enhance graduates interpersonal skills (Baker & Henson, 2010; Ling, Qing, & Shen, 2014; Mohd Ghazali & Ismail, 2013).

Employers especially human resource department (HRD) are also concerned to the employees who have a good social skills (Sail & Alavi, 2010; Shafie & Nayan, 2010). Social skills are learned behaviour that enables individuals interact with other effectively (Ikporukpo, 2015) or characteristics, skills or strategies that enable individuals to communicate with others in their community (Botsford, 2013). Social skills are needed to cope the employment challenges such as limited of resources, uncertainty and ambiguity (Lamine, Mian, & Fayolle, 2014). Social skills may be developed via assignment where students are required to collaborate with their partners or obtain the information from experts, present their ideas in class,

discussions and exchange of ideas (Sail & Alavi, 2010). Interaction and integration of education with multidiscipline area also may promote the development of social skills (Eteokleous, 2011). Ikporukpo, (2015) suggested that social skills training may help to support skills such as dealing with irritation and making friends. Social skills also can be how the employees adapt with the new environment of the inside and outside work-place (Lamine et al., 2014). In other words, adaptability can be able to adapt any circumstances, work with lower supervised, able to work under pressure, and able to face new challenges (Saari & Mat Rashid, 2013). The employers are concerned with the adaptability skills which may influence employee retention (Ling et al., 2014). At the same time, the students also perceived that able to adapt in a new environment is very important to be employed by the employers (Tymon, 2011).

3. METHODOLOGY

This study employed quantitative approach to explore the employability skills possesses among Islamic banking and finance students. *Analytical Hierarchy Process* (AHP) is employed to demonstrate the accurate representation in making a decision based on criteria (Abduh & Omar, 2012). AHP also enables the respondents to define their qualitative sentences in quantitative format (Pandey & Bansal, 2004). Criteria in this study is based on their employability skills which are communication skills, technical skills, interpersonal skills and social skills and the making decisions are employment sector after graduation. There are three principle to implement AHP test: first, constructing the hierarchy; second, priority setting, and third, logical consistency (Wang, Lin, & Huang, 2008).

This study engaged questionnaires to acquire the details of the respondents. Respondents of this study are final year Islamic banking and finance students. The questionnaire is divided into three part. Part A for demographic, Part B for employability skills and Part C for employment sector after graduation.

Figure 1 shows the research framework which entails four criteria for the first level of the hierarchy: Technical skills, Communication skills, Social skills, Interpersonal skills. The second level is the employment sector that may be chosen by the respondents after graduation based on their skills in the first level.

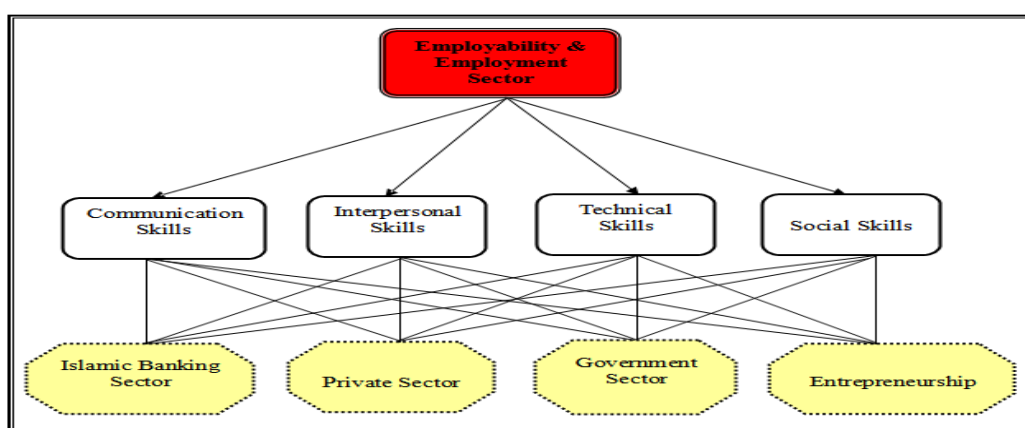


Figure 1: Hierarchy Structure of Employability Skills and Employment Sectors

4. RESULT

Total respondents of this study is 80 students from Islamic banking and finance course, Universiti Malaysia Kelantan. Table 1 shows demographic of the respondents. This study indicates 74 female and the rest is male. Majority of the respondents are 22 and 23 years old which are 32 respondents and 38 respondents respectively. Most of the respondents have 3.00 – 3.49 CGPA and only one student have 3.50 – 4.00 CGPA and, STPM and Matriculation qualification which are 36 respondents and 29 respondents respectively.

Details	Frequency
Gender	
Male	6
Female	74
Age	
21	3
22	32
23	38
24	6
25	1
CGPA	
2.00 – 2.99	22
3.00 – 3.49	57
3.50 – 4.00	1
Education background	
STPM	36
STAM	5
Diploma	9
Matriculation	29
Others	1

Table 1: Respondent's Demographic

Table 2, shows the geometric mean for priorities aggregate based on pairwise comparison for four employability skills elements (communication skills, interpersonal skills, technical skills and social skills). Table 3, explains the comparison employability skills among Islamic banking and finance students and their possessed skills. This study indicates that social skills is the most possessed skills among the students, which represents 28.95%, followed by interpersonal skills (24.43%), communication skills (23.95%) and technical skills (22.67%). The results are also consistent due to consistency ratio is <10% (see Wang et al., 2008). Therefore, this study concludes that the students have a balance skills.

Table 4 shows that the overall composite weight of the employment sector. This study indicates that the probability Islamic banking and finance students choose to work in Islamic banking and finance sector after graduation based on their four skills is 36.7%. In other words, the students prefer to work in Islamic banking and finance

sector after their graduation are 1.69 (0.367/0.217) times more than private sectors. The students also prefer Islamic banking and finance sector 1.73 (0.367/0.211) times more than government sector and 1.8 (0.367/0.204) times more than entrepreneurship.

Employability skills	Communication skills	Interpersonal skills	Technical skills	Social skills
Communication skills	1.00000000	1.37403946	0.89781402	0.67717065
Interpersonal skills	0.72778114	1.00000000	1.33772033	0.92460184
Technical skills	1.11381642	0.74754041	1.00000000	0.84313020
Social skills	1.47673263	1.08154663	1.18605644	1.00000000

Table 2: Pairwise Comparison Employability skills

Employability skills	Weight
Communication skills	0.2395
Interpersonal skills	0.2443
Technical skills	0.2267
Social skills	0.2895
N	80
CR	0.02

Table 3: Priorities Vector Employability skills

Summary	Communication skills		Interpersonal skills		Technical skills		Social skills		Final
	Weighting	Score	Weighting	Score	Weighting	Score	Weighting	Score	
Islamic banking and finance sector	0.240	0.382	0.244	0.341	0.227	0.357	0.289	0.385	0.367
Private sector (exclude Islamic banking)	0.240	0.211	0.244	0.237	0.227	0.222	0.289	0.203	0.217
Government sector	0.240	0.183	0.244	0.217	0.227	0.226	0.289	0.217	0.211
Entrepreneurship	0.240	0.224	0.244	0.205	0.227	0.195	0.289	0.195	0.204

Table 4: Overall composite weight of the Employment sector

5. DISCUSSION AND CONCLUSION

Islamic banking and finance sector is one of the sector that shows a great growth and contribute to the economic development. In order to strengthen the Islamic banking sector, the employee should be developed with Islamic banking knowledge particularly Islamic contracts and products. Therefore, the Islamic banking and finance course have been designed to fulfil the opportunities in Islamic banking

sector. However, the students should possess the employability skills that are preferred by the employers.

This study indicates that the students possess balance skills which are communication skills, interpersonal skills, technical skills and social skills. The respondents assume social skill as the most possessed skill. Social skill are important to cope the employment challenges as well as to adapt with the new environment of the inside and outside work-place (Lamine et al., 2014) . The result also shows that the students prefer to work in Islamic banking and finance sector and fulfil the opportunities that offered in that sector. The involvement Islamic banking students may strengthen and increase the integrity Islamic financial institution as well (see Laldin & Mohd Parid, 2010). From employers perspective, they also may gain the benefits such as the lessening training and teaching cost in order to enlighten the Islamic banking and finance contracts and products to the employees. Therefore, it can be concluded that the objectives of the Islamic banking courses is achieved which to provide human capital who are knowledgeable particularly related to Islamic banking and finance.

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IMPAK PROGRAM TRANSFORMASI EKONOMI (ETP) TERHADAP BELIA MALAYSIA: PANDANGAN DARI SISI KEBOLEHPASARAN

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1. PENDAHULUAN

Dasar Ekonomi Baru (DEB) telah diperkenalkan untuk menangani masalah ketidakseimbangan ekonomi di antara pelbagai kaum di Malaysia yang menjejaskan perpaduan antara kaum dan keamanan negara (Abidin 2007). Program Transformasi Negara (NTP) pula di rancang untuk meningkatkan kualiti hidup rakyat Malaysia melalui pertumbuhan mapan (Mohamed 2013). Model Ekonomi Baru mensasarkan Malaysia yang berada pada peringkat pendapatan sederhana dapat meningkatkan produktiviti pekerja dan inovasi dan menjadikan ekonomi negara kepada negara berpendapatan tinggi (Economic Policy Outlook 2011; Mohamed 2013; Pemandu 2013). Rancangan-rancangan pembangunan di bawah DEB telah disusun dan dijalankan menerusi strategi serampang dua mata (Dasar-dasar Malaysia 1970):

- a. Mengurang dan seterusnya membasmi kemiskinan dengan memperbanyakkan peluang-peluang pekerjaan kepada semua rakyat tanpa mengira kaum.
- b. Penyusunan semula masyarakat untuk mengurangkan dan seterusnya menghapuskan pengenalan kaum mengikut fungsi-fungsi ekonomi.

Program Transformasi Kerajaan (GTP) yang diilhamkan oleh YAB Perdana Menteri, Datuk Seri Najib Razak dan pelaksanaannya di bawah bidang kuasa Unit Pengurusan Prestasi dan Pelaksanaan (PEMANDU) adalah sebuah cita-cita, program yang menyeluruh yang mengubah dasar kerajaan untuk menjadi institusi yang lebih cekap dan berpaksaan rakyat. GTP telah tampil dengan Program Transformasi Ekonomi (ETP) yang menginstitusikan perubahan sosioekonomi dengan 12 tonggak yang ditetapkan di bawah Bidang Keberhasilan Utama Negara (NKRA) (Pemandu 2011).

Cabaran yang di hadapi oleh program ini adalah untuk mendapatkan sumbangan kewangan dari pihak swasta untuk membantu sebahagian daripada projek-projek ETP. Tidak terhad kepada pihak swasta, pihak bank komersial dan Kumpulan Wang Simpanan Pekerja (KWSP) juga agak keberatan untuk melabur di dalam projek korporat yang berisiko tinggi di dalam ETP (Asia Monitor 2011). Malah ada penganalisa ekonomi Singapura yang berpendapat bahawa unjuran yang ingin dicapai menerusi program ETP adalah tidak realistik berdasarkan kepada keadaan pasaran semasa (Miller 2011).

2. PENYATAAN MASALAH

Bank Dunia dalam kajiannya yang bertajuk “Malaysia and the Knowledge Economy: Building a World-Class Higher Education System” telah mengenalpasti tiga faktor utama yang menyumbang kepada pengangguran di kalangan graduan iaitu permintaan dan penawaran graduan, proses pencarian kerja dan ketidaksepadanan kemahiran (Jakob 2007 dan Muhammad Hazrul 2012).

2.1. Permintaan dan penawaran graduan.

Bilangan penganggur secara mudah adalah perbezaan antara bilangan orang yang mencari pekerjaan dan bilangan pekerjaan yang diwujudkan dalam ekonomi untuk mengambil mereka bekerja. Fenomena pengangguran di Malaysia pada masa kini adalah jelas disebabkan oleh berlakunya lebihan penawaran graduan berbanding pekerjaan yang sedia ada untuk mereka. Ini disebabkan pengembangan yang ketara dalam penawaran graduan dari institusi pengajian tinggi awam dan swasta sejak penggubalan Akta Pendidikan Tinggi Swasta 1996. Di antara

tahun 2001 hingga 2003, keluaran graduan institusi pengajian tinggi awam dan swasta telah meningkat melebihi 60 peratus dalam tempoh tiga tahun. Di samping itu, ekonomi telah bertumbuh secara lebih perlahan sejak tahun 2000 berbanding dekad sebelumnya kerana berlakunya kejutan dalam ekonomi makro, pembentukan kerja yang lebih sedikit berbanding unjuran dalam Rancangan Malaysia Kelapan. Walaupun ekonomi sedang dalam proses pemulihan, kadar pertumbuhan KDNK pada tahun 2004 dan 2005 masih kekal di bawah 7 peratus.

2.2. Proses Pencarian Kerja.

Bagi graduan serta kumpulan berpendidikan lain-lain, peralihan dari alam persekolahan ke alam pekerjaan adalah proses yang memakan masa di mana buruh yang baru masuk akan mencari padanan pekerjaan yang sesuai. Mereka akan mencari peluang pekerjaan yang menggunakan sepenuhnya latihan yang telah mereka terima dan memenuhi aspirasi kerjaya dan jangkaan pendapatan mereka. Berapa lama dan intensifnya pencarian mereka bergantung banyak faktor seperti kepesatan pertumbuhan ekonomi di mana peluang pekerjaan adalah banyak yang akan memendekkan masa pencarian; faktor-faktor lain seperti ketidakcekapan perkhidmatan pekerjaan atau kesediaan sokongan pendapatan keluarga mungkin akan memanjangkan masa pencarian dengan menjadikannya lebih sukar untuk mendapatkan maklumat pekerjaan yang relevan. Keutamaan individu dan keluarga juga merupakan penyebab graduan secara sukarela kekal menganggur untuk mencari pekerjaan yang bersesuaian dan mereka sanggup menunggu untuk mendapatkan jawatan yang berstatus tinggi dalam sektor awam.

2.3. Ketidaksepadanan kemahiran.

Kadar pengangguran graduan juga disebabkan berlakunya ketidaksepadanan antara kemahiran yang khusus yang diperlukan dalam pasaran buruh dengan kualiti pendidikan dan latihan yang disediakan oleh institusi-institusi pengajian tinggi. Ketidaksepadanan kemahiran mempunyai banyak dimensi: keseimbangan dalam permintaan-penawaran antara bidang pengajian (seperti kemanusiaan, sains dan kejuruteraan), keseimbangan antara kemahiran teknikal dan generik (insaniah) dan keseimbangan antara teori dan berorientasikan amalan dalam pendidikan dan latihan yang diterima. Sebahagian daripada ketidaksepadanan kemahiran adalah hasil pilihan kerjaya individu dari segi bidang pengajian dan keutamaan berkaitan pekerjaan. Ketidaksepadanan kemahiran boleh juga timbul dari kelemahan oleh institusi pendidikan tertuari dalam bentuk kualiti pendidikan, fakulti dan pedagogi, dalam penyampaian program akademik yang disesuaikan dengan keperluan pasaran dan sama ada kaunseling kerjaya diberikan kepada para pelajar.

3. OBJEKTIF KAJIAN

Objektif umum kajian ini adalah untuk mengkaji Impak Program Transformasi Ekonomi (ETP) Terhadap Belia Malaysia. Manakala objektif khusus kajian ini adalah untuk mengetahui kaitan diantara kebolehpasaran belia dengan tiga faktor iaitu kemahiran generik, perkembangan kerjaya dan keterampilan diri.

4. PROGRAM TRANSFORMASI EKONOMI (ETP)

Dato' Sri Abdul Wahid Omar menyebut dalam Laporan Tahunan 2013 bagi Program Transformasi Ekonomi bahawa ETP mewakili satu komponen dalam Program Transformasi Negara (NTP) yang direka untuk melonjakkan Malaysia ke arah status negara berpendapatan tinggi.

Dalam teks ucapan bersempena Majlis Pelancaran Laporan Tahunan Program Transformasi Kerajaan (GTP) Dan Program Transformasi Ekonomi (ETP) pada 12 Mei 2014, YAB Dato' Sri Mohd. Najib Bin Tun Haji Abdul Razak ,menyebut bahawa ETP menggabungkan dua komponen, iaitu 12 Bidang Ekonomi Utama Negara atau NKEA yang memfokuskan pertumbuhan ekonomi dan keduanya adalah 6 Inisiatif Pembaharuan Strategik (SRI) yang merangkumi dasar dan prosedur yang dilaksanakan bagi mewujudkan persekitaran perniagaan yang berdaya saing dan dinamik. Gabungan NKEA dan SRI ini, disasar untuk melonjakkan Pendapatan Negara Kasar Per Kapita atau PNK kepada AS\$15,000, mencipta 3.3 juta peluang pekerjaan baharu dan menarik pelaburan berjumlah AS\$444 bilion menjelang tahun 2020 (Shmavonian dan Hershman 2012). Perdana Menteri Malaysia juga mengunjur bahawa ETP dapat meningkat peluang pekerjaan dan meningkatkan pendapatan negara kasar (Economic Policy, 2011). Menurut Timbalan Perdana Menteri, petunjuk prestasi utama (KPI) bagi NKEA adalah 110 peratus pada tahun 2014 (Muhyiddin Yassin 2015).

5. METODOLOGI KAJIAN

Kajian ini dijalankan dengan menggunakan kaedah kuantitatif. Data kuantitatif diperoleh daripada borang soal selidik yang dibentuk khas oleh para penyelidik. Dalam kajian ini kebolehpasaran belia sebagai pembolehubah terikat. Sementara pembolehubah kemahiran generik, pembangunan kerjaya dan keterampilan diri responden bertindak sebagai pembolehubah bebas.

Sebanyak 683 responden daripada seluruh Malaysia yang berumur 16 hingga 40 tahun telah menjawab borang kaji selidik yang mempunyai 99 soalan. Borang kaji selidik ini mengandungi empat bahagian iaitu Bahagian A, B, C dan Bahagian D seperti di Lampiran A. Bahagian A mengandungi 16 soalan yang berkaitan dengan latar belakang responden seperti jantina, umur, tahap pendidikan, pengalaman bekerja dan sebagainya. Manakala terdapat 43 soalan di Bahagian B berkaitan dengan kemahiran generik responden, Bahagian C dengan 14 soalan berkaitan dengan pembangunan kerjaya dan Bahagian D dengan 23 soalan berkaitan dengan keterampilan diri. Untuk Bahagian B, C dan D memerlukan responden menjawab menggunakan skor yang disusun menggunakan teknik skala Likert di mana skor 1 di kategorikan sebagai 'sangat tidak setuju' manakala skor 5 dikategorikan sebagai 'sangat setuju'.

Bagi tujuan penganalisan pula, kajian ini menggunakan kaedah analisis deskriptif dan carta pai bagi Profil Demografi. Selain itu, analisis frekuensi juga digunakan bagi mencari nilai min, sisihan piawai (SD), skewness dan kurtosis untuk faktor Kebolehpasaran, Kemahiran Generik, Pembangunan Kerjaya dan Keterampilan Diri. Seterusnya, Analisis Faktor Eksploratori (EFA) telah digunakan untuk menentukan bagaimana dan sejauh mana kaitan antara pembolehubah yang dikaji berdasarkan faktor-faktor asas. EFA juga telah membantu untuk menilai kesahihan item yang digunakan dalam soal selidik untuk kajian ini. Akhir sekali, kebolehppercayaan dan regresi bagi setiap pembolehubah juga telah dinilai untuk kajian ini. Semua analisis menggunakan Statistical Package for Social Science (SPSS) Versi 17.0.

6. KESIMPULAN

Dalam kerancangan perkembangan ETP dan GTP, kesemua bidang dan NKRA menjuruskan kepada mewujudkan peluang pekerjaan yang sejajar dengan harapan untuk menjadikan Malaysia sebuah negara maju menjelang 2020. Daripada kajian ini, pengetahuan belia mengenai ETP adalah hampir sama antara bilangan yang pernah mengetahui mengenainya dan bilangan yang tidak pernah mengetahui akan kewujudannya. Selain itu, dalam jangkamasa tiga bulan kebelakangan ini, melalui kajian ini, didapati bahawa ramai belia tidak aktif dalam pencarian kerja. antara faktor yang boleh dipertimbangkan ialah faktor pengenalan GST, kejatuhan ringgit, pasca banjir di Kelantan dan beberapa faktor lain yang menyebabkan belia mengambil masa untuk membaca persekitaran pekerjaan yang wujud pada masa ini. Perkara ini dikuatkan dengan majoriti responden tidak pasti bahawa mereka akan mendapat pekerjaan pertama mereka dengan mudah.

Melalui kajian ini, didapati bahawa rata-rata responden yang ditanya merasakan bahawa mereka mempunyai penguasaan komunikasi lisan dan bertulis Bahasa Melayu yang baik. Selain itu, mereka juga merasakan bahawa mereka adalah pendengar terbaik. Antara faktor yang membimbangkan ialah mereka menyatakan bahawa mereka memerlukan bantuan orang lain untuk menyelesaikan masalah dan juga kurang daya berinovasi. Ini menunjukkan bahawa mereka kurang berkeyakinan dalam menyelesaikan masalah secara individu. Selain itu, seperti biasa, mereka merasakan bahawa mereka lemah dalam penguasaan komunikasi lisan dalam Bahasa Inggeris.

Antara sifat-sifat positif dalam pencarian kerja ialah mereka tidak pernah putus asa untuk memohon pekerjaan walaupun telah ditolak berkali-kali. Mereka juga sentiasa datang ke sesi temuduga dan apabila mereka hadir, mereka akan datang awal. Dari segi dokumentasi untuk mendapatkan pekerjaan, mereka tidak merujuk pakar ketika membuat resume, mereka merasakan CV mereka tidak begitu baik dan mereka tidak dapat membezakan antara CV dan resume. Banyak lagi sifat-sifat positif belia ketika mencari pekerjaan yang dapat kita lihat dari kajian ini seperti optimis dan bermatlamat.

Secara kesimpulan, buat masa ini, belia masih mencari peluang pekerjaan yang sesuai dengan mereka dan ETP telah menawarkan 12 bidang baru yang dapat memberi nilai tambah kepada belia di negara ini. Melalui kajian ini, kebolehpasaran graduan adalah bergantung kepada kemahiran generik dan perkembangan kerjaya. Kemahiran generik merangkumi, dedikasi terhadap tugas yang diberi, kemahiran berkomunikasi, kemahiran mendengar, sifat kepimpinan, usaha mencapai objektif dalam keadaan berisiko, sanggup menyahut cabaran dalam pekerjaan, mengenalpasti penyelesaian alternatif, berdikari, kreativiti, kemampuan menyelesaikan konflik dan daya saing yang tinggi. Manakala perkembangan kerjaya pula merangkumi aspek seperti, mempunyai halatuju yang jelas mengenai kerjaya, merancang untuk pembangunan kerjaya, keupayaan menggunakan pelbagai sumber dalam mencari pekerjaan, kesediaan meningkatkan potensi diri dan memahami kehendak industri.

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PERMODALAN NASIONAL BERHAD (PNB): INVESTIGATING THE YOUNG'S BEHAVIOUR IN FINANCIAL INVESTMENT

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ABSTRACT

This paper aims to investigate the young's behaviour in financial investment namely Permodalan Nasional Berhad (PNB). A brief introduction on PNB and reasons for its existence is highlighted within the first part of the article. It provides some insights for the bankers on understanding young customers' behavior from customers' perspectives. A brief analysis on the customers investment behavior namely investment history, frequency and where they invested their money were discussed followed by analysis on attitudinal elements measuring on how attitude and subjective norms have an impact on intention via Theory of Reasoned Action (TRA). The findings of this study will provide insights on the attitudinal factors influencing customers' investment behavior. It will also provide suggestion to the banker on how to improve customer positive attitude towards investment in PNB thereby remain competitive.

Keywords: Permodalan Nasional Berhad (PNB), attitude, subjective norms, intention

1. INTRODUCTION

Yayasan Pelaburan Bumiputera (YPB) has established Permodalan Nasional Berhad (PNB) or the National Equity Corporation on 17 March 1978. The main function of PNB is to evaluate, select and acquire a sound portfolio of shares in limited companies with good potential to be held in trust for subsequent sale to the Bumiputera. The manifestation of this commitment was clearly spelt out in the Statement of Commitments of PNB. PNB has an authorized and paid-up capital of RM200 million and RM 100 million, of RM 1.00 a share each, respectively. The main headquarters is located at Jalan Tun Razak, Kuala Lumpur near Tabung Haji building. PNB is the parent company for National Unit Trust Berhad (NUTB) which operates a number of unit trust schemes (A. Yahaya et al., 2009).

In their corporate profile stated that PNB's strategic investments dated back as early as 1980s when PNB successfully acquired Guthrie Corp Ltd, a public-listed company on the London Stock Exchange. In what was dubbed as "The Great Dawn Raid", history saw PNB successfully acquiring 47% of the company in just one day and within three months, taking over the whole Company. The acquisition allowed PNB to helm the major plantation player with over 200,000 acres of agricultural land. In the same year, PNB also rose to the occasion to helm Malayan Banking Berhad, one of Malaysia's earliest banking institutions. PNB's main businesses and activities are asset management, unit trust management, property and hospitality, and education and corporate social responsibility.

PNB's unit trust business is undertaken by Amanah Saham Nasional Berhad (ASNB) which currently manages 12 unit trust funds, and Amanah Mutual Berhad (AMB) which has 15 funds. While ASNB caters to local individuals, AMB covers all market segments which include local and non-local individuals, and institutions. ASNB is the first unit trust company in the country that offers online facility for making additional investments in ASB, ASW 2020, ASM, ASD and AS 1M units. This facility is available via Maybank2u.com, CIMB Clicks, affinOnline.com and RHB Now. To complement its unit trust business, PNB also focuses on the real estate investment trust (REIT) which is undertaken by Pelaburan Hartanah Nasional Berhad (PHNB). The REIT managed by PHNB is Amanah Harta Tanah PNB (AHP) which is listed on the Main Market of the Bursa Malaysia Securities Berhad since 1989. Apart from REIT, PHNB also manages a private trust, namely, PNB Property Trust (Permodalan Nasional Berhad, 2013).

Over the past decade, PNB has aggressively increased its property portfolio through property acquisition, development and restructuring. PNB has also been active in property development through its strategic holding companies and other subsidiary companies, including I & P Group Sdn Berhad and Sime Darby Berhad. PNB's property portfolio is made up of sizeable land banks and numerous commercial properties and also office buildings, serviced apartments, shopping complexes and retail outlets. PNB also has embarked on various comprehensive education programmes as part of our corporate social responsibility (CSR) contribution towards enhancing human capital development for the nation. (Permodalan Nasional Berhad, 2013).

This company is an investment holding company currently managing funds worth more than RM100 billion. It has substantial interest in over 330 listed and unlisted companies including blue chips firms such as Sime Darby Berhad and May Bank Berhad and other industry leaders like Island and Peninsular Berhad, UMW Holdings Berhad, NCB Holdings Berhad and Chemical Company of Malaysia Berhad. All its holdings are spread across many sectors of the country encompassing finance, banking, plantations, properties, automobile, logistic, pharmaceutical, petrochemical and manufacturing. PNB is conceived as an important instrument of the Government's Economic Policy to promote share ownership in the corporate sector among the Bumiputera (the indigenous). Prior to the establishment of PNB, shares allocated to individuals are seldom retained (Wan Shahidah et al., 2013). PNB as the Malaysian Government's investment arm owns sizeable chunks of equity also in Golden Hope, Kumpulan Guthrie and Sime Darby Berhad, making PNB a major shareholder in a number of big plantation players (Bala Ramasamy et al., 2005).

2. LITERATURE REVIEW

Amanah Saham Nasional Berhad (ASNB), was established on 22 May 1979. It is a wholly-owned subsidiary of Permodalan Nasional Berhad (PNB), which responsible in managing the unit trust fund. PNB has known as an industry leader in the country with 42 percent (2012) of market share consist more than 11 million of unit holders which Bumiputera as the biggest investors amounted 9.9 million account holders. (Permodalan Nasional Berhad. 2013).

Previous study has been done on management styles and performance of mutual funds (A.H.M Nawawi et al, 1999), and promotional strategies and its relationship with customer motivation of ASNB (A.Yahaya et al, 2009) where both did not discuss on customer behaviour towards the fund. However, there was a study discussed on consumer perceptions and the limited knowledge of investors towards types of funds due to lack of marketing activities (Wan Rasyidah et al, 2008). Thus, this study is suggesting theory of Reasoned Action (TRA) to study the relations between attitude and behaviour that motivates young investors' intention towards performed behaviour or decision making in ASNB funds.

TRA, was first developed in 1967 but however been revised and expanded by Izek Ajzen and Martin Fishbein at early 1970s. The model explained on the psychological processes toward relations between individuals' attitudes and behavior. The TRA consists of attitudinal, social influence, and intention variable to predict behavior. It is mentioned that the behavior intent or intention of an individual to perform behavior is determined by the individual's attitude toward the performing the behavior and subjective norm (Ajzen and Fishbein, 1980).

Intention is an antecedent to behavior which is function of salient beliefs to perform a certain behavior as an outcome. This outcome behavior will be expected to perform, once the person's intention is stronger. Intentions can change over time and it depends on the time period between intention and behavior, for example, the shorter the time period

between intention and behavior, the greater the likelihood that foreseen events will produce changes in intentions. Intention is a function of two basic determinants which are attitude toward behavior and subjective norms of behavior (Ajzen and Fishbein, 1975; 1980). Thus, an intention is a type of judgment on how, an individual will behave toward a product or brand.

Attitude means a positive (favourable) or negative (unfavourable) feeling of an individual associated with performing a specific behavior (Ajzen et al. 1975; 1998), for example, if an individual have positive feeling on ANB funds thus, it will lead to the positive performance of the behavior or outcomes. (Mykityn and Harrison, 1993). It is believed that attitude will have a direct effect on behavioral intention and is linked with subjective norm and perceived behavioral control.

Subjective norm is when an individual belief that his or her performing behavior should approve or disapprove by certain individuals' such as spouse, close friends, and relatives. This normative beliefs assume that it is important for them to seek or refer to the referents as like source of motivation or influencer who can helps an individual to perform a certain behavior (Eagly and Chaiken, 1993).

Attitudes, subjective norm and intention are measured on scales (Likert Scale) using phrases or terms for example strongly agree to strongly disagree, very good to very bad and others. If a person is fully under volitional control then, TRA can be applied to behaviors (Ajzen and Fishbein, 1980). Meanwhile, if it is in opposite direction, a person will not perform the behavior. even there is a motivation on attitudes and subjective norm. Thus, the Theory of Planned Behavior (TPB) was added to the existing model of reasoned action to address the inadequacies that Ajzen and Fishbein had identified through their research using the TRA.

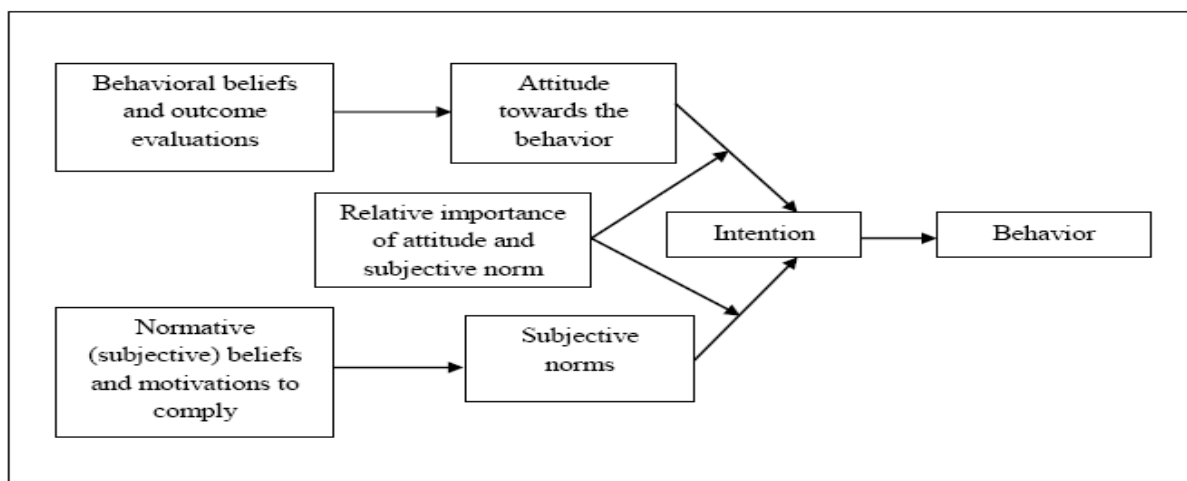


Figure 1: Causal relationship links among the components of the Theory of Reasoned Action (TRA)- (Ajzen and Fishbein, 1980)

3. RESEARCH METHOD

The paper adopts quantitative research method. The key independent variable (switching intention) was measured using items adapted from Bansal et al. (2005) and Bansal & Taylor (1999). Guided by the literature and previous studies, the dependent variable constructs were namely attitude and subjective norms. Attitudes consisted of positive perceptions perceived by the customers associated with the intention to invest in PNB whereby subjective norms are factor related to the perceptions of others, and were derived from Theory of Reasoned Action (TRA). A total of 11 measurement items was used.

A web-based survey containing all items, plus questions about demographic information and was administered to a sample of 117 young individuals ages (18-40) using online survey. The sample comprised 78 percent females and 22 percent males and covered a range of ages 18 years to 40 years old. Descriptive analysis was conducted and followed by regression analysis to predict attitude and subjective norms and personal factors.

4. RESULTS

In general, the finding of the study is divided into three parts consists of 1) Investment in ASNB funds, 2) Investment behaviour and 3) demographic profile of the respondents.

4.1. Investment in ANB funds

This study revealed that 53% of young respondents have invested in ASNB funds (see and Table 5)

Table 5: Invest in ASNB funds

Answer Options	Response Percent	Response Count
Yes	53.8%	63
No	45.3%	53
I don't know	0.9%	1
<i>answered question</i>		117
<i>skipped question</i>		0

Table 6 list the type of investment fund they invested. Majority of the young investor invested in Skim Amanah Saham Bumiputera (ASB) followed by Skim Amanah Saham Wawasan 2020 (ASW2020). On contrary, Skim Amanah Saham Nasional 2 (ASN2) stated 1.7%, the less favoured choice by young investors to invest their money.

Table 6: ASNB Fund Where the Investment Were Made

Answer Options	Response Percent	Response Count
Skim Amanah Saham Bumiputera (ASB)	93.3%	56
Skim Amanah Saham Bumiputera 2 (ASB2)	15.0%	9
Skim Amanah Saham Nasional (ASN)	8.3%	5
Skim Amanah Saham Nasional 2 (ASN2)	1.7%	1
Skim Amanah Saham Wawasan 2020 (ASW2020)	20.0%	12
Other (please specify)	8.3%	5
<i>answered question</i>		60
<i>skipped question</i>		57

It is important to know how frequent young individuals deposited the money to the selected investment fund. Findings in this study (Table 7) stated 45 percent of the respondents invest few times a year followed by about 26.7 percent once a month. Apart from 18.3 percent invested once a year, about 10 percent never invested in any ASNB fund.

Table 7: Frequency of Investment Made in ASNB Funds

Answer Options	Response Percent	Response Count
Once a month	26.7%	16
Few times a year	45.0%	27
Once a year	18.3%	11
Never	10.0%	6
<i>answered question</i>		60
<i>skipped question</i>		57

4.2. Investment Behaviour

In this analysis, respondents were asked about their level of agreement on attitudes and subjective norms towards their investment intention. Descriptive analysis is used to analyse the first part of the analysis that is to see the agreement of the respondents for the attitudes, subjective norms and intention. Later, regression analysis is conducted to see their relationship between attitude and subjective norms towards investment intention.

4.2.1. Descriptive Analysis on Attitude

For the first part of the analysis, this is to measure the likability of the respondents on the investment attitudes itself. Table 8 shows that majority respondents agree that investing in ASNB help Malaysian Bumiputera build up an alternate savings nest for retirement instead of depending entirely on EPF. This statement is ranked first followed by “I

believe that everyone can afford to invest in ASNB funds” and “I believe that investing in ASNB funds is easily done as the top three highest ranking of agreement. Interestingly, the respondents ranked, “I believe that the ASNB funds are Shariah compliant” as the last in the list. This could be due to most of the young investors are fully aware on the fatwa issued by Fatwa Committee of National Council (Majlis Fatwa Kebangsaan) which ruled that ASNB investment is “Harus”. The ruling is issued on the ground that PNB’s investment is non-Shariah compliant.

Table 8: Attitude Towards Investment

Answer Options	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Rating Average	Response Count
I believe that investing in ASNB funds is more appealing than other types of investment funds.	4	14	34	33	11	3.34	96
I believe that ASNB funds generate competitive returns.	2	6	34	43	12	3.59	97
rank							
I believe that the ASNB funds are shariah compliant	1	5	24	48	19	3.81	97
I believe that investing in ASNB funds help Malaysian Bumiputera to build up an alternate savings nest for retirement instead of depending entirely on EPF.	2	3	26	43	23	3.85	97
I believe that the ASNB funds are shariah compliant.	10	18	40	17	11	3.01	96
I believe that everyone can afford to invest in ASNB funds.	0	8	22	43	23	3.84	96
answered question							97
skipped question							20

4.2.2. Descriptive Analysis on Subjective Norms

Findings on subjective norms descriptive analysis suggested that majority of the respondents believed that people (friends, family, and colleagues) who are important to them strongly support the decision to invest in ASNB funds and believed that people (friends, family, and colleagues) who influence their behaviour think that they must invest in ASNB funds.

Table 9: Subjective norms

Answer Options	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Rating Average	Response Count
I believe that people (friends, family, and colleagues) who influence my behaviour think that I must invest in ASNB funds.	9	13	25	38	11	3.30	96
I believe that people (friends, family, and colleagues) who are important to me strongly support the decision to invest in ASNB funds.	8	10	25	45	8	3.36	96
answered question							97
skipped question							20

4.2.3. Descriptive Analysis on Intention

Majority of the respondents agreed to invest in ASNB. However, interpretation on this finding is approached as segmented. It is because, the distribution of agreement and disagreement between “Strongly disagree” to “Strongly agree” are rather evenly distributed. Respondents answers are mix and not absolute agree.

Table 10: Investment Behaviour: Intention

Answer Options	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Rating Average	Response Count
I plan to invest in ASNB funds in the forthcoming	14	20	24	24	15	3.06	97

month.							
I am likely to invest in ASNB funds in future.	13	14	19	32	19	3.31	97
I will invest in ASNB funds.	11	14	21	31	18	3.33	95
<i>answered question</i>							97
<i>skipped question</i>							20

4.2.4. Regression Analysis on Investment Behavioural Intention

The regression analysis was performed on sample and the R^2 for this study was 0.586 (see Table 11). The study shows that both factors were found to have a significant contribution towards investment intention (see

Table 12). Attitude towards investment is statistically significant contribution to investment intention ($\beta = 0.154$), followed by subjective norms ($\beta = 0.102$).

Table 11: Model Summary

Model	R	R Square	Adjusted R Square	Standard error of estimation
1	.772 ^a	.598	.586	.80650

Table 12 Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
1 (Constant)	-1.547	.446		-3.472	.001
ATTITUDE	1.079	.154	.603*	7.017	.000
SUBJECTIVE NORMS	.280	.102	.237*	2.752	.007

a. Dependent Variable: INTENTION

b. $p^{**} < 0.05$

Table 13 Anova

ANOVA ^{b,c}					
Model	Sum of Squares	df	Mean Square	F	Sig.
1 Regression	84.300	2	42.150	64.802	.000 ^a
Residual	57.239	88	.650		
Total	141.538	90			

a. Predictors: (Constant), ATTITUDE, SUBJECTIVE NORMS

b. Dependent Variable: (M) Investment Intention

5. CONCLUSION

Deduced from the Theory of Reasoned Action (TRA), both factors attitude and subjective norms were found to be the contributing factors influencing investment intentions, accounting for the positive belief of investing in ASNB (attitude) and the effect of the significant others on the investment decision (subjective norms). The most important determinant seems to be that of attitudes towards investment where TRA suggests that positive attitudes associated with the action influence behavioural intentions. This was found to be true in this study; positive attitudes toward investment have a significant impact on intention to invest. The likelihood of intention to invest is thereafter determined by the existence of positive attitude and also positive perceptions from those who are in close relationship with the respondent. If PNB wish to attract more investors, they should emphasise the positive attitudes on investment and at the same time need to get the authorities agreed or follow one specific Shariah compliance standards rather than many fatwa produces at different levels that might confuse customers on the Shariah compliant issues. Educating customer on their understanding on fatwa adoptions, the disputes among fatwa committee, how fatwa being produced and which authority supersedes the other, are also critical as respondents ranked lowest on the statement “I believe that the ASNB funds are Shariah compliant”. This findings implies that in reality and actual practice, it is known by most people that PNB investment is categorised as non Shariah compliant investment.

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FINANCIAL EDUCATION FOR CHILDREN: CASE STUDY ON LEARNING CONTENT AND DELIVERY OF A CORPORATE SOCIAL RESPONSIBILITY'S INITIATIVE

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ABSTRACT

Financial literacy is the ability to relate to how money works based from developed knowledge and skills. Financial education adopted in Kelab Pelaburan Bijak PNB fills the gap of children financial education in Malaysia that addresses basic concepts of financial planning and investment. Hands on activity and theory enhancement delivered in the module assist the students to identify the concept of earning, spending and saving. The need for financial education among children when they grow up as teenagers and working adult is increasingly important. This is due to greater complexity of financial products, prevalence of study loan and retirement fund planning. It is imperative to examine the content and delivery of available financial planning program for further improvements. Thus, this paper reviews the learning content and delivery of Kelab Pelaburan Bijak PNB to secondary school children. This paper, in turn, provides several recommendations to improve the content of the current module. The analyses of the content and delivery of financial planning education provided in the paper is useful for policy makers, financial providers and other education providers.

Keywords: Financial education, financial literacy

1. INTRODUCTION

In the recent years, the lack of financial literacy has attracted the attention of the government, financial industries, policy makers, academic scholars and Malaysia's general public. Financial literacy involves the skill to understand and identify the opportunity to generate income, financing services, and learn how to capitalize the available range of financial products (Tan Sri Dato' Sri Dr. Zeti Akhtar Aziz, 2004).²⁹⁰ Malaysia Department of Insolvency have recorded that more than 122, 000 people declared bankrupt from 2007 to the year 2014 with 1.5% of the total are those people aged 25 years and below (Astro Awani, 2014).²⁹¹ The same trend is supported by the report by BH Online dated 15th June 2015 ²⁹² that 173,985 borrowers was failed to repay loans amounting to RM1.23 billion over 11 years ago. These borrowers are listed on the Central Credit Reference Information System (CCRIS) from 1 January 2015. Minimal financial literacy also has negatively impacted Malaysia's Gen Y, with a total of 24,953 Malaysian from Gen Y (age of 35 and below) had been made bankrupts since 2010, according to the Insolvency Department's records (The Star Online, 22 June 2015).²⁹³

The level of financial literacy among Malaysians are also low as mentioned by the founder of Hijrah Wealth Managers Hajah Rohani Mohd Shahir on Astro Awani special episode of Agenda Awani entitled 'Pre Budget 2014: Managing Debts & Investment for Households' (Astro Awani, 2013).²⁹⁴ She also mentioned that on a scale of one to ten, the level is below five on average after considering the people in both rural and urban areas. The main reasons are because of their inability to settle the housing, cars and personal loans or for being guarantors for the nonpayers (The Star Online, 22 June 2015). In addition to the general concern on the need for literacy, this issue is vital due to the introduction of private retirement in 2012. Households with less financial literacy will not really plan for their retirement and will usually borrow with the highest interest rate (N.S. Mahdzan & S. Tabiani, 2013).

While there may be general consensus that increased understanding of financial transaction may be beneficial, it remains unclear what types of financial knowledge are most vital to good financial outcomes, and more importantly, whether greater knowledge makes a difference to later life financial well-being. Broad agreement that increased comprehension of budgetary exchange may be helpful, it stays misty and what sorts of monetary information are most fundamental to great money related

²⁹⁰ http://www.bnm.gov.my/index.php?ch=en_speech&pg=en_speech_all&ac=160&lang=en
Governor's Special Address at the Citigroup-INSEAD Women's Financial Education Summit 2004 - "The Importance of Financial Literacy Among Women in Asia"

²⁹¹ Astro Awani Online (2014, April 09). Lebih 120,000 rakyat Malaysia muflis. Astro Awani. Retrieved from <http://www.astroawani.com/videos/show/buletin-awani/lebih-120-000-rakyat-malaysia-muflis-29285>

²⁹² <http://www.bharian.com.my/node/61378> Kadir Dikoh PTPTN wajar rangka peraturan wajib potong gaji

²⁹³ <http://www.thestar.com.my/News/Nation/2015/06/22/Becoming-bankrupt-before-35-Worrying-trend-of-about-25000-Gen-Y-Msians-in-debt-over-the-last-five-ye/> Becoming bankrupt before 35
MARTIN CARVALHO AND NURBAITI HAMDAN

²⁹⁴ <http://english.astroawani.com/business-news/low-financial-literacy-among-malaysians-says-financial-planner-23442> Low financial literacy among Malaysians, says financial planner October 08, 2013 07:30 MYT

results, and all the more imperatively, whether more noteworthy learning has any kind of effect to later life monetary prosperity.

2. FINANCIAL EDUCATION INITIATIVES IN PERMODALAN NASIONAL BERHAD

Kelab Pelaburan Bijak PNB 1 Malaysia (KPBPNB1M) formerly known as Kelab Pelaburan Bijak PNB was established by the Permodalan Nasional Berhad (PNB) in partnership with the Ministry of Education and was launched on the 22 April 2000 by the Minister of Education Tan Sri Dato' Seri Musa bin Mohamad. To date, the initiative benefited 500,000 students in Malaysia (Tan Sri Ahmad Sarji, 2015). The initiative championed by Corporate Social Responsibility's department in PNB. KPBPNB1M is one of the approaches adopted to deliver integrated investment education to all Malaysians in line with the goal of producing an investment literate society. The other objective of the establishment is to create awareness and deliver knowledge on investment and financial planning to secondary school students.

2.1. KPBPNB1M: The Delivery

KPBPNB1M syllabus is adopted in 104 selected secondary schools throughout the country.²⁹⁵ The KPBPNB1M's club members consist 20 to 40 of students from form one to form five. The club is coordinated by two teachers, overseen by the deputy head teacher in charge of student affairs. Members of the club meet once a week for two hours on extra-curricular activities' day, either Wednesday or Saturday depending on the school's schedule. The club received funds and support from PNB to manage and to carry out the planned activities throughout the year. The educational efforts are managed by PNB employees in the Department of Corporate Social Responsibility. The size of the force in the department made it possible for PNB's team to closely monitor the performance of each school. To manage the flow of information to and from the department and the club, a dedicated webpage was designed.

The teachers are responsible to manage the club upload information about activities designed throughout the year. CSR's department team monitor and evaluate club's performance using the information shared on the webpage. To enhance communication between CSR's department and the participating schools, yearly workshops are conducted regionally. In the workshop, teachers and CSR team discussed the performance of each club and improvements of the content and delivery that could enhance the performance.

There are five main activities that has been designed that required to be implemented each school and will be evaluated by the PNB representatives. The next sub-section discusses the training content in greater detail.

²⁹⁵ http://www.pnb.com.my/aset_e.php#inline2

2.1.1. Content development

The module is structured to cover fundamental aspects of financial planning and investments. The members of the club conduct activities in or outside classrooms depending on the club coordinator's creativity. Club members will need to complete the activities from ten developed topics in KPBPNB1M.

The activity book was introduced to KPBPNB1M's syllabus in 2010. The content has undergone a review that was conducted in 2014, which transformed the book from a reference book to an activity book. The book was developed by the CSR and education department of PNB, led by a consultant specialising on financial planning. The content of the book benefited from rounds of discussion between the employees in relevant departments in PNB and the consultant.

2.1.2. Training the Trainers

The trainers who are the club coordinators in charge with the use of the book in schools are trained in Training the Trainers' (ToT) workshops. Two workshops were held trainers are club coordinators from designated zones such as North, South, Sabah and Sarawak, Kuala Lumpur and the Klang Valley and the East Coast Zone every year. Two teachers and senior assistant coordinator of co-curricular clubs are grouped for each zone for discussions and workshop activities to improve the modules.

2.2. KPBPNB1M: The Content

The module of the financial education designed for KPBPNB1M consists of several sub-modules.

2.2.1. Core Activities

First is the core activities. These activities are designed to motivate and to instil excellence attitude and build self-esteem among the club members. The activities are also expected to generate the awareness among the members to identify and rectify their weaknesses through more positive changing attitudes and thinking. The practices of core activities also enable the club members to exchange views with other club members from other schools across the country as some of the activities are conducted at states and national level.

Among activities categorised within this category are motivational seminars to develop personal enhancement, study visits and career exposure, following by club day with investment themed activities and national conventions will be conducted and reported to PNB.

2.2.2. Focused Activity

Focused activity is designed as an attempt to expose the club members to the basics of investment and financial planning. In addition, this activity is carried out in the form of competitions such as speech contests, essay writings and debates. The objectives of the activities are to expose the club members with the knowledge related to investment and financial planning, to promote awareness towards the importance of

investing and financial planning towards the development of personal, family, society and the economy. Besides that it is also become a platform for the schools to identify the student's writing talents and skills while educating students to develop their skills in presenting their ideas convincingly.

2.2.3. Interactive Activity

Interactive activity is a platform to transmit information to club members around the country. KPBPNB1M's webpage is the main platform for the club members to interact among themselves and to develop a monthly newsletter. The webpage is also used to report the achievements and capabilities in carrying out creative and education oriented activities organized by each club.

By participating in the interactive activities, the club members are utilizing the information technology in delivering effective and accurate communications and helping to improve the ongoing campaign for every activity carried out by the club. It is also to provide a space and platform for the club members to update on current activities and trips through discussion forum in the website. The website also become channels for club members to submit and express their views and suggestions to improve the KPBPNB1M programs.

2.2.4. Special Activities

Special Activities are conducted in partnership with various units in PNB and Amanah Saham Nasional Berhad (ASNB), a PNB subsidiary company such as the Corporate Relations Unit, Minggu Saham Amanah Malaysia (MSAM) and the Department of Marketing and Branch Operations ASNB.

The main objective of special activities is to promote financial planning and investment knowhow among the club members. The activities also help fostering the relationships with local communities and students with PNB and its investment company. Activities such as Financial Planning workshops, Investment Quiz Competition, Intelligent Community Centre and Financial Planning Seminar by ASNB are conducted in each school.

2.2.5. Weekly Activities: Buku Aktiviti KPBPNB1M

Weekly activities forms majority of the content for financial planning module in KPBPNB1M. The module is structured to cover fundamental aspects of financial planning and investments. The members of the club conduct activities in or outside classrooms depending on the club coordinator's creativity. Club members will need to complete the activities from ten developed topics in KPBPNB1M.

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The objectives of the book are i) to provide a platform for the coordinators to convey the knowledge on financial planning and investment to the KPBPNB1M club members in school, ii) to disseminate basic sources of knowledge of financial planning and investment as a guide in the future, iii) to provide information on financial planning and investment to the students before leaving the school era and iv) to act as reference to realize the goal of making schools as an agent of enlightenment about financial planning and investment education to the schools community and the surrounding community.

Topic 1 deals with the introduction to the basic concepts of planning; what is financial planning, why do financial planning, steps to realize dreams through smart financial planning and the advantages of early financial planning. The topic also emphasizes that financial planning is one of the branches where the need to set the priorities and plan any ways to achieve the financial goals. The activities in this topic including the concept of needs and requirements emphasized students to know how to differentiate between goods and services that are necessary for living. Students also are emphasized on the benefit of financial planning. The knowledge is useful helping to mitigate the effects of inflation as a result of continuous price increases and managing cash flow and debt.

Topic 2 emphasises the issue of financial goal. Effective financial goal has to be divided into three types which are short term, medium term and long term. To enhance the understanding on setting financial goals, activities are designed for the students to appreciate the functions of money; spending, investing or donation, setting for short and long term goals, benefits and risks of saving and investment were designed. These activities encourage students to work in a group and think outside of the box to complete the activity task.

Topic 3 focuses on cash flow analysis. Students will be described about the definition of outgoing and ingoing cash flow and the definition of asset and liability. Using cash flow formula, students will be required to identify surplus or deficit and the calculation is based on students' individual expenses for a month. Guided by the coordinator, students need to identify the overall cost and monthly commitment if they are purchasing their dream car and their first asset. Before that based from case study given, students are required to differentiate incoming and outgoing cash flow and dichotomise between asset and liability to ensure their understanding on the topic.

Topic 4 deals with savings. The topic discusses the purpose of saving money and tips on how to build savings. To build savings, ingoing cash flows must be more than the outgoing cash flows. Students are exposed with simple tips such as monitoring and setting the target of amount to be saved and identifying the goods to be purchased using priority analysis using the scale of 'Very Important', 'Important' and 'Not

Important'. In addition, students are also reminded to spend within their mean and not to spend lavishly.

Topic 5 concentrates on budgeting. Budgeting is a tool to manage spending and savings. A successful budget is based on the distribution of income and expenses prudently. Ways to spend money wisely are buying necessary things, students should be meticulous in spending and plan your purchases in advance. By learning the tips, students are exposed to the idea on how to manage their spending thus avoiding unnecessary purchases. Students are exposed to budget creation; determination of the amount of daily, weekly or monthly and subsequently identify the amount of our expenses for instance the price of food, books, stationery and others. Prior to spending, students are taught to set aside some money for savings and emergencies.

The activities in this topic are i) Price Detective, ii) Individual Expenditure Report, iii) Adverse Effects of Being Wasteful, and iv) Oh Belanjawanku!. Price Detective exercise trains students to compare prices before making purchase of goods. Each group identify three types of goods in newspaper or price catalogue and list down three different items for each category, e.g. food, toiletries and household equipment. The students are required to compare the price of each item selected in three different places (grocery store/ supermarket). Students are to calculate how much can they save by shopping the cheapest items. By doing this activity, students can experience on how they parents purchasing goods and they must plan before purchasing any goods. The second activity is preparing Individual Expenditure Report. Each student has to list down their monthly income and expenses then calculate whether they receive surplus or deficit.

For the next activity, students are given a few images that show the effects of being wasteful. In groups, students need to discuss the effects of waste money. The last activity for this topic is 'Oh Belanjawanku'. This activity is to train students to create budgets for programs run by the school such as Teachers' Day, the celebration of the Annual Sports Day and Curriculum Day. Teachers will guide students to prepare the budget for the programme. To prepare the budget, students must show the calculation of income, expenditure and surplus/deficit.

In Topic 6, students are exposed to Roadmap after SPM Flow Chart. In the flow chart, students are exposed to their direction after SPM. They have the choice of either to pursue their studies in pre-university program, which is Form 6 and Matriculation Program or entering the Institutions of higher learning. Cost comparison of learning in local universities and overseas are discussed so that the students will know the comparative costs between studying local and overseas. Thus, students can plan on how raise money to further their study either via takaful education savings, unit trust investment, self-funded, study loan or scholarship.

In the first activity, students are required to draw a graph of the comparison of the cost of studying in local universities and overseas. From the graph, they would know the difference of cost incurred. The next activity is to find course of study and their preferred university. Students can visit the website and find information on the course of study besides searching their preferred universities. At the end of the session, students will present their findings in front of class. For the third activity, students have to plan their future and plan what they are going to do in five years. They also

need to plan their journey to achieve their goals. Besides that, they need to find other alternatives if the plan is unsuccessful. In the final activity, each group has to identify any scholarships that can be applied and what are the conditions required. Then, they have to write down the information on white paper and perform short presentation before the class.

Topic 7 explains about Time Value of Money. The time value of money is a concept that explains that the money in hand today is worth more than money, which is expected to be received in the future. RM 1 today is worth more than the sum of RM 1, which will be available in the future. Students will be exposed to the concept of "Future Value" and "Present Value". Future value (FV) refers to a method of calculating how much the present value (PV) of an asset or cash will be worth at a specific time in the future. Present value describes how much a future sum of money is worth today. Activity one requires students to compute the PV and FV. Then, in the second activity, students are given the situation and they need to calculate the annual rate of return paid on savings. The fourth and fifth questions also involve situations where students have to do calculation on of FV and PV.

Topic 8 deals with the issue of investment. In the Activity Book, students are learning about the definition of investment, types of investments, and the characteristics of education takaful. Investment is an asset or item that is purchased with the hope that it will generate income or appreciate in the future. Investments can be categorised into fixed asset investment and financial assets. The type of investment is unit trusts, shares, bonds, real estate and cooperatives. In addition, one of the examples of characteristics for education takaful products in Malaysia are provide special education plan for children aged from 30 days to 12 years and cover a period of 6-22 years.

The activities in this topic are i) Let's Invest, ii) Monopoly game, iii) What is Takaful and iv) Dream Investment. Through these activities, students will learn a bit of information about the investment, makes the justification of the investment to be made and estimate the benefits that would be gained.

Topic 9 discusses investment in trust units marketed by ASNB. Investment in ASNB unit trusts aims to generate a reasonable return in the form of capital growth and income distribution to unitholders by investing in a diversified portfolio. Amanah Saham Nasional Berhad (ASNB) is a wholly owned subsidiary of National Capital Berhad (PNB) which is responsible for managing the unit trust fund AS1Malaysia, ASB 2, ASN, ASN 2, ASN 3, ASG-Pendidikan, ASG- Health, ASG-Retirement, ASB, ASW 2020, ASM and ASD. ASNB was established on May 22, 1979 to manage the unit trust fund launched by PNB. For more than 35 years of presence in the industry, ASNB continues to maintain its position as the leading unit trust management companies in the country, holding more than 40% of the total units in circulation.

Students are also exposed to unit trust investment. Among the benefits are long-term savings and generally provide more competitive returns compared to others. In addition, other benefits when investing in unit trusts are investment diversification across various asset classes and different sectors will reduce investment risk and can be purchased according to ability based on the unit price.

This topic highlights the ‘modus operandi’ of unit trusts. A unit trust fund is an investment scheme to collect money from the public to a special fund managed by professional investment managers. Unit trust is established by a signed deed. It is an agreement between the trustee, manager and unit holders. Deed that is registered with the Securities Commission describes the rights, obligations and liabilities of the trustee and manager. Unit trust fund will invest in equities, fixed income securities and other assets permitted under the Guidelines on Unit Trust Funds. Fund managers must comply with the requirements of the Deed, Capital Markets and Services Act 2007, the Guidelines on Unit Trust Funds and law and other applicable regulations. Independent auditor appointed to provide unit trust account statements every year (<http://www.asnb.com.my/learningcenter.php>)

Through the website activity, students have to answer the questions based on ASNB website. By doing this activity, they will get information about ASNB and unit trusts. Students have to solve crossword puzzles in Activity 2. The terms used in this topic are the keyword for the puzzles. Activity 3 is a group work discusses the operation of unit trust funds work, taking the example of one type of unit trusts, which are available on the website. After that, they have to present the findings in front of class.

Topic 10 covers debt issue. Students are taught about the definition of financing, which is a sum of money received from the financial institution and must be repaid. Financing can be divided into short-term loans and long-term loans. The purpose of financing is to finance significant purchases, for instance buying a house or a car. Financing could bring harm if not managed effectively. In addition, this chapter explains about the sources of financing. Finance could be raised via borrowings from family members, friends, financial institutions etc. Students are taught on the danger of debt overburden. Among the mistakes are i) applying financing without specific reason, ii) not paying financing timely iii) using financing to finance unlimited wants. Information about credit cards is also provided in this topic. Credit cards allow cardholders to purchase goods and make payments electronically without the need to use cash.

Credit card is a card issued by a financial company giving the holder an option to borrow funds, usually at point of sale. Credit cards charge interest and are primarily used for short-term financing. Interest usually begins one month after a purchase is made and borrowing limits are pre-set according to the individual's credit rating. Most credit card issuers impose a finance charge of 1.5% per month, compounded daily or monthly basis.

In this topic, students have to classify the types of financing; short-term, medium-term or long-term. For the next activity, students need to calculate the credit card charges by using the calculator on the website (www.akpk.org.my/tools/calculator). Through the activities, students gets exposure about debt and the negative side-effects of debt.

In summary, the financial education module adopted in KPBPB1M covers conceptual and practical aspects on financial planning. The modules contain fundamental aspects of financial planning and investment which covers budgeting, cash flow, debt management, time of value concept, unit trust and takaful investment. In addition, the module caters higher education route and options of higher education financing.

3. MOVING FORWARD: ENHANCEMENTS TO CONTENT AND DELIVERY OF FINANCIAL EDUCATION INITIATIVE

Formally, financial education is not a subject that is normally covered in schools. Some degrees of education are provided by regulators of financial services industry, namely Securities Commission and Bank Negara Malaysia. Some financial planning educational initiatives are offered by financial institutions to their customers as a form of customer protection. Thus, the educational initiative practiced by PNB is the first educational programme in Malaysia intended for school children.

The operation of this initiative could be replicated to all secondary schools in Malaysia. In addition, this exercise should also focus on all levels of students from age seven to university students. This is due to increased complexity of financial products, the prevalence of students having study loan and the need for individuals to self-manage their retirement funds.

From the engagement with the teachers in charge of KPBPNB1M, we found that some improvements could be made. In term of content, the module could be improved to include topic of money management in micro and small and medium enterprises. Inclusion of this issue in the module reduces the gaps of financial education initiatives to the Ministry of Higher Education's initiatives that encourage entrepreneurship efforts among university students. The inclusion of financial education in such programme enriches the content that is relevant to the students. By supporting the current initiatives, greater amount of support from government to the programme could be achieved.

Secondly, the content could be enhanced to include content that addresses the issue of quick-rich scheme. Financial literacy with regards to this issue could help the students to fell victims to quick-rich scheme and other bogus investment schemes.

Finally, the CSR department could establish a second volume of Buku Aktiviti that covers other areas of financial planning not previously covered in the current module. With the background of the fundamental financial planning knowledge and skills, the issue of personal risk management, debt management, investment risks and options and retirement planning coverage on financial planning could be introduced.

4. CONCLUSION

This paper primarily analysed the content and delivery of financial planning module adopted in KPBPNB1M. This paper, in turn, provides several recommendations to improve the content of the current module. The analyses offered in this paper on financial education module and content could be used by the policymakers to improve current initiatives.

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FINANCIAL LITERACY EDUCATION PROGRAMME IN MALAYSIA

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ABSTRACT

Financial literacy education programme has economic and social importance. It educates individuals to manage their own finance and improve their overall financial wellbeing. The proliferation and complexity of financial products and services in the market triggers the need for public to have certain level of financial literacy so that they are able to make wise financial decision making. The objective of this paper is to provide a comprehensive review on the financial literacy education programmes conducted in Malaysia initiated by various players namely government agencies, related industries, communities and workplaces. This paper will be useful towards the policy on financial literacy education in term of the availability of the programmes to the intended groups of population and the scope of the training programmes to be delivered.

Keywords: Islamic financial planning; financial planning programme; financial literacy

1. INTRODUCTION

Financial literacy education programme provides guidance for consumers to make wise decision and execute proper planning for every stage of life cycles. There are five planning cycles which starts from wealth creation or wealth generation (cash flow and liability management), wealth protection (risk management and takaful planning), wealth accumulation (Islamic investment planning), wealth purification (zakat and tax planning) and wealth distribution (Shariah retirement and estate planning). In order to have these planning in place, people need to have a certain level of financial literacy skill.

The needs for financial literacy education has been significant with among others, the proliferation and increased complexity of financial products, deregulation of financial markets, easier access to credit facility, innovation in the marketing of financial products and the independency of people (from government) to plan for their own retirement income.

The proliferation of various financial products in the market results in difficulties on behalf of customers in comprehending and differentiating each product. The complexity of financial products in the market including hybrid financial products such as investment-linked, private retirement scheme (PRS), fund of fund, real-estate investment trusts and derivatives further complicates financial decision making. Consumer needs to be financially literate in order for them to choose the best financial products that suit their need at their life cycle stage. Deregulation in financial market also has resulted in increased competition in the financial industry. One of the implications is financial institutions make access to their credit facilities easier in order to increase their market share.

Among the implication of financial illiteracy is the increased number of consumers declared bankrupt. Recently, it was reported that about 20,000 Malaysians were declared bankrupt in 2013, which is a 12 percent increase from last year, 2012 (Zahiid, 2014). This number is said close to double the numbers recorded in 2007. Statistics showed that those who defaulted on car loans continued to top the list of bankrupts followed by guarantors.

The rising number of household debt is also partly due to lack of ability in managing own finances among Malaysian. The easing of credit policy by the Malaysian government and the low level of interest rates these years have attracted people to borrow for buying property for own living and also for investment. However, consumers have taken this opportunity by maximising the loan eligibility to the maximum amount of loan and to the maximum loan tenure. This leaves consumers in fragile financial situation if there is an income or economic shock. There are also news reported that consumers are prone to become victims for illegal investment and financial scheme such as Swiss Cash scam.

Financial problems are key to depression, divorce, stress and low productivity among employees. Financial literacy and financial planning education is significant to ensure individuals are able to make informed financial decision and improve financial wellbeing. This article is organised as follows. Section 2 provides the background on financial literacy and financial planning programmes and the objectives it aims to achieve . Section 3 provides a comprehensive review on financial planning programmes conducted by government agencies, related industries, communities and workplaces. Section 4 concludes the paper.

2. BACKGROUND ON FINANCIAL LITERACY EDUCATION PROGRAMMES AND THE OBJECTIVES ITS AIM TO ACHIEVE

Financial literacy is a combination of awareness, knowledge, skill, attitude and behaviour necessary to make sound financial decisions and ultimately achieve individual financial wellbeing (Atkinson, 2011). Financial education is the process by which individuals improve their understanding of financial products and concepts; and through information, instruction and/or objective advice develop the skills and confidence to become more aware of financial risks and opportunities, to make informed choices, to know where to go for help, and to take other effective actions to improve their financial well-being and protection (OECD, 2005). It is belief that financial education helps individual to improve financial literacy and financial decision.

The needs for financial education programme emerged when the Organisation for Economic Co-operation and Development (OECD) reported in 2003, that there were low levels of financial literacy in all OECD countries. In 2008, the OECD launched the International Gateway for Financial Education (IGFE) to serve as the first global clearing house on financial education. The main objective of this initiative is to raise awareness on the importance of financial education and to widely disseminate the research output, best practices and guidelines and to build a worldwide network of government stakeholders on financial education. Since then, several countries, mostly members of the OECD, have developed and implemented their own national strategies on financial literacy.

Malaysia for example has started its financial education through the central bank, Bank Negara Malaysia (BNM). BNM through its agency, AKPK or Credit Counselling and Debt Management Agency (CCDMA) has developed various types of financial education programme to assist people to manage their finances.

3. MALAYSIAN FINANCIAL LITERACY POLICY FRAMEWORK AND FINANCIAL PLANNING PROGRAMME IN MALAYSIA

In view of the importance of financial literacy and financial education, Malaysian government has taken numerous steps to ensure that financial literacy programme becomes one of the main agenda in building the national policy framework.

Malaysia has launched a ten year national policy called the New Economic Model (NEM) in 2009. This policy aims to transform the country into a high income-based country by the end of 2020. This aspiration is only achievable if the grass root of the problems is tackled well such as the issue of deficient level of financial literacy among Malaysian. Through the Economic Transformation Plan (ETP), Malaysia aims to improve the issue of low level of the Malaysian financial literacy. The low level of financial literacy hinders effective participation in economy and investment in the Malaysian capital market. Out of 16 chapters outlined in the ETP, one chapter (Chapter 7) is dedicated to Financial Services. In this chapter, BNM is responsible to lead the creation of a coordinated national financial literacy programme based on a public-private partnership. Financial education has been identified as an enabler to ensure financial services sector could contribute to propel Malaysia as high-income nation. Among the areas that are highlighted in the financial education programme are e-payment, insurance and pension.

Besides, BNM has launched the Second Financial Sector Blueprint which provides a ten year direction of financial system, from 2011 to 2020. One of the nine focus areas is **“Empowering consumers”**. In this area, BNM provides a comprehensive and holistic approach towards consumer protection and education which will be pursued in collaboration with various stakeholders. The aim is to promote a culture of mutual responsibility shared between consumers, who are empowered with the knowledge, skills and financial literacy to manage their personal wealth, and financial service providers, who uphold fair and responsible dealings in the conduct of their business.

The infrastructure to support greater consumer empowerment will be strengthened through establishing single consumer credit legislation, integrated dispute resolution system and an enhanced credit information framework. Measures to promote financial capability among consumers through the integration of financial curriculum at schools and targeted financial literacy programmes based on life events will be pursued”. The related recommendations for this are to “Promote financial capability as an essential life skill from an early age through the integration of FE into the formal curriculum...” (Recommendation 5.2.1), “Adopt life events approach to the development and delivery of programmes & encourage greater collaboration among stakeholders...” (Recommendation 5.2.2) and finally “Strengthen the enabling infrastructure by providing comprehensive access to financial education info and introducing a mechanism to gauge the financial capability of consumers and enhancing the effectiveness of the implementation of financial education initiatives.” (Recommendation 5.2.6)

Besides the national policy framework, there are various initiatives from the government, industry, community and employers to provide financial education programmes. Providing financial education programmes is believe to be the best option to increase financial literacy and improve financial wellbeing among Malaysian.

3.1. Government initiatives

Malaysian government has taken various initiatives to provide financial planning programme to the public across population. These programmes are principally financed, administered and delivered by government through relevant government departments and agencies such as Bank Negara Malaysia (BNM), Securities Commission (SC), Agensi Kaunseling dan Pengurusan Kredit (AKPK) (also known as Credit Counselling and Debt Management Agency (CCDMA)).

The Bank Negara Malaysia (BNM) has started to drive financial education initiatives at the national level. Among the initiatives are (1) setting strategic direction, – Integration into school curriculum; School adoption programme; school financial club; adult education via AKPK and (2) identification of target groups and priority areas – for examples, school children, youths, lower income households and teachers. In another programme, the BNM also collaborated with MOE in integrating Financial Education (FE) into the school curriculum from 2011 to 2013.

In addition, there are a number of investors' education programmes conducted by the Malaysian Securities Commission (SC). Among them are the "National Smart Investment Campaign" which was held between October 2012 and March 2013 which reached close to six million new and potential investors.

In 2006, AKPK was established as part of Bank Negara Malaysia's (BNM) Financial Sector Master Plan, a 10-year plan aimed at developing and boosting the country's financial sector. AKPK was put in place to provide financial counselling and advice, debt management and financial education to help Malaysians take control of their finances. Along with that, AKPK aims to help all individuals seeking services to not only take charge of their financial situation, but to further gain peace of mind from living life through the wise use of credit.

Employee Provident Fund (EPF) in September 2013 organised an International seminar entitled "Towards Securing a Comfortable Retirement". This seminar provided a platform to participants and employees to kick start their road map in retirement planning. Besides employees themselves, it was also recommended that 500,000 employers registered with EPF to lead the way to initiate an education programme at their workplace to enhance employees' know-how on financial management. The seminar which is part of the EPF's efforts to help its members to attain a sustainable retirement assembles international experts and policy makers to share their expertise and financial literacy best practices with the participants. Other initiatives led by the government are outlined in Table 1 below.

Table 14 List of financial education programme initiated by Malaysian government

	BNM	SC
Agency	AKPK (CCDMA)	SIDC
		<u>Be Money Wise</u>
	Bankinginfo	<i>This practical programme by the Securities Commission of Malaysia (SC) is conducted via seminars to assist parents, rural communities, blue collar workers & women to understand money management, increase familiarity with investing, create awareness of investors' rights and responsibilities and develop resistance to scams.</i>
	Insuranceinfo	<u>Cash@campus</u>
		<i>This programme by the Securities Commission of Malaysia (SC) especially tailor-made for university students to increase their capacity in managing savings & developing investment capability.</i>
	Duitsaku.com	<u>Investor Clinics</u> is a programme which takes the Securities Commission of Malaysia (SC) to the public to increase its reach in its investor education efforts and access to SC across the nation.
	Financial Consumer Education and Awareness	<u>Investor education radio series</u>
		<i>A nationwide multilingual radio series to allow the Securities Commission of Malaysia (SC) to deliver key financial literacy messages frequently and consistently in a cost-effective manner.</i>
	<u>Financial and credit information</u>	<u>Investor website www.min.com.my</u>
	<i>This programme by the Credit Counselling and Debt Management Agency (AKPK) seeks to provide a variety of educational services designed to help individuals take control of their financial situation and use credit wisely.</i>	<i>The Malaysian Investor website provided by the Investor Education Department of Securities Industry Development Corporation (SIDC), the training and development arm of the Securities Commission Malaysia, is dedicated toward educating Malaysian investors so they are protected from fraudulent transactions to the maximum extent possible and able to make choices as informed market participants.</i>

Consumer Education Programme
to promote financial capability of consumers

The CEP was implemented with the launch of informational materials on banking and insurance products by the Central Bank of Malaysia/ Bank Negara Malaysia (BNM).

Kids & Cash and Teens & Cash

This programme by the Securities Commission of Malaysia (SC) is an interactive & engaging programme aimed at inculcating young people with a money management culture & basic understanding of investment.

Money@work

With this programme by the Securities Commission of Malaysia (SC), employees of public & private organisations learn how to take control of their finances and plan for a safe and secure future.

Train the trainer for Teachers (Kids and Cash and Teens and Cash module)

The Securities Commission of Malaysia (SC) trains teachers for the Kids & Cash and Teens and Cash modules, to equip schools and teachers with the knowledge and skills to develop children financial literacy and discipline.

3.2. Financial planning industry initiatives

There are a handful of programmes organised by the industry players related to financial planning. Each of the programmes has differentiated objectives and deliverables depending on the nature of the industry the providers come from. This section will sample financial planning programmes by financial planning associations that also act as ‘Self Regulating Organisations’ in financial planning industry. Two financial planning associations operate in Malaysia; a home-grown association and an international association having its presence in Malaysia. Both offers ranges of financial planning certifications and trainings for conventional financial planning and Islamic financial planning stream. In addition, this section will cover the programmes conducted by IBFIM, the leader in the Islamic banking industry that offers training programmes for practitioners in industries related to financial planning, such as Islamic bankers that offers ranges of wealth management products and takaful operators that offers risk management solutions and investment-linked protection products. IBFIM offers certifications for Islamic finance practitioners for various tracks, namely, Islamic banking, Islamic wealth management, takaful, and Islamic capital market.

In general, financial planning services in Malaysia were generally product-centred, where the emphasis was on marketing of specific products. A specialized approach to offering financial planning services that focused on the needs of clients are conducted by certified financial planners. To provide certification and training to financial planners, Financial Planning Association of Malaysia (FPAM) was formed in 1999, comprising members from the fields of unit trusts, stock broking, law and accounting, in addition to insurance. It was awarded the licence to conduct CFP (Certified Financial Planner) examinations by the CFP International Council in September 1999. FPAM and IBFIM introduced its inaugural Islamic Financial Planning (IFP) certification starting in 2008. As in year 2011, there are more than 300 financial planners being certified through Islamic Financial Planner (IFP) of IBFIM (Islamic Banking & Finance Institute Malaysia) and Shariah Registered Financial Planner (RFP) of Malaysian Financial Planning Council (MFPC).

A home grown financial planning association is Malaysian Financial Planning Council (MFPC) that was formed in 2002, with the primary aim to promote financial literacy as well as enhancing financial planner as profession in the country through professional education and training. Promoted by LIAM, NAMLIFA and MII, the MFPC awards the Registered Financial Planner (RFP) designation. Holders of FChFP and ChFC may apply for conversion to RFP. MFPC aims at becoming the national body responsible for unifying financial planning services and strengthening the accountability, conformance to laws, regulations and ethics in the profession. MFPC has its Islamic financial planning track referred to as Shariah Registered Financial Planner.

The module of the certification programmes offered by FPAM and MFPC aims at developing skills to perform besides improving the candidates' knowledge. Programs that have been introduced to participants or candidates are needed to develop the quality of practitioners in Islamic financial services. Clients will undoubtedly believe the practitioners who have the knowledge and skills. According *Financial Planner Associate Malaysia* website, there are six modules applied in their Islamic Financial Planner program as syllabus. The first Module: Fundamental of Islamic Financial Planner, Second Module: Risk Management & Takaful Planning, Third Module: Islamic Investment Planning, Fourth Module: *Zakat* & Tax Planning, Fifth module: Islamic Estate, Retirement and *Waqf* Planning, and Sixth Module: Plan Construction and Professional Responsibilities.

In the *Malaysian Financial Planning Council* website, there are seven modules in the Registered Financial Planning Program provided for their candidates. The modules are: Fundamentals of Financial Planning, Risk Management & Insurance Planning, Investment Planning, *Zakat* & Tax Planning, Estate Planning, Retirement Planning and Application in Financial Planning. Both programs are designed by financial planning providers for their candidates to meet customer's needs.

These programs offer their candidates with Islamic products in the module given. It can develop and create quality candidates who are able to provide good services to their client based on their skills and knowledge. Trustworthiness is a factor for customers when choosing wealth management providers. It is to define the relationship of attitude behaviour to the wealth management services that are provided by banks in China.

This shows that having a certified qualification would build client's trust to the Islamic Financial Planner (IFP) in their quality of services. The understanding and providing good services will build trustworthiness with the Islamic financial planners and their clients as well as the impact to the country's development.

In addition to the financial planning association, Islamic banking industry has been benefitting from the training programmes offered by Islamic Finance and Financial Institute in Malaysia (IBFIM) in four areas related Islamic banking and finance, takaful, Islamic wealth management and Islamic capital market. These areas are related to financial planning at various degrees. The trainings are conducted at the basic, intermediate and advance level for four pillars previously stated. At the basic level, Associate Qualification in Islamic Finance (AQIF) serves as the building blocks for Shariah knowledge grasps among the practitioners in Islamic banking industry with the delivery of Shariah modules at this level of training. Intermediate Qualification in Islamic Finance (IQIF) is the specialisation route for the four pillars; Islamic banking and finance, takaful, Islamic wealth management and Islamic capital market. At current, the Islamic banking pillar is the most subscribed programme. The

top of IBFIM training apex is Advanced Qualification in Islamic Finance (AdvQIF). Islamic wealth management pillar is the only sector that produced qualifiers as in May 2014.

In addition to the financial planning associations and training institutes, financial planning companies involves with the provision of financial planning service to the individuals. Financial planning companies are regulated by Securities Commissions (SC) of Malaysia. The activities are regulated under Capital Market Service Act 2007. A Financial Planner is defined as a person who analyses the financial circumstances of another person and providing a plan to meet that other person's financial needs and objectives'. To be a representative of a financial planning company, the person must hold either a CFP, ChFC or Registered Financial Planner (RFP) qualification. A qualified person for financial planning can apply to be a Capital Market Services License holder. He must have a minimum 8 years relevant experience and have net worth of RM 50,000. An SC licensed person is also required to fulfil the Continuing Professional Education (CPE) requirements. 20 CPE points per year is required for license renewal. The Capital Market Service License is granted to the companies that deal with investment advisory. Nine companies are listed as license holders by SC as in June 2014. On the other hand, Bank Negara Malaysia (BNM) regulates the service providers that offer financial planning advisory of financial products, especially insurance and takaful. As at 30th September 2013, approved financial advisor companies stand at eighteen numbers of companies. Individual financial advisor representatives are positioned within these companies to advice on the clients of the companies.

3.3. Community

Several community groups has also participated in providing financial planning programme and most of the time it is a collaboration work with government departments or agencies or private sector. Recently, The Federation of Malaysian Consumers Association (FOMCA), the Association of Banks in Malaysia (ABM) and the Bank Negara Malaysia (BNM) jointly organised Financial Literacy Month of Malaysia in October 2013. This event was launched in 2011 and this year was its third event. The theme for the latest is "*Financial responsibility begins with me*".

AKPK also offers financial education programme to community targeting those who are not in the education, employment or training sector. The organisation has been organising financial education and financial planning programme with community and religious centres, consumer associations and non-government organisations (NGOs) to reach larger community base and work through the existing networks of training, education and outreach. For example AKPK collaborates with Jabatan Kemajuan Islam Malaysia (JAKIM) on implementing various financial awareness programme. Some of the programmes are implementing a Personal Financial Management (PFM) module into the compulsory pre-marriage courses, and (2) introducing sermons before Friday prayers on different topics centred on PFM and its relation to Islamic teachings.

Pengurusan Wang Ringgit Anda, POWER! programme is specially designed to equip young individuals and new borrowers by empowering them to manage their finances responsibly through well-informed borrowing decisions. The programme, a joint partnership between BNM, AKPK and the banking industry, will be offered and managed by AKPK (AKPK, 2014).

Alliance bank with BNM “In 2012, the Bank launched an exciting Financial Literacy programme for young students in schools called the Money & Math Challenge. The Challenge aimed to teach young Malaysian children at an early age about how money really works, and equip them with basic money-management skills and habits such as saving regularly and spending wisely. This is so that the children will grow up to become financially-responsible adults when they grow up to avoid the problems due to bad money-management habits that we see in many young adults today. The Bank also supports nationwide initiatives for schools, organised by local government and non-government agencies. For example, the Bank participated in Bank Negara Malaysia’s 2011 Annual Financial Education Workshops for Teachers and School Children - Alliance Bank employees in Johor Bahru organised a financial education workshop for 35 teachers at the Taman Molek branch (Alliance Bank, 2014).

Personal financial planning initiatives are also provided by Non-Governmental Organisations (NGOs). An example of not-for-profit-organisations’ players is the Association of Islamic Financial and Wealth Management (AIFiWM). The association was registered in 21st March 2006 that aims to champion the cause of Islamic wealth management especially in the area of Islamic estate management. The establishment was initiated by seven industry players in the wealth management industry, namely Amanahraya Berhad, CIMB Trustee Berhad, Hijrah Strategic Advisory Group Sdn. Bhd, Amanah Hibah Sdn. Bhd, Persatuan Peguam-Peguam Muslim Malaysia, Persatuan Peguam Syarie Malaysia and Zar Perunding Pusaka Sdn. Bhd. AIFiWM also offer Islamic financial planning certification to would-be Islamic wealth managers. The certification of Perunding Kewangan Syariah (Shariah financial consultant) contains seven modules that covers the comprehensive scopes or components of financial planning.

3.4. Workplace

Workplace financial education commonly includes the programs such as retirement planning, benefit of education, financial management, credit management, college planning, investments, estate planning, insurance, major purchases (vehicle or house), and tax planning (Joo and Garman, 1998). Workplace financial education programs have been found to increase the participants’ confidence in their investment decisions, change their attitudes in positive directions (Fletcher et al., 1997), and improve their financial management, such as saving more money (Bernheim and Garrett, 2003).

Despite the overwhelming respond from both government and private sectors, employers hardly seen to provide exclusive financial planning programmes to their employees. Workplace financial education programmes is defined as financial education programmes initiated by employers for the benefit of their employees. These employers include businesses, government agencies and other workplaces. In Malaysia, there are not many known workplace financial education programme offered by private sectors. Malaysian government through its agency, National Institute of Public Administration (INTAN), a training institute of civil servants with cooperation from Malaysian Financial Planning Council (MFPC) as instructors provides workplace financial planning programme for government servants. This programme is Personal Finance Course for civil servants which is held in two series annually. This course begin in 2007 and attracts a maximum of 70 participants per annum. Currently, there are about 1.4 million civil servants in Malaysia and a small number of participants that have attended the course still quite disappointed and is a far away from the reasonable target.

AKPK also provides workplace financial education programme on demand with small service charge. Besides, AKPK also provides financial counselling and debt management programme. These programmes help employees to manage all aspects of their finances. Employees who are financially well informed are able to take greater personal responsibility for their financial decisions, are more proactive and confident in their financial decision making, experience less stress at home and at work and are more productive employees.

In addition, National Human Resource Centre (NHRC) Malaysia through its Human Resource Development Fund (HRDF) has taken initiative to encourage the development of workplace financial education by extending the current scheme (where employers are allowed to use the funds for training their employees in any skills including accounting and finance) to include financial education. Besides that, according to (Shafii et al., 2013) there are also financial planning programme offered to workplace provided by Hijrah Wealth Advisory, Al-Falah Consulting, Banyan Tree Money Academy, MFPC and AFIQ Training & Advisory.

4. CONCLUSIONS AND POLICY IMPLICATION

Despite the comprehensive financial planning programme provided by financial planning associations that provide certification and training to certified financial planners, other programmes concentrate on savings and debt management. Government, industry and community initiatives centred on financial literacy, debt and cash management and savings. These efforts may not adequately address the need for comprehensive financial planning needs from the introduction of private retirement schemes and complicated financial assets features. Private retirement schemes management, for example, requires considerably high level of knowledge on investment portfolio management. As for the workplace financial education, there is a lack of coordination by the policymakers on the content and deliverables of the programmes that hampers the employee's ability to make informed financial decisions.

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THEME: ISLAMIC BANKING, INVESTMENT AND STOCK

HOTELS AS ASSET CLASS FOR INVESTMENT AND FINANCING FROM SHARIAH PERSPECTIVE

Ahcene Lahsasna¹

INCEIF

ABSTRACT

The objective of this paper is to initiate a debate on the issue of investment in and financing of the hotel business. The motive behind the discussion is the fact that the hotel business, as a stand-alone activity, is considered a Sharī'ah non-compliant asset and is listed in the negative list in Malaysia. Hence, as a general Sharī'ah rule, it is not allowed to invest in the hotel business or provide financing to it as a stand-alone entity. The case might be different if a hotel is subsidiary to a holding company, in case the holding company has a Sharī'ah-compliant status. The revised Sharī'ah screening methodology (2013) by the Shariah Advisory Council (SAC) of Securities Commission (SC) Malaysia provides for a 20% benchmark being applicable to companies that generate part of their revenue or profit before tax from hotel and resort operations. Other screening methodologies like MSCI Global Islamic Indices do not allow investment in companies which are involved in or derive more than 5% of their revenue from such activities like hotels and cinemas. The same benchmark of 5% is applicable to hotels by the Russell-Jadwa Shariah Indexes. However, the present paper discusses the hotel business as a stand-alone entity and looks into its assessment and screening in the context of Malaysia which may have implication in other jurisdiction

Key words: Hotels, Shariah compliant, investment, Shariah screening, Index

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1. INTRODUCTION

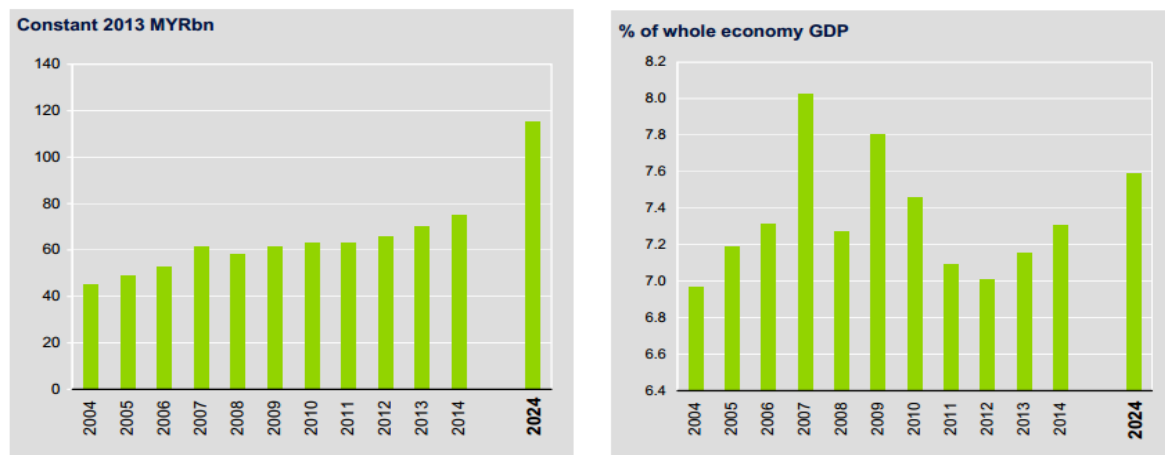
The present paper is divided into three parts: part one is an overview of tourism industry and its importance, part two is a Shariah discussion on hotel as business entity and part three is conclusion and finding. The discussion as below.

2. THE IMPORTANCE OF MALAYSIAN TOURISM INDUSTRY

According to the World Travel Tourism Council (WTTC), the direct contribution of Travel & Tourism to GDP in year 2013 was RM70.4bn (7.2% of GDP). This was forecasted to rise by 7.0% to RM75.3bn in 2014. The data is primarily reflected by the economic activity generated by industries such as hotels, travel agents, airlines and other passenger transportation services. Beside these, the data also include the activities of the restaurant and leisure industries directly supported by tourists. The WTTC also forecasted growth of 4.4% p.a. for the contribution of tourism to the GDP to RM115.4bn.

Figure 1

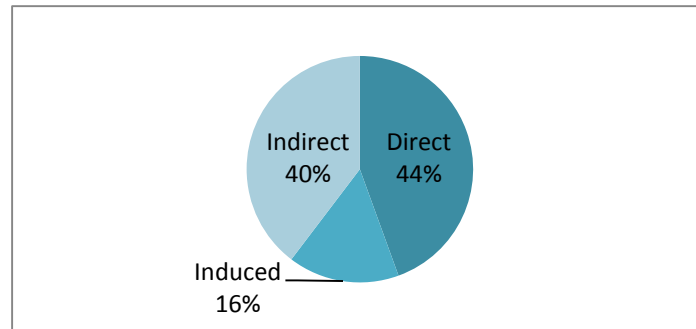
MALAYSIA: DIRECT CONTRIBUTION OF TRAVEL & TOURISM TO GDP



Source: World Travel Tourism Council

The WWTC also recorded that nearly half of the contribution by tourism sector is contributed directly. The direct contribution refers to GDP generated by industries that deal directly with tourists, including hotels, travel agents, airlines and other passenger transport services, as well as the activities of restaurant and leisure industries that deal directly with tourists.

Figure 2: Tourism Contribution to Malaysian GDP

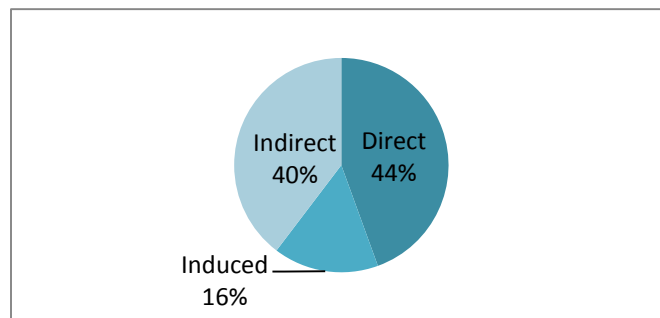


Source: World Travel Tourism Council

2.1. Contribution of Tourism to the Malaysian GDP

Leisure travel contributed an estimate of 48.5% of direct Travel & Tourism GDP in 2013 which roughly equivalent to RM60.6bn. The remaining 51.5% is contributed by business travel spending estimated at about RM64.4bn. According to WWTC, it has been forecasted that the business travel spending is expected to grow by 11.6% in 2014 to RM71.9bn, and to keep a steady growth pace of 5.6% p.a. to RM124.2bn in 2024. Leisure travel spending is expected to grow by 2.1% in 2014 to RM61.9bn and growth rate of 2.7% p.a. to RM81.0bn in 2024.

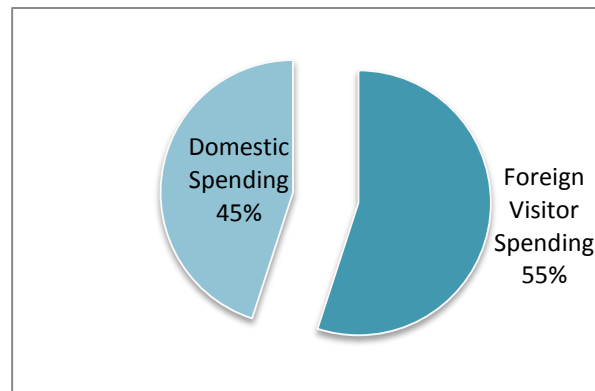
Figure 3: Tourism Contribution: Business vs Leisure



Source: World Travel Tourism Council

Based on report by WWTC, domestic travel spending contributed 45% in 2013 while the remaining 55% had been contributed by visitor exports. The report also forecasted that domestic travel spending to grow by 4.1% in 2014 to RM58.5bn, and to grow and steady pace of 4.7% p.a. to RM92.4bn in 2024. Visitor exports are expected to grow by 9.5% in 2014 to RM75.2bn, and rise by 4.1% pa to RM112.8bn in 2024.

Figure 4: Tourism Contribution: Foreign vs Domestic Spending



2.2. Malaysian Tourism Sector

The Department of Statistics Malaysia (DOSM), divide the tourism sector into 6 types; Inbound Tourism, Domestic Tourism, Outbound Tourism, Internal Tourism, National Tourism and the International Tourism. This report will focus on the consumption and the contribution of the internal tourism; which comprises the domestic tourism and inbound tourism that is the activities of resident and non-resident visitors within the country as part of domestic or international trips.



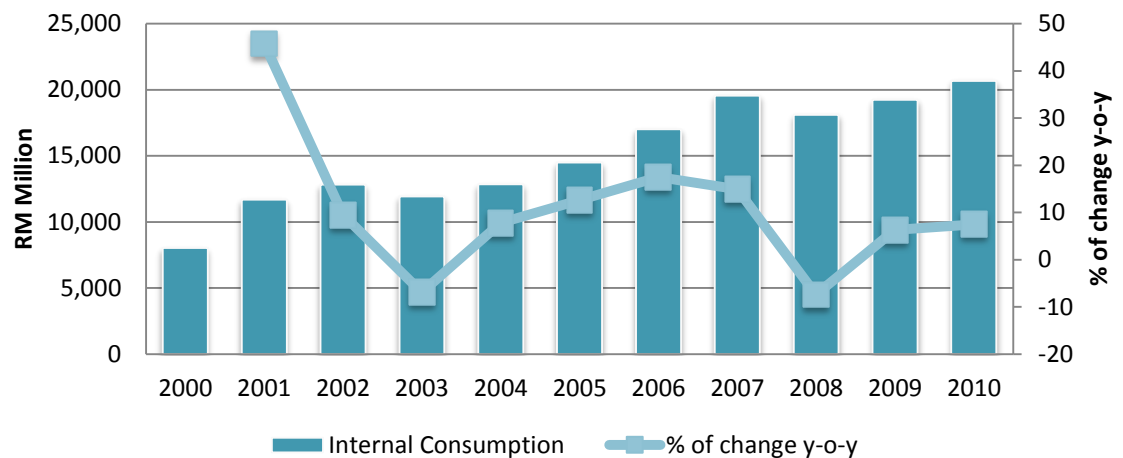
Source: Department of Statistics, Malaysia

According to the DOSM the internal tourism consumption for accommodation for the period of 10 years (2000-2010) has shown volatile changes. As depicted, the internal tourism consumption experienced deterioration as the consumption sunk to low rate of 4.4% in 2002 and continue to drop lower in 2003 recorded at -8.9%. The drastic drop is due to the contagion of Severe Acute Respiratory Syndrome (SARS), which had discouraged overseas travelling. The economic boom during the years of 2004-2007 has contributed steady growth in tourism industry however, the figure sunk again at rate of -8.9% in 2008 when the global financial sector is shaken by the hit of global financial crisis 2008-2009.

Figure 6 depicts the consumption of internal tourism over the 10-year period against the changes in percentages of the consumption. From the plotted percentage, it can be concluded that the changes in internal consumption is experiencing a slow decreasing trend over the mentioned period.

2.3. Accommodation services

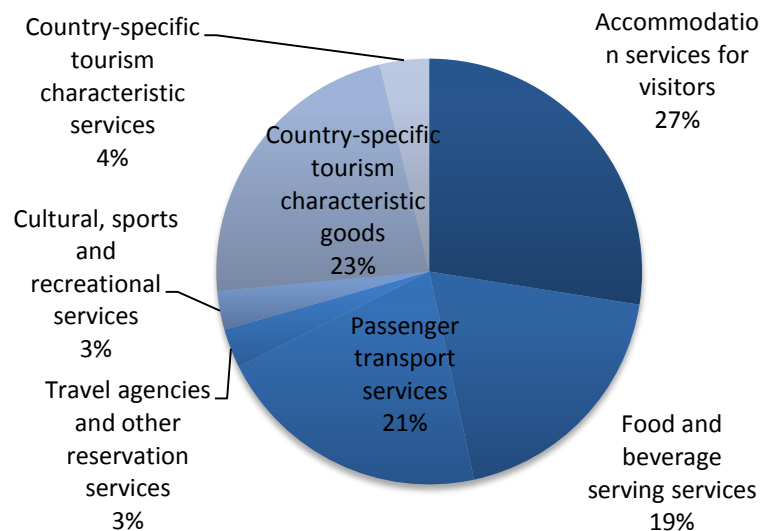
Figure 6: Internal Tourism Consumption for Accommodation



Source: Department of Statistics, Malaysia

Over the 10-year period (2000-2010), accommodation services contributed the largest proportion to the tourism sector in Malaysia, accumulated at 27% share from 6 other contributors. (Figure 7)

Figure 7: Internal Tourism Consumption: Accommodation



Source: Department of Statistics, Malaysia

Figure 8: Internal Tourism Consumption: Accommodation



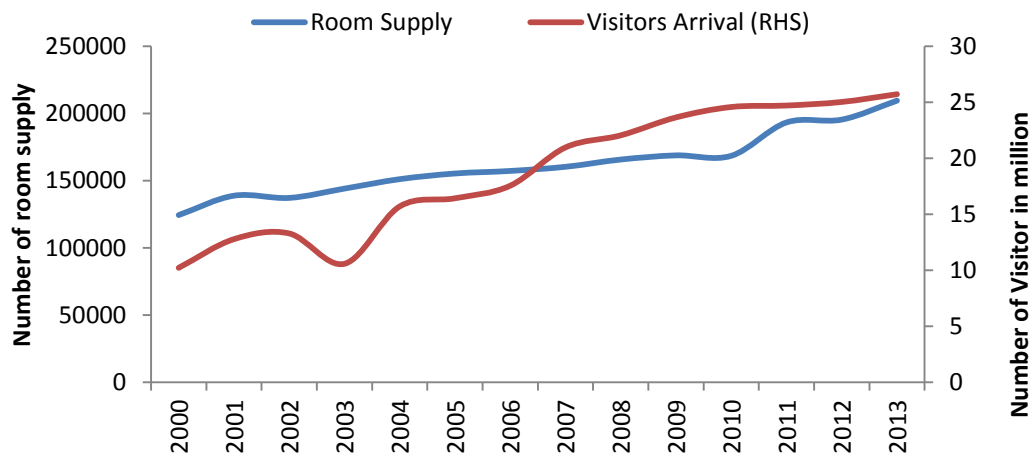
Source: Department of Statistics, Malaysia

For the ten year period, Internal Tourism consumption for accommodation alone has seen steady growth as portrayed in figure 8. The contribution of accommodation consumption towards tourism is at over RM20, 000 in 2010.

2.4. Visitors' arrival in Malaysia

Figure 8 was extracted from Tourism Malaysia & NAPIC which plots the number of visitors' arrival and the supply of hotel rooms. As the initiative to cater the continuous rising number of visitors to Malaysia, Malaysian hotels have played the important role in providing the necessary accommodation for the visitors. (Figure 8)

Figure 8: Internal Tourism Accommodation Consumption: Arrivals vs Room Supply



Source: Tourism Malaysia & NAPIC

The upward trend in the visitors' number is contributed by the Malaysian government endless effort in promoting the Malaysian Tourism sector in the global eye. Besides participating in international tourism fairs in European and U.S. markets as the steps to enhance tourism promotion, Malaysia is targeting its promotional efforts at its regional neighbours. The focus on neighbouring countries has resulted higher tourist arrivals from Asia, particularly from South Korea and Vietnam, for the first seven months of this year.

2.5. Visit Malaysia 2014

Visit Malaysia Year 2014 (VMY 2014) is the biggest and grandest tourism celebration for Malaysia. This year, Malaysia will celebrate its fourth Visit Malaysia Year with the theme "Celebrating 1Malaysia Truly Asia" to reflect the diversity in unity of all Malaysians. The promotional campaign has started in 2013 with a series of year-long special events and activities leading to VMY 2014. VMY 2014 will be the biggest ever tourism celebration with hundreds of events and festivals all lined up to welcome the world.

Despite major promotional events in ensuring the successfulness of the country's biggest celebration of the year, the country experienced two major aviation disasters; the missing of Boeing 777 flight MH370 in March 2014 and flight MH17 which had been shot down in Ukraine. The former is predicted to hit the booming tourism sector, which is increasingly dependent on Chinese tourists as the missing flight carried majority of Chinese tourist. Release of statistics by DOSM however, contradicted with the 'heavy blow' prediction as Malaysia welcomed 16.1 million tourists for the first 7 months of 2014. Although Chinese tourist arrivals recorded to have declined, the world's second-largest economy remained Malaysia's third-largest tourist market after Singapore and Indonesia. Despite these reports, the impact of the aviation disasters needs to be addressed accordingly by the relevant authorities and ministries in ensuring the continuous development of the Malaysian tourism industry.

3. IMPACT OF THE CURRENT METHODOLOGY OF ASSESSMENT AND SCREENING STAND ON THE TOURISM INDUSTRY

The current stand of the SAC of SC Malaysia, which considers the hotel industry as a Shari'ah non-compliant asset for investment and financing, may impact negatively on the tourism industry as Muslim investors are unable to invest in the hotel business. The travel agents and the service providers to the hotel industry—like airlines, other passenger transportation services, restaurants and food suppliers—will also be adversely affected as a result of their link to the hotel industry. Consequently, any business activities linked directly or indirectly to hotel businesses will be classified as *shubhah* (doubtful or of questionable permissibility) and this may lead to the Travel & Tourism sector being excluded from the portfolio of the Islamic finance industry.

4. THE SHARĪ'AH PERSPECTIVE ON HOTEL INVESTMENT AND FINANCING

As a general Sharī'ah rule, it is not allowed to invest in Sharī'ah non-compliant assets or to finance a Sharī'ah non-compliant entity, especially where the financing is directed towards Sharī'ah non-compliant business activities. Based on this, the following discussion initiates a debate that further explores the Sharī'ah status of hotels as stand-alone entities. The question is whether they can be regarded as Sharī'ah-compliant assets for investment and financing.

4.1. Nature of the Hotel Entity and Its Mixed Portfolio

The primary objective of the hotel sector is to provide accommodation which represents the core business activity. From the Sharī'ah standpoint, the hotel business is based on the *ijārah* (lease) contract; hence, the income generated from the leasing of accommodation services is legitimate as the main objective of hotel establishments is to provide a Sharī'ah-compliant service. However, in some hotels, some Sharī'ah non-compliant services are provided—such as spa services and night entertainment (involving a mix of the genders), sale of alcoholic drinks, and non-*ḥalāl* food. Still, such services are not offered in all hotels but in some of them; so the inconsistency in treating the hotel sector in general as Sharī'ah non-compliant is clear and obvious. Overall, the hotel entity is a form of mixed business portfolio driven by both permissible and non-permissible income: the permissible income comes from the *ijārah* contract as the core business activity, while the non-permissible income arises from the auxiliary services such as sale of non-*ḥalāl* food and other Sharī'ah non-compliant services.

Scholars have discussed the mixed portfolio entity and have different views about it. However, according to the majority view, it is allowed to do transactions with a person who owns mixed property without looking into the portion of *ḥalāl* (permissible) or *ḥarām* (non-permissible). This is based on the practice of the Prophet (SAW) and his Companions, who did business and exchanged commodities with non-Muslims despite the fact that non-Muslims do not observe Sharī'ah rules in wealth accumulation by distinguishing between permissible and non-permissible means. For instance, it is a well-known part of *ḥadīth* literature that the Prophet (SAW) transacted with Jews of his time. A *ḥadīth* reported by Imam Bukhari tells of a situation when the Prophet (SAW) passed away and his shield was still with a Jew for a debt that the Prophet (SAW) had incurred in purchasing wheat from him on credit. At the same time, we find that the Jews have been referred to in the Qur'ān as people who indulge in *ribā* (interest). Still, this fact mentioned in the Qur'ān did not make the Prophet (SAW) or his Companions to absolutely reject trading and dealing with the Jews. Therefore, the issue of dealing with someone who indulges in Sharī'ah non-compliant activities, resulting in his wealth being a mix of *ḥalāl* and *ḥarām*, needs some elaboration and clarification.

Indeed, the issue of the commingling of *ḥalāl* and *ḥarām* has been discussed by Muslim jurists in detail. This issue has gained importance in the context of Islamic finance today, and the reason is obvious: the boundaries of trade and business have expanded a great deal and there is greater interdependence of institutions in general. Consequently, it is

nearly impossible that an institution today would be able to function and survive on its own. It has to link up with other institutions for its survival and for competing in the market.

If we summarise the important points of this debate as conducted by the Muslim jurists in the past, we arrive at the following conclusions:

- First, there is no doubt that if 100% of earnings/income/business is *ḥalāl*, it is the best possible situation for a devout Muslim and a sign of one's *taqwā* (piety).
- Second, it is also unanimous that wealth earned from purely non-permissible transactions or items like alcohol, pork, prostitution, theft, and gambling is absolutely impermissible.
- Third, the issue arises in case there is commingling of two items, one of which is *ḥalāl* while the other is *ḥarām*, or wealth that comes from two sources, i.e., *ḥalāl* and *ḥarām*. In this case, the nature of the two items being commingled should be examined.

Regarding the third issue when there is commingling of pure and impure income or wealth, if *ḥalāl* and *ḥarām* are mixed in such a way that they cannot be separated—for instance both are in liquid form—consideration will be given to the one that is dominant over the other. For example, if urine is mixed with water, the water will be considered impure if any one of its three characteristics, i.e., colour, taste, or smell is changed. However, if the water is so substantial that none of these three attributes have been changed, it is still considered pure.

However, when money is commingled, the issue is more complicated. It is this complication that leads to two contrasting legal maxims being applicable at the same time:

إذا اجتمع الحلال والحرام غلب الحرام

“When prohibition and permissibility coincide, prohibition will prevail,”

and

الحرام لا يحرم الحلال

“Something unlawful does not make a lawful thing unlawful.”

Money in any form is different from the above example of urine. Money is by itself pure. It becomes ‘impure’ only in the legal sense when it is earned through impermissible means. Hence, the mixing of *ḥalāl* money with *ḥarām* money does not make the whole sum unlawful. This is derived from the Qur’ānic discussion regarding *ribā*. After asking the believers to forego outstanding interest, it has been stated, *“But if you repent, you may have your principal without suffering loss or causing others to suffer loss”* (Qur’ān, 2: 279). This verse clarifies the fact, which is also endorsed by Muslim jurists, that only the interest amount of an interest-based transaction is invalid. The principal amount will not be affected or be rendered impure due to the interest portion. Therefore, if it is

possible to distinguish between the two constituents, only the illegal or prohibited portion will carry the provision of impermissibility.

This provision, i.e., each portion carrying its respective provision, has been further strengthened by another legal maxim to support the claim that the hotel industry should not be absolutely disqualified from Sharī'ah compliance status. This maxim is as follows:

التابع تابع

“Anything subordinate follows (the ruling of) the original.”

Under this legal maxim, it is allowed in Islamic law that something which is not permissible individually may be deemed permissible when it becomes subordinate to or is a part of something that is permissible. Jurists have cited some examples for this case. For instance, it is not permissible, in the view of some jurists, to make *waqf* (endowment) of moveable property. In their view, it is only immovable property that can be made *waqf*. However, the same jurists opine that, for example, if a moveable asset is a subordinate part of the immovable property, it can be part of the *waqf* in the status of a subordinate. They elaborate this issue with the help of many examples. For instance, making a *waqf* of furniture is not allowed individually because it is moveable property. However, if a building is given as *waqf* and it contains some furniture, this furniture will become part of the *waqf* and it will be valid. The reason is that furniture here is subordinate to the actual *waqf*, which is the building. Since the actual building is allowed to be made *waqf*, the subordinate is also allowed.

On this basis, one might argue that since the actual business of the hotels, i.e., providing accommodation is *ḥalāl* and permissible, the subordinate part should not make it invalid. It should not be objected that the subordinate portion here in our present case is non-permissible (due to its generation of income from Sharī'ah non-compliant activities) whereas it is permissible in the case of *waqf* (i.e. in the case of furniture). This is because we do not propose that the income from these non-*ḥalāl* activities should be allowed. Our concern is that the basic business should not be made impermissible due to the small portion of non-*ḥalāl* income which is subordinate. The non-*ḥalāl* income can be treated under the guidelines of Sharī'ah screening. In other words, the argument here is that the ruling of the original business should not be made subservient to the subordinate part and based on the provision of the minor part. Thus, a tiny part of the business being non-*ḥalāl* should not render the rest of the permissible business impermissible.

In this connection, Laldin et al. (2013: 202) explain the application of the above legal maxim in Islamic finance as follows, *“If the core business of a company is Sharī'ah-compliant, but it has some Sharī'ah non-compliant activities below the threshold stipulated by the standard setting body of that jurisdiction, it is permissible to trade its shares because the impermissible activities follow the ruling of the core activities which are lawful.”*

The writers also refer to other cases where this principle is applied. For instance, a *takāful* operator is allowed to underwrite the risk of a company that borrows from conventional

banks on interest while its core business is Sharī'ah-compliant. In addition, the trading of *ṣukūk* and shares is permissible in case some percentage of them, as identified by the respective jurisdiction's regulator, represents receivables. This is because receivables in this case are considered subordinate to the assets and the provision of assets, i.e., permissibility of trade, is given to them.

The Shariah Advisory Council (SAC) of Bank Negara Malaysia (BNM) has addressed this issue and concluded that it is not mandatory to look into the source of funding of the clients and check whether these are Sharī'ah compliant or otherwise. It is stated in its *Shariah Resolutions* (2010: 197), "*The SAC, in its 58th meeting dated 27 April 2006, has resolved that Islamic financial institutions are allowed to accept application to open deposit account or investment account from a customer without conducting investigation to ascertain whether the sources of the customer's fund are permissible (halal), forbidden (haram) or a mixture of the two.*" It seems from the above discussion that the current position on absolutely excluding the hotel industry from the list of potential Sharī'ah-compliant firms is a contradictory stance to the generally accepted rules of contemporary Islamic finance. The instances stated above show that it is the "core business" of the company that is the foundation for making a company eligible for being Sharī'ah-compliant. The subordinate aspects, like a small portion of Sharī'ah non-compliant income, are not deemed an obstacle in this regard. However, in the case of the hotel industry, which is the backbone to the tourism industry as a whole, it is treated differently from other businesses and industries. This position, in our opinion, should be revisited and made in line with other situations treated similarly in Islamic finance.

5. THE PROPOSAL

The hotel business should be considered a Sharī'ah-compliant asset for investment and financing subject to some conditions and it should be listed in the positive list of investment, as it represents a significant portfolio in the business sector of the market.

5.1. Method of Assessment and Screening

Hotel operations as an asset should be listed as a Sharī'ah-compliant asset for investment and financing, provided that the revenue from the non-permissible income does not exceed the Sharī'ah screening benchmark of the Securities Commission's SAC regarding mixed portfolio companies. In other words, when calculating the total revenue of the non-permissible source of income of the hotel against the total income of the hotel operations, if the non-permissible income exceeds the Sharī'ah screening benchmark, it will disqualify the hotel business as a Sharī'ah-compliant asset.

5.2. Negative List in Hotel Operations

The appropriate approach is to have a negative list in hotel operations. The negative list in the hotel operations includes spa services, bars and nightclubs, whose revenue should not exceed the Sharī'ah screening benchmark. The calculation of the total revenue generated from these activities against the total revenue of the hotel generated from other sources should not exceed the Sharī'ah screening benchmark.

5.3. Image and Branding of Hotel Operations vs. Benefits of Investment and Financing

Hotel operations, as an asset or business portfolio, do not have a bad image from the perception of the public and the market. On the contrary, everyone wants to go to a hotel during his/her traveling, especially if it is a five-star hotel. In some countries, one may pay a fee not necessarily to stay in the hotel but just for the pleasure of entering and visiting its premises. As a matter of fact, Islamic forums, gatherings, Islamic finance conferences, meetings, and other such activities are very often held in hotels. Accommodation provisions for such Muslim activities are mostly in hotels as there are no other places for Sharī'ah scholars or other individuals who attend such events to stay.

It should be noted that a hotel is different from a spa and a nightclub, which have a negative image in public perception. Hence, dealing with hotels for investment or financing does not create a debate in the market or doubtful inquiries from the public or the investors; it does not lead to a controversial Sharī'ah debate and argumentation. On the other hand, including the hotel industry in the portfolio of Islamic financing and investment will widen the scope of the business portfolio of Islamic finance and its assets size. Therefore, a Sharī'ah-compliant status priority should be given to the core business of the hotel not to the minor services which are found in some hotels.

5.4. Analogy between Hotels' Services and Airlines Business

If we look at the airline business we find that the services offered are based on *ijārah*. It is similar to the services of hotels as both run their business portfolio based on the *ijārah* contract. The resulting income from the *ijārah* contract represents the main source of income of both the hotel and airline businesses. The image and branding are not affected in either type of business. Furthermore, the profit generated is legitimate as *ijārah* is a Sharī'ah-compliant contract. However, within both businesses, there are Sharī'ah non-compliant services offered such as alcoholic beverages in the case of airlines, and spas and nightclubs in the case of hotels. In both cases, the bulk of the profit is generated by a Sharī'ah-compliant business based on *ijārah*. The Sharī'ah non-compliant business content represents a small portion of the total business portfolio.

5.5. Dispute about Image and Branding as Screening Criteria

No doubt, *ḥarām* activities should not be permissible, and should be removed. However, regarding the phenomenon of *'umūm al-balwā* (common plight that is difficult to avoid), scholars discuss similar issues where *ḥarām* and *ḥalāl* co-exist together. In the case at hand, removing the hotel industry from Sharī'ah-compliant portfolios on the basis of image and branding criteria may not stand as strong evidence as the image and branding concept is very subjective in the case of hotel or airline businesses due to the following arguments:

- Hotels have a clean image in the view of the public;
- People use hotels for accommodation as part of their needs in their social or business activities;

- Sharī'ah scholars use hotels for accommodation without any reservation about the permissibility of doing so;
- Religious events and functions, including Islamic finance forums and conferences, make use of hotels as their first choice for hosting such events—even if they have alternative venues for organizing these functions—without any reservation about the permissibility of doing so.

5.6. Inconsistency on the Features of Hotels

The arguments against hotels are based on the prevalence of spas, nightclubs and bars that serve alcoholic beverages. These features are not consistent throughout the hotel industry. Some hotels have these services while others do not. In fact, there are hotels in Middle Eastern countries and other countries as well which claim to be Sharī'ah-compliant, thus fulfilling the needs of Muslim customers. Hence, to generalize the ruling on the entire hotel industry without specific conditions or requirements may include hotels which do not have these services and would make the ruling inconsistent. One of the requirements to generalize the ruling is the consistency of the underlying cause of the ruling, known as the *'illah* or *manāṭ al-ḥukm*. If the *'illah* is not consistent, the ruling may not accommodate the generalization. In addition to that, we already discussed the Sharī'ah perspective on this issue and explained the Sharī'ah maxims that hold that the minor part should be subordinate to the major part in terms of Sharī'ah provisions.

6. FINDINGS AND CONCLUSION

The following summarises the key discussion areas developed in this paper:

- The tourism industry represents an important sector in the Malaysian economy.
- The tourism industry makes a significant contribution to the GDP of the country.
- Hotel accommodation is regarded as one of the core driving elements of the tourism industry in Malaysia with a significant contribution.
- The hotel business as a stand-alone entity is debated as to whether it can be regarded and included as a Sharī'ah-compliant asset for investment and financing.
- The core business of the hotel industry is accommodation.
- The primary Sharī'ah contract for the hotel business is *ijārah*, which is regarded as solid and resilient among other types of Sharī'ah contracts.
- While the main objective of the hotel business is to provide accommodation, there are other services and activities offered which are not Sharī'ah-compliant such as spa services and the sales of alcohol, which make the hotel that offers them a mixed portfolio entity.
- The main objective for people going to hotels is for accommodation and not for the other services offered. In the case where the hotel has no other services provided, people will still go to the hotel for accommodation. The Sharī'ah non-compliant services and activities offered by hotels are also offered by other service providers besides hotels. These services by the hotels are typically of higher cost, especially in the case of five-star hotels, as compared to the same services offered outside. Hence, even though the attraction is there, it is part of the

hotel's auxiliary services and not significant enough to warrant the exclusion of the hotel industry from the Sharī'ah-compliant investment class.

- The mixed portfolio entity should not be listed automatically in the negative list but it should be subject to further screening.
- Many other mixed portfolios that are similar to hotel structures and portfolios and are less important than the hotel business are listed as Sharī'ah-compliant stocks and enjoy investment and financing. On the other hand, the hotel industry, which has significant economic value and contribution to the GDP, is deprived of this privilege.
- By way of analogy, the hotel industry should be listed in the positive list of investment.
- Adding the tourism industry, including the hotel industry, to the Islamic finance asset class will widen the size of Islamic finance assets and expand the business portfolio for investors and Islamic financial institutions by attracting more financing and developing more partnership arrangements.
- It is understood that listing the hotel business in the negative list is a subjective decision based on specific justifications and argumentation. However, due consideration can be given and the degree of subjectivity may change and evolve depending on new facts that evolve from *'urf* (customary practices), *maṣlaḥah* (benefit), and *mafsadah* (evil).
- If we compare and contrast between the negative impact of the impermissible activities in the hotel and the positive benefit generated to the Islamic finance portfolio, we can see that the benefit generated prevails because it is more significant.
- The above discussion proposes a Sharī'ah screening benchmark for mixed companies to be adopted for the hotel sector. However, scholars can propose other relevant and appropriate thresholds based on empirical study and collective *ijtihād* in case the Sharī'ah screening benchmark is found to be inadequate.

To conclude, it is proposed that the hotel industry should not be regarded as a Sharī'ah non-compliant asset for investment and financing. It should be removed from the negative list subject to specific screening on the revenue generated from the non-permissible activities and services offered by hotels.

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THE FINANCIAL IMPLICATIONS OF DEPOSITARY RECEIPTS (DRS) ON STOCK MARKET DEVELOPMENT

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ABSTRACT

The issue of liquidity and the under development of the Organization of Islamic Cooperation (OIC) stock markets have caused problems to companies in those countries that seek higher equity capital. Many institutions such as Islamic Development Bank (IDB), International Organization of Securities Commissions (IOSCO) and OIC agree that the introduction of the Islamic Depositary Receipts (IDRs) could aid these companies in enhancing their value. As this instrument is yet to be introduced, this study aims at examining the financial implications of cross-listing via the existing Depositary Receipts (DRs) on stock market development. This study employs a dynamic panel model to covers sample of 146 firms from 17 OIC countries that are cross-listed as ADRs or GDRs from 1992 to 2009. The findings reveal that growth and expansion of international cross listings via DRs have a positive impact on domestic stock market. This study provides insights and examines practical implications for exchanges that consider accommodating Islamic Depositary Receipts program such as in Dubai, Malaysia and Turkey.

Keywords: Depositary Receipts (DRs), cross listing, OIC countries, Islamic Finance

1. INTRODUCTION

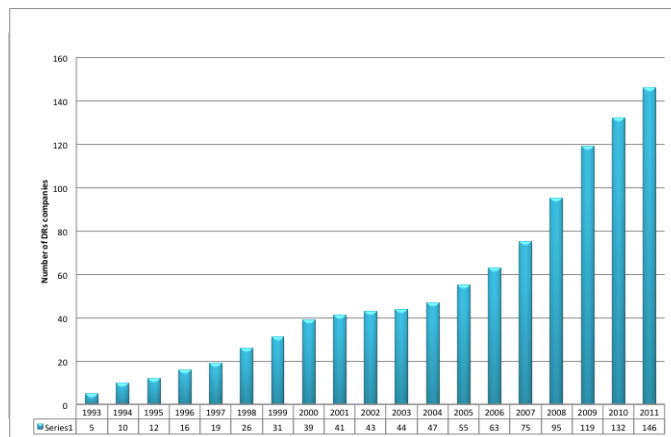
Over the last two decades, financial globalization has expanded exponentially with increasing stock exchange activities and cross-border capital flows in developed and emerging markets. These cross-border capital flows have escalated over the years, facilitated by the general reduction in informational barriers, rules and regulation. Most of these advancements are also due to technological advancement in information and telecommunications technology which make transactions instantaneous and cost efficient. Due to the pressures of global competition, capital markets around the world have little choice but to harmonise their policies and regulations in order to appeal to the global investor base. Stock markets of the Organization of Islamic Cooperation (OIC)²⁹⁷ countries have not been spared the exposure. Despite this, a study by the World Bank reveals that many capital markets of the OIC countries remain highly illiquid and segmented, with trading and capitalization concentrated in a few stocks. As a result, of the total 57 OIC countries, only 21 stock markets fall under the purview of World Development Indicators (World Bank, 2006). Universally, the key reasons that hinder stock market development are weak legal system and regulations, a limited supply of institutional investors, lethargic support from the private sector, poor governance and lack of transparency and accountability. In addition, companies of OIC countries with less developed capital markets have not participated in the global consolidation waves and are still pursuing a homemade strategy in developing their own stock market (Hassan & Suk Yu, 2007).

At stake here is the fate of those companies that can enhance their value but are being held down by their domestic stock markets. The logical solution for such company to this problem is to seek international markets more intensively. To a certain extent, in some emerging markets, this internationalization process is the outcome of companies trying to break away from poor domestic environments with poorly functioning markets and weak institutions (Karolyi, 2004; Torre et al., 2005). Claessens et al. (2003) proposes linkages as one of the three survival options. They argue that linkages are a means to establish some form of cross-border linkages with other exchanges to achieve cost savings from many different sources. These sources include economies of scale, sharing system for equity trading, and harmonizing rules and requirements between the exchanges with respect to trading and membership. Thus, over the last decades, there has been an increase in the movement of securities' market activities to major international financial exchanges, such as London and New York. Many large corporations try to expand their investors' base by listing their stock and raising capital in the market that can offer financing with the lowest costs.

²⁹⁷ The Organization of Islamic Cooperation (OIC) (formerly Organization of the Islamic Conference) is the second largest intergovernmental organization after the United Nations which has membership of 57 states spread over four continents. The Organization is the collective voice of the Muslim world in ensuring to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world.

Many attempts have been made to enhance the capacity and integration of stock markets to promote intra-investment among the OIC countries. One such example was on 26-27 June 2004, IDB held an expert meeting in Jeddah, Saudi Arabia to discuss this matter. The International Organization of Securities Commissions (IOSCO)²⁹⁸ highlighted the dire need to speed up and intensify the Islamic product issuance onto the various international financial exchanges, together with the introduction of Islamic global depositary receipts (IDRs) as a potential approach to creating liquidity in the Islamic capital market (IOSCO, 2004). In fact, the first Round Table Meeting on the Promotion of Cooperation among the OIC Stock Exchanges²⁹⁹ identified a need to have IDRs among the OIC members. It proposed the general idea that those OIC members with surplus capital (usually oil-rich countries) could help those who have liquidity shortage. The question is, if Islamic Depositary Receipts (IDRs) are implemented to what extent will it benefit local markets? If IDRs are considered a desired instrument, there is a need to gather empirical evidence from existing Depositary Receipts (DRs) to examine their impact on domestic stock markets.

Over the last decade, global trading in DRs has increased dramatically to an all-time high of 150 billion DRs, with a value of \$3.4 trillion, in 2010 (JP Morgan, 2010). Throughout this period, the number of firms listing their securities via Depositary Receipts (DRs) has also increased in the OIC countries (Figure 1). In 1993, only five companies from OIC countries subscribed to DRs, but the number had increased to 146 companies in 2011.



²⁹⁸ IOSCO is an association of organizations that regulate the world's securities and futures markets. Members are typically the Securities Commission or the main financial regulator from each country. IOSCO has members from over 100 different countries; regulate more than 90 per cent of the world's securities markets. Retrieved October 2011, from http://en.wikipedia.org/wiki/International_Organization_of_Securities_Commissions.

²⁹⁹ It was held in Istanbul on 28-29 March 2005 and attended by the representatives of a number of OIC stock exchanges and the related OIC institutions. The list of representatives and OIC institutions can be derived from SESRTCIC (2006).

Figure 10: Number of companies that subscribed to DRs (OIC countries)

Source: Bank of New York Mellon, 2011

Figure 2 illustrates the composition of the OIC countries' deals in DRs. Out of a total of 57 OIC countries, companies from 17³⁰⁰ have used this instrument. As of 2011, Turkey leads the pack to account up to 23 percent and this is followed closely by Indonesia (18 percent). The other active countries participating in DRs are Kazakhstan and Egypt which is by 13 percent and 12 percent respectively.

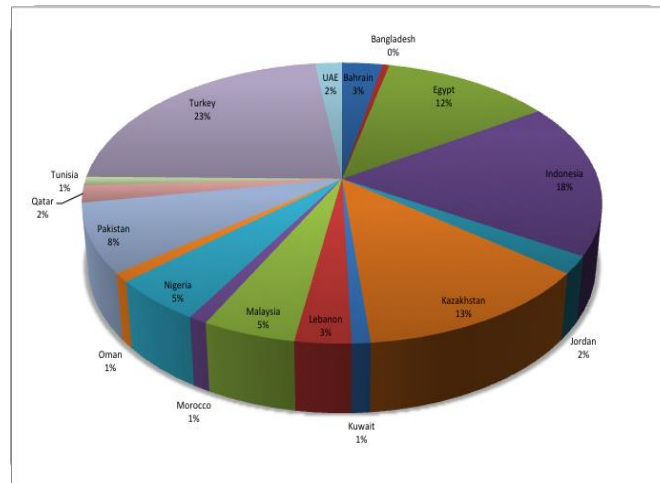


Figure 11: Composition of OIC countries subscribed to DRs (as of 2011)

The objective of this study is to examine from an empirical standpoint the impact of DRs on the OIC stock markets. The establishment of IDRs in the Islamic capital market is important to enhance the versatility of Islamic capital market. However, the only yardstick to measure its benefits or costs is by conducting some empirical studies on existing DRs consisting of ADRs and GDRs. Any lessons learnt from this study could be brought forward and proposed for the establishment of IDRs.

The motivation for this study is rooted in the current gaps of existing literature. First, past studies showed that cross-border listing is beneficial to the listing firms (Domowitz, Glen, & Madhavan, 1997; Hargis, 2000; Hargis & Ramanlal, 1998; Karolyi, 1998). The benefits mentioned include improved access to global capital markets, lower transactions costs, better liquidity, increased shareholder base, greater transparency and disclosure and ease of trade. However, there are studies that highlight the adverse evidence on the overall trading activity, especially in emerging markets (Levine & Schmukler, 2006, 2007; Moel, 2001). This study is thus aimed at uncovering the extent to which DRs provide benefits to the OIC countries' stock market. It also aims to investigate whether they hinder or facilitate the domestic stock markets.

³⁰⁰ The countries are Bahrain, Bangladesh, Egypt, Indonesia, Jordan, Kazakhstan, Kuwait, Lebanon, Malaysia, Morocco, Nigeria, Oman, Pakistan, Qatar, Tunisia, Turkey, UAE.

The second motivation is from the need to implement the IDR itself. The introduction of Islamic depositary receipts (IDRs) as a potential approach of creating liquidity in the Islamic capital market can be seen as a win-win situation for all OIC members. If this study could provide evidence on the positive impact of these DRs on domestic stock markets, then the introduction of IDRs may be well supported. In the current situation some companies have no other option but to go for international capital market situated in the Western World, to seek out cheaper capital for further expansion. Ironically some of these capitals in the Western World are petro dollar money invested by oil rich OIC countries. The noble idea is by having IDR, there is no more reliance on Western exchanges and thus forms more cooperation amongst OIC member states' stock exchanges.

A majority of empirical studies examine the impact of DRs³⁰¹ on the pricing and liquidity effects of the listing decision. Some evaluate arbitrage activity in determining ADR market's efficiency yet others look at the impact of cross listing via Depositary Receipts (DRs) in establishing financial integration and on the company's global risk exposure (cost of equity capital). However, few studies delve into the effects of the local stock market's development. Thus in this study, the emphasis will be on the effect of Depositary Receipts (DRs) have on domestic stock market development.

There is no consensus in the literature regarding the impact of DRs on the local stock market (Karolyi, 2006). Many studies provide empirical evidence that suggests firms can attract capital at lower costs and better liquidity, broaden shareholder base, increase public image, improved financing opportunities, and increase liquid securities after venturing into Depositary Receipts (DRs) (Foerster & Karolyi, 1999; Jayaraman et al., 1993; Karolyi, 1998). In the early empirical study conducted by Hargis & Ramanlal (1998), they developed a model to investigate the effect of cross-listing on domestic market liquidity and trading volume. They focus on four Latin American equity markets which are Argentina, Brazil, Chile and Mexico for the period from 1990 to 1996. Their findings clearly show the positive effect of international cross-listing on domestic market liquidity and volume traded. Hargis (2000), using the same sample and length of period as in the former research but adopt a different model, offers the same empirical evidence that integration provides many favourable impacts on emerging stock market development. According to him, cross listing increases the underlying share prices since the domestic stock markets can offer the diversification and liquidity roles to the investors.

Even though their findings are consistent with Domowitz et al. (1998), Foerster & Karolyi (1999), argue that the effects of cross listing upon market development depends on many factors such as the ability of cross-listing to broaden the investor base, the state of domestic market restrictions and domestic market liquidity before cross listing, the inter-market information transparency and order flow after cross-listing. They use a

³⁰¹Most studies concentrated on ADR since they are the most popular DRs compared to other DRs

sample of 11 countries from four regions of Asia, Australia, Canada and Europe. There are 153 listings in the sample for the period ranging from 1976 to 1992. They reveal that the firms listed in larger and transparent markets demonstrate improvement in their local market development provided that they originate from small illiquid markets that have higher ownership restrictions for foreign investors.

A subsequent study by Moel (2001) finds rather mixed and inconclusive results. He investigates the effects of ADR growth in the development of 28 African and Latin American stock markets. He uses three proxies (market openness, liquidity and the growth in domestic listings), finds that ADRs have an impact on market openness, but negatively influence the other two proxies, liquidity and the growth of local market. In particular, the influential big firms that cross list via ADRs turn out to be unfavourable to the local market development.

In later years there appears to be more support for the view that the diversion of investment may have a deteriorating impact on stock market development. According to Karolyi (2004), to some extent the market for other domestic stocks turn out to be less integrated or segmented from international markets. He stresses that instead of providing greater efficiency and integration of local markets, the expansion of DR programs of a country may be a "*hindrance*" by diverting investment flows and trading activities away from the local market. Thus, this diversion worsens the quality and even growth of local markets. His study covers twelve emerging markets in Latin America (Argentina, Brazil, Chile, Colombia, Mexico, Venezuela) and Asia (Indonesia, Korea, Malaysia, Philippines, Taiwan, Thailand) from 1976 to 2000. He discloses that the expansion of DR programs do have positive effects on stock market development proxies such as market capitalization to GDP, the number of listings, equity flows and trading. However, the benefits are only for those firms subscribing to ADRs, not for the non-ADR firms. Consequently, for non-ADR firms in these emerging countries, the growth and the quality of emerging stock markets are falling. Cross listing benefits the cross listing firms but not the non-DR firms in the home stock market.

Claessens et al. (2002) show that when more firms go international, trading volumes in home stock market further decrease, but the cost of financing the fixed overhead of maintaining market oversight, clearing, and settlement systems remains unchanged. Based on 77 emerging markets from 1975 – 2000, they conclude that it will become even harder for smaller emerging markets to stimulate and produce sufficient activities for local brokers, businesses for local investment banks, accounting firms, and other supporting services. Promoting this trend of internationalization will make it even harder for small stock markets to foster growth. In their view, rather than concentrating in establishing full-fledged stock markets, policy is better off focussing on vital tasks such as increasing shareholder rights, reducing cross border restrictions, improving the legal structure that encourage the internationalization activities for local firms.

Karolyi's findings are further supported by Levine & Schmukler (2006). They study a wider sample of 45 emerging-market countries and reveal that firms that go international will in a way divert some of the activities to international markets. In their study the definition of international firms include cross listing firms (direct cross listing and DRs)

and also firms that issue debt in international markets. The negative effects are reflected in the correlation of turnover and liquidity of non-international local firms with local firms that go international. Their findings reveal that by diverting 10 percent of these international firms' to international markets, the liquidity decreases by 6 percent to 20 percent. Later, Levine & Schmukler (2007) increase their sample size and find the same result. In their finding, internationalization activities have an adverse impact on the domestic firms' activities, which lead to negative spill-over effects on the activities and trading of local firms. Basically, the departure of these trade activities by local firms has shifted out the most needed activities into the international markets.

Additionally, Claessens & Schmukler (2007) extent Levine & Schmukler's 2007 study and formulate several findings. They re-examine Levine & Schmukler's analysis by breaking up the samples according to the country's level. Firms that originate from countries with better fundamentals in terms of market openness, income and macroeconomic factors are more likely to be involved in cross listing. One important finding they make is that rational firms go international not to escape poor domestic environments, but due to the countries' fundamentals.

All the above studies on stock market development focus on the developed and emerging markets but very few focus on the OIC countries. With the exception of a few countries such as Malaysia, Indonesia and Turkey which are frequently mentioned, the rest of the OIC countries are left out. A key reason could be data availability. It is hoped that this study will fill this gap and contribute to the existing literature about these OIC countries.

2. METHODS

2.1. Model Specification

In keeping with the seminal work of Karolyi (2004) and Moel (2001), we begin with a basic panel model as follows:

$$SMD_{it} = \mu_i + \lambda SMD_{i(t-1)} + \beta' DR_{it} + \theta X_{it} + \eta_i + \varepsilon_{it} \quad (1)$$

Where i designates country and t represents number of periods $t = 1, 2, \dots, 18$ years

SMD is stock market development;

DR_{it} represents the set of explanatory variables on DR activities;

X_{it} is control variable;

η is an unobserved country-specific effect;

ε is the error term.

We use two proxies to capture stock market development (SMD) and four proxies to examine the impact of DR on SMD. All these variables can be expanded and illustrated as in equation 1.1.

$$SMD_{it} = \mu_i + \lambda SMD_{i(t-1)} + \beta_{1t} DRLISTED_{it} + \beta_{2t} DRMCAP_{it} + \beta_{3t} VOLUME_{it} + \beta_{4t} CONCEN_{it} + \theta_{1t} KAOPEN_{it} + \varepsilon_{it} \quad (1.1)$$

SMD is represented by **[STGDP]** total market capitalization of all listed shares divided GDP (%) and **[LISTGDP]** total number of all listed shares divided GDP (%)

DRLISTED is total number of DRs divided by total number of listed companies;

DRMACAP is total market capitalization of all DR-linked companies divided by total market capitalization in US million;

VOLUME is the total trading volume of all DR-linked companies divided by total market capitalization in US million and;

CONCEN is concentration index of DR-linked companies over total market capitalization.

KAOPEN is a proxy for financial openness of a country.

2.2. Data Descriptions

We use time series data from 1992-2009. The Organisation of Islamic Cooperation (OIC) (formerly Organization of the Islamic Conference) has membership of 57 states³⁰². Of these 57 OIC countries, companies from only 17 countries have DRs' programs, either ADR or GDR. This information is derived from the "DR Directory" of the Bank of New York Mellon³⁰³ as of 31 December 2011 and the data are gathered from the active DRs. Other variables are sourced from the World Bank's World Development Indicators database and Data stream. The two-step system GMM is applied in this analysis. The dynamic System GMM model is chosen due to its improvement over the Fixed Effects, Random Effects, and Difference GMM Model and perceived as more powerful than other models.

3. RESULTS AND DISCUSSION

The summary statistics of DRs in the OIC countries as of end 2011 are presented in Figure 3. Overall, Turkey led the pack with 46 DRs, followed by Indonesia (36), Kazakhstan (26) and Egypt (25). The breakdown of DRs by ADRs and GDRs are laid out in Table 1 and Figure 3. Generally, the pattern varied by country. Specifically, by looking at the pattern in Figure 3, it appears that non-Asia countries are likely to subscribe to GDRs³⁰⁴, Turkey being the exception. On the other hand, Asian countries such as Malaysia and Indonesia dominate the issuance of ADRs, with the exception of

³⁰² Retrieved January 12, 2012, from http://www.oic-oci.org/page_detail.asp?p_id=52.

³⁰³ Retrieved October 20, 2011, from <http://www.adrbnymellon.com/>.

³⁰⁴ The exchanges involved in GDR are London and Luxemburg Stock Exchanges.

Bangladesh and Pakistan.

Table 15: The summary of DRs as at December 2011

No	Country	Companies	ADRs	GDRs	Total DRs	Effective year of DR listing
1	Bahrain	3	0	6	6	2006
2	Bangladesh	1	0	1	1	2005
3	Egypt	13	5	20	25	1996
4	Indonesia	36	36	0	36	1994
5	Jordan	3	2	2	4	1997
6	Kazakhstan	15	2	24	26	1999
7	Kuwait	1	0	2	2	2008
8	Lebanon	4	1	5	6	1997
9	Malaysia	10	10	0	10	1983
10	Morocco	1	0	2	2	1996
11	Nigeria	6	0	10	10	1998
12	Oman	1	0	2	2	2005
13	Pakistan	9	2	14	16	1994
14	Qatar	2	0	4	4	1999
15	Tunisia	1	0	2	2	1998
16	Turkey	37	26	20	46	1993
17	UAE	3	1	3	4	2006
	TOTAL	146	85	117	202	

Source: Bank of New York Mellon and Data stream

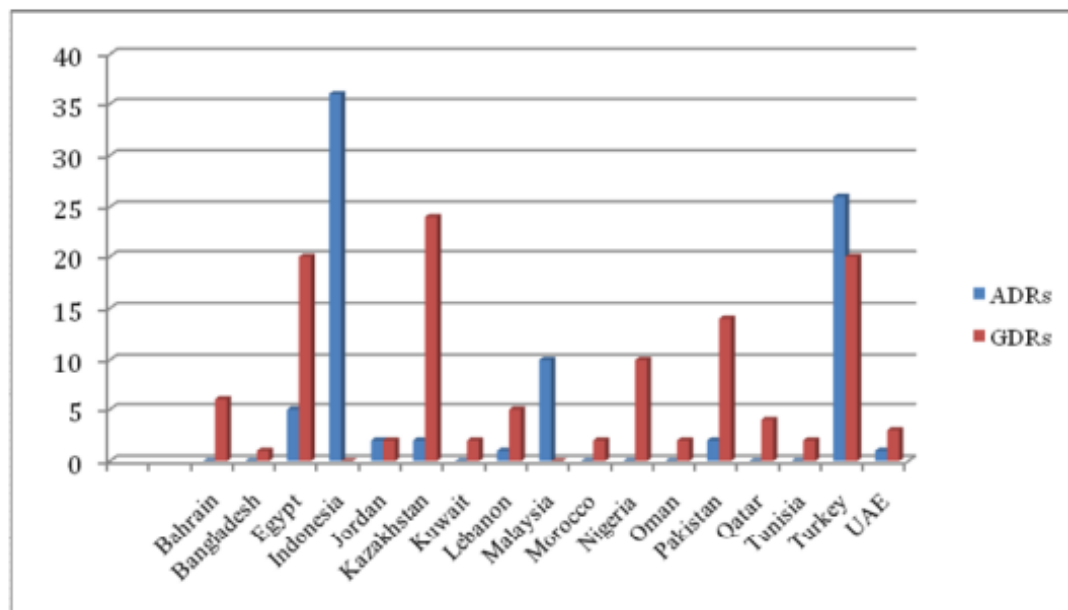


Figure 3: The composition of ADRs and GDRs

In Table 1, the number of companies taking up DRs may not be equal to the number of DRs. This is due to the fact that the same companies may have subscribed to both ADR and GDR at the same time. For example, in Egypt there were 13 companies that subscribed to Depositary Receipts (DRs) and yet they issued 5 ADRs and 20 GDRs. Meanwhile, the effective start-up year for DR varied across countries, as early as 1983 for Malaysia and as late as 2008 for Kuwait.

Based on the total issues of 202 DRs, more than half of DRs were GDRs. The higher number of GDR issues compared to ADRs indicate that these foreign companies preferred London or Luxembourg to the US. According to Doidge et al. (2009) by 2005, New York's shares exceeded London cross-listings by only 59 percent compared to 78 percent in 1998. Many argue that London has become more competitive in attracting foreign listings than New York. A common justification for this decrease in foreign listings is the introduction of the Sarbanes-Oxley Act (SOX) in 2002 that imposed additional costs on companies and their managers and thus made the US listings significantly less attractive to these foreign firms. Nonetheless, Table 1 and Figure 3 show that companies from countries such as Indonesia, Malaysia and Turkey still prefer ADRs to GDRs. The inclination for these companies to list in the US market is due to potential increase of reputation. The US market is known for its legal structure, stringent nature of the SEC and most importantly the higher threshold of financial disclosure (Doidge et al., 2009; Sevic et al., 2010).

Figure 4 shows the plot of Depositary Receipts (DRs) by country from 1992 to 2009. Some countries like Egypt and Turkey had a rather constant growth in DR issuance. Others like Bangladesh, Kuwait, Morocco, Oman and Tunisia show no increase in issuance.

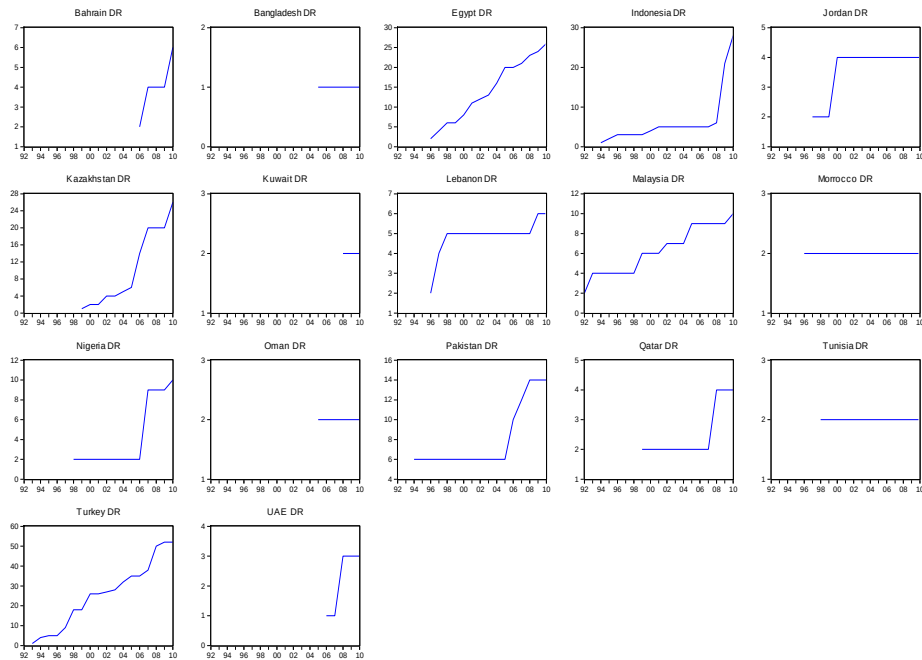


Figure 4: The Number of DRs by Country from 1992 to 2009

All the summary statistics such as mean, standard deviation, skewness and kurtosis for sample period taken from year 1992 until 2009 are presented in Table 2. The data demonstrates a noticeably wide range of DR activities across the seventeen markets and describes different patterns across countries and regions. The mean percentage of DRLISTED was markedly greater in countries like Turkey, Lebanon and Kazakhstan. Mean DRLISTED is around 7.74% in Turkey and reaches as high as 31.57 percent for Lebanon. The high value of DRLISTED for Lebanon and Kazakhstan was due to the small number of listed companies, only 10 and 60 companies respectively.

The second variable, DRMACAP showed a different kind of distribution; the mean percentage of this variable was higher for Lebanon, Pakistan and Turkey, ranging from 27.37, 27.55 and 28.17 respectively. The best indicator is that the largest firms by market capitalization are the most likely to list shares abroad (Reese & Weisbach, 2002; Doidge et al., 2004).

When it comes to VOLUME, the highest percentage activity occurred in Indonesia (12 percent), Pakistan (11 percent) and Turkey (7 percent). However, there seemed to be almost no change in volume of trading in Morocco, Kazakhstan, Bahrain, Qatar and Tunisia. The concentration index indicated that the large firms are dominating DR listings. If the value is closer to 1, it is an indication that the DR listings are concentrated in large firms (Moel, 2001). In this study, we found that all the sample countries with the exception of Pakistan, had low concentration index, which was less than 5 percent. Clearly, for our sample countries, DR listings were not concentrated in large firms.

The evidence from Table 3 reveals the distribution of the dependent variable, stock market development. For STGDP, interestingly, Jordan and Malaysia were among the top

by having 148 percent and 142 percent respectively. Kuwait came in third with 104 percent. The lowest STGDP with 5 percent was Bangladesh. Nonetheless, when it comes to LISTGDP, more or less, all the sample countries had less than 1percent except for Jordan.

Table 16: Summary statistics for proxies of DR Activity

Country	Bahrain	Bangla	Egypt	Indon	Jordan	Kazakh	Kuwait	Lebanon	Malaysia	Morocco	Nigeria	Oman	Pakis	Qatar	Tunisia	Turkey	UAE
Total number of DRs divided by total number of listed companies per country (%) [DRLISTED]																	
Mean	1.691	0.105	1.845	1.345	1.362	8.746	0.109	31.573	0.776	2.718	1.209	0.423	0.975	4.504	2.918	7.740	0.479
Median	0.000	0.000	0.867	1.342	1.499	7.307	0.000	41.667	0.786	3.604	0.995	0.000	0.816	6.004	4.124	8.321	0.000
Std. Dev.	3.407	0.174	2.301	1.100	0.956	9.778	0.316	20.692	0.133	1.568	1.464	0.740	0.604	3.882	2.141	5.178	1.039
Skewness	1.577	1.016	1.455	2.504	-0.427	0.902	2.476	-0.796	-0.463	-1.039	1.383	1.267	0.672	-0.176	-0.653	0.202	1.989
Kurtosis	3.670	2.070	4.023	10.470	1.795	2.558	7.131	1.986	2.277	2.423	3.542	2.851	3.164	1.359	1.512	2.186	5.430
Total market capitalization of all DR-linked companies divided by total market capitalization per country in US million (%) [DRMACAP]																	
Mean	2.905	0.538	12.124	17.261	11.109	11.791	0.224	27.377	8.794	1.821	4.857	4.535	27.554	7.597	3.892	28.174	2.207
Median	0.000	0.000	4.712	15.668	13.267	5.372	0.000	31.337	8.539	2.183	1.901	0.000	25.739	2.863	5.597	31.708	0.000
Std. Dev.	6.117	0.989	14.848	13.781	8.149	18.452	0.837	19.396	5.459	1.047	9.529	8.438	17.840	9.866	3.700	21.206	4.508
Skewness	2.015	1.576	1.270	1.557	0.008	1.920	3.771	-0.343	0.460	-0.995	2.412	1.839	0.130	1.112	-0.027	0.426	1.794
Kurtosis	6.135	4.127	3.509	5.335	2.558	5.417	15.481	1.971	2.332	2.607	7.345	5.721	2.019	3.106	1.266	2.498	5.010
Total trading volume of all DR-linked companies divided by total market capitalization per country in US million (%) [VOL]																	
Mean	0.002	0.177	0.547	12.251	0.013	0.002	0.014	0.042	0.334	0.000	2.106	0.054	10.618	0.003	0.004	7.064	0.017
Median	0.000	0.093	0.415	13.016	0.020	0.002	0.000	0.047	0.321	0.000	0.580	0.000	6.363	0.000	0.004	5.913	0.000
Std. Dev.	0.004	0.261	0.669	8.259	0.009	0.001	0.023	0.026	0.150	0.000	2.405	0.083	10.109	0.005	0.003	4.923	0.027
Skewness	1.472	2.425	2.390	0.286	-0.734	-0.809	1.761	-0.491	0.378	0.833	0.504	1.556	0.707	1.074	-0.071	1.197	0.885
Kurtosis	3.491	7.560	8.665	2.673	1.697	1.655	4.896	1.948	2.783	3.743	1.320	4.230	2.067	3.018	1.821	3.627	1.910
Concentration Index [CONCEN]																	
Mean	0.004	0.000	0.014	0.014	0.009	0.031	0.000	0.043	0.003	0.000	0.005	0.017	0.076	0.013	0.003	0.014	0.004
Median	0.000	0.000	0.003	0.012	0.000	0.000	0.000	0.000	0.001	0.000	0.000	0.000	0.021	0.000	0.000	0.004	0.000
Std. Dev.	0.008	0.000	0.021	0.012	0.014	0.054	0.000	0.057	0.003	0.000	0.010	0.033	0.081	0.021	0.004	0.022	0.008
Skewness	1.952	1.348	1.581	0.333	1.453	1.386	2.474	0.917	0.958	-0.058	1.812	2.168	0.406	1.239	0.601	2.060	2.232
Kurtosis	5.494	3.476	4.494	1.856	3.644	3.241	7.121	2.670	2.794	1.219	4.811	6.216	1.430	2.664	1.835	5.931	6.372
KAOPEN index per country [KAOPEN]																	
Mean	2.308	-1.148	1.931	1.288	2.118	-1.148	1.338	1.358	0.181	-1.148	-0.700	1.952	-1.198	2.478	-1.148	-0.970	2.478
Median	2.478	-1.148	2.345	1.148	2.478	-1.148	1.148	1.148	-0.097	-1.148	-0.514	1.952	-1.148	2.478	-1.148	-1.148	2.478
Std. Dev.	0.285	0.000	0.661	0.350	0.678	0.000	0.353	0.580	0.446	0.000	0.441	0.545	0.186	0.000	0.000	0.452	0.000
Skewness	-2.245	NA	-0.608	1.900	-2.118	NA	1.572	0.076	1.214	NA	-1.934	0.000	-3.328	NA	NA	2.041	NA
Kurtosis	7.687	NA	1.770	5.132	6.708	NA	3.998	3.489	2.901	NA	5.123	1.000	12.077	NA	NA	5.167	NA

Table 17: Summary statistics for measures of Stock Market Development

Country	Bahrain	Bangla	Egypt	Indon	Jordan	Kazakh	Kuwait	Lebanon	Malaysia	Morocco	Nigeria	Oman	Pakis	Qatar	Tunisia	Turkey	UAE
Total market capitalization of all listed shares divided GDP (%) [STGDP]																	
Mean	111.388	5.284	55.813	30.496	147.819	23.113	103.974	22.392	142.330	53.759	19.259	33.479	23.973	97.270	13.413	29.259	61.326
Median	108.773	5.434	48.224	28.502	142.463	15.923	102.171	18.198	143.458	44.871	16.855	29.283	20.217	95.563	13.686	28.361	42.525
Std. Dev.	22.513	2.814	28.218	10.956	77.003	18.115	40.143	13.708	27.782	24.385	12.780	12.396	14.412	56.446	3.519	10.944	51.332
Skewness	0.336	0.279	0.719	0.472	0.639	0.761	0.286	0.312	-0.524	0.615	1.786	0.530	0.518	0.541	0.768	0.046	0.900
Kurtosis	2.192	1.760	2.021	2.031	2.481	1.959	1.669	1.438	3.208	2.183	5.514	1.991	1.898	2.330	3.100	1.969	2.855
Total number of all listed shares divided GDP (%) [LISTGDP]																	
Mean	0.274	0.448	0.964	0.137	1.616	0.073	0.189	0.042	0.712	0.133	0.400	0.522	0.949	0.055	0.153	0.097	0.025
Median	0.273	0.462	1.046	0.120	1.623	0.082	0.192	0.050	0.681	0.133	0.414	0.489	1.032	0.043	0.143	0.098	0.027
Std. Dev.	0.232	0.057	0.409	0.055	0.262	0.060	0.058	0.027	0.159	0.043	0.221	0.193	0.353	0.065	0.033	0.035	0.022
Skewness	0.034	-2.065	-0.680	1.536	-0.478	0.206	-1.891	-0.598	0.230	1.159	0.223	0.578	-0.442	0.837	0.393	-0.108	0.185
Kurtosis	1.577	7.181	2.516	5.395	2.296	2.136	7.631	1.868	2.242	3.876	1.981	2.851	1.633	2.331	2.004	1.895	1.793

Given the panel nature of our data, we use panel estimation techniques to estimate equation 1.1. As mentioned earlier, the standard panel models such as fixed effect and random-effect panel model were not suitable due to the presence of the country-specific effects and the lagged dependent variable or potential endogeneity of explanatory variables. Thus, our analysis is based on dynamic System GMM model as this model is an improvement over the Fixed Effects, Random Effects, and Difference GMM Model and perceived as more powerful than other models. Table 4 presents the results of panel technique for each stock market development indicator (LISTGDP and STGDP). All results from OLS fixed-effects, random-effects, Difference GMM and System GMM are shown in Table 4 but the discussion will be focused more on the System GMM. The two-step GMM model is relatively well specified after passing the diagnostic tests. In the Sargan test, the absence of first order serial correlation is rejected while the absence of the second-order serial correlation is not rejected. Furthermore, the lagged dependent variable is statistically significant which implies the dynamic GMM is an appropriate estimator.

Turning to DR activity variables, the first variable DRLISTED, had a positive and significant impact on the stock market development measure, LISTGDP. Basically, one unit increase of DRLISTED would result in an increase of 0.002 of LISTGDP. Similarly, VOLUME also had a positive influence on LISTGDP. An increase of a unit in VOLUME led to an increase in LISTGDP of 0.04.

On the other hand, the second measure, DRMACAP, had a negative and significant impact on LISTGDP. For example, a one unit increase of DRMACAP resulted in a reduction 0.002 which is similar in magnitude to DRLISTED. CONCEN showed mixed results. CONCEN had a positive impact on LISTGDP, but negative influence on STGDP. Meanwhile, the one-year lagged effect on all stock market development measures had a statistically positive influence on all the dependent variables. The control variable KAOPEN was statistically significant and positive for only STGDP, but had no impact at all on LISTGDP.

Overall, the results suggested a positive impact of Depositary Receipts (DRs) activity on domestic stock market development. Of the four variables that proxy Depositary Receipts (DRs) activity, three of them indicated a positive relationship with stock market development and thus confirm the efficacy of this instrument in fostering the local stock markets. Obviously, firms were able to attract funds at lower costs and better terms more easily, and had tapped into wider investor bases. The investors were able to acquire and sell shares at more liquid exchanges.

Our results are consistent with previous studies that claim cross listing provides positive effects on the domestic stock markets (Hargis, 2000; Domowitz et al., 1998; Foerster & Karolyi, 1999). The positive effects on stock market development could be in various forms such as broadening shareholder base and improving transparency and corporate governance of the home market. Their findings show that firms that cross list in larger and more transparent markets but come from smaller less liquid markets with greater foreign ownership restrictions will show greater improvement in their domestic market development.

Nonetheless, the evidence also points to an adverse impact of DRs on measures of stock market development, as pointed out by the relationship of variables CONCEN

and DRMACAP. This result is parallel with the findings by Moel (2001) and Karolyi (2004). They argue that ADRs appear to be influential in decreasing the stock market liquidity and limiting the economic growth of the local market. In particular, the effect of large firms listing ADRs is found to be detrimental to the development of the local market.

Furthermore, according to Claessens et al. (2002) the process of developing a local stock exchange also increases the domestic firms' access to international exchanges. In their view, while better fundamentals lead to an increase in domestic activity, more and more of these activities will occur abroad as better fundamentals spur the degree of migration in capital raising, listing, and trading to exchanges abroad. As a result, migration makes it more difficult for countries to sustain a fully-fledged local stock exchange. They further add that, as trading volumes further decrease, financing the fixed overhead of maintaining market oversight, clearing, and settlement systems, and generating enough order flow for local brokers and enough business for local investment banks, accounting firms, and other supporting services will become even harder, especially for smaller emerging markets. The trend towards increased migration will thus make it more difficult for small exchanges to survive which in this case applies to most of OIC countries stock market (Lee & Valero, 2010).

Table 4: Fixed, Random Effect and Dynamic Model

A: LISTGDP	Panel		Dynamic Panel		Dynamic Panel	
	Fixed Effect	Random Effect	Difference GMM		System GMM	
			One-step	Two-step	One-step	Two-step
LISTGDP _{it-1}			0.914** (0.000)	0.921** (0.000)	0.934** (0.000)	0.970** (0.000)
DRLISTED _{it}	-0.001 (0.562)	-0.003 (0.268)	0.004 (0.255)	0.003* (0.093)	0.003 (0.172)	0.003** (0.034)
DRMACAP _{it}	-0.010** (0.000)	-0.010 (0.000)	-0.004** (0.001)	-0.002** (0.020)	-0.003** (0.000)	-0.002** (0.000)
VOLUME _{it}	0.054* (0.039)	0.054 (0.038)	0.210 (0.122)	0.057** (0.004)	0.030* (0.014)	0.051* (0.005)
CONCEN _{it}	0.028** (0.000)	0.028 (0.000)	0.969** (0.004)	0.604** (0.038)	0.990** (0.000)	0.749** (0.000)
KAOPEN _{it}	-0.097** (0.000)	-0.093 (0.000)	0.008 (0.621)	-0.004 (0.550)	0.006 (0.550)	0.000 (0.997)
Hausman Test	25.120 (0.000)					
Sargan Test			175.54 (0.004)	9.367 (1.000)	220.65 (0.0001)	9.08 (1.000)
AR(1)				(0.0340)		(0.0266)
AR(2)				(0.1307)		(0.1506)
N	17	17	17	17	17	17
T	18	18	18	18	18	18
B: STGDP						
STGDP _{it-1}			0.278** (0.000)	0.252** (0.000)	0.477** (0.000)	0.481** (0.000)
DRLISTED _{it}	1.410 (0.008)	1.137* (0.024)	1.906 (0.168)	-0.926 (0.640)	-1.166 (0.259)	-0.709 (0.371)
DRMACAP _{it}	0.200 (0.526)	0.300 (0.330)	-0.808* (0.0490)	0.071 (0.918)	-0.672* (0.057)	-0.558* (0.089)
VOLUME _{it}	-2.893 (0.603)	-3.786 (0.491)	-3.280 (0.537)	-15.853 (0.541)	-5.498 (0.340)	6.667 (0.720)

CONCEN _{it}	-1.541 (0.129)	-1.823 (0.068)	25.131 (0.839)	-2.708 (0.240)	-1.252 (0.257)	-1.692 (0.303)
KAOPEN _{it}	13.760 (0.000)	13.403** (0.000)	18.971** (0.003)	17.436** (0.000)	13.308** (0.002)	13.49** (0.000)
Hausman Test	4.871 (0.432)					
Sargan Test			164.613 (0.0187)	11.348 (1.000)	227.05 (0.000)	12.32 (1.000)
AR(1)				(0.1035)		(0.0149)
AR(2)				(0.9034)		(0.9285)
N	17	17	17	17	17	17
T	18	18	18	18	18	18

Note: Figures in parentheses are p-value. * and ** indicate the respective 10% and 5% significance levels.

4. CONCLUSION

We find that the cross listing via DRs does have a positive impact on the stock market's development of OIC countries. Our findings reveal that growth and expansion of international cross listings via DRs of companies from these OIC market have a positive impact on domestic stock market development. There are many limitations and weaknesses of the OIC stock markets such as weak legal system and regulations, a limited supply of institutional investors, less support from the private sector, lack of transparency and accountability. Thus, these factors inevitably imply higher cost of capital to the growing companies in these markets and lead to reduced competitiveness. These barriers have an impact on how the pricing of stocks in their local markets. Naturally, for firms in markets with greater investment barriers, the impediment will translate to lower price and higher cost of capital. The way to mitigate any negative effects arising from DRs is to adopt policies that promote the positive effects of international diversification. Depositary Receipts (DRs) could be one of the means to increase competitiveness of domestic firms internationally. Additionally, for international investors, investing in shares via DRs could provide a platform for diversifying their portfolio. As mentioned earlier, OIC countries are in dire need to come up with mechanism for enhancing cooperation and intra-investment among them. Based on our results, the introduction of Islamic Depositary Receipts (IDRs) would be one of the best alternative instruments to address the issue. Organizations like IDB have identified the need to have IDRs as one of the means in harnessing capital and addressing capital inadequacy problems faced by the companies listed in OIC country stock exchanges. The recommendation is that OIC countries with surplus capital can invest in IDRs of companies from countries with inadequate capital. As these are companies currently issuing DRs and so have met the needed quality threshold, there is no additional risk. Instead, investors from capital rich OIC countries get the benefits of diversification. Current investors from rich OIC countries invest in Western financial institutions that then recycle these as "loans" or investments to poorer OIC countries. This not only lucrative but gives extensive power to the Western intermediates. The proposed IDR would disintermediate the middlemen role of Western institutions or markets and channel the funds directly to their poorer brethren.

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IS GOLD HIGH QUALITY LIQUID ASSET ENOUGH TO BE INCLUDED INTO HQLA STOCK?

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ABSTRACT

In December 2010 Basel Committee of Banking Supervision (BCBS) introduced two new ratios namely Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR). The objective of LCR is to ensure that banks have an adequate amount of High Quality Liquid Assets (HQLA)¹ to withstand crisis scenario for the 30 days period. However, until today gold is included into the list of HQLA. The objective of this study is to analyze if gold complies with characteristics of HQLA defined by the Basel Committee. Our findings suggest that except of low volatility feature gold has no other restrictions to be assign as HQLA.

Keywords: Gold, HQLA, LCR, Basel III.

¹ HQLA are assets that can be easily and immediately converted into cash at little or no loss of value through sale or repo transaction even in times of stress.

1. INTRODUCTION

The global financial crisis (GFC) makes it apparent that many banks are lacking the adequate level of liquid assets. Empirical evidence demonstrated that banks whose liquidity was at sufficient level managed to meet their payment obligations meanwhile banks with insufficient liquidity could not. The fact that liquidity risk can be mushroomed was highlighted once again by GFC. For example to preserve financial stability central banks as lenders of last resort provided a huge amount of liquidity support. In US for example with purpose of restoring liquidity and confidence in the banking system the US Treasury created and run a group of programs known as Troubled Asset Relief Program (TARP) with the objective to buy and risky and nonperforming loans such as mortgages, auto loans, college loans etc. from different lending institutions.

Driven with this phenomenon Basel Committee of Banking Supervision (BCBS) in December 2010 introduced two new ratios namely Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR). The objective of LCR is to ensure that banks have an adequate amount of High Quality Liquid Assets (HQLA)¹ to withstand crisis scenario for the 30 days period. On the other hand the objective of NSFR is to supply a viable maturity structure of assets and liabilities for the period of one year.

2. THE CHARACTERISTICS OF HQLA

“HQLA are comprised of Level 1 and Level 2 assets. Level 1 asset generally include cash, central bank reserves, and certain marketable securities backed by sovereign and central banks, among others. These assets are typically of the highest quality and the most liquid, and there is no limit on the extent to which a bank can hold these assets to meet the LCR. Level 2 assets are comprised of Level 2A and Level 2B assets. Level 2A assets include, for example, certain government securities, covered bonds and corporate debt securities. Level 2B assets include lower rated corporate bonds, residential mortgage backed securities and equities that meet certain conditions. Level 2 assets may not in aggregate account for more than 40% of a bank’s stock HQLA. Level 2B assets may not account for more than 15% of a bank’s total stock HQLA²”.

2.1. The Fundamental characteristics of HQLA

According to Basel Committee to be considered HQLA an asset should meet four essential criteria such as; i) low risk, ii) ease and certainty of valuation, iii) low correlation with risky assets, and iv) to be listed on developed and recognized exchange.

¹ HQLA are assets that can be easily and immediately converted into cash at little or no loss of value through sale or repo transaction even in times of stress.

² Passages from Annex 1: Summary description of the LCR (Basel III: The Liquidity Coverage Ration and Liquidity Risk Monitoring Tools, January 2013)

The first condition requires that an asset should have low risk which increases chances of higher liquidity during times of turbulence. Low risk means low legal risk, low inflation risk, low duration³.

The second condition is ease and certainty of valuation which requires that asset's liquidity increases when market participants have a unanimous valuation approach. Therefore, assets are more fungible and henceforth liquid when they have simple, standardized, and homogeneous structure. Also HQLA should have simple pricing formula and must be easy to calculate without depending on heavy assumptions.

The third fundamental characteristic of HQLA states that it should not have high level of positive correlation⁴ with risky assets. And the final fundamental characteristic of HQLA is that it should be listed on a developed and recognized exchange. This feature assures the transparency of the asset.

2.2. The Market-Related Characteristics of HQLA

The market-related characteristics of HQLA are threefold. To be considered HQLA an asset first, should have an *active and sizable market*, second it should be subject to *low volatility* and third it should have a '*flight to quality*' feature.

According to the first characteristic, at all times the asset must have an active wholesale sale and repo markets. Accordingly, there must be exist historical evidence of market breadth and depth. Which justified by low bid-ask spreads, large trading volumes, and a broad and varied number of market participants. The diversity of participants is important since it scales down the market concentration and scales up the trustworthiness of the liquidity in the market. Also a prosperous market framework must be in place because the presence of numerous dedicated market makers increases liquidity due to availability of buying and selling quotes. The second feature which is low volatility implies that HQLA is an asset whose price does not fluctuate sharply over time. The proxy measure of market volatility is the volatility of market terms such as prices and haircuts and also volumes during stressed period must be available. And the final market-related characteristic of HQLA is flight to quality feature which implies that the evidence that market tends to move into these types of assets during systemic crisis.

3. GOLD AS HQLA

This section shall analyze how gold can comply with HQLA. We shall look at each characteristic fundamental and market-related and justify why we support gold to be accepted as HQLA.

³ Duration is the measurement of the price of a fixed income security to variations in interest rate.

⁴ When assets are positively correlated their prices tend to co-move i.e. when the price of one asset is falling the price of the second asset will also fall and vice versa. The assets which have negative correlation follow the opposite trajectory.

In 2014 Amanie Advisors Sdn Bhd together with KFH Research Ltd conducted a study titled “Gold as high-quality liquid asset (HQLA) for the Islamic banking system”. The study advocates the role of gold as HQLA and their results suggest that gold complies with most of characteristics of HQLA. The only parameter it does not meet is low volatility requirement. However the price of gold tends always to rise during the periods of financial stress.

Figure 1. The changes in gold prices for the period from March 1915 to August 2015



The Figure 1 illustrates the movement of gold prices for the last 100 years. We shall start our analyses starting from 1971. The reason we select the particular date is due to the collapse of Bretton Woods system, when the price of US dollar was pegged to gold. After 1971 the price of gold was determined by market forces and started its price increasing marathon. From 1971 until today the price of gold is increased during times of financial, political or natural turbulence. For example in 1979 gold prices rose linked to the invasion of Afghanistan by Russia and the Iranian hostage crisis. The natural disaster such as Hurricane Katrina in 2005 also culminated in rise of gold prices. During the recent financial crisis in September 2008 the price of gold raised \$50 in one day which represents the largest one day increase since 1980. Investors perceived gold as a high quality safe heaven asset and also high credit quality asset. All these phenomena indicate that gold is an asset which meets the criteria of flight to the quality.

3.1. Low Risk

Low risk property is important for the liquidity purpose. Such as an asset which is low risk asset, remains liquid during times of financial turmoil. Therefore, if being liquid during times of financial distress is compulsory property gold complies with this property in perfect way. Justification comes with Figure 1 where one can see that gold is not only liquid but also has history of substantial price increase during stress periods.

3.2. Ease and Certainty of Valuation

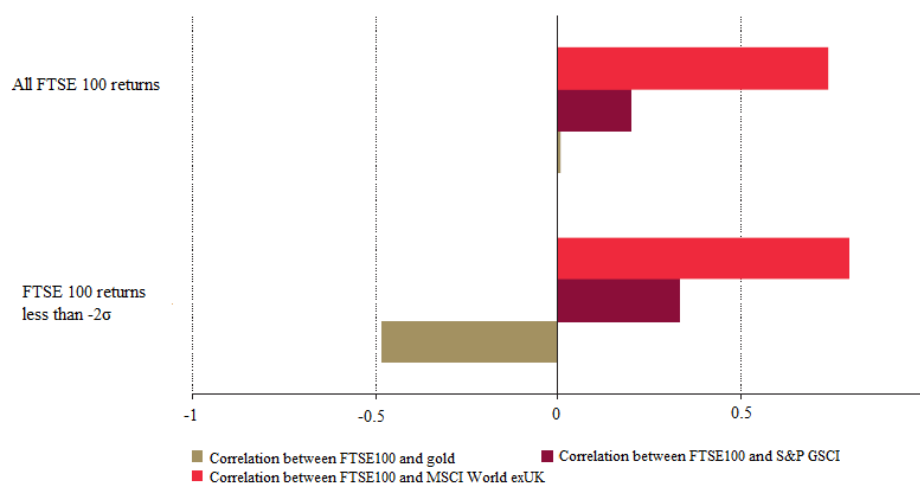
Property requires a unanimous valuation for the asset from all market participants. The price of gold is fixed twice a day at 10.30AM and 3PM London time at London bullion market. The gold fix is conducted in USD, GBP and EUR. This evidence proves that there is no uncertainty in pricing of gold.

3.3. Low Correlation with Risky Assets

Gold has no correlation with the rest of reserve assets and negatively correlated with US dollar, which makes it perfect hedge against market risk and thusly improves performance of the portfolio. Reserve asset managers can use gold to reduce risks attached to the portfolio and in wealth preservation. Individuals, on the other hand, commonly use gold as a hedge against long-term inflation.

World Gold Council (2013) suggests that for a comprehensive range of sterling-based investment strategies, from risk-averse to risk-seeking, gold is significant contributor to portfolio efficiency by increasing risk-adjusted returns and reducing expected losses. Their findings suggest that even relatively small allocations to gold, ranging from 2.6% to 9.5% can have a positive impact on the long-term performance of a portfolio. Figure 2 shows that correlation between UK equities and gold since January 1987 during periods when UK equities dropped by more than two standard deviations is significantly negative at -0.48. Meanwhile, for the same period the correlation between commodities and international equities is positive. The results make apparent that gold has low and even significantly negative correlation with risky assets especially during times of financial distress.

Figure 2. Correlation between equities, gold and commodities over the long-run and when equities drop by more than two standard deviations*



*Computations based on weekly returns from January 1987 to December 2011
Source: World Gold Council

3.4. Active and Sizable Market

Gold has a deep and transparent market. The historical prices for gold are available starting from 1833 which provides a historical evidence for the investor. Gold trade takes place through over-the-counter (OTC) transactions, bids on shares in exchange-traded funds (ETFs), and purchases of gold futures and options contracts. The major markets are London, New York and Zurich. Without a formal structure or open-outcry meeting place, the London Bullion Market Association (LBMA) acts as the leading point of contract for OTC transactions. The gold market is dominated by large institutional players and high-net-worth individuals who conduct business with bullion banks via telephone or computer dealing systems. In contrast gold futures and options contracts are traded on regulated commodity exchanges around the world. The most significant gold futures exchanges are the COMEX – now part of the NYMEX's metals division and part of CME Group, and the Tokyo Commodity Exchange (TOCOM), which has been trading gold futures since 1982. Like the COMEX and TOCOM, many futures exchanges operate through a central clearing system, allowing the exchange to act as the counterparty in the trade. Trading futures and options contracts on exchanges is also based on fixed delivery dates and transaction sizes. Although trading costs are generally higher than OTC transactions, they are negotiable. As a matter of practice, only a small percentage of futures market turnovers ever come to physical delivery of the gold represented by the contracts traded. Physical gold exchanges take place in London (LBMA), Turkey (Istanbul Gold Exchange) and UAE (Dubai Multi Commodities Centre). Meanwhile the commodity futures exchanges take place in USA (CME Group), Japan (Tokyo Commodity Exchange), China (Shanghai Gold Exchange and The Chinese Gold & Silver Exchange Society), Dubai (Dubai Gold & Commodities Exchange), India (Multi Commodity Exchange of India, National Commodity and Derivatives Exchange), Brazil (BM&F Bovespa), Taiwan (Taiwan Futures Exchange), Indonesia (Jakarta Futures Exchange), Turkey (Turkish Derivatives Exchange), and Russia (RTS Exchange).

3.5. Flight to Quality

The feature of gold as a safe haven asset increased its attractiveness in terms of portfolio allocation of official investors, i.e. central bank managers. Ciner (2001) suggested that adding gold to the portfolio will reduce its volatility thus, leading to a more balanced portfolio.

Baur and Lucey (2009) presented the evidence of the potential for gold to act as a safe haven asset. According to their findings gold tends to hold its value when stock markets experience extreme negative returns. Furthermore, in their paper the authors determine between the *safe haven* and *hedge* assets. Thus according to them hedge is defined as asset which is uncorrelated or negatively correlated with another asset or portfolio on average for example sovereign bonds in normal times, while a safe haven is defined as an asset that is uncorrelated or negatively correlated with another asset or portfolio during the times of market stress or turmoil only.

McCown and Zimmerman (2006) find evidence that gold is an excellent hedge against inflation. Moreover, their findings suggest that gold shows the characteristics of “zero beta asset”, bearing no market risk. Capie et al. (2005) find evidence of potential of gold as an exchange-rate hedging. Baur and McDermott (2009) pointed out that the presence of a strong safe haven in the

market suggests the potential for gold to act as a stabilizing force for financial markets by reducing losses when it is most needed, i.e. during economic turmoil.

4. CONCLUSION

In this study we have studied the characteristics of HQLA which are mainly divided into two namely fundamental characteristics and market-related characteristics. Fundamental characteristics are fourfold; i) low risk, ii) ease and certainty in valuation, iii) low correlation with risky assets, and iv) being listed on developed and recognized exchange. The market-related characteristics are threefold; i) active and sizable market, ii) low volatility, and iii) flight to a quality. We analyzed how gold comply with each of the above mentioned features of HQLA defined by Basel committee. Our results suggest that except of the one factor which is low volatility gold has no restrictions to be accepted as HQLA.

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THEME: OTHER ISLAMIC FINANCE AND SHARIAH ISSUES

RE-EVALUATING THE IMPACT OF ISLAMIC MICROFINANCE PROGRAMS: A NEW INTEGRATED APPROACH

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ABSTRACT

Impact assessment of microfinance programs have been remained the foremost concern of microfinance stakeholders for optimal policy measures. The existing literature regarding the impact assessment varies from parametric to experimental methods to evaluate the performance of microfinance programs across the world however; the literature is lacking a single measure to reveal maximum possible changes in socioeconomic variables due to microfinance institutions' intervention. This study aims to develop a composite index for evaluating the performance of microfinance programs in multi-dimensional contexts. The study exposes a set of 10 "diverse indicators" to evaluate the performance of a microfinance program on a wider socioeconomic scale. The dimensions of the index are consist of economic (Income, expenditure, saving) and socioeconomic (poverty, access to basic facilities, decent standard of life, women empowerment) indicators. The changes in deprivations of household, based on the selected indicators, reveal the success or failure of a microfinance programs towards their goals. Finally, we have developed an index by the interaction of incidence and intensity of socioeconomic deprivations. The index is named as "Multidimensional Deprivation Index". This is an index developed in the same line as multidimensional poverty index. The implications of this study are three folds; firstly, it will open up a new dimension of literature in the field of microfinance including Islamic microfinance by instigating an important area. Secondly, it may provide a better alternative to microfinance's stakeholders to investigate the impact assessment of microfinance programs on a wider socioeconomic scale rather than a few economic. Last but not the least, the study integrates diverse socioeconomic indicators, after assigning weights and adjustment to portray an overall picture of the performance of microfinance in terms of uplifting the socioeconomic conditions of the poor and financially marginalized people.

Keywords: Microfinance, Impact Assessment, New Methodology

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1. INTRODUCTION

Impact assessment studies of microfinance institutions are becoming prioritized concern in the realm of microfinance. Since the initiation of the scientific study of microfinance impact assessment by Pitt and Khandker (1998), impact assessment studies have got momentum. Researchers have subsequently used various techniques to validate the results obtained from various studies (Ahmed 2002; Banerjee et al. 2009; Bauchet et al. 2011; Coleman 2006). Non-Parametric approach, used for the evaluation of impact of microfinance, is more popular impact assessment approach than any other impact assessment approach (Bali Swain 2004). The existing literature on impact assessment varies from traditional methods to experimental methods used to evaluate the performance of microfinance programs in terms of targeting improving the socioeconomic conditions of the poor.

Impact assessment of Microfinance Institutions (MFIs) is the most important perspective of all stakeholders; donors, government regulatory authorities and MFIs by themselves. Impact assessment, by itself, is not an objective for the stakeholders rather it is a way to monitor the performance of MFIs in targeting their socioeconomic objectives. The selection of conventional approaches like randomized control trials, quasi experimental methods and parametric approaches, as impact assessment methods in isolation are incapable to properly investigate change in socioeconomic conditions of the poor and marginalized community members. Randomized Control Trials (RCTs) places program and clients randomly without taking any deliberate socioeconomic criteria therefore, this method is scientifically robust but socially and objectively weak. Similarly, quasi experimental and parametric approaches, being impact assessment methods are incapable to report changes in socioeconomic variables properly due to their corresponding shortcomings². The following shows the appropriateness of conventional microfinance impact assessment approaches.

Quasi experimental methods possess both; random and non-random characteristics. The clients (experimental group) are selected on the basis of certain established criteria while the non-clients (control group) are selected on the similar characteristics except credit. This method is capable to investigate net impact of microfinance on certain socioeconomic variables (income, saving, expenditure, poverty etc.). Like RCTs, quasi-experimental methods also have shortcomings. First, the selection of a well-compared control group; this approach particularly suffers from “selection bias” and “clients’ self-selection bias³”. Second, quasi-experiments lack the elements of randomness. Third, this method report average effect of MFIs on their clients. Fourth, the reliability of results reported by this approach depends upon the selection of well-compared control group. Parametric methods are also very common in the literature of microfinance impact

² For more details about the experimental and non-experimental impact assessment methods please see paper entitled “A Critical Investigation of the Selected Contemporary Microfinance Impact Assessment Methods: Lesson Learned for Islamic Microfinance Institutions” submitted for 9th Islamic Economics and Finance conference. The conference will take place in Turkey.

³ Self-selection or clients’ self-selection bias means that clients who offer themselves for credit may have better entrepreneurial skills and organizational abilities. This may affect the impact of microfinance and will yield upward bias.

assessments studies. (Khan 2011; Khan, Asmatullah, and Yasin 2011; Khandker 2005; Kondo et al. 2009). These methods use a wide range of data which can produce robust results. The result thus produced can be generalized. Non parametric methods are usually based on a set of assumptions⁴ which may yield statistically biased and inconsistent results.

Our major concern, in this paper, is not to highlight the deficiency of existing impact assessment methods however; we have very briefly indicated the drawbacks of RCTs, quasi-experimental methods and parametric methods. These drawbacks have attracted our attentions to develop a new comprehensive microfinance impact assessment approach. The new approach will be capable to alleviate the issues resulting from the existing methods at one hand and will provide relatively a comprehensive platform for a broader socioeconomic investigation on the other hand.

2. WHY THE EXISTING IMPACT ASSESSMENT METHODS ARE NOT SUITABLE FOR MICROFINANCE INSTITUTIONS (IMFIS)

Impact assessment is the foremost concern of MFIs. The result of such studies enables all stakeholders to yardstick their progress in terms of achieving the targeted socioeconomic objectives. Such studies also help to pinpoint strength and weakness of MFIs at different levels. Eventually, impact assessment studies help MFIs to experience a broader understanding of current situations and to plan optimal future strategies.

Being involved and practicing of the provision of credit under the realm of Islam, Islamic microfinance institutions are more conducive towards the welfare of human beings⁵. These institutions are specifically interested to alleviate the absolute level of poverty and enhance socioeconomic conditions of the poor and financially marginalized community members. Microfinance impact assessment methods are either technically deficient or do not concentrate on social and philanthropic aspects. This situation necessitates the initiation of a new method of impact assessment which simultaneously focus on social and long term changing variables (poverty, empowerment etc.) at one hand and cure the deficiencies of existing methods on the other hand.

3. WHY A NEW IMPACT ASSESSMENT METHODOLOGY?

As per our discussion in the previous sections that major impact assessment methods suffer from some measurement biases like random program selection, random clients selection, short term investigation of socioeconomic variables (resulting from RCTs), selection bias, clients self-selections (resulting from quasi-experimental methods), biasedness and inconsistency of results (resulting from parametric methods). Notwithstanding, none of the methods provide a combine

⁴ In case of time series variables it should satisfy the properties of stationary series, normality of distribution, no Autocorrelation etc., while in case when we deal with cross section data, the data should follow the IID sequence etc. these assumptions are violated when try for empirical data which may yield biased and inconsistent results.

⁵ This statement is made on the basis of theoretical and philosophical foundation of Islamic System.

benchmark (socioeconomics) to compare and contrast the aggregate performance of MFIs in a single point of time and in an intertemporal context.

In order to take care of these weaknesses we try to develop a benchmark of socioeconomic indicators to investigate the impact microfinance institution on their clients. This study will open a forum for discussion regarding the newly developed index named as “Multidimensional Deprivation Index”

3.1. The advantages of Multidimensional Deprivation Index (MDI)

Multidimensional deprivation index provide an insight into the selected dimensions. It represents the socioeconomic and gender empowerment information about the selected households. The following are some of the advantages of this index.

- i. It can help the MFIs to evaluate the impact of microfinance on their clients in the selected socioeconomics and gender related indicators.
- ii. It can help the MFIs to provide an insight about the clients’ deprivation, sources of deprivation and its intensity.
- iii. MDI has the potential to aggregate dimensional indicators into a single value to reveal an overall scenario. This scenario can help IMFIs to know the households profile in the selected dimensions. The IMFIs can further use this information for selection of clients, policy development, Impact assessment etc.
- iv. MDI can be used to compare and contrast the performance of IMFIs across the region and across the countries.
- v. MDI is capable to exclude or include areas specific dimensions or indicators.
- vi. MDI is free from traditional measurement errors such as selection bias because it does not choose a control group for comparison rather it uses the same clients as comparison (which is a better measure of comparison).
- vii. MDI particularly cures the disadvantages of Randomized Control Trials (RCTs). It has the potential to be used as a long term microfinance impact assessment method. Unlike RCTs, it provides insight into indicators and dimensions rather to report only average effect. It is also applicable in country like Bangladesh where control group is difficult to be identified because of plenty services of microfinance.

4. METHODOLOGY

This study uses a unique methodology and thus incorporates multiple indicators to investigate the impact of microfinance on poor and low income groups. This study introduces diverse dimensions microfinance performance indices to re-evaluate the impact of microfinance on a wider socioeconomic scale. The methodology of the study consists of economic (income, expenditure, saving) socio-economic (access to basic facilities, decent standard of life, social and

gender deprivation, access to government/private financial facilities). The dimension indices are aggregated, by assigning weights to each dimension, based on theoretical and empirical studies conducted by prominent institutions. The following figure-1 represents the process of development of Multidimensional deprivation index. It has been developed with the help of various dimensions and indicators.

Figure -1: Flow chart of development of Multidimensional Deprivation Index (MDI)

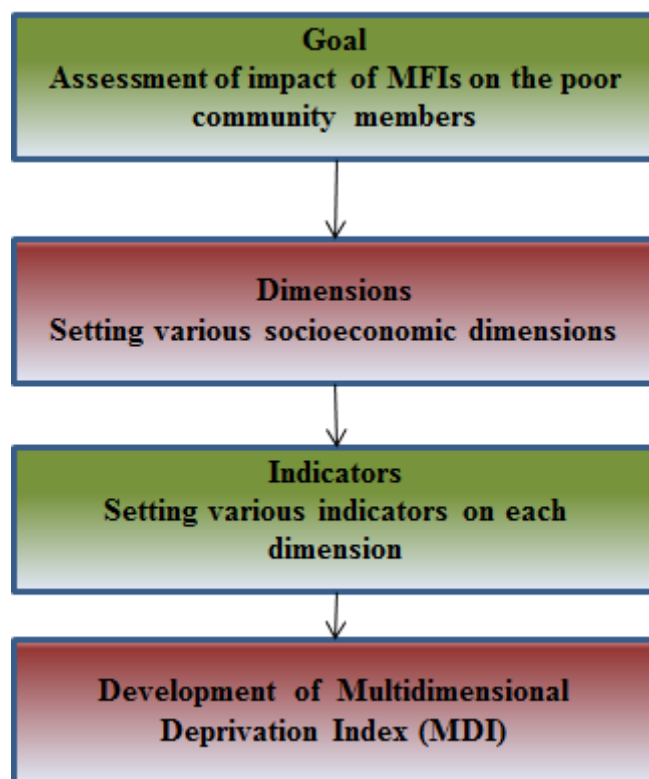


Figure-1 shows the steps involved in the development of multidimensional deprivation index. We establish various dimensions such as economic, financial accessibility, standard of life and gender empowerment related indicators. In order to have a deeper understanding of these dimensions we have set different indicators on each dimension. Eventually, we have developed Multidimensional Deprivation Index (MDI) by assigning “double equal weights”. First, all dimensions are given equal weight (1/4). Second, each indicator has given equal weight under each dimension (number of indicators in each dimension * (1/4)). The development of MDI will help microfinance institutions to assess aggregate deprivation to initiate or extend the facility of microfinance at one hand and to evaluate their performance in terms of resolving these deprivations on the other hand. MDI has the potential to be used for multiple tasks. The following table shows the detail about dimensions, weights and indicators.

Technical Box-1: The definition of MDI

The MDI is an index designed to measure households' deprivations in diverse dimensions. The poor are not deprived in a single aspect (income or health or social aspects etc.) rather they are deprived in multiple aspects therefore; a proper investigation will reveal their multidimensional deprivations based on selected indicators at one hand while the intensity of deprivations for each dimension on the other hand. The MDI helps to identify ***incidence of deprivation*** and ***intensity of deprivation***. The combination of both; the incidence and intensity of deprivation provides insight into ***pattern of deprivation*** such as what is the contribution of each indicator and dimension in total deprivation?

Source: Alkire and Santos (2010)

4.1. Steps towards the development of MDI

Multidimensional deprivation index construction requires several steps. We explain these steps on by one.

4.1.1. Selection of dimensions

The dimensions of MDI are set in broader objectives of microfinance institutions. Most Microfinance Institutions (MFIs) are in general and cooperative Microfinance Institutions in particular are double bottom line institutions. They simultaneously focus on their twin objectives; commercial and social success. These institutions therefore, try to extend the facility of microfinance to poor and financially marginalized people (Gutiérrez-Nieto, Serrano-Cinca, and Molinero 2007; Haq, Skully, and Pathan 2010; Hassan and Sanchez 2009; Gutierrez-Goiria and Goitisoló Lezama 2011). MFIs, particularly interested in the socioeconomic uplifts of the people thus they particularly focus on women empowerment because 70 percent of the total poor are women (Mohanty 2011). This phenomenon therefore requires a particular attention. Keeping into consideration this scenario, the broader dimensions are set as; economic, financial accessibility, standard of life and gender empowerment. These dimensions represent a broader scenario of deprivation of the clients in four aspects.

Technical Box-2: Components of MDI

The MDI is composed of four dimensions made up of ten indicators. Associated with each indicator is a minimum level of satisfaction, which is based on international consensus (such as the Millennium Development Goals or MDGs). This minimum level of satisfaction is called a *deprivation cut-off*. Two steps are then followed to calculate the MDI:

Step 1: Each person is assessed based on household achievements to determine if he/she is below the deprivation cut-off in each indicator. People below the cut-off are considered deprived in that indicator.

Step 2: The deprivation of each person is weighted by the indicator's weight. If the sum of the weighted deprivations is 25 percent or more of possible deprivations, the person is considered to be multidimensionally deprived.

Source: Alkire and Santos (2010)

i. Economics dimension

Economic dimension represents the economic aspects of the households. Economic dimension comprises of three aspects; income, saving, and ownership of residential house. Information about income, saving and ownership of residential house represent financial health of the household, their vulnerability to economic deprivation and their suitability for credit. A household will be considered deprived on economic dimension if none of the household member has a regular source of income equal or above the international poverty line (US\$2 per day) for at least 6 months. Similarly, if a household cannot save a minimum amount (equal to one school going tuition fee) on a regular bases for at least 6 months then the household will be considered as deprived on economic dimension. If a household do not own a residential house then the members of the household are deprived on economic dimension.

ii. Financial accessibility

Financial accessibility is another dimension of MDI. This dimension represents the access of households to formal financial institutions for fulfilling their basic needs such as credit, saving and insurance. An inability on these aspects represents a deprivation on financial aspects and If the household members do not have an access to conventional financial institutions for credit or insurance then the household is deprived on financial accessibility dimension.

iii. Living conditions

Living conditions such as access to clean drinking water, electricity and adequate sanitation represent a direct measure of standard of life. An assessment on these aspects represents a direct picture that whether the intervention of MFIs has brought any changes to living standard of the clients or vice versa. The household is considered as deprived if the household does have access

to clean drinking water or clean water is more than 30 minutes' walk from home (roundtrip time). Similarly, the household is deprived, on living conditions dimensions, if the household members share toilet. Finally, the household is deprived on living conditions, if the household has no electricity.

iv. Women empowerment

Women empowerment is the last dimension of MPI. Women empowerment is represented by two indicators; share of women in household income and women participations in Government election. This is a critical aspect which represents the participation of women in Eco-political activities. This aspect particularly represents the role of MFIs towards the achievement of their social goals. Any positive change in these aspects resulting from the intervention of MFIs will represent the achievement of their social goals and vice versa. Eventually, microfinance performance index has been developed to represent aggregate socioeconomic impact as a single index.

4.2. Step by step methodology and the application of MDI

4.2.1. Step-1: Obtaining the data

The first step of MDI starts with data. From where the data can be obtained for the development of index? This is really a crucial question that needs to be answered. The ideal way is to collect data from micro surveys about microfinance institutions if fortunately available. Mostly in developing countries, we lack such surveys. To collect information about the MDI dimensions and indicators is not a big deal. Most of the MFIs obtained this information at the beginning of credit intervention. Thus the information obtained at the beginning will be considered as based period and the new information about the selected indicators at the current time period will be considered as comparison year information. Thus a microfinance institution can measure its performance without any comparison to other microfinance institution. If a microfinance institution lacks this information at the beginning of microfinance program, still it is applicable to know multidimensional deprivation of their clients in broader socioeconomic conditions to adopt optimal policy measures in the future. The Index can be used for comparative context as well but the data thus obtained from various sources will be standardized first.

4.2.2. Step-2: Dimension and indicators

The dimensions of MDI are set in broader objectives of microfinance institutions. Most Microfinance Institutions (MFIs) are in general and Microfinance Institutions (IMFIs) are in particular, are double bottom line institutions. They simultaneously focus on their twin objectives; commercial and social success. These institutions therefore, try to extend the facility of microfinance to poor and financially marginalized people (Gutiérrez-Nieto, Serrano-Cinca, and Molinero 2007; Haq, Skully, and Pathan 2010; Hassan and Sanchez 2009; Gutierrez-Goiria and Goitisoló Lezama 2011). There is no hard and fast rule of selection of dimensions and indicators. It may be area specific, impact specific and country specific etc. it can be easily adjusted or replaced for different indicators and dimensions.

4.2.3. Step-3: Deprivation cut-off

Next we go for indicators cut-off. There must be some rationality behind the cut-off of indicators. These cut-offs may be assigned on the basis of facts and figures and minimum standards. These cut-offs can be adjusted or replace according to cultures and minimum standards set in different places. For detail of these cut-offs for each indicators of MDI go to technical box-3 bellow. These cut-offs are set in with help of MPI indicators.

Technical Box-3: Thresholds of MDI

1. Economic indicators

No regular income	Deprived if none of the household member has regular income equal or above the international poverty line (US\$ 2 per day) for at least 6 months
No regular saving	Deprived if none of the household member saves on regular basis
No ownership of residential house	Deprived if the household members do not have their own residential house

2. Financial accessibility

No access to formal financial institution for credit	Deprived if household members don't have access to financial institutions for credit
No access to formal financial institution for insurance	Deprived if household members don't have access to financial institutions for insurance

3. Living conditions

No access to clean drinking water:	Deprived if a household does have access to clean drinking water or clean water is more than 30 minutes' walk from home (roundtrip time).
No access to adequate sanitation	Deprived if the household members share toilet

4.2.4. Step-4: Indicators' weights

The indicators of MDI are assigned double equal weight. All dimensions are weighted equally and then all indicators within each dimension are weighted equally. The details about weight and indicators s given in the following table-1

Table-1: Composition of MDI, Dimensions, weights and Indicators

	Dimensions	Dimensional weight	Indicators	Indicators weight
MDI	Economic	25 % (1/4)	No regular source of income No regular saving No ownership of residential house	8.33 %
	Financial accessibility	25 % (1/4)	No access to formal Financial institution for credit No access to formal Financial institution for insurance	12.5 %
	living conditions	25 % (1/4)	No access to clean drinking water No access to adequate sanitation No electricity	8.33 %
	Women empowerment	25 % (1/4)	No share of women in household income No participation of women in government election	12.5 %

Source: Developed by the authors with the help of MPI construction

The Table-1 shows detail about dimensions, indicators and weight assigned to each dimension and indicator. The weight is assigned to each dimension and indicator by double equal weight process – first equal weight is assigned to each dimension and then equal weight is assigned to each indicator within each dimension. The dimensions and indicators represent the socioeconomic and institutional deprivations.

4.2.5. Step-5: The aggregate deprivation cut-off

The deprivation score of each client is calculated with the help of a weighted sum of the number of deprivations, so that the deprivation score for each person lies between 0 and 100. The score increases as the number of deprivations of the person increases and reaches its maximum of 100 when the client is deprived in all component indicators. A person, who is not deprived in any indicator, receives a score equal to 0. Thus;

0 → no deprivation at all on the selected indicators.

100 → multidimensional deprivations based on the selected indicators.

Intensity of multidimensional deprivation is negligible if household score is less than 26. Moderate multidimensional deprived if household score is b/w 26 and 50. High multidimensional deprived if household score is >50 but less than 75. Very high multidimensional deprived if the household score is > 75

4.2.6. Step-6: Multidimensional deprivation for an Intervention area

The combination of both: incidence and intensity of deprivations will finally yield Multidimensional Deprivation Index (MDI) for an intervention area of microfinance institution.

$$MDI = (Intensity\ of\ deprivation) * (Incidence\ of\ deprivation)$$

This index can be used to compare and contrast the socioeconomic intervention of microfinance institutions across the region. Following is an arbitrary value example that how MDI can be constructed.

Table-2: An artificial example to develop a Multidimensional Deprivation Index (MDI)

Indicators	1	2	3	4	5	weights	IBD ³¹⁵ (%)	DD ³¹⁶ (%)
Household size	5	7	6	4	4			
Economic								
No regular income	1	0	1	1	0	0.0833	60	53
No regular saving	1	1	0	0	1	0.0833	60	
No ownership of residential house	0	0	1	1	0	0.0833	40	
Financial accessibility								
No access to formal Financial institution for credit	1	0	1	1	1	0.125	80	50
No access to formal Financial institution for insurance	0	0	1	0	0	0.125	20	
Living conditions								
No access to clean drinking water	1	0	0	1	1	0.0833	60	60
No access to adequate sanitation	1	1	1	0	1	0.0833	80	
No electricity	1	0	0	0	1	0.0833	40	
Women empowerment								
No share of women in household income	1	0	1	0	1	0.125	60	60
No participation of women in government election	1	0	0	1	1	0.125	60	
Socioeconomic outcome (Household deprivation on socioeconomic conditions)	79.16	16.66	62.50	50.00	71.00			
Households Socioeconomics deprivation status	deprived ³¹⁷	not deprived	deprived	deprived	deprived			
Intensity of deprivation	very high ³¹⁸	Negligible	high	moderate	high			
Multidimensional deprived households (Head count ratio)	0.730769	73.08						
Intensity of deprivation (%)	66.04211							
Multidimensional deprivation for an intervention area	0.66*73.08	48.26						

³¹⁵ Indicators Based Deprivation³¹⁶ Dimensional Deprivation³¹⁷ Deprived if the household score on all dimensions is 30 and above.³¹⁸ Intensity of multidimensional deprivation is negligible if household score is less than 26. Moderate multidimensional deprived if household score is b/w 26 and 50. High multidimensional deprived if household score is >50 but less than 75. Very high multidimensional deprived if the household score is > 75

5. INTERPRETATION OF RESULTS

Keeping into consideration the result of Table-2, 73.08 percent of the households are multidimensional deprived on the selected dimensions. It has also shown that on average the poor households are deprived by 66.04 percent on the weighted indicators. The MPI represents the share of the population that is multidimensional poor **adjusted** by the intensity of the deprivation suffered. Thus the MDI value is:

$$MDI = (Intensity\ of\ deprivation) * (Incidence\ of\ deprivation) = 0.6604 * 73.08 = 48.26$$

So 48.26 percent households are multidimensionally deprived. Furthermore, MDI is capable to report deprivation; dimension by dimension and indicator by indicator. The above example shows that the community is particularly suffering from financial accessibility deprivation and social deprivation based on the selected indicators. Similarly, the dimensions based deprivations show that improvement in women empowerment and social conditions is more important than the other indicators but the community is particularly suffering from these deprivations more than the rest of dimensions of deprivation.

6. CONCLUSION AND POLICY IMPLICATIONS

Microfinance impact assessment is an important area of interest for major stakeholders of this industry. The paper briefly evaluated the existing microfinance impacts assessment approaches namely; randomized control trials, quasi experimental and parametric approaches. None of the conventional microfinance approach can be used as a single impact assessment method due to technical flaws. The policy implications of the study are three folds; firstly, it will opens up a new dimension of literature in the field of microfinance including Islamic microfinance by instigating an important area among the academicians and researchers. Secondly, it will provide a better alternative to microfinance stakeholders to investigate the impact assessment of microfinance programs on a wider socioeconomic scale rather than a few economic indicators. Thirdly, the application of these indices is equally important to evaluate the performance of conventional microfinance programs as well. Last but not the least, the study integrates diverse socioeconomic indicators, after assigning weights and adjustment for inequalities, to portray an overall picture of the performance of microfinance in terms of uplifting the socioeconomic conditions of the poor and financially marginalized people.

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LOAN DEFAULT AMONG MICRO ENTREPRENEURS IN MALAYSIA: A FACTOR ANALYSIS TECHNIQUE

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ABSTRACT

Loan repayment problem is an obstacle for the financial institutions especially Microfinance Institutions (MFIs) to give more credits to the micro entrepreneurs. Most of the MFIs are Non-Governmental Organisations (NGOs) that are relied on subsidies from the government and donors to get funds. Hence, financial sustainability is important to ensure that they can continually provide funds to the micro entrepreneurs. To achieve financial sustainability, the MFIs should maintain low delinquency and transaction cost besides charges high interest rate. Therefore, this paper tries to explore the loan default among micro entrepreneurs in Malaysia. The study applied mixed methodology, combining between quantitative and qualitative data through questionnaire survey, in-depth interviews, publish and unpublished reports. A total of 401 respondents were selected randomly from all states in Peninsular Malaysia and the study used descriptive and factor analysis to analyse the data. Besides, semi-structured interviews with selected MFIs managers were conducted to get better views about borrower's repayment problems. The findings of the study revealed that there are five main factors that contribute to loan repayment problems namely personal factors such as personal problems and debt burden, business factors such as sales down and business competition, legislation factors such as no law action taken, loan factors such as loan received not enough and push factors such as can delay the payment. The results prove that some borrowers default because of unexpected circumstances such as borrower's illness, sales down and economic condition. However, there are borrowers that default because of voluntary default such as no law action taken if they default and microfinance loan is a subsidy from the government and they can delay the payment. The study suggests differentiating the terms and conditions in applying loans between new entrepreneurs and experienced entrepreneurs because the new entrepreneurs need more than credit to enhance their businesses such as business skills and entrepreneurial skills. In addition, it also suggests eliminating the regular repayment schedule that applied by many MFIs and change it with flexible repayment schedule. The study proposes to match the borrower's repayment with the expecting of receiving income such as in agricultural sector where usually they received income after harvesting time. It also proposes to introduce mentor mentee program where successful entrepreneurs be a mentor to new entrepreneurs and unsuccessful entrepreneurs.

Keywords: Loan Default, Microfinance, Factor Analysis

1. INTRODUCTION

Access to financing is an important aspect in the business operation of micro enterprises (MEs). Normally, MEs are excluded from the banking system because of high risk and lack of collateral. Microfinance around the world shows that it can be an effective way to reduce poverty or to promote the development of MEs. Prior studies proved that access to micro finance contributes to poverty reduction and enhance business activities of the poor (Zapalska et al., 2007; Khandker, 2005; Mainsah et al, 2004; Matin et al., 2002). Adekunle (2007) found that one of the factors that differentiate members who are successful than non-members from the Cooperative Thrift and Credit Societies, is the accessibility of credit.

Microfinance is a provision of financial services such as savings, credit, insurance and payment services to low-income clients, including consumers and the self- employed, who traditionally lack access to banking and related services (Gonzalez-Vega, 1998; Conroy, 2002; Ledgerwood, 1999). Microfinance has been recognized as an essential socio-economic and financial mechanism for poverty alleviation, promoting entrepreneurial development and increasing the profile of disadvantaged people in numerous countries throughout the world (Hossain et al., 2012). Microfinance serves to promote rural livelihoods and urban poor by the creation of entrepreneurship opportunities that encourage the reduction of unemployment through creating potential business based on their interest and skill. Microfinance is targeted to poor people because these people usually lack of collateral, no steady employment and a verifiable credit history, which therefore, cannot even meet the most minimal qualifications to gain access to normal banking. Besides, it can avoid poor people from illegal lending sources such as moneylender and loan shark that charge exorbitant/excessive interest rate.

However, repayment problem is an unresolved issue faced by the majority of financial institutions including MFIs. In Malaysia, repayment problem faced by many semi-formal financial institutions that offer credit to micro enterprises and SMEs is on the high side (Starbiz, 2 June 2010). For example, in 2008, the non-performing loans (NPLs) for TN are 29 percent, SME Bank is 8 percent, Suruhanjaya Koperasi Malaysia (SKM) is 13.8 percent and Permodalan Nasional Berhad (PNB) is 11 percent (Utusan Malaysia, 16 December 2008). While, the NPLs for Perbadanan Usahawan Nasional Berhad (PUNB) is 30 percent for the Retail PROSPER Scheme and 20 percent for the Graduate PROSPER Scheme and PKS Scheme (Berita Harian, 16 February 2009). Until 2012, the NPLs for TN are still higher which represent 20 percent (TEKUN Nasional, 2012).

Loan repayment rate is one of the most critical issues of MFIs that concerns all stakeholders (Sharma & Zeller, 1997; Marr, 2002; Maata, 2004; Godquin, 2004; Reille, 2010) where the high loan default rate is the primary cause of the failure of MFIs (Yaron, 1994; Woolcock, 1999; Marr, 2002; Maata, 2004; Kofi, 2012). Adams et al. (1984) found that the failure of a large number of state-sponsored agricultural development banks in many developing countries was due, among others, to their inability to ensure good repayment rates. The agency problem, adverse selection and moral hazard that appear as a result of information asymmetries are the main reason why these happened. This is because the lenders cannot observe the behaviors of their

clients either they are honest and dishonest. The lenders can only observe the outcome of their loans either the clients repay or not.

The previous studies showed that MFIs with a high default rates might not survive or be financially sustainable in the long run (Llanto et al., 1996; Derban et al., 2005; Arsyad, 2006). There are several reasons behind high default rates such as the borrowers unwilling or unable to repay the loan (Bhole & Ogden, 2010; Brehanu & Fufa, 2008; Greenbaum et al., 1991; Coyle, 2000). Sterns (1995) argued that the cause of high level of non-repayment rates is the lender himself/herself not the borrower. She also noted the importance of “uncontrollable” factors such as natural disasters and personal crises affecting the ability to repay a loan. Whilst, Olomola (2000) discussed the causes of loan repayment problems such as health problem, family problem, low sales, inclement weather conditions and high transportation cost. However, Derban et al. (2005) found a strong evidence that institutional characteristic are equally important in determining loan repayment performance. Therefore, this paper tries to explore the loan default among micro entrepreneurs in Malaysia. The paper is divided into four sections namely introduction, literature review, research methodology, and findings and conclusions.

2. LITERATURE REVIEW

Many researchers have emphasized the importance of loan repayment performance such as Sangoro et al., (2012), Silwal (2003), Godquin (2004), Stearns (1995) and Hulme and Mosley (1996). Examining repayment performance is important because if borrowers do not repay, then there may not be sufficient funds to ensure that the liquidity position of the MFI is maintained. When there is a loss in the bank liquidity due to high levels of non-repayment, the cyclical flow of funds between the MFI and the borrowers will be interrupted. The result of this is a reduction in the efficiency of the MFI's operation (Kurien, 1985).

To minimize delinquency and default rate, the institution must have the ability to detect the characters and reputation of the borrower either he/she is an honest or dishonest. However, to differentiate between honest and dishonest borrowers is hard because character is not observable. The borrower knows either they are willing to repay or not but the lender does not know the probability of default of the borrower (principal-agent problem). These information asymmetries ruin the relationship between lender and borrower.

There are various factors including individual/borrower characteristics (Eze & Ibekwe, 2007; Papias & Ganesan, 2009; Adegbite, 2009; Aguilera & Gonzalez-Vega, 1993; Reinke, 1998; Nannyonga, 2000), borrower's firm characteristics (Ugbomeh. et al., 2008; Arene, 1992; Mbata, 1994; Nikhade et al., 1994; Njoku, 1997; Nannyonga, 2000; Chirwa, 1997; Oke et al., 2007), loan characteristics (Roslan & Mohd Zaini, 2009; Sharma & Zeller, 1997; Eze & Ibekwe, 2007; Arene, 1992; Njoku, 1997; Guttman, 2007) and MFI characteristics (Arene, 1992; Zeller, 1998; Arsyad, 2006; Roslan Abdul Hakim et al., 2007; Papias & Ganesan, 2009) that will affect the willingness and the ability of borrowers to repay their loans. On the other hand, the borrowers may not able to repay their loans due to factors beyond their control such as flood, earthquake and economic recession. The borrowers may default when the

return of their business is too small or when the return is just enough to cover the scheduled payment and they decide not to pay their loans by choice (strategic default).

Olamola (2000) divides the delinquency and default problems into four categories namely borrower-related causes, causes related to loan utilization, lender-related causes and extraneous causes. The borrower-related causes include health problem, family problems, lack of regular meeting, imitation among group members and burden with other debts. The causes which are related to loan utilization are low sales, fall in product prices, poor yield, low product prices, low demand for products, perishable nature of products, pest attack and inclement weather. The lender-related causes are high interest rate and late disbursement of loans and the extraneous factors that contribute to delinquency and default problems are fuel scarcity, poor transportation and communication system and high cost of transportation.

3. RESEARCH METHODOLOGY

This study applied mixed methodology, combining between quantitative and qualitative data through questionnaire survey, in-depth interviews, publish and unpublished reports. A total of 401 respondents were selected randomly from all states in Peninsular Malaysia and the study used descriptive and factor analysis to analyse the data. This study choose current MFIs borrowers who engage in various economic activities such as services sector, manufacturing sector and agricultural sector that have different business background. In selecting the samples, the study used multistage sampling by proportionate stratified random sampling. Besides, semi-structured interviews with selected MFIs managers were conducted to get better views about borrower's repayment problems. The data collection was conducted from July 2010 until January 2011.

For analysis purpose, the study used descriptive analysis and factor analysis in determining the loan default among micro entrepreneurs. The descriptive analysis is to analyse the demographic profile of the borrowers and the causes of repayment problems. While factor analysis is important to explain observed relations among numerous variables in terms of simpler relations (Cattell, 1965). The simplification may consist of producing a set of classificatory categories, or creating a smaller number of hypothetical variables. Factor analysis examines a set of variables and determines which ones belong together. The variables that are grouped together are called a factor (Kerlinger & Lee, 2000).

4. FINDINGS AND CONCLUSIONS

The aim of descriptive statistics is to summarize large quantities of data by a few numbers and, to highlight the most important numerical features of the data (Antonius, 2003). Based on descriptive analysis, the results show that the mean age of respondents is 42 and most of the respondents are married. 229 respondents are female, and the rests are males who contribute 172 from total respondents. In terms of education level, majority of respondents just finish their secondary school and below. Average of respondents has nine-year business experience and the average of total household income per month is RM4, 149 (USD1,484). In terms of business location, majority of respondents operate their business in rural areas where most of them

involved in services and retail activities such as retail shop, hawker stalls, salon and restaurant.

Meanwhile, factor analysis attempts to identify underlying variables, or factors that explain the pattern of correlations within a set of observed variables. Factor analysis is often used in data reduction to identify a small number of factors that explain most of the variance observed in a much larger number of manifest variables. Factor analysis can also be used to generate hypotheses regarding causal mechanisms or to screen variables for subsequent analysis (for example, to identify co-linearity prior to performing a linear regression analysis). In this analysis, the factor analysis procedure using the varimax rotation would be used in order to identify the questions that could be grouped together which contributes to loan default. Furthermore, the reduction of data or uncorrelated questions would reduce the variables used in future analysis.

Based on the KMO and Bartlett's test, the factor analysis could be done because it is more than 0.5. Therefore no variables would be excluded. In addition the Bartlett's test of Sphericity is significant at 0.000 therefore we conclude that the factor analysis could be further analyzed.

Table 1: KMO and Bartlett's Test

Kaiser-Meyer-Olkin Measure of Sampling Adequacy.			.832
Approx. Chi-Square			4250.898
Bartlett's Test of Sphericity	df		528
Sig.			.000

Table 2 shows the eigenvalues as well as associated proportion of variance explained by each factor. It shows that there are ten components (factors) that have eigen value more than 1. The ten factors contribute 63.13% to the total variance.

Table 2: Eigenvalues and Proportion of Variance Explained

Factors	Eigenvalue	Proportion %	Cumulative %
1	6.663	20.190	20.190
2	2.930	8.880	29.070
3	1.794	5.436	34.506
4	1.742	5.279	39.786
5	1.628	4.933	44.719
6	1.382	4.189	48.907
7	1.301	3.943	52.851
8	1.245	3.772	56.622
9	1.113	3.373	59.995
10	1.035	3.137	63.132

Table 3: Rotated Component Matrix

	Component									
	1	2	3	4	5	6	7	8	9	10
Financial Crisis	.777									
Sales Down	.735									
Too Many Competition	.723									
Low Product Price	.683									
High Fuel Price	.662									
TN Takes Law Action		.902								
TN Blacklist		.880								
TN Seize Assets		.668								
No Future Loans		.643								
No Action from TN		-.523								
Health Problem			.850							
Family Problem			.753							
Personal Problem			.597							
Not Used the Loan for Business				.686						
Wrong Business				.620						
Influence by Friends				.604						
No Time to Pay				.486						
Need to Pay Other Expenses					.789					
Other Debt Burden					.772					
Loan Approval Take Too Long						.655				
Political Influence						.596		.412		
Total Loan Not Enough						.538				
Natural Disaster						.492				
Subsidy from Government							.673			
High Monthly Instalment							.656			
Limited Place To Pay							.595			
Reasonable Interest Rate							-.542			
Too Much Bureaucracy								.677		
Business Failed				.430				.588		
TN Gives Extra Time									.822	
TN Not Push to Pay									.806	
Feel Guilty To TN										.796
Feel Guilty To Allah										.768

Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

a. Rotation converged in 13 iterations.

Table 4: Total variance explained

Component	Initial Eigenvalues			Extraction Sums of Squared Loadings			Rotation Sums of Squared Loadings		
	Total	% of Variance	of Cumulative %	Total	% of Variance	of Cumulative %	Total	% of Variance	of Cumulative %
1	6.663	20.190	20.190	6.663	20.190	20.190	4.214	12.770	12.770
2	2.930	8.880	29.070	2.930	8.880	29.070	3.337	10.112	22.882
3	1.794	5.436	34.506	1.794	5.436	34.506	3.118	9.447	32.329
4	1.742	5.279	39.786	1.742	5.279	39.786	2.413	7.313	39.643
5	1.628	4.933	44.719	1.628	4.933	44.719	1.675	5.076	44.719
6	1.382	4.189	48.907						
7	1.301	3.943	52.851						
8	1.245	3.772	56.622						
9	1.113	3.373	59.995						
10	1.035	3.137	63.132						
11	.911	2.762	65.894						
12	.867	2.626	68.520						
13	.813	2.464	70.984						
14	.747	2.263	73.247						
15	.730	2.212	75.459						
16	.719	2.179	77.638						
17	.643	1.950	79.588						
18	.637	1.931	81.519						
19	.592	1.793	83.311						
20	.558	1.692	85.003						
21	.539	1.632	86.635						
22	.505	1.531	88.166						
23	.480	1.453	89.619						
24	.429	1.299	90.918						
25	.423	1.283	92.201						
26	.412	1.250	93.451						
27	.389	1.178	94.628						
28	.379	1.148	95.776						
29	.344	1.043	96.819						
30	.335	1.015	97.834						
31	.296	.898	98.732						
32	.263	.796	99.529						
33	.156	.471	100.000						

Extraction Method: Principal Component Analysis.

Table 5: Component Matrix

Component Matrix^a

	Component				
	1	2	3	4	5
Personal Problem	.674				
Wrong Business	.641				
Sales Down	.613			-.475	
Other Debt Burden	.609				
High Fuel Price	.606				
Need to Pay Other Expenses	.580				
Too Many Competition	.577			-.408	
Financial Crisis	.571			-.415	
Low Product Price	.564				
Family Problem	.562				
Business Failed	.532				
Health Problem	.529				
No Time to Pay	.517				
Political Influence	.513				
Too Much Bureaucracy	.507				
Not Used the Loan for Business	.502				
High Monthly Instalment	.486				
Natural Disaster	.480				
Influence by Friends	.466				
TN Takes Law Action		.872			
TN Blacklist		.821			
No Future Loans		.661			
TN Seize Assets		.587			
No Action from TN		-.492			
Feel Guilty To Allah			.507		
Feel Guilty To TN			.452		
Total Loan Not Enough			.448		
Loan Approval Take Too Long			.439		
Subsidy from Government				.439	
Limited Place To Pay					
TN Gives Extra Time					.589
Reasonable Interest Rate					.538
TN Not Push to Pay					.522

Extraction Method: Principal Component Analysis.

a. 5 components extracted.

Based on the table of Rotated Component Matrix as shown in the table 1, there are five main factors that contribute to loan repayment problems. Factor 1 contributes 12.77%, factor 2 contributes 10.11%, factor 3 contributes 9.45%, factor 4 contributes 7.31% and factor 5 contributes 5.08% where all five factors contribute 44.72% variance as a whole. Based on past literature factor 1 can be constructed as personal factors such as personal problems and debt burden. Factor 2 can be put under business factors such as sales down and business competition while factor 3 can be constructed as legislation factors such as no law action taken. Factor 4 can be grouped under loan factors such as loan received not enough and factor 5 can be grouped under push factors such as can delay the payment. The results prove that some borrowers default because of unexpected circumstances such as borrower's illness, sales down and economic condition. However, there are borrowers who default because of voluntary default such as no law action taken if they default and they assume microfinance loan

is a subsidy from the government where they can delay the payment or opt to not pay. It shows that the borrowers take for granted from the flexibility given by the MFIs in making payment. The results of this study are in line with the previous studies where there are two reasons that make borrowers default which is borrowers' disability to repay and voluntary default.

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***MAQASID SYARIAH* SELAIN LIMA *MAQASID* UTAMA:
PERKEMBANGAN DAN CABARAN**

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1. PENGENALAN

Peranan utama ilmu Usul Fiqh adalah untuk mengeluarkan hukum-hukum berkait Syariah. Pun begitu, ia bukanlah satu ilmu yang statik, bahkan dinamika disiplin ilmu usul fiqh menjadikan para pengamalnya mula melihat kepada perkara yang lebih fundamental, sehingga mencapai tahap mengetahui ‘intent’ kepada sesuatu pensyariatan. Ia bukanlah sesuatu yang pelik, bahkan sangat dinamik kerana memahami sesuatu yang fundamental itu menjadikan Islam dilihat sangat berprinsip dan penuh dengan nilai-nilai universal.

Justeru, ilmu Maqasid Syariah ini adalah berperanan bagi menentukan fundamental syarak, agar umat terkemudian dapat mengambil manfaat darinya bagi meneruskan dinamika Syariah. Walaubagaimanapun, perbincangan ilmu ini tidak terlepas dari sifat-sifat statik yang boleh menghalang dinamika syariah. Paling utama adalah persoalan terhadap lima maqasid utama, adakah memadai atau masih boleh diterokai? Sejauh mana penerokaan ilmu maqasid diletakkan had kepadanya? Apakah maqasid lain jika benar ada ruang untuk penambahannya?

Kertas ini bertujuan untuk menyorot kembali perkembangan dan cabaran ilmu Maqasid Syariah khususnya setelah lima maqasid utama terbentuk dan dipersetujui. Melihat perkembangan ilmu Maqasid bukan hanya kepada sorotan sejarah, namun ia juga melihat kesan dan pengaruh semasa terhadap perkembangan ilmu tersebut. Mengambil method ‘content’ analisis, kertas ini diharap dapat mencapai objektif sebagaimana persoalan kajian ditimbulkan iaitu menentukan samada lima maqasid utama itu bersifat tetap atau boleh ubah, meletakkan limitasi terhadap pembolehubah di dalam ilmu maqasid dan menilai relevansi aplikasi maqasid lain terhadap lima maqasid utama yang dibahaskan.

2. METODOLOGI

Berasaskan method ‘content analysis’, kertas ini lebih fokus bermula selepas Imam al-Ghazali Meninggal 1111M), apabila tokoh ini mula mencambahkan perbincangan selain lima maqasid utama. Ia akan berlarutan sehingga zaman Ibnu Asyur. Adapun beberapa pandangan masakini juga diambil untuk proses analisa dan perbandingan.

3. HASIL KAJIAN/ PERBINCANGAN

Para ulama usul fiqh yg terawal telah menetapkan *maqasid* kepada lima iaitu menjaga agama, nyawa, aqal, keturunan dan harta, bahkan telah mencapai satu consensus sebagaimana yang telah dinyatakan oleh Imam al-Ghazali (Meninggal 1111M) dalam bukunya, *al-Mustasfa*. Walaubagaimanapun, al-Ghazali sendiri tidak menghuraikannya dengan panjang sehingga timbul persoalan terhadap sejauh mana limitasi kepada *maqasid* tersebut.

Termasuk Imam al-Razi (Meninggal 1209), mereka berdua tidak menukulkan sebarang limitasi kepada lima *maqasid* sebelum ini, walaupun mereka menukulkan lima *maqasid* tersebut. Cuma, al-Amidi (Meninggal 1233) yang menghadkan *maqasid* tersebut kepada lima, dengan justifikasi bahawa segala hukum-hakam semenagnya tidak pernah lari dari lima maksud ini. Walaupun ada usaha dan pandangan untuk menambah kepada enam, iaitu memelihara kehormatan, para ulama usul fiqh kekal di dalam menghadkan kepada lima sahaja.

Sultan al-Ulama, Syeikh Izzu ad-Din Abdus Salam, (Meninggal 1261M), telah memulakan idea perkembangan ilmu *maqasid* dengan tidak menghadkan *maqasid* itu kepada bilangan tertentu. Bahkan, beliau sendiri hanya mengkategorikan *maqasid* itu dalam perspektif bebez, samada *maqasid* kewajipan, galakkan dan keharusan; *maqasid* dunia dan akhirat; *maqasid* jangka pendek dan jangka panjang; *maqasid* matlamat dan cara. Bukan sekadar itu, *maqasid* juga dibincangkan pada perspektif mengikut keutamaan, seperti hak Allah dan hak makhluk.

Pun begitu, Ibnu Taimiyyah (Meninggal 1328M) melihat bahawa kelima *maqasid* yang dibahaskan itu kepada satu asas utama iaitu mengelak kemudharatan dan menjaga kepentingan manusiawi. Kepentingan manusiawi itu dibahaskan dalam perspektif dunia, seperti melalui transaksi dan pemilikan harta; dan akhirat, seperti ibadah yang ganjarannya diperoleh untuk kepentingan akhirat.

Ibnu Taimiyyah tidak melihat perspektif hukum-hakam semata-mata, sebaliknya persoalan keimanan dan akhlak (atau tasauf) juga merangkumi asas *maqasid* tersebut. Padanya, limitasi kepada lima *maqasid* tersebut hanya berdasarkan hukuman-hukuman syariat yang dirumuskan. Sebagai contoh, pengharaman dan hukuman *zina* itu dinilai bahawa syariat tersebut bertujuan menjaga keturunan manusia.

Ibnu Taimiyyah juga mengkritik bahawa lima *maqasid* tersebut gagal meletakkan keadilan kepada syariat Islam itu sendiri. Justeru, beliau sendiri membahagikan *maqasid* tersebut kepada dua bahagian utama iaitu *Maqasid* tertinggi ('*Aliyah*) dan *Maqasid* universal (*kulliyah*). Pandangan ini sangat kritikal kepada lima *maqasid* utama, tetapi dilihat hanya proses pandang semula kepada lima *maqasid* yang dibahaskan sebelum ini.

Imam al-Syatibi (Meninggal 1388M) juga memulakan proses pengembangan ilmu *maqasid* dengan membuka perbincangan terhadap menjaga kepentingan masyarakat muslim keseluruhannya dengan meletakkan masalah manusia (*al-Ibad*) sebagai dasar utama *maqasid*. Atas dasar itulah, al-Syatibi dikenali sebagai ulama yang sangat menekankan *masalah* sebagai kefahaman utama dalam perbincangan hukum Islam.

Pun begitu, menurutnya, *masalah* itu dikendalikan menurut tingkatan bermula *dharuriyyat*, *hajiyyat* dan *tahsiniyyat*. Tingkatan ini ada persamaan dengan pandangan Izzu ad-Din Abdul Salam sebelum ini apabila meletakkan perbincangan keutamaan dan tingkatan-tingkatan di dalam perbincangannya dalam bab *maqasid*.

Menurut al-Syatibi, *dharuriyyat* itu adalah perkara premier dan terbahagi kepada lima *maqasid* yang dibahaskan sebelum ini. Titik tolak perbincangan *dharuriyyat* itu boleh dilihat pada firman Allah

Dan perangilah mereka itu, sehingga tidak ada fitnah lagi dan (sehingga) ketaatan itu Hanya semata-mata untuk Allah. jika mereka berhenti (dari memusuhi kamu), Maka tidak ada permusuhan (lagi), kecuali terhadap orang-orang yang zalim.

Justeru, *maqasid* itu wujud dengan *masalah-masalah* tertentu sebagaimana kefahaman di dalam ayat ini. Peperangan itu disyariatkan jika dakwah yang dilakukan itu berdepan ancaman. Sekiranya *masalah* itu tiada, pensyariaan itu tiada.

Dalam perbincangan *hajiyyat*, al-syatibi membahaskan keperluan sekunder yang tidak membawa ancaman sebaliknya kesulitan. Perbincangan *rukhsah* dalam ibadah dan bukan

ibadah telah disoroti oleh al-Syatibi bagi menjustifikasikan *hajiyyat* di dalam perbahasan beliau. Begitu juga dengan *tahsiniyyat*, ia bukanlah soal mengelak pembaziran tetapi menjurus kepada kesempurnaan di dalam pelaksanaan sesuatu amal atau ibadah.

Oleh itu, al-Syatibi dilihat menyusun masalah itu dengan menggabungkan pandangan-pandangan *maqasid* sebelum ini. Walaupun al-Syatibi tidak dikaitkan dengan pertalian anak murid kepada ulama usul yang membahaskan topik *maqasid* sebelum ini, ada dua faktor yang menjadikan al-Syatibi selari dengan mereka iaitu faktor persekitaran dan faktor mazhab (kerana mazhab Maliki lebih terkenal dengan pendekatan *maqasid*; contohnya al-Qarafi (meninggal 1285M) dan Ibnu Rushd (Meninggal 1198M)).

Al-syatibi juga tidak menolak bahawa pembahagian terhadap *maqasid* boleh diklasifikasikan mengikut individu dan kolektif (jamaie). Walaubagaimanapun, *maqasid* individu tidak boleh bertentangan dengan kolektif, kerana kolektif itu lebih didahului berbanding individu.

Ibnu Farhun (Meninggal 1397M), fuqaha mazhab Maliki pula menginovasikan beberapa *maqasid* sedia ada iaitu

1. Menggantikan ‘menjaga agama’ kepada ‘menundukkan ego’ yang termanya lebih umum berbanding memelihara agama
2. Menggantikan memelihara jiwa kepada ‘human survival’ (*baqa al-Insan*)
3. Menggantikan istilah al-Hajiyat kepada ‘meeting of needs’ (*daf’ al-Haraj*)
4. Menggantikan al-Tahsiniyyat kepada kemuliaan akhlak (*Makarimal Akhlak*)

Ibnu Asyur (Meninggal 1393M), mula membuat penilaian semula kepada *maqasid* dengan lebih umum, apabila beliau menyatakan pemeliharaan *maqasid* bukan hanya untuk umat islam bahkan kepada umat manusia. Beliau juga mula menambah ijihad *maqasid* dengan menyatakan ‘equality’ atau kesamaan (*musawah*) sebagai prinsip umum selain dari masalah. Beliau tegas menyatakan objektif utama syariat kepada manusia adalah untuk mendapatkan persamaan ruang untuk memilih tindakan sendiri, atau diistilahkan ‘kebebasan’. Selain itu, persamaan and kebebasan ini mestilah diikat dengan konsep keadilan, dimana kelompok-kelompok kecil juga perlu diberikan hak dalam ruangan kelompok-kelompok terabit.

Bagaimanapun, beliau juga menambah bahawa human nature (*al-fitrah*) dan teloransi (*samahah*) juga adalah *maqasid* yang perlu ditonjolkan, bagi mengimbangi *maqasid* persamaan dan kebebasan sebelumnya.

Muhammad al-Ghazali adalah diantara ulama moden yang juga memberikan ijihad bagi menambah *maqasid* yang sedia ada. Bersetuju dengan inovasi ulama Maliki, beliau sendiri berijihad bahawa kebebasan dan keadilan adalah *maqasid* syariah selain dari lima tersebut. Beliau menyatakan lima *maqasid* sebelumnya adalah lebih terhadap hukum hakam, tetapi keadilan dan kebebasan adalah *maqasid* yang lebih besar dari itu.

4. RUMUSAN

Perkembangan ilmu Maqasid lebih dilihat di dalam ilmu Siasah Syar’iyyah apabila para pentadbir negara lebih cenderung melihat Maqasid berbanding Usul Fiqh. Selain itu, perkembangan maqasid dilihat lebih pesat pada zaman krisis ummah, dan situasi itu mempengaruhi para ulama terlibat bagi memahami kehendak syariah untuk diaplikasikan.

MAQASID AL SHARI'AH AND ITS ROLE AS GUIDELINE FOR POLICY MAKING IN ISLAMIC FINANCIAL INSTITUTIONS

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ABSTRACT

Islam, which literally means the total submission to the will of Allah has become the only guidance to the right-path from Allah (swt) for the mankind since the creation of mankind and sending them to the earth. This guidance was provided through the Messengers in all ages. The complete form of Islam has been enshrined as a comprehensive way of life in the hands of the last Prophet Muhammad (s.a.w.) which is suitable to be adopted in all places and to be followed in all ages and all dimensions of the human life. This code of life is called *Shari'ah*. And as such, the economic activities of a Muslim society which is the integral part of human life must be guided by the principles of *Shari'ah*. One of the special features of Islamic *Shari'ah* is that its objectives and the rationale have been mentioned in most of the cases, explicitly or implicitly in the Book of Allah or in the Prophetic *Sunnah*. These are called *Maqasid al Shari'ah*. A comprehensive and careful examination of *Shari'ah* rulings entails on understanding that Islamic *Shari'ah* aims at preserving and protecting the interest of the people in all aspects of human life. According to Abu Hamed al Ghazali, a prominent Islamic Scholar of twelfth Century the objective of *Shari'ah* is to promote the well being of all mankind which lies in safeguarding their faith (*deen*), their souls (*nafs*), their intellect (*'aql*), their posterity (*nasl*) and their wealth (*mal*). Safeguard of wealth (*mal*) being one of the five essential objectives of *Shari'ah*, all economic activities of the followers of *Shari'ah* must be brought under the framework of *Shari'ah* ruling and the purview of Islamic code of conduct and law of transaction. This paper aims at identifying those principles which may be established as the Guidelines for all contracts and products development of an Islamic Financial Institution, based on the Quran, *Sunnah*, consensus of the Muslims *Ummah* and analogy, and also on the principle of public interest (*Maslahah*), law of Justice and the considered view of the Muslim Scholars.

Keywords: *Maqasid al Shari'ah*, Role, Guideline for Policy Making, Islamic Financial Institutions

1. INTRODUCTION

The Term '*Maqasid al-Shari'ah*' is the combination of two words; maqasid and Shari'ah.

Maqasid (مقاصد) is an Arabic word, plural noun of '*maqsad*' (or *maqsid*). Its root word is 'Qsd' (قصد) which means, dimension, place or aim. (*Al-Mawsu'ah al Fiqhiyyah*):¹

According to '*Al-Waseet*' (a renowned Arabic Lexicon) '*qasada*' means: to become straight, said: "قصد الطريق" when it becomes straight, 'قصد الأمر' said this: when something happens to be moderate between two extremes, 'قصد له' means aimed at purposefully.²

This Lexicon also mentions:

المقصد، موضع القصد والمقصد 'يقال إليه مقصدي: أي وجهي (ص. 738)

Terminological definition of 'Maqasid al-Shari'ah':

It has been mentioned in '*al-Mawsu'ah al-Fiqhiyyah*' that none of the scholars of Islamic Jurisprudence has categorically given its definition; however, it may be defined as those implied intentions and wisdoms which have been taken into consideration by the Lawgiver, in almost all situations of Law giving.

والذى يستخلص من كلامهم فى ذلك إنها المعانى والحكم الملحوظة للشارع فى جميع أحوال التشريع أو معظمها تختص ملاحظتها بالكون فى نوع خاص من أحكام الشريعة"

'*Shari'ah*,' is a noun, Singular form, derived from Arabic root word '*sh-r-a*' (شرع). It is mentioned in *al Waseet* as follows:

شرع الوارد، يشرع، شرعا: تناول الماء فيه، وشرع المنزل، دنا من الطريق، وشرع فلان يفعل كذا: أخذ يفعل.

Terminologically *Shari'ah* is that guidance related to belief and law, which has been prescribed by Allah (s.w.t) for His servants.³

This word has been used in the holy Qur'an in nearly closed to this meaning; e.g.

(أ) شَرَعَ لَكُمْ مِنَ الدِّينِ مَا وَصَّى بِهِ نُوحًا وَالَّذِي أَوْحَيْنَا إِلَيْكَ وَمَا وَصَّيْنَا بِهِ إِبْرَاهِيمَ وَمُوسَى وَعِيسَى ۚ أَنْ أَقِيمُوا الدِّينَ وَلَا تَتَفَرَّقُوا فِيهِ. (الشورى: 13)

¹ In *al Mawsu'ah al Fiqhiyyah* it is as follows: المقاصد فى اللغة جمع مقصد وهو الوجهة أو المكان أو المقصود.

² (Ibrahim Anis at el. *Al-Waseet*, Part II. قصد الطريق قصدا، استقام وقصد له وإليه توجه إليه عامدا. وقصد الأمر عدل. p.738, 1973)

³ الشريعة: ما شرعه الله لعبادته من العقائد والأحكام (الوسيط ج 1 ص 479)

[He (Allah) has ordained for you the same religion, which He ordained for Noah, and that We have revealed to you, and that which We ordained for Ibrahim, Musa and 'Isa, saying: you should establish religion, and make no divisions in it. (*Al-Qur'an* :42:13)]

(ب) لِكُلِّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمِنْهَاجًا (المائدة: 48)

[To each among you, We have prescribed a Law and a clear way. (5:48)]

(ج) ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيعَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ. (الجاثية: 18)

[Then we have put you on a (plain) way of commandment. So follow you that and follow not the desires of those who know not. (45:18)]

It is also defined as “to make or establish Laws.” *Shari'ah* also means in legal term to make laws established by Allah (s.w.t) for His servants, relating to all aspects of human life.

'*Maqasid al-Shari'ah*' are the spirits, wisdoms and objectives which are to be achieved in an Islamic Law as considered by the Lawgiver, in respect of prescribing the Law.

2. HISTORICAL BACKGROUND

The concept of the Objectives of *Shari'ah* existed from the very beginning of Islamic History. But it was '*Imam al Haramayn*', *al Juwaini* (d. 478/1085), who used this term for the first time, and his disciple *Abu Hamid al-Ghazali* (d. 505/1111) developed this into an independent discipline of Islamic Sciences. The most significant development of the Science of *Maqasid* occurred in the eight/fourteenth century through the writings of *Ibn Taymiyyah* (d. 728/1328) and *Abu Ishaque al-Shatibi* (d. 790/ 1388). However it was not until modern time that Islamic scholars have shown a renewed interest in the *Maqasid*.

***Maqasid* in the realm of Islamic Finance.**

Since the Islamic Financial institutions must ensure that all their transactions and services must be *Shari'ah* compliant, it is vital that it follows the objectives of *Shari'ah*. The principles advocated by the *Shari'ah* ensure that the Islamic financial transactions are just, transparent and prohibit involvement in illegal activities that are detrimental to the society and humanity at large.

Definition of *Maqasid* according to the Muslim Scholars:

Abu Hamid al Ghazali, as we have mentioned earlier, was the first person who had defined '*Maqasid al-Shari'ah*' as one of the most important issues in Islamic Law. According to his definition the Objectives of *Shari'ah* are:

مقصود الشرع من الخلق خمسة، وهو أن يحفظ عليهم دينهم ونفسهم وعقلهم ونسلهم ومالهم، فكلما يتضمن حفظ هذه الأصول الخمس فهو مصلحة وكل ما يفوت هذه الأصول فهو مفسدة ودفعها مصلحة.

The very Objective of the *Shari'ah* is to promote the well-being of the people, which lies in safeguarding their faith (*deen*), their lives (*nafs*), their intellect (*'aql*), their posterity (*nasl*), and their wealth (*mal*). Whatever ensures the safeguarding of these five and that serves public interest is desirable, and whatever hurts them as against public interest is destructive, and its removal is desirable.

Imam al-Shatibi defined *Maqasid al Shari'ah* as follows:

المقصد الشرعي من وضع الشريعة إخراج المكلف من داعية هواه حتى يكون عبدا لله اختيارا كما هو عبد لله اضطرارا.

“The primary goal of the *Shari'ah* is to free man from the grip of his own whims. So that he may be the servant of Allah by option, as he is His servant by compulsion (in the aspect where he has no scope for choice).”

According to *Ibn 'Ashur* the twentieth century Muslim scholar:

المقصد العام من التشريع هو حفظ نظام الأمة واستدامة صلاحه بصالح المهيمن عليه. وهو نوع الإنسان، ويشمل صلاحه صلاح عقله وصلاح عمله وصلاح ما بين يديه من موجودات العالم الذي يعيش فيه.

“The overall objective of Islamic legislation is to preserve the laws and order of the community and to ensure its healthy progress by promoting the well being and virtue of the human being. The welfare of human beings depends on the soundness of their intellect and righteousness of their deeds and also the goodness of that exists before him in the world wherein he lives.”

In the light of this above definitions of *Maqasid al Shari'ah* we can comment that the main characteristics of the Objectives of *Shari'ah* are to advocate for the concept of compassion and guidance to establish justice, eliminate prejudice and alleviate hardship in the human society.

The concept of *Maqasid al Shari'ah* is very closely co-related and inter dependent with the philosophy of *Maslahah*. “*Maslahah* is one of the juristic devices that have always been used in Islamic legal theory to promote public benefit and prevent societal evils or corruption.”

Masalah is an Islamic terminology literally it means benefit or interest, welfare or advantage (*Kamali* 2003, P. 351). Technically *Masalah* has been classified into three categories

a) The *Maslahah* which is acknowledged and supported by a textual reference is known as *al-Maslahah al-Mu'tabarah*, (b) while which *Maslaha* is contradicted with come *Shari'ah* verdicts or spirit of *Maqasid* is rejected outright. It is identified as *al-Maslaha al-Mulghat* and (e) the *Maslahah* which is neither contradicted nor denied is considered as *al-maslahah al-mursalah*. (See al Mubarak T. & Osmani, M. N. PP. 2-3)

The example of *al-Maslaha al Mu'atabarah* is execution of *Qisas* (death penalty to the murderer) and *Hadd* (cutting off hand) for committing theft. Though apparently it is harmful for the defaulter, but is more beneficial for the society in protecting the human life and their wealth.

The example of *al-Maslaha al-Mulghat* may be cited in prohibition of *Riba*, though it seems to be beneficial for the lender but rejected by *Shari'ah* as contradicted with the prohibition of Allah (s.w.t.) through commandment.

However, as regards '*al-Maslaha al Mursalah*' it is that kind of benefits regarding which no explicit *Shari'ah* rulings are available. But it is characterized as compatible with the spirit and Objectives of *Shari'ah*, through promoting some benefits and repelling harms (al Khallaf A. Wahhab, '*Ilm Usul al Fiqh*, p.84). However this kind of *Maslahah* (*al Mursalah*) is acceptable only provided the following conditions are fulfilled:

- i. It must not contradict an established *Hukm* (ruling). And as such when a ruling of *Shari'ah* is enacted, no *Maslaha* can be considered against that.
- ii. *Maslahah* cannot be related to any '*Ibadah* (ritual). Because '*Ibadah* must be based on doubtlessly established *Shari'ah* texts.
- iii. *Maslahah* should be based on a *Qat'ee* (definitive) reference, so no *Maslaha* can be considered on the basis of *Zanni* (speculative) reference.
- iv. That the application of *Maslaha* must ensure promoting the greater interest than a prevailing enactment of *Shari'ah*, neither equal nor less.
- v. That the application of *Maslaha* should be general and more inclusive than an existing ruling, not limited to some specific individuals or group.
- vi. That the *Maslahah* must be compatible to the commonsense and general standard of *Shari'ah*. (See *al-Ashqar*, 2004, p. 150-51)

It has been defined by of Ghazali as follows:

"أما المصلحة فهي عبارة في الأصل عن جلب منفعة أو دفع مضرة ولسنا نعني به ذلك فإن جلب المنفعة ودفع المضرة مقاصد الخلق، وصلاح الخلق في تحصيل مقاصدهم، لكننا نعني بالمصلحة المحافظة على مقصود الشرع".

[As regards, *al-Maslahah* it originally refers to drawing a benefit or repelling a harm. However we do not mean that as drawing benefit and repelling harm are in fact is the purpose of creation and welfare of human beings in attaining their purposes, and as such, we mean by the term *Maslaha* is to protect the Objective of *Shari'ah*.]

According to the above definition of *Maslaha* both the terms of *Maqasid* and *Maslahah* (Pl. *Masalih*) are interchangeable.

Classification of *Maqasid al Shari'ah* :

Al-Ghazali has classified *Maqasid al Shari'ah* (Objectives of Legislation) into three main heads, which are as follows:

(i)*Daruriyyat* (Essentials) (ii)*Hajiyyat* (Requirements) and (iii)*Tahsiniyyat* (complimentaries).

Some of the scholars have translated *Hajiyyat* as complementaries and *Tahsiniyyat* as embellishments, but I have some disagreements with this translations.

- i. *Daruriyyat* (essential) are those without which the existence and welfare of this world and of religion depend inevitably. These are in such a degree that in case these are ignored the interest and welfare of this world shall be affected and it will cause failure in the Hereafter.
- ii. *Hajiyyat* (Requirements) are those which are required for ensuring the welfare and repelling harm without which the human life may fall into hardships and inconveniences though not creating challenges to the existence and success.
- iii. *Tahsiniyyat* (complementaries) are those without which the human life shall not face any challenges but these lead to refinement and perfection in the custom and conduct of the people at different levels of achievements like charity, good behavior compassion.⁴

3. *MAQASID AL-SHARI'AH* IN ISLAMIC FINANCE

As our objective in this paper is to determine the Objectives of *Shari'ah* particularly in Islamic Finance so here we shall try to focus on the application of *Maqasid al Shari'ah* and identifying concept of *maslaha* in the realm of Islamic Banking and Finance aiming at giving some guidelines for financial products in the perspective of *Maqasid al Shari'ah*. It is to be noted here that it is not sufficient for Islamic Financial Institutions that their products and transaction are *Shari'ah* compliant, but it must also be ensured that all the activities and products are inevitably in line with the objectives of *Shari'ah*.

The Major components of Islamic Financial services as observed by *Asyraf Dusuki* are:

1. Islamic Banking, which includes:

a) Financing, b) Deposit, and c) Investment

2. Islamic Capital Market, which includes:

a) Equity, b) Islamic Securities, c) Funds and unit Trusts, d) I-REITS, c) Venture capital/Private Equity, f) Derivatives.

⁴ See for more details: *al Mawsu'ah al Fiqhiyyah* PP. 5059, 5706, 5707, 5719 etc.

3) *Takaful*/Islamic Insurance which includes:

(a) *Takaful* and (b) Re-*Takaful*

According to Umar Chapra (1985) the main objectives of Islamic Financial Institutions (IFI) are abolishing interest, adherence of public interest, promotion of economic well-being, establishment of social and economic justice and equitable distribution of Income.

Considering the fact that the protection and safeguarding the wealth is one of the Essential Objectives (*Daruriyyat*) of Islamic *Shari'ah*, the *Qura'n* and *Sunnah* have given man important directives for protecting wealth, prevention of devouring the wealth of others through illegal ways, ensuring economic well-being and upholding social justice. And as such, all sorts of elements that would create economic injustice have been prohibited and condemned in bitter language, such as *Riba* (interest), *Maysir* (gambling), *Rishwah* (bribery), *al-Ghish* (deception), *al-Gharar* (dubious contracts) hoarding of wealth to create crisis etc. Interest is considered as a major destabilizing element that contributes to social injustice and economic disorder through diverting the resources from the poor class to the rich and cyclic fluctuation in the economy.⁵

Even the prophet (s.a.w) has prohibited all sorts of buying and selling which are apparently acceptable but contribute to price hiking and cause sufferings for the public. Following *Hadith* of the prophet (s.a.w) may be quoted in this regard:

لا تتاجشوا ولا يبيع حاضر لباد ولا يبيع الرجل على بيع أخيه.⁶

[Do not exaggerate in selling a commodity, and it is also not permitted for the city dwellers to proceed forward for buying from the villagers and one should not buy something while his brother is in the state of bargaining that commodity.]

It is to be noted that exaggeration is prohibited because here the seller deceives people by false plea and in case of buying of a city dweller from the villager there is a possibility of being deceived for selling the commodity with very low price, which may cause harm to him. And in the third case of the above the offer for buying a commodity while the other is on the process of bargaining it causes disrespect to his fellow brother. So all these transactions are prohibited in Islamic *Shari'ah*.

On the other hand those forms of activities which ensure economic justice and social well-being are encouraged by the *Shari'ah* like '*Tadawul al-mal*' (wealth circulation), *al-Musharakah* (business on partnership), *al-Mudarabah* (business contract with others on

⁵ For details please see Minsky H.P.; *Inflation, Recession and Economic Policy*, London, Wheatshed books, 1982

⁶ Sunan al Bayhaqi and Nasai on the authority of Abu Hurayrah (r.d.).

the basis of profit and loss sharing), *al-Tas'ir* (fair pricing) provided profiteering is avoided which may cause burden for the public.

It is an undeniable established fact that the *Mudarabah* or the profit and loss sharing contract in business is more just than the conventional contracts on predetermined fixed interest which is unjust, illogical and prohibited in the eye of Islamic *Shari'ah*.

4. THE ROLE OF ISLAMIC FINANCIAL INSTITUTIONS

IFIs as *Shari'ah* compliant organizations are to ensure that all of their products contribute to economic growth, efficiency, productivity and stability in one hand and social justice is upheld on the other. To ensure social justice as prescribed by Islamic *Shari'ah* the IFIs must strive for creating effective balance between profitability and social welfare.

Prohibition of *Riba* (Interest):

Prohibition of *Riba* and elimination of all sorts of interests is considered one of the most important Objectives of Islamic *Shari'ah* in all kinds of business transactions. *Riba* or interest is classified into two kinds: (i) *Riba al-nasi'ah* and (ii) *Riba al-fadl*. The main difference between these two kinds of *Riba* is that the first one is to receive some additional on the principal amount upon lending money and *Riba al-fadl* is claiming some excess upon exchanging some specific commodities with each other.

It happens either in the case of exchanging the less amount of superior quality with greater amount of inferior quality or due to duration of time.

The prohibition of *Riba al-nasi'ah* is based on the Qur'anic instruction as mentioned in the following verses:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ۚ ذَٰلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا ۚ وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

Those who eat *Riba*, will not stand (on the Day of Resurrection) except like the standing of a person beaten by *Shaitan*, leading him to insanity. That is because they say: “trading is only like *Riba*.” Whereas Allah has permitted trade and forbidden *Riba*. (Al-Quran; 2:275)

يَمْحَقُ اللَّهُ الرِّبَا وَيُرْبِي الصَّدَقَاتِ

Allah will destroy *riba*, and will give increase for *Sadaqaat*. (2:276)

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ

O you who believe! Be afraid of Allah and give up what remains from *Riba* if you are believers. (2:278)

Prohibition of *Riba al-fadl* is based on the following hadith:

"الحنطة بالحنطة والشعير بالشعير والملح بالملح والتمر بالتمر والذهب بالذهب والفضة بالفضة مثلا بمثل يدا بيد والفضل ربوا."⁷

[in exchanging wheat for wheat, barley for barley, salt for salt, dates for dates, gold for gold and silver for silver it should be on equal measure or weight (as the case may be) and on hand to hand basis, any excess is *Riba*.]

In the light of this prophetic instruction the commodities classified as food stuff and liquidity must be exchanged on equal basis and on hand to hand transaction. Any excess in the measure or weight or exchange on deferred basis is prohibited in the eye of *Shari'ah*.

Compliance of *Maslaha* in Economy:

The outlook of Islam and the spirit of *Shari'ah* regarding wealth is that the wealth basically belongs to Allah (s.w.t.) those who possess this wealth are the mere trustees on this wealth. He is permitted to use this wealth as possessor, subject to following the guidelines as given by Allah (s.w.t.) – the real owner. With this end in view the Islamic *Shari'ah* has provided several measures for spending wealth for the society. These includes *Zakah* (subject to owning some excess amount upon fulfilling his basic requirements and remaining this amount as excess for a period of one year as per lunar calendar). Voluntary charity (*Sadaqah*), inheritance (*Tarakah*), endowment (*Waqf*), will (*Wasiyyah*), donation (*'Atiyyah*), grant (*Hiba*) and contribution to social security program (*al-Takaful al ijtima 'i*).⁸

According to the spirit of *Mmaslaha* deposits are public money; this must be directed towards the public benefit and welfare.

5. MAQASID APPROACH AS GUIDELINES FOR ISLAMIC BANKING

This is needless to say that Islamic Banks are legally and morally under obligation to develop financial products that are not only *Shari'ah* compliant but also ensure the spirit of *Maqasid al-Shari'ah* and *Maslahah* are observed; however, not at the cost of their competitiveness and profitability in the long run.

Here may arise a question how to determine whether a particular product is *Shari'ah* compliant or not? In response to this question the jurists are divided into two different views:

⁷ Narrated by Muslim, *al-Nasai*, *Abu Dawud* & *Tirmidhi* on the authority Abu Hurairah, Ubadah ibn al Samit with some differences in languages and order

⁸ See also Mustafa Omar Muhammad

- a. A group among them have emphasized on compliance of the structure of the product and adherence to the principles of *Shari'ah*.
- b. Another group have emphasized on compliance of the product to the underlying Objectives of *Shari'ah* and the spirit to *Maslalah*, to avoid all those situations where the products are cleverly designed as *Shari'ah* compliant, whereas practically it contradicts the spirit of *maqasid al-Shari'ah* (Dusuki, Asyraf, Wajdi and Abozaid, Abdulazeem 2007).

An example of an operation which apparently fulfills the condition of *Shari'ah* compliance but contradicts the spirit of *Maslaha* is to finance a few parties with a huge amount of funds by an IFI which leads to being the wealth concentrated within the hands of a few wealthy persons. As al-Quran instructs that:

كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ

[So that it (the wealth) may not become a fortune used by the rich among you. (59:7)]

Another example of a most controversial product of Islamic Banking is *Bai'al 'Inah* (buy-back), a sale contract which is mostly applied in some Muslim countries. In this contract the Banks theoretically act as a trader selling or buying, as the word “bai” means sale, but practically the Islamic Banking simply proceeds as financier who provides capital without shouldering any risk in this contract and without taking engagement in the venture procedure. *Bai'al-'inah* here is restored to as a legal device to avoid *Riba* based loan. However financing based on *bai'al-'inah*, and conventional *Riba* based loan are very similar. They satisfy closely the same contracting parties' purposes and apply exactly same economic matter and outcomes although their forms are different (Dusuki and Abuzaid, 2007).

Spirit of *Maslaha* in Islamic Banking:

Islamic Banking is an integral part of Islamic Finance at large and therefore, it is necessary for any Islamic Banks as an organization to ensure economic well-being of the society and to uphold brotherhood and justice, equitable distribution of wealth and freedom of the individuals within the context of social welfare.⁹

None of these organizations should promote profiteering and material gain with no concern for the ultimate *falah* in the Hereafter. These developments can only be achieved in conformity with the *Maqasid al Shari'ah*.¹⁰

⁹ See Umar Chapra, *Objectives of Islamic Economic Order*, (Leicester, UK, 1979)

¹⁰ See Umar Chapra, *The Future of Economics: An Islamic Perspective*, (Leicester, UK, 2000)

This idea has been reiterated by other contemporary scholars of Islamic finance like *Dusuki* and *Abozaid* in the following observation:

“... The substance that has greater implications, to the realization of *Maqasid al-Shari’ah* should be equally looked into especially when structuring a financial product. Otherwise their functions and operations are no different from conventional Banks.” (*Dusuki and Abuzaid, 2007*)

However, it is being observed with great concern that “the current practices of Islamic Banks are, in many cases, not in conformity with the *Shari’ah* required standard (Al-Mubarak Tawfique & M. N. Osmani, p-7).

Maqasid al-Shari’ah in Issuance of Sukuk:

Sukuk like all other products of Islamic Banks should be Shari’ah compliant in one hand, and in conformity with the spirit of Maqasid al-Shari’ah on the other. However, the modern practices of Sukuk products have raised many questions amongst the Shari’ah Scholars, whether these are Shari’ah compliant and in conformity with Maqasid al-Shari’ah or not?

To analyze this issue we would like to make a brief discussion on the modern products of Sukuk in different Islamic Financial Institutions.

The Sukuk could be based on different contracts e.g. Mudarabah, Musharakah, Murabahah or Ijarah etc. Among these different practices Mudarabah Sukuk is considered as Shari’ah compliant, provided all the requirements of Mudarabah contracts are observed properly.

In the case of Mudarabah sukuk the investor (sahib al-mal) with his Sukuk agrees upon a shared profit to be distributed at the time of maturity of the Sukuk. The Mudarib should shoulder the responsibility of management and remains liable for any loss due to negligence or mismanagement. Here the profit is not guaranteed, nor the loss. However, there is every possibility of a profit up to an approximate figure as calculated on the basis of overall situation and experience.

However to make this product an attractive investment mode to the investors the sukuk providers have come up with provision of credit enhancement. Such credit enhancement facilities include liquidity facility arrangement by the obligors, purchase undertaking at a fixed profit formula, and capping of profit with incentive payments are simply a few to name. This provides security to guarantee income and to preserve capital to the investors in sukuk product. According to the principles of Shari’ah it is a clear violation of mudaraba contract to provide such kind of credit enhancement facilities as practiced by some of the IFIs. The Shari’ah Supervisory Board of Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) have opined that providing such

kind of liquidity facility and purchase undertaking at par value by the *Sukuk* providers are clear violation of *Shari'ah*. And as such it is detrimental to *Maqasid al-Shari'ah*.¹¹

Financing to other IFIs:

During the last three decades the IFIs have witnessed a tremendous progress though they had faced a great challenge from other conventional counter-parts and secular scholars of conventional economics. However, the recent global financial crises which caused many internationally reputed conventional banks to suffer very seriously whereas IFIs were not affected by that crisis at all. This led the entrepreneurs within the Muslim world and beyond to come forward for establishing financial institutions carrying Islamic nomenclature. They have also succeeded somehow or other to convince the authorities of other IFIs to come up to a commitment for financing to these newly established IFIs so that they can flourish smoothly and can ensure their progress easily.

According to this agreement the existing old generation IFIs are committed to finance these IFIs of new generation. But in most of the cases these do receive funds from their fellow IFIs for the infrastructure development, which is contradictory to the spirit of *Maqasid al-Shari'ah*.

6. CONCLUDING REMARKS AND RECOMMENDATIONS

Most of the IFIs ignore a fact that the validity of a product is determined not only on its legal form, but its substance and intentions of the contracts should also be *Shari'ah* compliant. But in practice the Islamic banks tend to emphasize on the legal validity of a product without considering whether it meets the requirement of *Maqasid al-Shari'ah* and *Maslahah*.

As the Islamic banks are established on the principles of *Shari'ah* and the Objectives of *Shari'ah* are to promote well-being for a society, where every individual and organizations are committed to justice, equity, welfare and freedom. So, the IFIs should not vie with each other for profiteering material gain without any concern about gaining the satisfaction of Allah (s.w.t.) which is the *falah* in this life and ultimate success in the life Hereafter. So the success of IFIs depends on realizing the objectives of *Shari'ah*.

Recommendations:

Considering the overall situations which are prevailing in the present day IFIs and requirements of *Shari'ah* for attaining its objectives (*Maqasid*) we would like to place the following recommendations:

¹¹ For detailed information see, AAOIFI's *Shari'ah* resolution on *Sukuk* (February 2008)

1. That the IFIs in general and Islamic banks in particular should uphold the principles of *Shari'ah* in all its transactions, investment products and services to keep their identity and difference from conventional financial institutions in character.
2. Islamic banks should ensure the well-being of the society; promote justice, equity, freedom, education and cultural heritage of the Muslim *Ummah*.
3. Islamic banks should not make their objective for mere profiteering and material gain contradicting the spirit of *Maslahah* and ignoring the concept of *Maqasid al-Shari'ah*.
4. This paper recommends that the approach of complying the principles of *Shari'ah* by only focusing on the legal and external forms instead of the substance, or the *Maqasid al-Shari'ah* and the spirit of *Maslahah* should be given preference and priority, especially while structuring a financial product.
5. The Islamic banks should not try to invest large amount of funds to a particular or a limited number of clients which leads to concentrating wealth in the hands of a few people of the society, which is contradictory to the *Maqasid al-Shari'ah*.
6. Existence of an independent *Shari'ah* Supervisory Board or Council/Committee as the case may be, is essential for IFIs. So an IFI should take the full benefit of this requirement by appointing the knowledgeable, courageous and god-fearing scholars as members of this prestigious body who can really contribute to give the Islamic bank proper guidance to uphold and observe *Maqasid al-Shari'ah* and not try to make them play the role of 'rubber stamp' for legalizing all products as *Shari'ah* compliant products.
7. This paper recommends that in case of the issuance of *Sukuk* the Islamic bank should only practice the equity based *Sukuk* (*Mudarabah /Musharakah*) which is now considered as one of the Islamic capital market instruments for mobilizing Islamic funds. They should avoid the use of liquidity facility and purchase undertaking, because these credit enhancement mechanisms used in *Sukuk* market today is contradictory to the principle of *Maqasid al-Shari'ah* and brings it down to the level of conventional practice in terms of their economic results.

The last but not the least, we can say that it is through the observance of the *Shari'ah* rulings and upholding the principles of *Maqasid* and the spirit of *Maslahah* that Islamic banks all over the world can prove the superiority of the Divine law over the man made laws and practices which are detrimental to the society and humanity at large.

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PERFORMANCE OF ISLAMIC AND CONVENTIONAL REITS: EVIDENCE FROM MALAYSIA

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ABSTRACT

This paper examines the impact of macroeconomic factors and firm characteristics on performance of REITs. The Malaysian Islamic and conventional REITs are obtained from firms that were listed on Bursa Malaysia between 2007 and 2013. This paper aims to provide additional empirical evidence and extend the previous literature by using ordinary least square method. In measuring the performance of REITs, this study uses the net asset value. The findings indicate that: first, the macroeconomic indicators have mixed impact on performance of Islamic REITs. Whilst, for the conventional REITs have negative impact on performance. Second, the market capitalization and dividend yield have mixed impact on performance of Islamic REITs. However, these variables have positive impact on performance of conventional REITs.

Keywords: Islamic REITs, Performance, Malaysia

1. INTRODUCTION

Real Estate Investment Trust (REIT) is a type of real estate investment available for both individual and corporate investors. It is a trust company that pools fund from individual investors and invests the fund in income generating property type of asset through acquisition or leasing. Revenue generated from the operation of the real estate property will be used to distribute investors' yield. There are two methods of investing in a REIT company; through direct ownership or through shareholding in a single purpose company. There are three types of REITs, which are equity REITs, mortgage REITs and Hybrid REITs (Mohammad and Zolkifli, 2014).

Interestingly, Malaysia has introduced a new type of REIT called Islamic REIT in 2005 to serve as an alternative for Muslim investors. Malaysia is one of the countries that are actively promoting Islamic finance to the world. In order to be a key player in the field of Islamic finance, Malaysia needs to continuously improve its Islamic financial framework. In Malaysia, the establishment of Islamic Capital Market (ICM) completes its Islamic financial system. The introduction of Islamic Real Investment Trusts (I-REITs) is one of the latest developments under the Islamic Capital Market (Dusuki, 2008).

Malaysia-REITs (M-REITs) have experienced a slow growth since its inception despite the emergence of new REITs in the Malaysian market. In addition, M-REITs has been left far behind compared to its counterparts like those in Japan and Singapore, which were established in the later years of 2001 and 2002 respectively. Even during the expansion of the Malaysian capital market and property market from year 1991 to 2000, it was documented that most Malaysia REITs experienced underperformance and had greater risk than the general market (Haj and Hashim, 2014). REITs have been recognized as a successful investment mode in many developing countries such as Singapore and Brunei, as well as among the developed nations such as the United States and Australia (Hamzah and Rozali, 2009). In Malaysia, although the REITs industry is growing, it is not as significant as in other countries that have more favourable REITs markets such as Japan, Hong Kong and Singapore. The table below (Table 1) shows the comparison of REITs market among Asian countries from 2009 to 2013.

Table 1. Significant of Asian REITs

Asian Countries	Market Capitalisation (USD Billion)					
	2009	2010	2011	2012	2013	Total
Japan	27,835	45,167	37,810	50,193	71,199	232,204
Singapore	17,551	23,975	23,847	36,391	40,301	142,065
Hong Kong	9,591	12,376	12,432	17,554	17,189	69,142
Malaysia	1,283	3,073	3,765	6,474	6,808	21,403
Taiwan	1,635	1,882	2,045	2,636	2,759	10,957
Total	57,895	86,473	79,899	113,247	138,255	475,771

Source: *Asia Pacific Real Estate Association (APREA)*

In addition, the market capitalization of Malaysia's REIT is quite small compared to many other Asian countries. M-REITs are not eye-catching enough compared to the Asian market. This is due to the small size of the M-REITs' asset to attract foreign fund. Besides, M-REITs are also too small in term of the capital value due to the low exchange value of the Ringgit and they too, have very limited external potential because their current market prices do not allow new acquisition as there is no yield accretion. Large investors are not capable to make consequential investment that would maintain their liquidity due to the capitalization of REIT market which have been simply too small (Ong, 2012).

This study aims to examine the macroeconomic factors and firm characteristics that affect the performance of Islamic and conventional REITs in Malaysia. Most of the existing studies have explored the linkage between macroeconomics indicators performance and firm characteristics based on the conventional perspective; while there are insufficient surveys being done on Islamic REITs. Although the findings of these studies provide a useful guide to the performance of REITs, it is difficult to verify the results using data from Islamic REITs due to lack data and information. In this study, Malaysian REITs (Islamic and conventional) is regressed against both the macroeconomic indicators and firm characteristics. Motivation for this study lies on the issue that REITs have been recognized as a successful investment mode in many developing countries and developed countries. However in Malaysia, the REITs industry is growing but it is not as favourable as in other countries that have more favourable REITs.

This study utilizes the data of Malaysian REITs from 2007 to 2013. This study finds evidence of the impact of macroeconomic indicators and firm characteristics on performance of Malaysian REITs. The results show that: first, the inflation rate and interest rate have positive and negative impact respectively on performance of Islamic REITs. For conventional REITs, the inflation rate and GDP have negative impact on performance of REITs. Second, the market capitalization and dividend yield are significant and have positive and negative impact respectively on performance of Islamic REITs. For conventional REITs, both variables are significant towards the performance.

The remaining of the paper is organized as follows. Section two discusses on the performance of REITs relationship within the literature review. Section three presents the model specification and data description. Empirical results are documented in section four and finally, section five provides the conclusion and policy implication.

2. LITERATURE REVIEW

In this section, previous studies have been thoroughly analysed to identify the determinants and factors influencing the performance of REITs in Malaysia. The related theory to REITs and return, and the Islamic views and perspective regarding acquiring property and wealth are also highlighted in this section. Both the dependent and independent variables studied by previous researches are also analysed critically. Widman (2007) has recommended the best valuation methodology to be used in assessing REITs return in Germany was NAV. This was due to the findings of his study which indicated that majority of investors lean towards a NAV based approach.

Mohammad and Zolkifli (2014) have studied the factors that influenced the Real Estate Investment Trust (REIT)'s performance, paying particular attention to the listed REIT's in Asian countries. In this study, samples from 45 Asian listed REITs which came from six different countries namely Taiwan, Thailand, Malaysia, Hong Kong, Japan and Singapore were studied. This study employed Net Asset value (NAV) and Return as the proxy for REITs performance; while risk, dividend yield, net income and size were employed to represent the determinant variables. The findings of this study indicated that there were array of valuation methodologies that could be used to evaluate the REIT's performance according to their commodity type. If the REIT was based on asset commodity, then evaluations such as discounted cash flows (DCF), dividend discount model (DDM) or adjusted funds from operations (AAFO) and net asset value (NAV) methods can be employed.

All the independent variables operated in the past literatures were also studied. The macroeconomic variables have been chosen to represent the external forces, as they are known as the most impactful external factors. The first macroeconomic variable studied in this research is the inflation rate. Bohjalian (2013) has examined the historical performance of Real Estate Investment Trusts (REITs) in periods of rising inflation rate. His study found that the inflation rate has risen in most developed economies. He acknowledges that inflation rates will move higher as the growth cycle of the economy moves. He identified that one way to prepare for such outcome is to allocate a portion of assets to real asset strategies. This is based on REITs historical ability to perform in both rising-rate and inflationary environments.

In contrast, Chatrath and Liang (1998) have examined the inflation-hedging characteristics of REITs over the 1972 to 1995 interval. Regression estimations employed in this particular study fail to provide evidence that REITs are effective inflation hedges. The overall evidence of co-integration between REITs and inflation used is also very weak since the co-integration noted between REITs and the T-bill rate when employing the Johansen procedures, and more traditional tests for co-integration such as Phillips and

Dickey-Fuller fail to indicate any evidence of co-integration between REITs and inflation. Strange and Tang (2000), whose study was to identify the empirical evidence on factors that influenced the involvement of institutional investors towards Malaysia Real Estate Investment Trusts (M-REITs) between the period of 2002 and 2006, have revealed that there are few factors that may affect the performance of REITs.

These factors are market size, advisor type, tax rate, interest rate and inflation rate other than the institutional investors.

Bohjalian (2013) has examined the historical performance of Real Estate Investment Trusts (REITs) in US Capitalization rates (cap rates) which do not move in tandem with interest rates. The valuation of commercial real estate is often expressed using capitalization rates (or cap rates). The research has revealed that there is only a minimal historical linkage between U.S. cap rates and the federal funds rate and the yields of U.S. Treasury securities. Thus, cap rates and real estate values are far more tied to economic growth expectations and credit spreads relative to the U.S. corporate bonds.

On the other hand, Manni and Teng (2008) in analysing REIT's performance choose many factors such as inflation, treasury bill, long-term government bonds, industrial production, low-grade bonds, equally weighted equities, value weighted equities, consumption and oil prices. The findings show that most of their variables are significant in explaining expected stock return, especially the industrial production factor. However, the major macro indicators for the real estate market are Gross Domestic Product (GDP), growth trend, GDP per capita, population, median age, population growth, financial market development, legal system and average inflation.

Strange and Tang (2000) have studied the positive impact on returns for rising T-bill rates; this has been of particular interest since it is often assumed that rising interest rates are a negative to returns because of the increasing discount rate for cash flows. The results of this study shows, increasing interest expense and higher discount rates negatively affect values and returns. Real estate held by REITS is a durable asset that hedges against inflation. Olanrele (2014), found the relationship between the leverage and gearing to be positive but not significant. A short-term interest rate has inverse relationship with return while a long-term interest rate theorises a positive relationship. Delcours and Dickens (2004), support the finding that a short-term interest rate has negative relationship with return while long-term interest has positive relationship with return. However, Ratcliffe and Dimowski (2007), in their study of a sample in Australian found a contrasting result that there is a significant negative relationship between long-term interest rates and returns, with a positive insignificant relationship with short-term interest rates.

This REITS study has also employed the firm's specific characteristic. The variable used for this purpose is dividend yield. Jamal (2013) has stated that dividend yield indicates the ratio of return by the company that goes to the shareholders in the form of dividend. This ratio measures the percentage of a share's market value that is returned annually as dividends. Investors use the ratio in determining their return by putting their money at

risk for a period. It is common for an investor to decide to invest in any REITs, which offer higher dividend payout. In Malaysia, the dividend yield of M-REITs is above the return of fixed deposit, which is at an average of 2-3% (Jamal, 2013).

According to Mohammad and Zolkifli (2014), REITs offer a liquid proxy for physical real estate market, which means that investors can build regional and diversified portfolios in a cheap and efficient manner without the complexities of buying physical real estate. This tax efficiency means they are high yielding, and high yield tends to reduce share price volatility, which makes REITs relatively low in risk compared to other equities, and lead to better performance of REITs. His study found the regression results of dividend yield indicate a 5% confidence having positive significant association with net asset value (Mohammad and Zolkifli, 2014). These show that any changes in dividend yield only significant in explaining the changes in NAV.

As for this study is concerned, the higher the dividend yield, the higher the REIT's NAV is. In the past studies, size has been used as a measure of market capitalization. A study done by McIntosh, Liang and Tompkins (1991) has showed evidence of a size effect in REITs, demonstrating that small firms perform better than large firms. They have found that smaller REITs provide greater return without greater risk, and there is a negative relationship between size and return.

3. RESEARCH METHOD

3.1. Data collection

There are 16 REITs companies listed in Bursa Malaysia by year 2014. Due to data restraint, the REITs companies analysed for this study consisted of eight (8) conventional REIT companies and three (3) Islamic REIT companies. All the data used in this study is in quarterly form for the duration of seven years; from 2007 to 2013.

Data were extracted from different sources. First, for the data of dependent variable, it was represented by net asset value which was gained through the REIT companies' quarterly report. This report was available in the Bursa Malaysia website. Second, for all three macroeconomic variables, which were inflation rate, interest rate and gross domestic product, data was extracted from EIU Country data. Finally, the data of the independent variables, which were the dividend yield and market capitalization, was gained through the Thomson Reuters Datastream

3.2. Research Model

In this section, the discussion concentrates on the regression model, specifically on the impacts of various measures of macroeconomic indicator and firm characteristic on performance among the Malaysian REITs firms. The dependent variable is the performance of REITs (NAV). The independent variables consist of inflation rates, gross d OLS (Ordinary Least Square) regression analysis is employed to examine the relationship between REITs performance and determinant variables in the period from

2007 to 2013. The advantage of using the OLS method is that it gives the “best fit” of coefficients for future prediction, given that all assumptions are met (Gujarati and Porter, 2009).

The basic model for performance of REITS has been adapted based on Mohammad and Zolkifli (2014) is written as follows:

$$NAV = \alpha + \beta_1 INF + \beta_2 IR + \beta_3 GDP + \beta_4 DY + \beta_5 MC + \varepsilon$$

Where;

NAV	=	Net Asset Value (Total Asset-Total Liability/Share Outstanding)
α	=	The constant number of equation
β	=	Coefficient Beta value
(INF)	=	Inflation rate
(GDP)	=	Gross domestic product
(IR)	=	Interest rate
(DY)	=	Dividend yield (Annual Dividend Per Share/Price Per Share)
(MC)	=	Market capitalization (Stock price x total no. of shares outstanding)
ε	=	Error Term

4. RESULTS

Table 2 presents the descriptive statistics of both Islamic and conventional REITs related to the Net Asset Value (NAV) with the determinants of REITs return; inflation rate (INF), interest rate (IR), gross domestic product (GDP), dividend yield (DY) and market capitalization (MC). The data have been tested using several techniques which are the mean-median comparison, standard deviation, skewness, kurtosis and Jarque Bera. This test determines whether the sample data are normally distributed or otherwise. For a sample that is normally distributed, the value of mean should be same as the value of its median, the value of skewness is equal to zero, the value of kurtosis should be three and the value of Jarque Bera should not be significant. Based on the descriptive statistics in Table 2, generally the sample data is normally distributed except for inflation and GDP Islamic.

The regression analysis using OLS estimation is implemented on the multiple regression model. This section discusses the relationship of the independent variables (INF, IR, GDP, DV and MC) and the dependent variable (NAV) for both Islamic REITs and conventional REITs. The statistics, as reported at Table 3, show that both Islamic and conventional REITs have four significant independent variables.

Table 2: Descriptive Statistics of Islamic and conventional REITs

ISLAMIC REITs						
	NAV	INF	IR	GDP	GDY	MC
Mean	1.068	2.394	3.857	4.659	1.764	2.195
Median	1.055	2.074	3.746	5.161	1.725	2.203
Maximum	1.149	8.399	4.717	10.286	2.055	2.241
Minimum	1.020	-2.285	3.477	-5.756	1.475	2.132
Std. Dev.	0.043	1.890	0.308	3.441	0.219	0.038
Skewness	0.471	0.849	0.748	-1.518	0.040	-0.296
Kurtosis	1.703	6.097	3.206	5.452	1.532	1.738
Jarque-Bera	2.998	14.565	2.660	17.77	2.519	2.267
Probability	0.223	0.001	0.264	0.001	0.283	0.321
CONVENTIONAL REITs						
	NAV	INF	IR	GDP	DY	MC
Mean	1.222	2.394	3.857	171.7	0.067	96.69
Median	1.251	2.074	3.746	169.2	0.0695	95.25
Maximum	1.414	8.399	4.717	206.6	0.086	115.00
Minimum	1.000	-2.285	3.477	145.1	0.044	77.00
Std. Dev.	0.150	1.890	0.308	16.78	0.010	10.997
Skewness	-0.360	0.849	0.748	0.343	-0.653	0.061
Kurtosis	1.505	6.097	3.206	2.168	2.892	1.787
Jarque-Bera	3.210	14.56	2.660	1.358	2.008	1.733
Probability	0.200	0.001	0.264	0.506	0.366	0.420

Table 3: Regression result of Performance (NAV) equation using OLS

	ISLAMIC REITS	CONVENTIONAL REITS
VARIABLE	NAV	NAV
Inflation Rate (INF)	0.038708 (0.0015)***	-0.025869 (0.0210)**
Interest Rate (IR)	-0.163504 (0.0106)***	0.054481 (0.4192)
Gross Domestic Product (GDP)	0.008376 (0.1813)	-0.006986 (0.0812)**
Dividend Yield (DV)	-0.248070 (0.0059)**	8.860444 (0.0001)***
Market Capitalization (MC)	0.769323 (0.0893)*	0.014310 (0.0255)**
R-squared	0.925999	0.680700
Adjusted R-squared	0.905443	0.608132
Prob(F-statistic)	0.000000	0.000067
Durbin-Watson	2.186974	1.980455

***, **, * indicate of significance at the 1 percent, 5 percent and 10 percent level respectively. Standard errors are given in parentheses.

The adjusted R-squared for Islamic REITs and Conventional REITs show the value at 0.9054 and 0.6081 respectively. This result shows that 90.54% of the dependent variable (NAV) in Islamic REITs is explained by the independent variables which are inflation rate, interest rate, dividend yield and market capitalization. While only 60.817% of the dependent variable (NAV) in Conventional REITS is explained by the independent variables which are inflation rate, GDP, dividend yield and market capitalization. Based on Table 3, for Islamic REITs, the result of Durbin-Watson statistic is 2.186974 which signifies a positive value and lies between the ranges of 1.5 - 2.1. Meanwhile, the result of Durbin-Watson statistic for conventional REITs is 1.980455 where the value is also positive and lies between the ideal ranges. Thus, this means that there is no autocorrelation problem for both Islamic and conventional REITs.

The first independent variable to be discussed is inflation rate, which represents one of the macroeconomic factors. For Islamic REITs, the multiple regressions result for inflation rate is significant at 1% level and this variable has displayed a positive relationship towards NAV of Islamic REITs. This result was similar with Bohjalian (2013), whereby in this study it was found that REITs had historical ability to perform in both rising-rate and inflationary environments.

In contrast, for conventional REITs, inflation rate has demonstrated a negative relationship towards NAV and was significant at 5% level. This varying in relationship was identified mainly due to the varying speculative risk existence in conventional REITs. This result is supported by a study done by Ong (2012) where the author analysed the impact of the conversion of Axis-REIT to *Shariah* compliance on its return. The result of the study has shown that there were big changes in the return of the Axis REIT because of the conversion.

The result shows a positive effect as the speculation risk was not present and indirectly the risk premium from the activity has disappeared. The volatility of stock return was lower after the conversion and average return was better even in the presence of the finance crisis in 2008 that affected the world's economy. Therefore, this study proves that Islamic REITs are more resilient towards inflation as compared to conventional REITs. The positive relationship between inflation and NAV of Islamic REITs shows that Islamic REITs are able to perform in high inflationary environment and effective inflation hedge.

The second independent variable, which is interest rate, has showed a negative relationship towards performance of Islamic REITs. This result is similar to a study by Bredin, O'Reilly, and Stevenson (2007), where the study has shown the performance of the investment in real estate in capital market which was affected by interest rate. Most real estate purchases are highly leveraged and the change in interest rate would affect buyers' purchasing decision. Furthermore, increase in interest rate means that the cost of borrowing is, which will limit those who generate the principal for investing in REITs through borrowing. Thus, increases in interest rate causes adverse effect to its performance. However, for conventional REITs, interest rate is the only variable that is not significant.

The third independent variable is gross domestic product (GDP). This variable seems to be the only variable, which is not significant for Islamic REITs. This is possibly due the fact that REITs is a property type investment, which people would have favoured during either expanding or contracting economies. In contrast, for conventional REITs, GDP has shown a negative relationship towards NAV. Pavlov and Watcher (2010) explained this result as their study found that REITs, like all closed-end mutual funds, contained a time-varying premium for the skills of the trust management. During the periods of economic growth, all managers do well, and the value of the REIT is dominated by the value of the underlying properties. In economic stagnation, however, only the best managers do well, thus the value of management increases. This increase reduces the negative effect of the economic downturn and weakens the relationship between the REITs and the real estate properties it hold. Thus, since the period of this study included the financial crisis in the year 2008; the result could possibly be affected by it.

Next, for the firm level variables, the first variable is dividend yield (DY). This variable displays a different relationship for Islamic and conventional REITs. As for the Islamic REITs, the DY shows a negative relationship. Meanwhile for conventional REITs, DY shows a positive relationship towards NAV. This result was supported by Mohammad and Zolkifli (2014), since REITs is highly correlated with tax efficiency, it means they are high yielding, and high yield tends to reduce share price volatility, which makes REITs relatively low in risk compared to other equities, and lead to better performance of REITs.

The last variable studied in this research is Market Capitalization. The result of multiple regressions showed a positive relationship towards the NAV for both Islamic and conventional REITs. This result is supported by a study done by Ali (2006), where his study has indicated that big capitalization real estate shares have better performance than other real estate share with higher return and lower risk in the allocation with mixed asset.

This study finds evidence of the impact of macroeconomic indicators and firm characteristics on performance of Malaysian REITs. The results show that: first, the inflation rate and interest rate have positive and negative impact respectively on performance of Islamic REITs. For conventional REITs, the inflation rate and GDP have negative impact on performance of REITs. Second, the market capitalization and dividend yield are significant and have positive and negative impact respectively on performance of Islamic REITs. For conventional REITs, both variables are significant towards the performance.

5. CONCLUSION

This study examines the impact of macroeconomic factors and firm characteristics on performance of REITs. This study uses data of eight Malaysian conventional REITs and three Malaysian Islamic REITs for the period between 2007 and 2013. The findings indicate that first the macroeconomic indicators have mixed impact on performance of Islamic REITs. While for the conventional REITs have negative impact on performance.

Second, the market capitalization and dividend yield have mixed impact on performance of Islamic REITs. However, these variables have positive impact on performance of conventional REITs.

It implies that the capitalization market variable is complement to the development of REITs activity. Therefore, well-developed REITS market contributes to the high value of REITs performance and strongly linked to economic growth of a country. The dissimilar results between Islamic REITs and conventional REITs were found in terms of different risk level. Islamic REITs were more resilient to changes in inflation and interest rate due to the elimination of speculation risk in Islamic REITs.

It is highly recommended for future researchers to use different methodology in comparing the performance of Islamic and conventional REITs, such as using the Treynor and Sharpe index as this methodology has been proven to be more accurate in analysing performance. I-REITs have a huge potential to grow and become an alternative for investment which is accepted globally. This could be achieved by resolving the issues and challenges surrounding its operations

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¹Maklumat asas kepada statistik ini adalah daripada Laporan Zakat PPZ-MAIWP pelbagai tahun yang dianalisis menggunakan Microsoft Excel bagi mendapatkan jumlah keseluruhan, perbezaan dan kadar.