

Cash Waqf: An Innovative Instrument for Development of Ummah

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Abstract

This paper explains the concept of cash waqf and its implementation throughout the world. Since its implementation during the Ottoman Empire in the early fifteenth-century, cash waqf has been debated and discussed due to its concept, which is unlike other endowment instruments. The concept of inalienability and perpetuity has made people question the implementation of cash waqf because of certain legal constraints. Waqf properties are inalienable as they have to remain waqf in perpetuity, consequently, waqf institutions cannot use them as collateral with the financiers because of the perpetuity and inalienability concept. When the cash waqf was given the green light in 2007 by the Malaysian Fatwa Council, various financial mechanisms were developed to promote cash waqf. These reveal its potential in developing Islamic economic growth. A variety of cash waqf or liquid assets may be selected as an ideal financial mechanism. The cash waqf has encouraged all levels of people to participate and has been a successful practice throughout the Muslim world and even in some non muslim countries. Various models and management structures have been justified to commercialize the cash waqf. The commitment from the authority, scholars and people could increase the capacity of the cash waqf in developing the ummah (society).

Keywords: Cash waqf, inalienability, perpetuity.

1. Introduction

A waqf is derived from the Arabic verb “waqafa”, which etymologically means to hold, keep or detain. According to Imam Abu Hanifa, waqf is the detention of a specific thing in the ownership of the waqif (appropriator) and the devoting of its profits or usufruct in charity for the poor or other pious intentions. In other words, a waqf, or plural called awqaf in Arabic, 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 (Kahf, 1998). Toraman et al. (2004) determined that waqf applies to non-perishable property, the benefit of which can be extracted without consuming the property itself. Similarly, waqf serves as a vehicle for financing Islam as a society (Hodgson, 1974).

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There is no direct injunction in the Quran about waqf. However, there is a hadith reported by Ibn Umar, whereby Umer ibn al Khitab acquired land in Khyber and went to Prophet Muhammad (PBUH), and sought advice regarding the land. The Prophet (PBUH) advised that the land should be made inalienable and the profit given to charity. Therefore, waqf is perceived as a permanent dedication by a Muslim of any property for a good faith purpose that is recognized as being pious or charitable.

In Islam, land was the first waqf. The mosque of Quba' in Medina, which exists until today, was the first mosque in Islamic history that was waqf oriented. Others using waqf land include the Al Azhar University in Egypt, the University of Cordova Spain, and the Al Noori Hospital in Damascus (Ahmad Zaki et al., 2008). In Malaysia, JCorp has played a significant role in practicing waqf for the development of the ummah. The establishment of Kumpulan Waqf An Nur Bhd. with management support by KPJ Healthcare Bhd. to manage a chain of waqf An Nur Clinics and Malaysia's first waqf hospital in Pasir Gudang, Johor, are among the success stories of Malaysian waqf practiced by J Corp (Hashim, 2009).

Instead of waqf land, the other prominent and potential waqf is a cash waqf, which has developed considerably since the time of Prophet Muhammad (PBUH). Cash waqf has become increasingly well known due to its flexibility, which allows distribution of the waqf's potential benefit to the poor anywhere (Mannan, 1998). However, cash waqf is not aggressively practiced nowadays due to a certain conceptual argument concerning perpetuity and inalienability.

02. Objectives of the study

Objective of the study is to evaluate performance of cash waqf as a new financial instrument of Islamic economics. In this concept, Mutawalli (Cash-Waqf Fund manager) collects the fund from Waqif and invest the money in the real sector (mainly Small & Medium-sized Ventures) and in any Shariah based investment opportunities. . He (Mutawalli) is obliged to maintain the amount of fund in such a way that does not go below the initial amount. Therefore, Mutawalli not only should be highly capable but also needs a financial institution which has been proven to be experienced, highly capable and effective in helping economic development efforts.

03. Methodology

The study mainly depends on available information at hand. Sources of secondary data are Islamic Books, Annual Reports, Publications, Websites and other sources. Information was also collected from face to face and telephonic discussion with some top level executives of various financial institutions.

04. Literature review

The witnesses of 21st century signify the revival of *Waqf Institution* in many Muslim countries and the creation of *Movable Waqf* especially *Cash-Waqf* in large extent. Some models for the creation of *Cash-Waqf* which have been practiced in Muslim countries . They are known as *Waqf Shares Model*, *Corporate Cash-Waqf Model*, *Deposit Product Model*, *Cooperative Model*, *Waqf Mutual Fund Model* and *Wakalah with waqf fund Model*.

Prof. Abul Hasan M. Sadeq in his paper presented in the year 2005 in the publication of International Islamic University Malaysia regarding “Socio economic Development Role of Waqf in the 21st Century and Restructuring of its Administration with Special Reference to Bangladesh” expressed that in Bangladesh 8000 educational institution and more than 123000 mosques are based on waqf. In almost every muslim country there is a department incharge of waqf administration and even some of the nonmuslim countries have offices like that to maintain cinagog and charch. Other than religious and educational sector cash waqf fund may be utilized for all socio economic purpose.

05. The Development of Cash Waqf

Abu Daud and Nasa’I reported that:

“A man said to Prophet Muhammad PBUH I have dinar money. Thus the Prophet PBUH said you donate (waqf) your dinar money to yourself”.

Adam and Lahsasna (2013) stated that this hadith provides evidence that waqf practiced by using money or cash is allowed in Islam. Cash waqf can be defined as the donation of an amount of money by a founder and the dedication of its usufruct in perpetuity for the prescribed purpose (Abdel Mohsin, 2008). According to history, cash waqf already started during the time of Prophet Muhammad (PBUH). Some of the Prophet’s Companion was reputed to have used waqf to donate their farmland for development purposes. The revenue from the land would be solely used for the sake of the development of society. Consequently, cash waqf is targeted to become an effective option for poverty alleviation programs, especially in Muslim countries. These programs require a huge amount of funds, which cannot be provided by the government. In the Islamic socio economy concept the source of social funds, called cash waqf, is economically and politically free of charge. The mutawalli (cashwaqf trustees) collect the funds from the waqif (founder) and invest the money in the real sector such as SMEs (small medium enterprise) or in any Islam oriented investment firms.

Cash waqf is well connected to Ottoman society. In the early fifteenth-century and by the end of the sixteenth-century the Ottoman courts approved the implementation of the cash endowments, which then become very famous throughout the European provinces of the Empire (Cizakca, 2004). After the emergence of cash waqf in Rome, the usage of such waqf was asked of Zafar ibn Hazil who answered that those sources of money have to be conducted using a Mudzarabah Contract.

Mannan (1998) promoted cash waqf in Bangladesh through the Social Investment Bank Limited (SIBL). SIBL produces cash waqf certificates to collect funds from waqif and distribute the gains of the managed funds among the deserving persons or beneficiaries (mawquf’ alaih). Cash waqf certificates issued by SIBL were the first in banking history whereby the certificate provided an opportunity for Muslims in Bangladesh to invest in religious, educational or other social development. The banking industry in Bangladesh has continued using cash waqf as its investment product, especially through the Islamic Bank Bangladesh Limited (IBBL), which offers a cash waqf product known as Mudaraba Waqf Cash Deposit Account (Suhrawardi, 2009). The investment will be used to generate the cash waqf funds for the welfare of Muslims in Bangladesh.

06. The Cash Waqf Debate

The concept of perpetuity and inalienability means that once a property, often real estate, is dedicated as a waqf, it is dedicated forever. However, the terminology of cash waqf to the layman could be understood as a moveable or alienable concept compared to other waqf property, which directly refers to immovable or inalienable property. The debate by scholars concerning cash waqf has a long history. According to Toraman et al. (2004), endowments in this form of cash started to be used in the sixteenth-century. Approximately half the new Ottoman waqf were cash, which had an impact on protecting individual wealth and threatened the bank's functions. Rich individuals were comfortable implementing cash waqf to endow schools, mosques and other public places due to its liquidity. The cash waqf obtained revenue through interest bearing loans. The interest element of cash waqf has raised public demand to determine whether its implementation is in accordance with Islamic law. The arguments of whether cash waqf violate the Islamic prohibition on *riba* (interest) have been questioned. Mandeville (1979) and Cizakca (2004) stated that cash waqf lent money on interest or implemented transactions, involved the strict legal prohibition of *riba* but produced an 'interest-like' payment.

For cash waqf, all the transactions are in cash with the investment and return generated being used for charity or social services. The investment takes place by lending the capital of the waqf to the borrowers. Cizakca (2000) said that during the Ottoman economy *riba* could not be eliminated due to the credit transactions yielded. However, scholars have debated that cash waqf contravenes the waqf tradition of immovable property and Islamic policy against the collection of interest. Although Islamic scholars and practitioners do not deny religious objections, they endorse the practice based on the practical and economic requirements.

Furthermore, the Ottoman courts stated that these endowments must be legal and the return paid for waqf by the borrower was a profit instead of interest. This kind of credit decreased, as did endowments, especially with the state influence being replaced by modern financial institutions. Consequently, Sait and Lim (2006) corroborated that there is a renewal of interest in the waqf itself. The cash waqf form was not practiced by Muslim countries during that time. The implementation of cash waqf has been continuously debated among religious and legal scholars, even its conceptual understanding. However, the practice of this kind of waqf seems popular due the necessity to protect liquid wealth and the ease of transaction of charitable works. The interest charged on loans by cash waqf, which permitted moving funds between economic sections, was deemed to be conducive to shariah regulations.

07. Findings of the study

a. The Financial Mechanism for Waqf

Nowadays, Muslims do not have a clear picture of the immovable concept of waqf. They think that waqf only permits immovable property to be donated. Not only individuals, but perhaps governments in general have not utilized the benefits of the waqf concept, which proved to be successful in the past. Consequently, the barriers of waqf to immovable property have prevented pious donors from donating. Mohamad et al. (2005) explained that layman Muslims cannot be blamed for the unavailability of development financing for the barren waqf properties. They stated that the lack of effort of Muslim scholars and jurists during the last two centuries has caused the impediment of the waqf properties.

However, the diligent move by many Arab countries in the last three decades has tried to revamp the perception concerning waqf. The effort by scholars and practitioners has revived waqf institutions by developing the conventional financial products for the improvement of waqf properties. Therefore, the successful contribution of waqf development from idle circumstances has generated wealth to Muslim countries, which indirectly contributed towards the economic growth and sustainability.

In Malaysia, the waqf institutions are not eager to use waqf land as collateral as they are afraid of losing it to financiers (Mohamad et al., 2005). In addition, the financiers are not willing to accept the waqf land because of legal problems caused by the label of inalienability and perpetuity. The study by Mohamad et al., (2005) surveyed multiple financial mechanisms including both traditional and contemporary, such as institutional, in the type of credit-based modes, and corporate financing like equities and bonds in relation to waqf. In addition, self financing through a combination of waqf shares, *istibdal* (substitution) and *hikr* (long lease) were also studied. The studies concluded that there is no ideal financial mechanism for the development of waqf properties unless cash waqf is found to be eligible to ease the financing of waqf land.

b. Cash Waqf Ruling

Notwithstanding, there is an argument among scholars regarding cash waqf in general. The Islamic schools of thought, consisting of Imam Shafie, Hanafi, Hambali and Maliki, jointly agreed to allow waqf for moveable property (Abdullah, 2010). This is because all moveable property can be sold, which can receive benefit in return as well as retain its physical condition. As a result, cash waqf is permissible. Furthermore, Imam Ibne Shihab az-Zuhri, who is well known for his Islamic knowledge, ruled that waqf in the form of *dinar* (money) is allowed for the sake of Islamic purposes, the welfare of society and development of the ummah (nation).

In Malaysia, the Malaysian Islamic National Council Ruling (MajlisKebangsaan Hal Ehwal Agama Islam Malaysia), which having a meeting from 10 to 12 April 2007, at Kuala Terengganu, agreed to allow the practice of cash waqf. Therefore, the decision has dismissed any hesitation or polemic concerning the implementation of cash waqf. So far, Malaysia has implemented cash waqf in several state religious councils – the organization that offers the cash waqf scheme or the so called waqf shares. Abdullah (2010) explained that there are six states that offer cash waqf schemes with certain minimal prices – Penang Waqf Fund Scheme at the minimum waqf price of RM5; Selangor Waqf Share offers a minimum price of RM10; Pahang Waqf Shares (RM10); Johor Waqf Shares (RM10); Terengganu Cash Waqf Sceme (RM10) and Malacca Waqf Shares (RM10). The Penang Waqf Fund can be purchased at the Penang State Religious Council and at all Zakh Management Centers. In addition, the Muslim society can also receive the National Cash Waqf Scheme, which has been offered by the Malaysian Waqf Foundation at the minimum price of RM10. The availability of cash waqf can also be obtained at the Malaysian Islamic Missionary or Yayasan Dakwah Islamiah Malaysia (YADIM) at the minimum price of RM10.

To the date, development of technology has changed people's perception toward waqf. The utilization of technology has facilitated the implementation of waqf in a more user friendly manner, for instance, Bank Islam and Maybank through Yayasan Restu Waqf and Maybank Waqf, respectively, have made it possible to contribute to the waqf fund by sending an SMS (short message send) using a mobile phone.

Cash waqf has various benefits due to its flexibility. The minimum price offered could involve many Muslims contributing to the cash waqf. As such, through cash waqf fund, the abandoned assets, which lack financial support, could be developed for the sake of the Islamic economy. The cash waqf fund could also support Islamic religious schools and institutions of education that are experiencing liquidity problems as well as maintain other Islamic assets.

The huge cash waqf fund gives numerous advantages in developing the Islamic economy. The cash waqf fund could be used as loans in financing small and medium industry business. It could also help in settling debts including assets, such as houses being sold by banks due to bad debts and loan shark (also known as Ah Long in Malaysia) problems faced by the Islamic community. In addition, the cash waqf could benefit the possession of Muslim assets, as each asset purchased will be waqf and rented.

c. Cash Waqf Studies

There are numerous studies involving cash waqf. Due to the degree of acceptance by society of cash waqf nowadays, research pertaining to cash waqf is increasing. Most of the cash waqf studies concern the economic development in Islamic society. Nasution (2001) stated that cash waqf in Indonesia has bright prospects. He stated that if the cash waqf fund is collected from 10 million Muslim Indonesians it could amount to Rp3 trillion each year. This is supported by Marsyita and Febrian (2004) who suggested that the cash waqf fund could reach Rp7.30 trillion each year based on the assumption that 20 million Muslim Indonesians contributed Rp1.00 per day or Rp30.00 each month.

Furthermore, Antonio (2002) explained four benefits and advantages of implementing cash waqf. First, cash waqf is easy and does not require a lot of wealth, and is, therefore, especially suitable for the poor. Consequently, everybody can contribute to cash waqf. Second, waqf through cash money could generate more funds, which could be used to develop assets such as undeveloped waqf land and other abandoned land for business and agricultural purposes.

Third, the cash waqf could help institutions of education that have a cash flow problem by creating a back up fund for them. Lastly, the cash waqf could reduce the dependency of Islamic institutions on the government and allow these institutions to stand on their own by implementing the cash waqf fund.

In terms of education, cash waqf seems to be effective in helping the Islamic education institutions. This has been proven by the success of the education system in Egypt. According to Danna (2007), Al Azhar University was built through the cash waqf fund and invested most of its cash waqf fund to build the storage warehouse at the Suez Canal. In addition, the Egyptian government also borrowed the waqf fund from Al Azhar University for government consumption. As a result, the sustainability that Al Azhar University has gained proves the effectiveness of the cash waqf fund, even though the university is not a profit oriented institution.

Similarly, the cash waqf in Malaysia has the potential to develop. Muhammad Salleh (2009) said that cash waqf has the potential to promote the development of the ummah. He estimated that the cash waqf collection in Malaysia could reach RM4.3 billion a year if each Muslim adult Malaysian citizen donated RM1 a day or RM30 a month to the cash waqf fund.

Furthermore, Penang state has a very high potential to develop a cash waqf fund because of its planning and marketing strategy that are used for the promotion of the cash waqf funds.

Muhammad Salleh (2009) estimated that the cash waqf fund could reach RM7 million a year, which could create many opportunities for the Muslim community.

In addition, Baharuddin Sayyin, et al. (2006), corroborated the cash waqf implementation through Selangor Waqf Shares Scheme, which has a high potential growth. This scheme has encouraged Muslims to implement waqf via cash money while purchasing share units offered by the Selangor State Religious Council (SSRC). The waqf funds collected by the SSRC will be used for the benefit of the Muslim society instead of giving a fair chance for the poor to implement waqf.

d. Prospects of cash waqf in Bangladesh

For economic development of Bangladesh cash waqf can play an important role in respect of education by establishing various educational institutions under cash waqf deposit. Kawmi madrasah, orphanage, mosque property may be developed through a central waqf management committee under shariah supervision of Islamic banks. Mosque based moral and ethical education may be increased under this program. Cash waqf can also be used in the health sector to establish and management of various hospitals, health centre, clinic etc. which is already done successfully in Malaysia. For social development cash waqf can make an important contribution by construction of road, bridge, cyclone centre etc as a sadaqah e jariah. Employment generation can be created by financing SME and agro based projects at a lower rate. Thus we can create a caring society for the whole muslim ummah.

8. Conclusion

Waqf utilizes the scope of benevolence, which includes all parts of social welfare even for certain sectors under the government's responsibility such as health, education and other basic needs. This can be seen in the Ottoman Empire, which contributed to the waqf system through the financing of health, education and the overall welfare. The waqf system was very successful during the Ottoman dynasty, so much so that a person could be born in a waqf house, sleep in a waqf cradle, derive sustenance from waqf property, read a waqf book, study in a waqf school, and get paid by the waqf administration. Baskan (2002) added that when peoples die they will be placed in a waqf coffin and buried in a waqf cemetery.

The importance of waqf, especially cash waqf, has been increasingly acknowledged. People from all parts of life could participate in cash waqf by contributing money via assets that can benefit Muslim ummah. Perhaps Muslims could progress and develop a better standard of living and be blessed by Allah the Al-Mighty God. Furthermore, in order to attach the perpetuity and inalienability concept, the object of waqf should be transferred by shifting from the physical being of the subject concerned to the 'dedication' per se (Mohamad et al., 2005). This dedication, as considered by the value of subject in question, could be construed as meaning that the value of the dedication would be perpetual and, therefore, immovable. Therefore, the value based capital of waqf could terminate the non-liquidity difficulty towards waqf properties, and the contribution and development of the waqf assets will be more convenient and competitive under supervision of mutuwalli (bank).



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