

# Potential of Creating Cash Waqf for Public in Multi-religious Society or Country

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**ABSTRACT**— *This paper is to share a concept on how the cash Waqf instrument can be expanded to help in managing social responsibilities, such as welfare and infrastructure development in a multiethnic and multi-religion society or country; and for this paper Malaysia is taken as the case study. The idea of having a mechanism of Waqf to cater the public as a whole is brought up as the awareness of government burden and normal incapability to cater every inch of aspects of society needs due to economic and bureaucracy factors as well as responsibilities of the society itself towards the society (or in other words: from society for society responsibilities). The main reason of having to come up with this cash Waqf concept is when looking at a multi background population country like Malaysia, where Waqf only attracts Muslim community while funds mostly attracts non-Muslim with less Muslim. Moreover the practice of Waqf in Malaysia limited for certain projects and funds usually limited for certain causes. Whereby, we see the Waqf as an answer or solution that can unify all: a mechanism which can be expanded into a more public beneficial instrument. Though there are different types or practices of Waqf depending on its objective, here for this public interest objective, we will concentrate on cash Waqf for public usufructual philanthropic means; with Wakalah-based operations. The idea is to create a special body to collect any intended endowment from all various background of population which will later be utilized to develop beneficial programs or projects in critical areas for the society. Furthermore, the contributors can actually see their contributions being converted into beneficial and tangible forms. This can be considered as their asset for their hereafter life for the believers and as satisfaction for those who like to help others. By having such mechanism, the we hope that the idea can be attractive to all level of society and get supports for the brighter future of the nation.*

**Keywords** — waqaf, multi-religious, endowment

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## 1. INTRODUCTION

On November 12th 2013, the Regent of Perak Raja Dr Nazrin Shah; who is today the Sultan or the King of the state of Perak; one of the state in Malaysia, emphasized that Awqaf or *Waqfas* an Islamic public instrument, can be a solution for social justice or promoting social responsibility among organizations. According to His Royal Highness :

“The principle of perpetuity embedded in the *Waqf* structure sets it apart from Western-style foundations and charities. Such innovative uses have assisted in unlocking its economic potential, as well as its philanthropic objectives.”

Of course this statement is parallel to the main idea of Islamic economics: distribution of resources to have a clear objective; which is to promote social justice. The Majesty then gave example of Johor Corporation or simply known as JCorp; a Malaysian corporate entity that has developed extensive social responsibility programmes through its investment arm, the Waqaf An-Nur Corporation for the development of society.

In Malaysia alone, there are many organizations having own or taking part in *Waqf* programmes, due to their Islamic backgrounds, their nature of business which involve in Islamic market and trading; such as Islamic banks and financial institutions, or even some organizations which have mostly Muslim staff and deal in Islamic products or Shariah matters. Such case is Maybank Islamic Berhad (a Malaysian financial institution) which announced of their RM20 million *Waqf* fund on October 2014. The organization have a collaboration with Federal Territory Islamic Religious Council (MAIWP) for a high impact initiative, which is set to make it the prime catalyst in developing and broadening the horizon of *Waqf*.

It stated that Maybank Islamic will provide RM20 million of seed capital to the *Waqf* Fund which will be invested into investment portfolios that include fixed income, equities, balanced fund and real estate. MAIWP will be the trustee of the *Waqf* Fund while Maybank Islamic the project manager for the program. Profits or capital yield from the investment portfolio will then be used to fund programmes related to development of educational and healthcare infrastructures, as well as to develop young entrepreneurs. What we are observing is the contributions from organizations or corporate bodies through *Waqf* instrument in the area of human development in order to fulfill their social responsibilities. But what is about the public as a whole? The citizens themselves we are sure that many would want to contribute as well if given chance to help promote the human development of their own country and society. What we are suggesting here is the development of concept based on *Waqf* instrument for the whole society to improve the social awareness and welfare of public. In other words, the public is helping the society in return for a brighter future of a country.

## 2. DISCOVERY / LITERATURE REVIEW

Before we go on to the idea on how to utilize the *Waqf* instrument to cater for a concept, first we should know clearly the fundamentals of *Waqf* and its characteristics to understand further on how we can operate it. The meaning of *Waqf* (singularity of the word *Awqaf*) in Arabic is hold, confinement or prohibition. According to Islamic Law, the definition of *Waqf* is “of holding a property and preserving it so that its fruits, revenues or usufruct is used exclusively for the benefit of an objective of righteousness while prohibiting any use or disposition of it outside its specific objective; with the locking up of the title of the property is to prevent it from being disposed of or exploited.” This definition can be directly applied to non-perishable properties, where the benefit and usufruct can be extracted without diminishing the property itself. Therefore *Waqf* widely relates to land and buildings. However, there are *Awqaf* of books, agricultural machinery, livestock, shares and stocks, and cash money as well. And for this type of *Waqf*, the consuming of the *Awqaf* should be for the benefit of an objective of righteousness while prohibiting any use or disposition of it outside its specific objective, which are any means of exploitations.

In *Waqf*, there is a clear distinction between the party who holds it in trust and the party who derives benefits from it. It is like one having guardianship over a tree, while its fruits are distributed to those specified by the creator of the *Waqf*. In some cases, the guardian cannot benefit from the *Waqf* model, if being specified by the *Waqf* contributor(s). The practice of *Waqf* is not limited to only Muslims. Non-Muslims, too, can be both benefactors and beneficiaries of *Waqf*. In fact, one of the earliest *Waqf* sponsors during the Prophet's time was a Jew named Mukayriq. The general idea of endowment for public usage is as old as humanity because in all communities there were properties devoted to public and community use. But if we examine closely the concept of *Waqf* we would agree that characteristic of *Waqf* is accordance to the Islamic law, regulations and culture; where it can only be utilized in non-prohibited conditions. Islamic law is the first law ever that defines and regulates *Waqf* as a civil societal institution. It started since the time of the Prophet Muhammad himself. Before Islam, charity like *Waqf* was always a religious exercise when a rich person assigns a property to the temple and monks would use it for the temple expenses and may also extend its use to helping the poor or even providing books to a library.

The real innovations in the idea of *Waqf* started in the early Islamic period in Madinah, initiated by the Prophet when he called out for anybody to buy the well of Rumah and to designate it as a public utility of drinking water free for all. This brought about a wide range of *Awqaf* that serve the welfare of the society at large and provide a basis for sustainable public utilities in a way that has no precedents in the history of humanity. Then the Prophet, peace and blessings be upon him, advised Umar to assign his land in Khaibar as a *Waqf* for the poor and needy, which marked the second innovation to support the poor and needy individuals, from the characteristic of individual charity to the type of social institution with capital investment. The third innovation came about when the Companions, during the reign of Umar ibn Al-Khattab, added the family *Waqf*.

There are three kinds of *Waqf* with two types of operations. The first kind of *Waqf* is religious *Waqf* which aims at helping to satisfy the religious needs of people and reduce the direct cost of providing religious services for any future generation, such as building of mosques, prayer rooms, Islamic education centers or religious classes, Islamic facilities or even halal hub centers. The second kind is philanthropic *Waqf* which aims at supporting activities that are of interest to the community such as public utilities, the poor and needy, public libraries, scientific research, education, health services, care of animals, environmental preservation, lending to small businessmen, parks, roads, bridges, dams, etc. An example of philanthropic *Waqf* was when drinking water used to be sold in Madinah at a high price. With the continuous inflow of migrants who fled their lands and towns to escape religious-based persecution it became difficult for the poor to pay for water; the Prophet, peace and blessings be upon him, called on people to buy the well and make it into a *Waqf* free to whoever takes water and one of his wealthy companion, Uthman ibn Affan bought it for that purpose. The third kind of *Waqf* is posterity or family *Waqf*, which is to benefit one's own family and descendants. To operate all of these kinds of *Waqf*, there are two mechanisms of operations: which are investmental *Waqf* and usufructal *Waqf*. In investmental *Waqf*,

assets in terms of marketable goods and services to be sold in order to generate a net income that will be distributed to the beneficiaries. While for usufructual *Waqf*, the assets are to be used by certain quarters specified or public.

Aside from the property or asset *Waqf*, there is also cash *Waqf*. It is a trust fund established with money to support services to mankind in the name of the God. The gifted capital was “transferred” to borrowers for certain period, which was then spent for all sorts of pious and social purposes inclusive for the investment objectives. Cash *Waqf* are charitable endowments established with cash capital. What distinguishes these from the standard real estate endowments is the nature of their capital, which is in the form of cash. Cash *Waqf* can only be distributed and allocated for anything not against Shariah Law. This form of *Waqf* provides opportunities for facilitating its participation in social development.

In this paper, we will solely focus on cash *Waqf* for the purpose of public usufructual philanthropic. Malaysia is multiracial, multiethnic and multi-religion country. According to CIA World Factbook, the population of Malaysia is 30,073,353 (July 2014 est.), which consists of Malay 50.1%, Chinese 22.6%, indigenous 11.8%, Indian 6.7%, other 0.7%, non-citizens 8.2% according to ethnic. While referring to religious background of the population, it is calculated at Muslim (official) 61.3%, Buddhist 19.8%, Christian 9.2%, Hindu 6.3%, Confucianism, Taoism, other traditional Chinese religions 1.3%, other 0.4%, none 0.8%, unspecified 1%. Like other countries, most of infrastructures for citizens and society in Malaysia are developed by the government. The problem is the proportion of income taxpayers in the population of Malaysia is only 5.6% which is very low compared to developed nations such as UK which at approximately 47.1% (according to World Bank statistics). If Malaysia becomes a fully welfare state with so few taxpayers, the national debt will increase as a result of recurring fiscal deficits. This translates into an unwillingness to pay the taxes required to fund a welfare state. Thus, new mechanisms could be used to fund the infrastructure projects for the benefit of community. One such mechanism that can be considered and encouraged is by using *Waqf* planning and instrument.

There are examples of *Waqf* development for infrastructure projects in other countries. For instance, if we look at some Islamic countries, in the predecessor Muslim Ottoman cities, the *Waqf* system was instrumental in the development and construction of public facilities. In the field of education, University of Al-Azhar in Egypt was financed by its *Waqf* revenues for more than 800 years while Shishli Children Hospital in Istanbul was funded by a health *Waqf*. In a non-Islamic countries such as India, in example a few memorandum of understanding between National Buildings Construction Corporation (NBCC) and National *Waqf* Development Corporation (NAWADCO) to develop Gulistan Shadi Mahal, Masjid-e-Mavalli, Dargah Hazrat Attaullah Shah in Bangalore and Takiya Chand Shah in Jodhpur.

### 3. CONCEPT

As mentioned before, this paper will be focusing on cash *Waqf* for the purpose of public usufructual philanthropic. This *Waqf* is intended for the benefit of the whole public irrespective of religion, race or citizenship. In philanthropic *Waqf*, the aim of this mechanism is to benefit the whole community. On this concept, the method of operating the *Waqf* shall be usufructual; which means that infrastructures or materials should be developed or disbursed for the intended good usage of them, if in some cases there will be any profit after deductions of operational costs shall as well be disbursed for the benefits of public again and continuously. In this paper, we will be discussing on the areas which we feel critical for the usufruct of public as a whole, in my country Malaysia, in a hope that the concept not only can be implemented here but in other countries which have similar background as Malaysia.

As stated before, Malaysia is a well-known country for its multiracial, multi-religion and multiethnic population living in harmony. Albeit that, the official religion of Malaysia is Islam. When mentioning about public in Malaysia, it aims at all the races, ethnics and religious background comprising of all citizens of the country. Most of the ideas which we will be proposing targets more on the less wealthy citizens in the population, as a means to fulfill public welfare while bringing benefit to the whole country. In this decade of 2010s, Malaysia has seen a few economic downturns. The currency of Malaysian currency which is Ringgit Malaysia is not at a good position against most of major world currencies, thus increasing the country's debt to a new level comparing to the years before. The country's income is also decreasing due to factors of lower oil price as Malaysia is an oil exporter, the decrease of price in palm oil and rubber contribute well here as well. This adds to the increase of competition in status of manufacturing country from other south east Asia countries such as Thailand, Vietnam and Indonesia, and not forgetting the big competition from China as a main manufacturing country. With all of these factors, theoretically the government cannot maintain its pace of developing non-profitable infrastructures or programs for public as before in the long run since it will create further deficit in the country's economy. Where as if we look from the citizens' view, the private-sector salary has not seen a significant increase for many years and with the implementation of the new Goods and Services Tax in 2015 added to living cost in whole. In other words, lower income citizens; especially families seem to critically need of aid in lowering their living costs and expenditures. Here is where I see the need of *Waqf* programs to help both the government on developing or implementing infrastructures and public welfare programs, as well as citizens on lowering their living expenses. When

we look at the whole social system which consists of multiple backgrounds of population; we divided the important areas that needed to be upgraded according to their critical aspects and importance to the nation; in a priority form. We have decided to emphasize more according to priority on the areas of education, healthcare, public welfare centers and then transportation infrastructure.

Most of us would agree that the most critical aspect in building a nation is education, whereby having good educational system and educational infrastructures, a nation can produce better quality and competent society to develop the nation. We know that educational is the basic for future development of a nation. Without good educational system, a nation will be short of core competencies and will be too dependent on foreign skills. Thus such, the nation will be at the losing side of knowledge and economic. In Malaysia, most of the core education infrastructures are developed by the government such as public schools and libraries. In tertiary education level, education can be seen as a business where many private colleges and universities being set up to cater the education needs of population, but what about when we look into the base level : such as in schools and library? There are only a number of schools which are developed privately and even less for libraries. This area is somehow being neglected, with only a few contribution programs by private organizations. In other words, the development of this area is solely put on the government as if it is only their responsibility. Such idea only results in limitation in delivering education to a higher achievement. Bear in mind that education is the responsibility of all. With the proper *Waqf* instrument, we, the public can actually help and do our part. By setting up a special *Waqf* instrument for education purpose; where all citizens can contribute disregard religious or racial background, we can deliver our endowment to the needs in education field. This *Waqf* should be used to build small schools where most needed but out of allocation from the government such as in rural or remote areas, or building facilities in schools identified as lacking of infrastructures and important facilities such as classrooms, canteen, library, laboratory, or even can be used for buying, delivering and distributing free textbooks, exercise books, stationeries, class furniture, lab computers or other essential materials for the usage of the public students where have been identified. . We am sure many of us can imagine of how much benefit that can be gained by this endowment, for the recipients as the beneficiary, as well for the giver in terms of satisfaction or religious fulfillment.

The second areas seem as critical which can benefit from this *Waqf* instrument is healthcare. Healthcare has been one of the expensive expenditure for the past three decades in Malaysia, and we would say globally. Costs for treatments and medicine have increased significantly yet most of the citizens are depend mostly on insurance, takaful or government aids. Some of the citizens cannot afford any insurance or takaful and yet in need of treatments for critical diseases. By utilizing this proposed *Waqf* instrument correctly, we can help those unfortunate by easing on the treatment costs for critical operations especially cases involving children who do not yet have insurance or takaful coverage. The other way to utilize this *Waqf* instrument in healthcare is by channeling the endowment collected for medicine, vaccine and healthcare instruments for children and needy people, which can be distributed through own healthcare programs or in collaboration with Health Ministry or Education Ministry. We should remember that children are the gems of the country that will become our future one day. In focusing on helping the children, we can help our future development and such create social awareness among them. While helping the poor and needy is one of the responsibilities of all citizens, irrespective of race or religious background. Other than only focusing on medicine, vaccine and treatments, this *Waqf* instrument can also be used in sponsoring portable or moving clinics, in urban areas of high density population where lacking of public healthcare facilities.

The third area which we think best for utilizing this instrument of *Waqf* is in the shape of welfare centers for the needy citizens. In Kuala Lumpur for example, there have been a lot of issues regarding the poor and unfortunate people who do not have proper accommodation. They live on the roadside, under bridges in the building alleys during night time, and go to work during the day just to earn some cash. This is due to the increasing of living costs in the cities where meals and accommodation becoming more and more expensive. Some of these people do not have any place to go as most of their life spent solely in the city. There are even families with children who practice this livelihood. These people are very unfortunate that they are trapped in development and modern world. They do not have the hard skills to earn a living in rural areas which costs lower and afraid to move to these places, such that they insist on living in the cities although cannot afford proper accommodations and living. In hoping of easing their burden, from the instrument of *Waqf*, we can help those trapped in this condition by offering them centers to get foods, education for their kids, special skill courses and even to get clothes if necessary. By helping them, especially in giving special education for the kids and teaching special skills for the continuity of earning income for the adults, hopefully we can elevate their living quality to a higher level thus freeing them from the poverty.

If this *Waqf* instrument idea works well, and can be accepted throughout the whole society and gets overwhelming responses and contributions from individuals or corporate bodies, maybe some days we can then expand the instrument to a broader areas such as for the use of public infrastructure improvements; for instance improving roads in congested housing areas, or providing motorcycle lanes for road safety to all road consumers or even building halls or improving

parks for the public and communities as a whole; where these projects being identified as out of focus from the local councils or ministries.

#### 4. MECHANISM BEHIND WAQF CONCEPT

In order for the proposed *Waqf* instrument to work and can be accepted by the whole society irrespective of religious background and race, it must be somehow neutral and unbiased in its distribution for the benefit. By doing so, we can attract more contributions and gained more interest from the public and corporate bodies. As such, a neutral institution, agency or body (non-governmental agency) should be set up consisting of multiracial members from diversified and trustworthy background. But this body needs to be headed by Muslim professionals of neutral background, since it is a *Waqf* instrument. The idea of having professionals in front is in the hope of minimizing hiccups in programs or projects as much as possible, eliminating misconducts and maintain integrity of the body as it handling public funds. To maintain its multiracial and harmonious status, we could use a system of 50:50 for the committee members: between Muslim and non-Muslim members to ensure service for all citizens yet following Shariah or Islamic regulatory principals. The committee will be the one responsible to review and assess any program or project which should be undertaken in utilizing the *Waqf* collections or endowments for the purpose of public interest and benefits. To make it more Shariah compliance, the body must have internal and/or external Shariah advisory board for consultation and approval of operations and distributions. This *Waqf* body can be supported then by government agencies or any other non-governmental organizations for the input of data needed such as projects, programs or areas which highly in need of contributions and for the output on distribution of the *Waqf* assets. This conceptual *Waqf* body should be running under the structure of *Wakalah* basis, where the body acts as agent or representative on behalf of the society to run beneficial programs or projects to the society. Of course we have to take into consideration of the operating costs and expenses of the body itself. This can be done by using either of this given two methods:

1. Instead of using commission of the endowments by public or corporate bodies, the operating costs expenses should be calculated, reported occasionally and deducted upon agreement from the fund. This costs and expenses (which include manpower allowances) can be minimize since the idea of operation of the body is for it to be supported by government agencies and non-governmental organizations. The costing and expenses must be calculated and reported regularly and in advanced and at post-programs or post-projects to maintain integrity.
2. The operating costs and expenses (which include manpower allowances) can be supported externally by government, corporate bodies and/or NGOs without having to use any of amount of the fund collected. By doing so, the fund amount reported periodically can be maintained easier with less issues of potential mistreatment risks. But such operation should get prior agreement and understanding from both government and NGOs to smoothen the operations of the body without having to undergo major hiccups in terms of cost and expenses. After all, the government and big corporate bodies should benefit from this *Waqf* concept since it would help them in complimenting and achieving their social purpose of welfare and corporate social policies to the public.

Dealing with endowment from the whole society (Muslims and non-Muslims) for the aim to benefit all, as such the distribution of the cash *Waqf* should not be channeled for any religious purposes. Any endowments for specifically for religious activities should be channeled elsewhere, and for information there is a lot of specifically religious-purposed cash *Waqf* in Malaysia to date. Furthermore, since this is a *Waqf* instrument, there is a need for an advising committee which consists of Islamic professionals and scholars to give advice and endorsed on approval of the distributions or programs involved as the mechanism need to be free of prohibited elements in Islam such as involving in gambling or gharar activities; or even collaborating with corporate bodies which involve in riba' activities. This is very important in order to maintain the legitimacy and status of the *Waqf* instrument according to Islamic principles.

This *Waqf* instrument should be specially tailored for all public benefits. In the disbursement of *Waqf* allocations and programs or projects involvements, the target should be for the benefit of public as whole; where it should be channeled according to priority, importance or most critical areas to the public, then only for less priority or critical. The areas should be divided into specific scopes such as education, healthcare and welfares. Special committees should be established to identify and evaluate the programs necessity. The *Waqf* body should practice transparency in its *Waqf* collections and contributions, and on the programs involved. Reports of operations with collections, costs and expenditures should be presented in details and periodically in order to maintain its integrity and trustworthiness. Reports of progress of programs should be shared to attract contributors from the whole society. Campaigns and advertisements should be held continuously as a mean to attract the public to donate and pledge to this public cash *Waqf*. Since this *Waqf* is a way to help society and reducing the dependence solely on government contributions, we suggest that government should recognize its importance and tax deduction should be offered by the government to encourage the endowment practice from individuals and corporations. As such it can attract greater number of participations and reduce discomfort image towards government.

## 5. CONCLUSION

In this new, more sophisticated era of world which we are living today, there are a lot of areas for government and society to cater for welfare means, in order to see brighter future and development of a nation. In Islamic concept of governance, state welfare is not only on the responsibility of the government but also on the society itself, which can be described as from society to society. In Islam the society has its own roles to take care of itself, and one of them is by sharing wealth for the benefit of the whole *ummah* or community. The concept of sharing for the benefit of community is not only accepted in Islamic perspective, but the whole world across the globe using it mostly in terms of charity funds and contributions or pledges. Only that the significant of the urge to share wealth in Islam is higher with the application of contribution or endowment instrument such as *Waqf*. Though *Waqf* is common practice among Islamic societies, the benefit of this tremendous instrument can actually be expanded and applicable to the whole. Most *Waqf* only focuses on religious areas. In such a nation as Malaysia; with a population of significant diversified background of multirace, multiethnic and multi-religion citizens, the concept of *Waqf* should not be utilized just on religious areas only, but can be diversified for the benefit of society as a whole. Creation of such *Waqf* instrument which can cater for the whole society for today and future benefits should be attractive to all participants from the society: be it Muslims or non-Muslims, as they can see the benefits will be for all. Moreover, it is their money that the body will be dealing with, in the contributors' perspective they hope the contributions will be utilized at best and in a good manner with social values to benefit all. In addition, having this kind of *Waqf* mechanism can lessen the burden of the government in taking care of the society of the whole country, though it should not be an excuse for government to have less involvement in welfare as it is their duty and responsibilities to cater public needs and interests. It should be considered as only a helping tool or welfare aid. In order for this conceptual *Waqf* instrument to work and operate well, the participations of government, organizations and societies is highly needed, thus this matter should be discussed thoroughly and extensively.