Operation of Cash Waqf in Malaysia and its Limitations

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Abstract

The practice of cash waqf has gained popularity in Malaysia partly because of the advertisement made by Bank Muamalat Malaysia Berhad (BMMB), the first Islamic banking institution to manage cash waqf together with Perbadanan Wakaf Selangor (PWS). Since the inception of the cash waqf scheme, the support given by customers to BMMB can be seen from the increase in funds being collected. This paper discusses factors that hinder the operation of cash waqf fund in Malaysia particularly its collection and usage. The paper, in its methodology, has adopted the interview of bankers from BMMB and staff of PWS. The findings reveal several limitations in the daily operation of cash waqf. The issues include multi-level decision-making process, and lack of trained personnel. The need to comply with demand of stakeholders and the underdevelopment of secondary project are some of the other issues. The study recommends that the bank heeds lessons from these limitations as they may undermine customers’ trust in the cash waqf scheme and their satisfaction towards the bank’s service.

Keywords: Cash Waqf, Islamic banking, multi-level decision, investment, limitations

1. Introduction

Malaysia is the most advanced country in the development of Islamic Banking and Finance. Since the establishment of Bank Islam Malaysia Berhad in 1983, the country has improved its legal structure, banking environment and innovation of Shari’ah compliant financial products and instruments in both the banking sector and

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the capital market. The country has also pioneered in the establishment of countless funds that are aimed towards the development of the ummah. During the early years of establishment, the country’s main agenda was to develop Islamic banking and finance industry as an option to the interest-based banking system. It was to make sure that Muslims no longer needed to demand for loans with interest from the conventional banks. As the industry became sophisticated, Islamic banks are viewed to have similar purpose in design and method of function to conventional banks.

Chong (2009) reports that the Islamic banking practice today is not very different from conventional banking and alleged that the benefit of Islamic banking exists in theory only. Khan (2010) believes that profit rates used by Islamic financial institutions are merely a changed terminology of interest rates. With constant criticism, many Islamic banks are trying to ameliorate their functions into contributing towards economic aspect. They have decided to provide products that not only differ from those of conventional banking but also moving towards achieving Maqasid al Shari’ah (objective of Shari’ah). Going back to the roots of Islamic practice, the Quran in Surah Al-Hashr (59:7) states:

‘Wealth should not only circulate among the rich’.

The concept of wealth in Islam goes to the understanding that all types of wealth belongs to Allah (s.w.t) and it is a gift from Him to man. Man is supposed to act as custodian to this wealth. As a custodian, man should make sure that wealth is fairly distributed to everyone. Furthermore, wealth comes in abundance form from Allah (s.w.t) who has allocated it to every man and it is the man’s responsibility to protect it. Part of the protection process is to purify wealth. Maududi (1988) discussed that a person’s wealth is impure if he does not pay the right of Allah’s servant from the wealth bestowed to him. With the belief that wealth belongs to Allah (s.w.t), Muslims have to obey what He has instructed for the management of His wealth. Islam encourages sadaqah (giving) to ensure equitable distribution of wealth in a society. Major forms of sadaqah include zakat and waqf.

Zakat is an obligatory duty on every Muslim possessing wealth equal to or exceeding the prescribed amount of nisab. It is also one of the five pillars of Islam. Another form of sadaqah is through contribution of waqf; a religious endowment of an asset for the benefit of defined group. It requires a manager to ensure the waqf asset generates an on-going benefit. There are many types of waqf, which include waqf of public utilities,
education, health care, property, cash and grains for seed. In Malaysia, both zakat and waqf fall under the state's control, making them the sole managers of both institutions.

Cash waqf, which is the focus of this paper, refers to cash contributed to an account, managed by a manager for religious and social purposes. Many scholarly articles have defined cash waqf differently. According to Lahsasna (2010), cash waqf refers to mobilization of funds from donors based on perpetuity and investing them in productive assets that provide either usufruct or revenues for future consumption by individuals or groups taking into account the policy and guideline provided by the donors. The issue to the definition given by Lahsasna (2010) is whether or not the contribution has to be based on perpetuity.

In order to enhance its role as Islamic bank, Bank Muamalat Malaysia Berhad (BMMB) joined Perbadanan Wakaf Selangor (PWS), a state waqf manager, in 2012 as collector of cash waqf. The bank created a joint deposit account for the purpose of collecting cash waqf. It is also responsible for creating awareness among Muslims in Malaysia to participate in cash waqf collection. However, since its incorporation in 2012, many contributors started questioning the bank’s effectiveness in managing the fund. This is due to the lack of disclosure on the usage of the fund. As the bank act as collector of fund, it is viewed that the bank should make its cash waqf operation more transparent.

Hence, this paper investigates factors that hinder the operation of cash waqf fund in Malaysia through methods of collection and usage of cash waqf by waqf managers. The objective of this paper is to discuss whether incorporating banking institutions to operate cash waqf is beneficial to the society. The other objective is to pinpoint management issues and identify the limitations to the operation of cash waqf. The methodology used in this paper has relied on both primary and secondary resources. It is based on interviews conducted with two staffs from Perbadanan Wakaf Malaysia and banker representatives from Shari’ah department from Bank Muamalat Malaysia Berhad. The secondary source is based on the literature reviews of past papers on cash waqf.

2. History on Operation of Cash Waqf

Few literatures on the origin of cash waqf, show that the mechanism can be traced back to the eight century (Cizakca 1998). Imam Zufarexplained that cash waqf
operation works at giving capital to entrepreneurs in the form of mudarabah. Here, the return from the mudarabah partnership will be used as the original purposes of waqf (unspecified).

In the Ottoman Empire, between the 15th to 16th century, the usage of cash was at its highest as the government capital, health operation, education and welfare depended entirely on gifts and endowments (Cizakca 1998). The operation of cash waqf during that period of time involved the following process (Mandaville, 1979). First, a few well-to-do individuals contributed some amount of fund (privately owned endowment) for specified religious purposes. The fund was then given to certain individual or entity for government capital, health operation, education or public welfare. After a specified period of time, usually in a year (Cizakca 1998), the waqf principle would be returned back to the fund with a certain ‘extra’ amount, known as istiqlal. The istiqlal would then be used for religious and social purposes.

Many scholars then argue on cash waqf as method of lending with interest, but instead of giving the interest payment to the lender, it is used for religious and social purposes. According to Shaykh Suhaib Hasan (2002), interest money gained from lending is good for any charitable purpose including educational fees for poor students, building the mosques or printing the Quran. It is however does not justify the permissibility of usage of cash waqf as principal for lending with interest, even though it may be purified by donating the interest money for religious purposes. Lending with interest or riba is clearly prohibited in the Quran. With that, no method of cleansing is acceptable if the method of getting profit is through riba.

3. Islamic Banking and Cash Waqf

As stated in the introduction of this paper, Islamic banking is striving to be different from conventional banking. Hence the banks have introduced cash waqf scheme as trusted collector of the fund. Apart from rebranding their identity, the banks are implementing cash waqf scheme due to other reasons. The banks have the capability to offer a safe

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4. Mudarabah refers to a partnership where a partner would provide capital and the other would manage the capital. The profit from the business will be shared among the partners in accordance to profit sharing ratio while the loss will only be borne by the partner that provide capital.

5. Istiqlal is a loan that has a piece of real estate as security.

deposit account for the cash to be channeled into. Banks may also have a separate entity to act as insurance to the money deposited with them. Accordingly, banks are able to accept fund channeled through depositors account system. It is convenient for the contributor to channel the fund regularly to the account. According to Cizakca (1998), by implementing cash waqf scheme, the bank will be able to solve the problem of mismatching of Mudarabah fund between the deposit and the fund for financing due to the nature of mudarabah long term commitment. At this point of the study, it is worth noting that most scholarly articles state that cash waqf fund donated is only used as capital for mudarabah.

4. Shari’ah Evaluation on Cash Waqf

During the Ottoman Empire, cash waqf scheme faced many critiques due to different views among major Islamic schools. It caused legal issues and weakened trust to the institution. Since the focus of this paper is on cash waqf scheme in Malaysia, the view of Shafi’e School will be prominent. There are a few Shari’ah issues on the cash waqf scheme. Firstly, according to Al Mawardi (1999), the issue of giving cash waqf as capital for business and expectation of an extra amount to be donated is equivalent to renting out cash. Since cash works as medium of payment and storage of value, it’s function in the current society is similar to usage of gold during the Prophet time. With that, it is classified among the ribawi items, which have to be exchange on spot and hand-to-hand in order to avoid riba. This is an issue in the Shafi’e School, which views waqf objects as something of uninterrupted existence, and capable of being utilized (Sabit, 2011).

Secondly is the issue of perpetuity, which is donating cash periodically, regularly and repeatedly to the cash waqf fund. IbmHumam (n.d.), Ibn Abidin (1992) and Ibn Nujaim (n.d.) questioned the capability of cash waqf to meet perpetuity requirement when the cash waqf is used in mudarabah transaction and then the generated profit is given to charity. Here, since the returns from mudarabah are unpredictable as it can also be a loss, a perpetuity criterion is put to question.

5. Managers of Cash Waqf in Selangor

At the Malaysian national level, the management of waqf falls under the responsibility of JabatanWakaf, Zakat dan Haji (JAWHAR), which allocates fund given by the
Malaysian government and coordinates *waqf* management between each of the State Islamic Religious Council (SIRCs). SIRCs are government institutions, which act as the sole trustee of *waqf* and the manager of *waqf* assets. Each SIRC has specific development programs of *waqf* assets, and every decision by subsidiaries institutions has to be approved by the fatwa council of each state. The most prominent SIRC is Selangor Islamic Religious Council (Majlis Agama Islam Selangor, MAIS), the most active institution that manages *waqf* assets in Malaysia. Section 32 Wakaf (State of Selangor) Enactment 1999 (No.7 of 1999), states that: “*Not with standing any provision to the contrary contained in any instruments or declaration creating, governing or affecting any wakaf*, MAIS shall be the sole trustee of **ALL wakaf**, whether wakaf am or khas, situated in the state of Selangor”. From the enactment, it is understood that the sole responsibility of managing *waqf* assets is given to MAIS.

By 2011, MAIS incorporated Perbadanan Wakaf Selangor (PWS) to handle *waqf* matters. Another prominent *waqf* manager in Malaysia is Yayasan Waqaf Malaysia (YWM), which is an agency working towards the development of *waqf* assets. Hence at the state level, particularly Selangor, there are three *waqf* managers, which are MAIS, PWS and YWM. With major development, PWS has become one of the institutions that has significantly focused on generating cash *waqf* in Malaysia. In the second year of its operation, PWS joined agreement under a program called ‘Program Sahabat Wakaf Korporat’, with a few financial institutions, corporations, universities and a few other entities to collect cash *waqf*, which includes Ihsan Care Sdn. Bhd., Amanah Ikhtiar Malaysia, Kolej Universiti Islam Malaysia, Universiti Kebangsaan Malaysia (UKM), Universiti Putra Malaysia (UPM), Universiti Teknologi MARA (UITM) and Takaful Malaysia. The financial institutions that have joined PWS are Bank Muamalat Malaysia Berhad (BMMB) and Maybank Investment Bank. YWM has incorporated more financial institutions to their cash *waqf* scheme. In summary, the managers are as follows:

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7. The word *wakaf* and *waqf* will be used interchangeably in this article.
For every joint venture between each institution with PWS, a Joint Management Commitment (JMC) is created for the purpose of approving and deciding on the project that would be funded by the cash *waqf* collected. Each JMC has their set of programs in developing cash *waqf*.

BMMB, like any other banking institution is capable of providing cash management, that includes the collection, handling and usage of cash fund. Bank is believed to be the safest place and most fitting at handling cash. In Malaysia, the insurance being provided by Perbadanan Insurans Deposit Malaysia (PIDM) helps the safekeeping of cash in bank account. Apart from that, bank has the channel to easily collect money and distribute cash when needed. Given the mindset that banks are capable of managing cash well, Malaysians believe that cash *waqf* through banks will be used efficiently. The trust given hence is very important towards future collection of cash *waqf*. The trust should be enhanced by proof of development of *waqf* land or any other stated purposes. People want to see where the money is channeled to after they have deposited it in BMMB JMC account. The joint venture between PWS and BMMB is called
Wakaf Selangor Muamalat. The JMC has agreed on the distribution of cash waqf fund collected by BMMB to the development of education and healthcare.

6. Cash Waqf Collection by PWS and Wakaf Selangor Muamalat

PWS has come up with a few ways of collecting cash waqf. The first one is through eMAIS, which is an online payment system on MAIS website. This method of collecting cash waqf allows potential contributors to select the type of donation they want to do.

PWS is also responsible for collecting cash waqf through a few waqf products. For each waqf product, PWS has to consult Jawatankuasa Majlis Fatwa Kebangsaan to make sure that the product is Shari’ah compliant. The first waqf product is Skim Infaq, which allows working individuals to donate a minimum of RM 5.00 from their salary every month. By early 2012, PWS collaborated with Yayasan Waqaf Malaysia for the purpose of getting government workers in the state of Selangor join SahamWakaf Selangor through the scheme with code 4474.

In early 2013, PWS also came up with a new waqf product, the Gold Waqf (Wakaf Emas). The product incorporates a prominent cultural factor among Muslims in Malaysia. Malay women have the tendency to buy gold jewelries as part of their savings for the future. When they need the money, they would then sell the jewelries. Hence it is fair to assume that Gold Waqf is a useful tool to capture this market. The product allows individuals with gold assets to waqf the asset, which will be sold and the cash received from the sale will be given to cash waqf fund. By April 2013, the amount of cash coming from Gold Waqf was more than RM 40,000.

On 21st June 2013, PWS introduced their latest product known as Art Waqf (Wakaf Seni). It is to promote waqf among Malaysian Islamic singers, writers, celebrities, artists under Seniman – National Association of Artistes (Persatuan Seniman Malaysia) and Malaysian Animation Artist (Persatuan Animasi Malaysia, ANIMAS). Through this product, PWS will not only get to promote cash waqf but also draw the attention of the media. So far PWS gets support from Inteam (Islamic Malaysian singers) to contribute RM 5.00 from each record sales from their new record called ‘Iman and Aman’ and Ustaz Don Daniyal Don Biyayid (Malaysian Islamic celebrity and preacher) as their celebrity branding.
The methods of collection by PWS are mainly focused on Malay culture, the main race for Muslims in Malaysia. The skim infaq basically targets Malay public sector workers while the gold waqf focuses on female Malays. The art waqf on the other hand only involves Malay artists, which is unknown to non-Malays society. Since the concentration of wealth in Malaysia is in the hands of non-Malays, particularly the Chinese, the waqf managers basing on the Shafi’i School has opted to collect cash waqf from the non-Muslims as well. With that, PWS has collaborated with many other financial institutions to collect cash waqf and jointly manage them. One of it is “Trade and Waqf” promotion to present clients at Maybank Investment Bank with the opportunity to raise funds for charity while trading in Shari’ah-compliant shares via Maybank’s H.O.T broking accounts. Maybank Investment Bank will contribute 5% from its gross brokerage income from clients who meet the minimum threshold of RM75 during the campaign period.

Wakaf Selangor Muamalat JMC has decided on a few ways of collecting cash waqf. As a banking institution, BMMB is able to collect cash waqf through the bank’s counter, hibah from Wadi’ah account holders, Arahan Pembayaran Berkala or Periodic Payment Instruction (PPI) similar to Skim Infaq, cash deposit through ‘Cash Deposit Machine’, debit cash from savings and current account for account holders through ‘Auto Teller Machine’, Internet banking and cheques. The bank is also allowed to promote cash waqf through the media with PWS consent. The collection of cash will then be channeled to PWS account in BMMB. According to BMMB, the major contributors of cash waqf are the public who are BMMB account holders (20%), non-account holders (80%), who contribute the minimum of RM10, the bank itself (RM150 to RM200 thousands a month), returns to the bank and BMMB staff’s contributions from their salary (RM19 thousand a month). The current deposit account is worth RM6.3 Million in early 2014.

7. Distribution of Cash Waqf Fund In Selangor

Through Mesyuarat Jawatankuasa Fatwa Negeri Selangor of 3/2013 held on 6th of June 2013, the cash waqf fund collected by PWS is distributed according to a new plan called ‘Dasar Agihan Manfaat Sewaan’. It started from the general waqf fund; some of the fund from there goes to property investment to get rental money and returns. The returns from rental isthen used to pay management fee. After paying the management fee, the fund left is divided between two sections, 50% to finance permanent asset
property expense and the other 50% for cash waqf fund. Once in cash waqf fund, 70% of the fund is earmarked for investment and the remaining 30% for charitable purposes.

According to PWS, The 70% of cash fund that goes to investment account are used to buy properties for rental or used to generate income. The 30% that goes to charity is used for:

- Development of idle waqf properties (waqf land)
- Financing development of religious institutions: mosque, surau, Islamic school, Muslim public facilities and maintenance of Islamic institution buildings
- Source of financing of social assistance: orphans, the poor, the needy, educational help, human development programs, health treatment financing etc.
- Source of financing of development programs: commercial real estate for business, purchase of property lots for potential housing projects or agriculture
- Purchase of real estate lots under bumiputera quota of government housing project
- Farming and manufacturing development

![Diagram of Cash Waqf Distribution by PWS]

Table 2: Cash Waqf Distribution by PWS
On the other hand, Wakaf Selangor Muamalat JMC has separate usage of cash waqf fund compared to PWS. They are responsible in channeling the waqf fund to the agreed waqf projects for health care and educational purposes, and reinvest the proceeds of waqf funds. The allocation is as follows:

- **Education**: infrastructure construction and equipment
- **Health care**: dialysis machine and equipment, research, treatment and health vans
- **Investment by Muamalat Invest Sdn. Bhd.**

![Cash Waqf PWS Account Managed by JMC](image-url)

- **Investment by Muamalat Investment Sdn Bhd (50%)**
- **Charity (50%)**
  - **Education (50%)**
  - **Healthcare (50%)**
- PWS (25%)
- JMC (75%)

Table 3: Cash Waqf Distribution by *Wakaf* Selangor Muamalat JMC

The 50% of fund that goes to charity are divided between education and healthcare purposes. Some of the properties bought for charitable purposes are financed from the fund, for example health vans while other properties are one-off gifts such as dialysis machine. The financing of procured properties come directly from cash waqf fund. Historically, the fund for financing should not come from cash waqf fund but from secondary project based on waqf fund. Hence, there is no secondary project that can generate income thus far used for financing the charity projects by Wakaf Selangor Muamalat JMC. The other 50% that goes to Muamalat Invest Sdn. Bhd is invested into Shari’ah compliance instruments to generate returns. 25% of the returns goes to PWS while the remaining 75% of the returns is channeled back to JMC for redistribution. From the redistribution activity, it is expected that the waqf fund will continue to grow and every time it is redistributed, half of the redistribution amount will go to charity.
8. Discussion

As cash *waqf* scheme in Malaysia has gained momentum in the recent years, the demand for transparency to the usage of fund has increased too. The BMMB personnel admits the need for contributors to personally see the projects done using the cash fund. Even though the demand is already acknowledged, there are a few limitations to the operation that have caused the cash *waqf* scheme to develop at slower rate and reach less individuals.

During the Ottoman Empire, the contributors to cash *waqf* fund are from the higher ranking individuals in the society and the managers are a separate entity, who worked with the contributors to make sure that the fund would reach specified individuals and for specified purposes. On the other hand, *waqf* managers in Malaysia are different level government entities. While the main decision maker on management of cash *waqf* fund lies with MAIS. Hence a multi layer decision-making process exists in the cash *waqf* scheme. The decision on the project with JMC lies with the agreement from MAIS. Even though there are many corporations that are considered as credit-worthy to manage the fund, the major control is with MAIS. The multi-level decisions create a few setbacks, which include lengthy documentation process, time-consuming approval process and costly administration fee. With that, many contributors or potential *waqf* managers decide not to use the term ‘*waqf*’ for it falls under MAIS jurisdiction.

Apart from multi level decision-making process, the operation of cash *waqf* is limited due to lack of trained personnel. The problem includes lack of knowledge and management skills. Since there are many separate entities managing *waqf* at one time, the standard procedure of management differs. It can be seen through the Wakaf Selangor Muamalat committees. It is a joint management team between a bank and a government entity, which both have tremendously different working environment. From observation, PWS personnel are more interested at looking at the cash *waqf* scheme as an instrument that leads towards achieving Maqasid al Shari’ah, while the BMMB personnel are more interested to see the smoothness of its operation as well as proving that cash *waqf* fund has been used efficiently regardless of the Islamic principles underlying the management of cash *waqf*. The difference in standard of thinking by both parties may lead to a few other setbacks, which are inconsistency to the quality of work and the method disseminating awareness about the scheme.
In deciding on the usage of fund, the JMC in each collaboration has to deal with approval of PWS, which will in turn need approval from MAIS on behalf of JAWHAR. In each collaboration between PWS and other institutions, the number of players in the decision making team increases. With that, it is clear to say that every decision made will cover a few stakeholders, who also act as managers to the cash waqf fund. Having said that, the issue here is on the demand of every stakeholder. The clearest example would be in the JMC of PWS and Maybank Investment Bank. The representative in JMC from Maybank demand that the fund coming from Maybank account go into development of properties that can benefit both Muslim and non-Muslims. This is because the brokers contributing to the fund are mostly non-Muslims. In the only project done under the JMC, with a contribution worth RM22,000 for maintenance of Sekolah Kebangsaan Jenderam Hilir, the religion of its students are 50% Muslims and 50% non-Muslim.

Similar to the cash waqf scheme during the Ottoman Empire, the cash waqf fund is used as capital for investment. From past literature, it is clear that the method of investment used by managers of cash waqf was through mudarabah. In its current usage in Malaysia, it is unclear to how the bank is investing the fund. In case of Wakaf Selangor Muamalat, the managers told us that 25% of the returns goes to PWS while the remaining 75% of the returns is channeled back to JMC for redistribution. Hence it is clear that they are not the mudarib for the fund, but they are acting as wakeel to the fund. Apart from that, supposedly, there should be a secondary project to help finance the primary project of cash operation. Currently, the primary projects financing is still coming from the cash waqf fund itself. With proper planning of having secondary projects to support primary projects, the managers will not have to depend on cash waqf fund. Secondary projects will also improve the reputation of the managers and thus develop trust among Malaysians.

In addressing the Shari’ah issues mentioned above, the current cash waqf scheme seems to be quite different from the one used that faced all of the Shari’ah issues mentioned. First, the current cash waqf scheme is being used for a few social purposes and invested in Shari’ah compliant investments. With that, the issue on returning capital with a little extra amount will only exist in cases where the returns from the investment involve conventional interest. In Malaysia, the returns depend on the Islamic transactions that they are using and the usage of profit rate. Secondly, as stated above, the banks are only acting as wakeel to the fund and not the mudarib. Hence the issue of perpetuity does not arise.
9. Conclusion

The cash *waqf* scheme is just another instrument in Islamic banking and finance that makes it different from the products offered in conventional banking. Similar to other Islamic banking products, further legal framework and clarification on the cash *waqf* scheme is needed as it will affect the attitude of the contributors in Malaysia. Hence, the crucial issues related to the cash *waqf* scheme as mentioned in the discussion section of this paper is hoped to be addressed by Bank Negara Malaysia (BNM) for it involves banking institutions.

Bank Muamalat Malaysia Berhad (BMMB) and PerbadananWakaf Selangor (PWS) have collaborated towards implementing the cash *waqf* scheme in Malaysia and it has provento be the most famous and important tool for Islamic banking. Under the name of Wakaf Selangor Mualamat, the managers of cash *waqf* have managed to make many major contributions to the society, precisely in the health and education development. Even though the JMC is a recent development, the team has created awareness and has provided tools to contribute conveniently for Malaysians, especially those living in the state of Selangor. However, there are current issues that need to be addressed so as to improve the efficiency of the scheme. These issuesare primarily multi-level decision-making process followed by lack of trained personnel. The third issue is the need to comply with demand of stakeholders followed by underdeveloped secondary project.

In brief, it can be stated that the loopholes in the management has somewhat contributed to the lack of public trust. Even though people contribute to cash *waqf* purely with the intention of donation, they would still like to see what their investment has reaped. Consequently, once the management issues are solved, efficient and flourishing cash *waqf* projects would catch the attention of the public. Although the problems may seem as prelude for better management of cash *waqf* in the future, the reputational risk in the first era of introducing cash *waqf* in Malaysia can affect future development of the scheme.

References:


