

A Brief History of Cash Waqf

Dr. Murat Cizakca in his book "A History of Philanthropic Foundations" elaborates some positive effects resulting from *waqf* (endowments) from an economic standpoint. Among those listed by him is that *waqf* can help to minimize the amount of annual expenses of government and thus treat deficits, prevent a government from prolonged debt liability, and can lower the profit rate. More importantly, according to Dr. Murat, *waqf* is potentially able to embody the major objectives of wealth management in Islam, which are the equitable distribution of wealth within a society and to avoid concentration of wealth to higher income groups.

This article will give a brief introduction about a *waqf* instrument that is gaining its popularity, namely cash *waqf*. Some of us may wonder on how *waqf* can be implemented in a form of cash and believes that only real estate property is allowed to be endowed. This perception is supported by several hadith about a well called Roma that was endowed by Uthman and a piece of land in Khaibar by Umar. According to the limited observation by author, discussions on cash *waqf* have commenced since the Tabi'in century as narrated by Imam Muhammad bin Ismail Al-Bukhari (died 256 H). In the narration, Imam Az-Zuhri was asked about a man endowed with 1000 dinar as business capital to an entrepreneur so that the profits can be distributed to the poor. Imam Bukhari narrated this *athar* in *ta'liq* way (without mentioning the full chain) and named the chapter as "*Waqf* in riding animals, horses, equipments and 'Sami' (gold and silver)".

The majority of Muslim scholars underlined that one of the most pertinent conditions of *waqf* is that the *waqf* asset shall be perpetual and not defected or diminished upon utilization. There is only one opinion by the Malikites that does not impose such condition and thus allowing assets like food to be endowed. It is based on this condition/criteria (the perpetuity nature of the asset) that the jurists differ on how to determine whether the property is allowed to be endowed or not. According to Imam Abu Hanifah, only real estate are allowed to be *waqf* asset. According to the student of Imam Abu Hanifah, Qadhi Abu Yusuf, in addition to property type asset, armament (military weapon and equipment) is also allowed to be endowed and according to Imam Muhammad Ibn Hassan all properties with enduring nature that is recognized by local custom are also allowed. For Shafiites and Hanbalites, they do not limit the permissibility only to property and even the movable assets that are not perishable (diminished by consumption) like books, vehicles and jewelry can be endowed as well.

Back to the issue of cash *waqf*- what is its Shariah ruling according to the juristic views? In this regard, the jurists disputed on its permissibility based on their observation on whether money could fulfill the requirement of perpetual nature for *waqf* asset. For those who did not stipulate perpetuity as a condition for *waqf* asset, cash *waqf* is permissible for them while the majority of Shafi'ites and Hanbalites jurists opined that cash does not meet this requirement. The strong proponents of the

permissibility of cash *waqf* are jurists of the late Hanafites in the Ottoman Caliphate era. Their basis on the cash *waqf* permissibility deduced from the opinion of Imam Muhammad bin Hassan which allows any assets accepted by the customary practice is eligible to be recognized as *waqf* asset. Great intellectual debate had occurred among Hanafite's scholars during the time with regards to the permissibility of cash *waqf* to the extent that some of the great scholars such as Imam Birakli (Birgivi) wrote a book to refute the practice of cash *waqf* while Imam Abu Saud Al-Afendi who was the official mufti of the era supporting the practice of cash *waqf* in his writing "*Risalah Fi Ijazah Waqf An-Nuqud*" (Treatise on Permissibility of Cash *Waqf*).

The Shariah ruling of cash *waqf* is also discussed by the contemporary international and local fatwa organizations. For example, the National Fatwa Council in its 77th Muzakarah in 2007, while discussing the *waqf* land development projects under the 9th Malaysia Planning (RMK9) decided that the cash *waqf* is allowed. Fatwa authorities at the international level such as Majma 'Fiqh Islami under OIC (Organization of Islamic Corporation) and Islamic financial body AAOIFI (Accounting and Auditing Organization for Islamic Financial Institutions) also allowed cash *waqf* with the conditions outlined. AAOIFI Shariah parameter no.33 (3/4/3/3) states that "*Waqf* is permissible in money. The income generated from utilization of the money is to be spent, while retaining the principal amount. The utilization may include, for instance, Shariah based lending as well as permissible and safe investments like Mudarabah where the profit share owned by the *waqf* goes to beneficiaries.

In Malaysia, the development of cash *waqf* is driven by State Religious Council (MAIN) and the Yayasan Wakaf Malaysia (YWM). YWM was officially established on 23 July 2008 under the Trustee Act [Incorporation] 1952 by the Ministry of Awqaf, Zakat and Hajj (JAWHAR). Since its establishment, YWM has embarked into several projects in collaboration with MAINs to promote and develop cash *waqf* model in Malaysia. There are a number of high-impact *waqf* projects that have been developed in various states in Malaysia using the cash *waqf* fund. Among the *waqf* projects are the construction of several *waqf* hotels which located in Grand Puteri Hotel in Kuala Terengganu, The Regency Seri Warisan Hotel in Taiping and Pantai Puteri Hotel in Tanjung Keling, Melaka. Through the allocation of cash *waqf* amounting to RM2.5 million from 2010 Budget, Terengganu Culinary Academy was established on a land which owned by the Majlis Agama Islam dan Adat Melayu Terengganu (MAIDAM) in collaboration with YWM and GIATMARA. The Academy, which had started its operation on July 30, 2012, offers courses in confectionary and bakery for 6 months, with hostel facilities for *asnaf* children under MAIDAM.

Apart from Malaysian experience, the cash *waqf* has been widely implemented in other countries. In Singapore, a unique project of cash *waqf* initiative had been launched by implementing salary deduction scheme and it managed to pool in about SGD130 million. This huge fund had been utilized successfully for the construction of 22 mosques all over Singapore. In Bangladesh, there is a bank named Social

Investment Bank operating using cash *waqf* fund. The bank provides microfinance facilities to help those in a state of poverty to improve their living standards through their business activities.