Issues and Challenges of Waqf Instrument
A Case Study in Parad
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ABSTRACT

Waqf is an important instrument to bring the socio economic welfare in the society. It is a concept of Al birr (goodness) for which Allah ordered human beings in His Holy Qur’an to do help each other in virtue and piety and there is many examples of Waqf deeds of Muhammad and his companions. Waqf plays a significant role in social, political, and economic life in the Muslim society. Islam is only one religion that promotes Waqf. The social role of an Islamic state is to provide the Sharia based financing to poor and eradicate the poverty and unemployment from the society. Punjab Awqaf and Religious Affairs Department is an autonomous body under Government of Punjab Pakistan. It plays a significant role to administrate, manage and repair the Waqf properties also provide the facilities to needy by the Cash Waqf.

This Paper highlights the obstacles and challenges which PARAD are facing due to inefficient funds, lacking manpower and knowledge. This Paper also proposed a designed plan to make the Awqaf system more efficient and make it able to increase the economic growth of country. In addition, this paper explores the strong justification for a detailed theoretical study of application of Waqf based financing. It is contemplate here that the new ideas and innovations in financing the Awqaf property can fulfill the socio economic role of PARAD. The finding shows PARAD has to ensure its greater role as the mutawwali’s (the trustee of a waqf), by being creative in utilizing the Waqf assets for the benefit of mankind. If Government wants to make it more potent than it should make the whole mechanism of this department Sharia based and not force it to interest base financing by conventional banks.

Keywords: Waqf, Zakat, Obstacles, Action Plan, Poverty

1. INTRODUCTION

Waqf is a religious and social institution which has been used to provide the welfare to mankind. The founder of Waqf determine the objective of Waqf either it is used for improving the financial condition of society or it will use to eliminate the arrogance and illiteracy. The historical evidence shows that the Awaqf had been growing year by year. It was for social and religious purposes also. The first example of such Awaqf is Masjid of Hazrat Mohamed in Madinah Al Munawarah and after it The Prophet urged their companions to do Waqf for social purposes also like Land of Khyber endowed by Hazrat Umer and its fruit were distributed to poor, guests and some reasonable part to its custodian. For every possible and Entrepreneur there was a Waqf in the former Ottoman Empire three–quarters (¾) of all Arab land were belonged to Waqf.

History tells us that the Waqf had the potential mechanism to eradicate the poverty, malnutrition and poor living standard. Today it can also be seen as efficient and competent mechanism to generate a big source of financing for the state and Muslim community. For an example MAIS is a administrative body of Waqf in Malaysia it introduced the Waqf Property Action Plan to strength the Waqf properties, budget planning and have a target to introduce ten Waqf icon in state. In
Pakistan, before the nationalization of Waqf properties, the individuals, local voluntary groups and the descendants of the saints managed Waqf. Some Waqf properties were mismanaged and misused for the purpose other than specified by the Waqf and exploited by pirs, sajjadah-nashins, mujawars, and ulama as well. For the purpose of making improvement in the administration of Waqf and management of its properties department of Waqf made a Waqf Properties Act 1960 in each province Punjab, Sindh, Baluchistan and Khyber- Pakhtunkhwa—and the government of Azad Jammu and Kashmir headed by a Chief Waqf Administrator. In country there are many other Waqf (trusts) properties managed by private institution for the welfare of the needy person. Most of the funds are in the health and education sectors. The Waqf Department of Punjab managing 24 Masajid. The government of Punjab nationalized 406 Masajid and 483 other properties. The details of other properties included 73,884 acres of land, 1596 shops and 1741 houses in 1984. The Waqf is systematic and effective institute of Masaalah Ummah but unfortunately today Waqf perceived the narrow meaning and implementation. It considered to be as non economic, anti social and have limit to just religious matters. It is an alarming situation for Muslim Ummah that the biggest source of socio economic welfare is near to endangered. Beside the challenges and Issues PARAD taking part in the development of Awqaf. This paper will focus the Awqaf at the province level. The paper attempts to estimate resource shortfall and potential Waqf collection for poverty elimination in Punjab, Pakistan. The rest of the paper is organized as follows. Section 2 gives a brief summary of the literature review, Legal frame work of Waqf and components of Waqf and Section 3 discusses and describes the impact of Waqf unit in eradication of poverty. Section 4 highlights the issues and challenges of Waqf practices, Section 5 provides the proposed action plan required for poverty elimination and the welfare of human beings. Section 6 sets for the summary and conclusion.

1.2 Objectives of the study
The main objective is to examine the issues and challenges facing by PARAD during the implementation of Waqf. More specific objectives of the study are as follows:

- To see the whole mechanism of Awqaf in the Punjab.
- To see the significant impact of Awqaf on the socio economic.
- To develop a Sharia’ based financing for increasing the overall performance of the Cash Waqf funds.

1.3 Research Questions
- What are the issues and challenges facing by PARAD during the implementation of Waqf?
- What is the significant impact of Waqf in socio economic welfare?
- How we can develop Sharia’ based financing for increasing the overall performance of the Cash Waqf Funds?

1.4 Background of PARAD
Awqaf and Religious Affairs Department is a autonomous body it was existed as a legal entity through the Punjab Waqf Properties Ordinance, 1979. It is self-generating fund body. PARAD’s Waqf was mostly consisting of Masjids and Madaris and they were managed by local organization voluntarily. With the passage of time there was need to secure them so in 1979 it was considered as legal entity. Its funds are received from donations, leases of agricultural lands and rents from commercial and residential properties. To fulfill their core role PARAD works to promote the Waqf based projects to increase the economic growth of country and to provide the good standard of living and good health.
2. LITERATURE REVIEW
The word of Waqf comes from Waqafa which means to detain or keep, not to let go. Waqf, habs and tasbil all means to stop or to restrain all mean devoting in the way of Allah Waqf established by founder (waqif, mutawalli) by dedicating an asset for benefit of a defined group. In the Waqf the Waqif determines the Objectives for which Waqf is created, Way(s) its revenues / fruits / services can be used and the Management process and procedures of succession of managers (mutawalli).

For evidence, the hadith narrated by Abu Hurairah: “The Prophet Muhammad (peace be upon him) said: “When a human being dies, his work for God comes to an end except for three: a lasting charity, knowledge that benefits others, and a good child who calls on God for His favour” [Hadith narrated by Muslim, Abu Daud, Tirmidzi, al-Nasaa'i and al-Bukhari]. Waqf means appropriation of the Mauquf (property) to charitable purpose with separation from private ownership and dedication of its usufruct. The classical definition of Waqf in Islamic law is given by Imam Abu Hanifah, “the appropriation of any particular thing in such a way that the founder’s right in it shall continue and the advantage of it go to some charitable object”. This definition however is not favored by his followers, Abu Yousof and Muhammad, as well as jurists in Shafi’i, Hanbali and Imami schools.

According to fiqih, waqf has five pillars:

- It is waqif (founder) as a person who endows his property or cash to charitable purpose.
- Second is Waqf contract (waqfieh), which is way in waqif states his / her asset or fund as Waqf.
- Third is mawqif ‘alaih (beneficiaries) as people or areas that are charitable purposes. In other word, those other people or areas enabled to advantage from return of Waqf.
- Fourth, is mawqif (property) that is asset or fund which is endowed as Waqf charitable purpose and others.
- The last component is mutawalli as a person or institution who is assigned as legal custodianship over mawqif which is not belonging to him in order to follow endowment same as Waqf contract (Dian Masyiat & Erie Febrian, 2004).

There are three characteristics that Muslim jurists agree, namely; irrevocability, perpetually and inalienability. For in irrevocability, this means that once the founder created the cash Waqf, he / she cannot revoke it back, intended to take effect immediately and the donor has no power to revoke it thereafter. Second, Waqf perpetually, this will ensure controller and continual support from the Waqf property towards financing charitable areas especially that needed by Muslim society. The last one is inalienability, means that once cash is created as Waqf no one can ever become the owner to alienate it and as it becomes a ‘frozen asset’. It cannot be a gift, inheritance, or any division whatsoever.

Under Muslim rules, the concept of Waqf was more widely comprehended as aligned with the spirit of charity endorsed by the Quran and Hadiths. Waqf implies the endowment of property, moveable or immovable, tangible or intangible to God by a Muslim, under the premise that the transfer will benefit the needy. As it implies a surrender of properties to God, a Waqf deed is irrevocable and perpetual. The Waqf property belongs to Allah, and no human being can appropriate it for his own purpose. In addition, Imam Bukhari narrated an event in which Abu Talha haves his choice at of land to Prophet a piece of land known as Bairuha orchard in Medina Al Munawarah. The Prophet gave to him, advising that he should make it an endowment for his relatives. Abu Talha thereupon gave the orchard as a charity to Ubaay and Hassan. The Prophetic direction in respect of Waqf is contained in the following hadith: “Retain the original (property) itself and endow its fruit in the path of Allah”.

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23rd & 24th May 2017, Sultan Sharif Ali Islamic University (UNISSA), Brunei.
2.1 Legal Framework of Waqf
According to The Waqf Properties Ordinance 1979 the Government of Pakistan appoints the Chief administrator of PARAD for province of Punjab. The Waqf properties in the province includes all assets, liabilities, rights and debts and obligations. The Chief administrator should be Muslim and must have all characteristics which are described by Government. He represents the general control of Government. The Administrator or Deputy Administrator were appointed by Chief Administrator but after the Government notification named as The Punjab Waqf Properties Rules 1982 the Administrator and Deputy Administrator of Awqaf appointed by Government. For the management and maintenance of Waqf properties the Chief Administrator appoints a Deputy Manager or Assistant Manager. The Chief Administrator maintains a Register of immovable Waqf properties. A register of movable Waqf properties shall be maintained by the Manager. Each cash box placed at Masajid or Madaris shall be opened by the Manager daily or at such intervals as may be fixed by the Chief Administrator, Administrator, in the presence of such person or persons as may be approved by the Chief Administrator. A consolidated account of such income from the boxes placed at various Masajid/Madaris or other valuables received there is maintained in the office of the Administrator.

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<th>Table 1: Waqf Properties of Punjab - Pakistan</th>
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2.2 Components of Waqf
According to fiqh, following are pillars of Waqf:

- **Waqif** (founder) as a person who endows his property or cash to charitable purpose.
- **Waqf contract (waqfieh)**, which way in waqif states his/her asset or fund as Waqf.
- **Mawquf ‘alaikh** (beneficiaries) as people or areas that are charitable purposes. In other word, those other people or areas enabled to advantage from return of Waqf.
- **Mawquf** (property) that is asset or fund which is endowed as Waqf charitable purpose and others.
- **Mutawalli** as a person or institution who is assigned as legal custodianship over mawquf which is not belonging to him in order to follow endowment same as Waqf contract (Dian Masyiat & Erie Febrian, 2004).

Waqf can be identified into three categories Al-Iqar (irremovable assets), Al-Manqul (removable assets) and Waqf Al-Irsod.

In PARAD this organization manage the irremovable assets like Masajid, Madaris and other religious institutions under the control of the Chief Administrator of Awqaf, Punjab, except Historical monuments. Management look after and repairs of Badshahi Masjid, Lahore.
Administration of hospitals, in Lahore. For the second categories are Al-Manqul or a removable asset PARAD manages this kind of Waqf like Books, agriculture equipments and cash funds to Purchase of stores and capital goods for:

- Ittehad Bain-ul-Muslimeen Committee
- Muttehida Ulema Board
- Quran Board

The last categories Al-Irsod refers to the type of Waqf where the government of a country put a piece of property to be used for the benefits of the citizens of the country. These assets must be used for the community best interest for the benefits of Islam.

3. The Significance Impact of Unit Waqf on Socio-economic

Waqf play a significant role to eradicate the poverty and make sure the social justice by distributing the wealth and play an important role to rise up the economic condition of man. According to Punjab Waqf Properties Ordinance 1979 the Waqf properties will be sell to secure the maximum benefit of Muslim Ummah, for the maintenance of the condition of poor ,unemployed and handicaps. To provide the medical aid, housing etc. Awqaf Department earn revenue from rents, lease, cash boxes and other gifts. This revenue generated is spent on administrative expenses, maintenance of Masajid and Madaris, feeding poor through langer khanas (Almshouses), religious and social affairs. The Waqf Department of Punjab run one hospital and 14 dispensaries under its social welfare program and arrange marriages of needy 30 girls every month.

Past and present several case studies, suggest that income from Awqaf investments and their properties are used for different purposes according to the Sharia’. For example, Uses include: payment of salaries to teachers, free food supply, help the pilgrims, provision Students' tuition fees, free medical services and hospitals fully paid; the publication of literature; skills training for schools and guilds, free markets, to learn the art of reading centers, Quran, mosque and school support, party, art and culture, research, seminars and conferences, entrepreneurs need support, helping businesses to start and stay factories. For PARAD this department facilitate the educational institute to promote education and for eradication of poverty Jamia Hajwairia School, in this school they provide the free education from grade one to ten and also give religious studies till masters level all the expenditures bare by PARAD and it give funds also to Madaris so that they spread the knowledge in the light of Islam. It also promote research work the main campus of research that this department develop is Markaz Maariful Awleea there scholars are doing researches and publish Islamic literature, this department provide funds.

4. Issues and Challenges in the Waqf Practices

4.1 Interest Based Financing of Cash Waqf

Cash Waqf is a financial instrument an innovation in the history of Islamic Banking but in PARAD the fund which is received as a charity for righteous purpose is financed in interest based financing in conventional banks. Government of Punjab restricted them to finance funds in prescribed conventional banks. The bank which gives high interest rate the cash management invest in bank. There is pertinent to note here the charity funds which are collected and distributed for the sake of Allah are deposit in wrong way prohibited by Sharia’.

4.2 Lack of knowledge and unawareness about importance of Waqf

In Pakistan, most people don’t realize on the importance of Waqf in contributing towards Islamic economics. People might think Zakat is only the best instrument in helping needy people and
reducing gap between poor and rich. There is also a lack of professional and technical expertise in developing Waqf assets are part of the constraint facing by PARAD. Even that the staff have no knowledge about Waqf and its importance in Sharia, its reward and its benefits for human beings. Employee does work as their duty doesn’t consider it a righteous deed.

4.3 Operational Inefficiency and Problem of Waqf Disputes
Dedicated illegal possession or transfer of property-related disputes, theft, improper management, and so on. Cases of illegal possession or transfer of a specific property, or illegal dedicated to intervene in the management of the property, with dedicated administrators enforce their order with the help of the local administration at the district level. This results in slow and ineffective operations.

4.4 Lack of Progressive and Innovative Ideas
It is sadly observed that progressive and innovative ideas for the development and extension of Waqf properties are not much in evidence, neither from public nor from private sector. Great mutawallis and accessories suitable to accommodate the majority of managers think in terms of changing Waqfs Mutawallis, known and honest people who are believed to be there is no concept of property maintenance and construction. For PARAD there is no satisfied innovation in the progress of Awqaf.

4.5 Insufficient Funds
Strong financial condition is also a very important element in developing the Waqf assets, particularly those involve with property sector. Lack of financial fund will cause many development projects which have been planned cannot be executed. PARAD agreed that the financial fund is not sufficient enough to manage the Waqf because the Waqf properties are not fully utilized to generate income for the further development.

4.6 Lack of marketability and unproductive of Waqf assets
To generate income there is need to utilize all Waqf assets and for it Waqf asset can replace by other useful assets in PARAD, government restricted them don’t sell to Waqf properties for profit, so assets remain unproductive and not use in economic growth of country.

5. PROPOSED ACTION PLAN

5.1 Waqf Based Financing Modes
The Awqaf condition can be made better if we finance the Cash Waqf in Islamic Finance and Sharia Compliant modes. Waqf fund can be enlarged if we finance them in Islamic modes of financing which is free of riba, such as:

Musharka Based Financing: In this mode Waqf Fund will collect the fund from the investor and make the contract with the partner all rules are prescribed in the contract same for Waqf fund and after the agreement decided project work will generate the profit which will share according to their proportions.

Mudarabah Based Financing: In this mode of financing Terms and conditions of the special fund of funds will invest in the fund dedicated mode, Mudarib feasibility and will consult with expertise in endowment funds. If feasibility Mudarabah agreement is accepted then Mudarib will provide business financing and treasury Rabul (endowment funds). After the contract period both parties will share the profit or loss. Mutually agreed in the contract can be terminated at any point.
Murabaha Based Financing: Fund investors will be dedicated to raising funds. Investors in the fund dedicated to the Terms and Conditions apply, will submit funding. Good or client funds dedicated to purchase the item would turn. When shopping for client approach, will purchase a dedicated fund for the client. Once the product is purchased, the cost of profit margins will be disclosed to the client as well. After receiving the payment, the cost amount will be returned to the fund and special margins or earnings divided between the investor and the fund will be dedicated.

IJarah Based Financing: In this mode of financing, investors with their investment will help fund dedicated. Client for the client who will purchase an asset endowment funds, would approach. After purchasing an asset, dedicated fund has been discussed above, the provisions of which will be mentioned in all essentials, which will make a contract with the client. After delivering an asset, the lease period will begin and decided to pay special account fund will begin. Major lease period ends or when the lease runs out, both in asset endowment funds will be returned back. Proceeds from asset sales and investment returns will be divided between endowment funds.

5.2 Mobilizing Awqaf by Islamic Banks to finance social activities

There are some examples of banks seeking to mobilize Waqf funds. Along with these dedicated funds banking operations increased their total capital and return it to Social Projects. Islamic Development Bank in Jeddah, Saudi Arabia, an established Investment Endowment Fund is a trust fund, which ministries or directories and punctuation Islamic banks and financial institutions can subscribe. Users can hold credentials value of USD 10,000 per certificate. IDB fund to invest in endowment Profit market principles. Islamic Development Bank, supported by endowment beneficiaries is limited to a finite list but are not primarily involved in poverty eradication programs, disaster relief, to free health services, religious and contemporary education, heritage, culture, and environment. "Endowment fund is regulated Subscribers 95 monitoring and an annual report.

Bahrain’s Central Bank: In 2006, several member banks where cash endowment fund as a result of the investment in money market instruments and cash, which is deposited. Return the cost of training, education and research activities are used to finance IDB 95, 2012 20 Islamic Banking and Finance. The scholarship program also addresses the skills Islamic Banking sector deficit, thus financing its own training requirements.

Social Islamic Bank Bangladesh Limited: This is a voluntary, informal and non-formal banking sector. The banking sector is a voluntary one, two special schemes for development planning and other cash. Plan to devote cash, donors dedicated options without cash contributions with the bank to collect the money permanently to return. Agreements mudaraba dedicated cash in the bank will invest contributions businesses. The investor receives an annual profit sharing will be spent for charitable purpose. In 2011, the cash equivalent of USD 650,000 endowment fund and also grew 20% overall compared to the bank's operations, compared to 2010. However, it instead of just 0.08 percent of all important deposit is small. A breakdown of cash dedicated reserves by beneficiaries were not publicly available. PARAD should follow this successful banks to generate more funds and bring the welfare in the state. Singapore have made considerable development in Awqaf sector. Obviously, such a study would go a long way towards the betterment of Waqf administration in Pakistan.

5.3 To increase an awareness about the importance of Waqf

Waqf is an important religious and social institution, which has been used for the welfare of the needy, the poor, the family and the society. It is the responsibility of Muslim scholars, advocates and intellectuals to make general public aware. In PARAD the Directorate of Religious Affairs is responsible to make society aware by Islamic lectures and also literatures in print form can be used to serve this purpose.
5.4 To promote the career opportunity
The need for PARAD to expand and promote the career opportunity available in Waqf field by offering attractive remunerations package would be able to attract more candidates to apply job at PARAD. In the modern contemporary, the scope of knowledge for the mutawwalis involves a wide range of scope need to be covered especially not only in Sharia’ background but capable in managing the modern contemporary knowledge as well.

5.5 Need for a New Waqf Act
A fresh Waqf Act is the need of the day in Pakistan. The existing "Waqfs Ordinance of 1969" cannot fulfill the task in today’s changed situation, it has become ineffective. Hence, an ideal Act is essential.

6. CONCLUSION
No doubt Waqf is charitable foundation. Allah s.w.t. encourages human beings to help each other. Waqf is to prominently improve the Muslim world and plays a significant role in social, political, and economic life in the Muslim society. Islam is only one religion that promotes Waqf. The present-day needs and to make it suitable for the changes required by the administration of the endowment. Thus, PARAD has to play its role effectively in ensuring Waqf as an important instrument in enhancing the socioeconomic especially in attempt to eradicate poverty for the wellbeing of the Muslim Ummah. All obstacles and challenges in handling and managing the Waqf properties must be incorporated with some strategic action plan. PARAD has to ensure its greater role as the mutawwalis, by being creative in utilizing the Waqf assets for the benefit of mankind.
REFERENCES


Noor Aini Mt Mohd Puad, Nurauliani Mt Jamlus Rfd, Wan Shahdila Shah Bt Sharifah, ISSUES AND CHALLENGES OF WAQF INSTRUMENT: A CASE STUDY IN MAIS Department of Banking and Finance Faculty of Management and Muamalah, Kolej Universiti Islam Antarabangsa Selangor, 26-27 May 2014.


Nasim Shah Shirazi, Mohammed Obaidullah, Mohamed Aslam Haneef, integration of Waqf and Islamic Microfinance for Poverty Reduction: Case of Pakistan 18 Jumada’2, 1436H | April 07, 2015

Md. Shazedur Rahman Chowdhury1*, Mohd Fahmi bin Ghazali1 and Mohd Faisal Ibrahim2, Economics of Cash WAQF management in Malaysia: A proposed Cash WAQF model for practitioners and future researchers, University Malaysia Sabah, Malaysia. 2University Sains Islam Malaysia, Malaysia. Accepted 25 August, 2011


Muhammad Fazlul Karim, PROBLEMS AND PROSPECTS OF AWQAF IN BANGLADESH: A LEGAL PERSPECTIVE, Ahmad Ibrahim Kulliyah of Laws (AIKOL), International Islamic University Malaysia.

Dr. Abul Hassan, MANAGEMENT AND DEVELOPMENT OF THE AWQAF ASSETS Coordinator, Islamic Economics Unit The Islamic Foundation, Ratby Lane, Markfield, 2010.


Ahmed Habib, WAQF-BASED MICROFINANCE: REALIZING THE SOCIAL ROLE OF ISLAMIC FINANCE, Islamic Research and Training Institute Islamic Development Bank Group P.O. Box 9201 Jeddah 21413 Saudi Arabia

Md. Shazedur Rahman Chowdhury1*, Mohd Fahmi bin Ghazali1 and Mohd Faisal Ibrahim2, Economics of Cash WAQF management in Malaysia: A proposed Cash WAQF model for practitioners and future researchers, University Malaysia Sabah, Malaysia. University Sains Islam Malaysia.


Dian Masyita, A Dynamic Model for Cash Waqf Management as One of The Alternative Instruments for The Poverty Alleviation in Indonesia. The Faculty of Economics, Padjadjaran University, Bandung, Indonesia Muhammad Tasrif (tasrif_muhammad@yahoo.com) Energy Research & Development Group, Bandung Institute of Technology, Indonesia Abdi Suryadinata Telaga (abdi.suryadinata@astra-honda.com).

Sayd Farook, Social Responsibility for Islamic Financial Institutions: Laying Down A Framework, University of Technology, Sydney (UTS) and Bahrain Institute of Banking and Finance (BIBF).

Asmak Ab Rahman, AwQaF INVESTMENT: A CASE STUDY OF DOMPET DHUFA REPUBLIKA, INDONESIA Hari Candra, Haslindar Ibrahim (Corresponding author), Afizar Amir, Tajul Ariffin Masron, Cash Waqf: An Innovative Instrument for Economic Development, Finance Section, School of Management Universiti Sains Malaysia Finance Section.

Dr Norma Md Saad and Azizah Anuar, ‘CASH WAQF’ AND ISLAMIC MICROFINANCE UNTAPPED ECONOMIC OPPORTUNITIES, Department of Economics and Management