

## VENTURE PHILANTHROPY - WAQF PRACTICES AND ITS IMPLEMENTATION: SCENARIO IN MALAYSIA

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### ABSTRACT

*The concept of venture philanthropy has been greatly discussed by various parties especially among the policy makers. The increasing social problems call for corporations to respond positively and take responsibilities in the social sector. It encourages venture philanthropy activities among profit and non-profit organizations in enhancing business values and creating positive social impacts. There have been past studies that looked at how venture philanthropy concept can be linked with Islamic philanthropy. Islamic philanthropy includes but not limited to zakat, waqf and sadaqah. The instruments within Islamic philanthropy aim to serve the purpose of narrowing social distance and reducing inequalities. This conceptual paper aims to understand further the concept of venture philanthropy from Islamic perspective. This paper also aims to explore how venture philanthropy approach is applicable in enhancing waqf practices in Malaysia by considering the current governance, policy and law of waqf.*

**Keywords:** Waqf, Venture philanthropy, Islamic philanthropy, Social entrepreneurship, Social impact on society.

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### INTRODUCTION

Muslims are brothers. Brotherhood can be created through aid and assistance in various forms. Islamic societies have a rich heritage of philanthropic institution. These institutions played an immeasurably important role. Development of strong civil society in the Islamic world requires parallel development in indigenous philanthropic. For civil society to become sustainable, fully accountable to its parent society, and capable of supporting social justice, it cannot solely rely or even primarily on international donors and government funding. It needs the capacity to mobilize independent local resources (Jennifer, 2004).

According to Alam (2010), charity is one of the five pillars of faith and obligatory for Muslims and it is intended to serve the purpose of narrowing the social distance and reduce inequality. Islamic approach to poverty alleviation is multi-dimensional and comprehensive (Sadeq, 2002).

### ISLAMIC PHILANTHROPY

As mentioned earlier in the introduction, charity forms one of the pillars of Islamic faith. Unlike the western approaches to philanthropy, Islam has made philanthropy mandatory by way of providing zakah. However, zakah is only compulsory for those who have fulfilled several conditions and one important one is that the Muslim has “resources remaining after meeting the basic requirements of their family” (Alam, 2010; Almarri et al, 2012). Furthermore, the resources remaining must be below the year’s stipulated nisab.

Islamic philanthropy also covers beyond compulsory charity. It is important to note that Islam has a different perspective on wealth. All Muslims are encouraged to maximize their wealth according to the syariah principles. However, Muslims cannot claim for the ownership of wealth. Ownership of wealth lies with Allah (the God), the Almighty. Muslims are deemed to be the guardian or steward of wealth. Charity or philanthropy, whether compulsory or voluntary, is seen to be a re-distributive approach to not only the poor but the society at large. By way of such act of giving, the wealth gap within and among the societies can be minimized or even eliminated.

Voluntary charity is a virtuous deed in Islam. In fact, it is considered as a proof of one’s eeman (faith). The Prophet sallallaahu ‘alayhi wa sallam (s.a.w.) said in the following authentic hadeeth:

*Abu Malik al-Ashari (r.a.) (radhi Allahu anhu) narrated that Allah's Messenger (s.a.w.) said: "Cleanliness is half of faith. Alhamdulillah (Praise be to Allah) fills the scale. SubhanAllah (Glory be to Allah) and Alhamdulillah (Praise be to Allah) fill up what is between the heavens and the earth. Prayer is a light. Charity is proof (of one's faith). Endurance is a brightness and the Qur'an is a proof on your behalf or against you. All men go out early in the morning and sell themselves, thereby setting themselves free or destroying themselves." (Muslim, 432)*

The more we give sadaqah the more we increase our eeman and thus, expect Allah's rewards both in this world and in the life hereafter. Giving charity out of our wealth does not decrease our wealth but instead Allah (s.w.t.) increases it:

*"Allah will deprive usury of all blessing, but will give increase for deeds of charity: for He loves not creatures ungrateful and sinner." (Qur'an, 2: 276)*

## **WAQF AND ITS DEFINITION**

Literal meaning of waqf is "detention", "to prevent", "to restrain". The meaning of waqf in Islamic terminology is a dedication of property either in express terms or by implication, for any charitable or religious object, or to secure any benefit to human beings".

According to S.2 of Wakaf (State of Selangor) Enactment 1999, "property includes any movable or immovable property, any right, interest, title, claim, chose in action, whether present or future or which is otherwise of value in accordance with Hukum Syarak".

Waqf is one of the oldest charitable institutions in the world. It is also one of the economic backbones of Islam that existed since the time of Prophet Muhammad (s.a.w.) that catalyzes economic development of Muslims from various aspects of life. Waqf represents the relationship between religion and economic life of Muslims (Ridzuan, 1994).

Waqf is a wealth sharing mechanism with the other person (Asmak, 2009). It is a private possession or asset in any form that has been put under injunction from any form of transaction including sale, inheritance, hibah (grant) and wasiyyah (will) whilst its physical source remains intact and unchanged. A dominant characteristic of waqf is perpetuity. Therefore, waqf typically applies to non-perishable properties whose benefits and usufruct can be extracted without consuming the property itself. waqf is sadaqah jariyyah (running charity). It is distinct from ordinary sadaqah, the difference being the repeatability of the benefits that flow out of it. In Shari'ah, unlike zakah, a waqf is a voluntary, permanent, irrevocable dedication of a portion of ones wealth (in cash or kind) to Allah SWT. Like ordinary sadaqah, waqf is flexible in the sense that its beneficiaries need not be restricted to Muslims and the fruits of the waqf must be utilized for Shari'ah compliant purposes.

"The parable of those who spend their wealth in the way of Allah is that of a grain of corn: it grows seven ears, and each ear has a hundred grains. Allah gives manifold increase to whom He pleases; and Allah is ample Giving, all-Knowing"(Surah al-Baqarah: 261).

## **ORIGINS OF WAQF**

"Ibn 'Umar reported: 'Umar acquired land in Khaibar. He came to the Prophet Muhammad (s.a.w.) and sought his advice in regard to it. He said; "Allah's Messenger, I have acquired a land in Khaibar. I have never acquired more valuable for me than this, so what do you command I do with it?'. Thereupon the Prophet (s.a.w.) said: "If you like, you may keep the corpus intact and give its produce as Sadaqah declaring that the property must not be sold or inherited or given away as a gift". And 'Umar devoted it to the poor, to the nearest of kin, to the emancipation of slaves, to wayfarers or guests, and in the way of Allah (Sahih Muslim).

In another Hadith, Muhammad said, "When a man dies, only three deeds will survive him: continuing alms, profitable knowledge and a child praying for him." (narrated by Ibn Majah As-Qalani).

During the Ottoman Empire, the waqf institution would lend money to households and merchants in order to earn income. The income will then be used to provide public services such as soup kitchens for the poor, inns for travelers, water fountains, places for worship, educational services and other basic infrastructural facilities (Alias, 2012).

## **TYPES OF WAQF**

According to Hasbollah et. al (2010), there are three types of waqf:

1. Religious waqf: referring to waqf for mosques and religious schools.
2. Philanthropic waqf: in humanitarian waqf, benefits are allocated to support the society and promote social activities. For instance the library, educational centers, health care etc.
3. Family waqf: waqf from parents to children and heirs.

Alias (2012) has further discussed on another type of waqf which is called cash waqf. Alias has defined cash waqf as:

“.....an endowment of cash by a founder with the intention that the corpus or principal should be managed by a trustee so as to earn an income that could be spent towards righteous purposes as designated by the founder.” (Alias, 2012).

Cizakca (2004) earlier has suggested a model in which the concept of cash waqf can be used in contemporary times to serve the social objectives such as to provide microfinance to the poor.

Today, the so-called corporate waqf started receiving attention among companies and private property of Islam. By this method, it becomes the instrument to collect contributions from Muslims to help Muslim entrepreneurs who have the ability, expertise, efficiency and entrepreneurship spirit to open-up businesses and turn them to be successful businesses.

In Hassan & Shahid (2010), Cizakca (2004) proposes a model in which the concept of cash waqf can be applicable to serve the social objectives. Elgari (2004) also suggests on establishing the Qard Hassan (non-profit) bank that gives interest free loan to finance consumer lending for the poor. The capital provider of cash waqf would come from wealthy Muslims.

According to Hassan & Shahid (2010), the permanent nature of waqf resulted in the accumulation of waqf properties all over the Muslim lands and the variety of its objectives provide support for widespread religious and philanthropic activities. waqf assets are employed for repeatedly extracting its usufruct for the benefit of an objective representing righteousness or philanthropy.

### ISSUES CONCERNING THE MANAGEMENT AND DISTRIBUTION OF MUSLIM'S WEALTH

Waqf has high potentials in redressing socio-economic inequities and enhancing the quality of life. Waqf is one of the social security systems that will not only help individuals but collectively can ease the financial burden of a country. It plays a very important role in poverty alleviation, health services, education, orphanage center, mosques, residences for the needy society and others as long as it complies with Shari'ah.

In recent years, Muslims' wealth has grown rapidly and some portion of the wealth has been redirected for philanthropy purposes. According to Alam (2010), the magnitude of Islamic philanthropy in Muslim communities is estimated around USD 1 trillion annually. Alam (2010) has expressed concerns on the sustainability of the funds and in spite of having such a huge contribution and a wealth base; the application and execution of those funds are either mismanaged or misappropriated Alam (2010). As such, the discussion in this paper will centre in the ways of ensuring sustainability and continuous growth of the assets which are subjected to waqf. The potential of venture philanthropy will be discussed as an approach to enhance waqf.

### VENTURE PHILANTHROPY

Venture Philanthropy (VP) or philanthropy venture capital has spread rapidly in the United States and Europe. The reasons are due to the growing needs of social entrepreneurs for large sum of investments and to overcome the shortcomings of the short-term funded investments (Scarlata, Alemany, 2010). To date, there is still no clear definition of venture philanthropy (VP). However, past authors had described several characteristics of VP that distinguishes it from venture capitalists, commercial ventures and anything else alike.

#### Aim

The most common characteristic of VP which are agreed by many authors are its establishment is to achieve social returns by way of creating community benefits (Scaife, 2008). According to Pepin (2005), VP seems to be similar to that of venture capitalists, from the perspective of the initiative both have. The establishment of a VP or a venture capital is to create a win-win situation between the donor and the donee. However, a venture capitalist may be primarily expecting financial returns on the investment whilst a VP will be expecting social returns instead.

Scarlata and Alemany (2010) had used the term philanthropic venture capital to describe the investment that is focusing on the ethical dimension rather than just only focusing on maximising the shareholders' wealth. The authors have described philanthropic venture capitalist as someone who adds value to social entrepreneurships. The purpose of the investments is for the betterment of the society and to fulfill their basic and long standing social needs.

#### Structure

Pepin (2005) has described VP within the context of social entrepreneurship, whereby VP is considered as one of the non-traditional charitable sources of revenue. Pepin has divided non-traditional sources of revenue into three categories: venture philanthropy, commercial ventures and social venture capital. The three share a common characteristic which is to provide funding in the hope to gain returns that can be contributed for social purposes. The returns are generated through commercial activities - the funders may be involved directly in the whole process as entrepreneurs or partners, or "may only invest without establishing an equity position." (Pepin 2005). Charities can benefit from such structure as the profits which are generated in a commercial manner, will contribute to its sustainability.

A VP can take many forms. It can involve "individual or a consortium of individuals; established as independent trusts; or part of existing trusts or corporate foundations or part of a charity held by the charity in partnership' with external 'investors' playing role of a venture philanthropy." (Pepin, 2005).

VP may also be seen as a form of corporate social investment (CSI) (Cooke, 2010). A corporation will still operate like a normal business that strives to generate maximum profits and maximize shareholders' wealth. What makes a corporation a philanthropist is its engagement with a community either directly or via a not-for-profit intermediary. Question might arise on how different is CSI from corporate social responsibility (CSR). However, the two may be distinguished by analyzing the initial intention for having a social engagement with the society. CSI must not be an appeasement mechanism (Cooke, 2010) to fulfill commercial greed.

### **Relationship**

Another characteristic of VP that distinguishes it from capital ventures is it requires a high level of engagement and interactions between the VP and the fundee (Pepin, 2005; Scaife, 2008). Such engagement will definitely require a long-term relationship to be established (Pepin, 2005; Slyke and Newman, 2006). The term of relationship observed is usually 3-5 years. VP will work closely with their social entrepreneur partners and may not only provide a substantial amount of financial investments (Pepin, 2005, Slyke and Newman, 2006) but also business advices (Scaife, 2008), idea generations, time and human capital. It is not merely a relationship between the funder and the grantee, as what is seen in that of venture capitalist. The relationship is more intensive, frequent and engaging.

At the 'exit' of the relationship between the funder and the grantee, venture capitalists expect a short to medium term exit with capital gain, whilst venture philanthropists have a special focus on building income to achieve sustainability.

### **ENHANCEMENT OF WAQF USING VENTURE PHILANTHROPY APPROACH**

Traditionally, giving out waqf usually takes in the form of tangible assets such as land and properties. Recently, the waqf practice has evolved to include the giving by way of cash. This cash is mobilised to an administrator to purchase assets that are tangible and perpetuity in nature.

Alias (2012) argues that certain strategies learnt from venture capital can be used in the areas of investing and spending decisions. The non-profit organizations (NPOs) may also benefit from the venture capitalist strategies to ensure the institutions sustainability. Most of the donations, support and grants received by the NPOs are mostly spent on programs but less are channeled for institution sustainability purposes (Alias, 2012). In her paper, Alias (2012) has proposed a model called the Enterprise Waqf Fund (EWF) to enhance the role and the management of cash waqf fund by employing the venture capital thinking and strategies.

Hassan & Shahid (2010) also viewed waqf from its economic context. Waqf can be explained as diverting resources from consumption and investing them in productive assets that provide either usufruct or revenues for future consumption by individual or group of individuals. They proposed that the surplus income of waqf can be put into operation that combines the act of saving with the act of investment. The increase on the accumulated capital could be used to support the future output of services and incomes.

Venture philanthropy-philanthropic contribute to finance venture projects (which in nature is very risky, thus the lack of willingness of bank to finance or even lead to these projects). In addition to the types of waqf mentioned, a business entity could be a subject matter of waqf. Successful business people who have the capital and business expertis could a venture philanthropist by using the waqf instrument.

### **PROPOSED WAQF MODEL: ESTABLISHING WAQFED BUSINESS USING VENTURE PHILANTHROPY APPROACH**

This section will discuss a model on which VP strategies will be applied to establish sustainable waqfed business or businesses (refer Figure 1). Having sustainable business will ensure that philanthropic activities will continuously receive streams of income. Besides that, the waqfed business will need to find ways to grow the capital and assets by way of syariah-compliant investments or other means.

In fact, this model also suggests that when a business is established as a waqf, the ownership does not lie on the sole-proprietor, partners or shareholders. This is because in waqf principle, the ownership of waqf will be transferred to Allah (the God) Almighty. However, a waqfed business will have many stakeholders as the ultimate receiver is the society at large, regardless whether they are Muslims or Non-Muslims. This will encourage good governance of the business.

According to the proposed model, the initial start-up capital for the waqfed business will be contributed by an individual or a group of venture philanthropists (VPs). In addition to that, the VPs are also expected to contribute in terms of capable human resources to run the business, innovative ideas, business strategies, and an appropriate performance measurement system. The VPs and the management of business will have a long-term relationship between 3 to 5 years or more depending on the conditions of the business. The VPs will then execute the 'exit strategy' once the waqfed business is mature enough, independent and is able to search for its own sources of funding. It is also hoped that when a VP waqfed one of its business entites to be operated under a waqf institution, other business entities operated by the same VP will spin off.

The model also suggests that the waqfed business does not stop by just running its own business activities. Since the intention of this model is to create a sustainable stream of contributions to the society, the 1<sup>st</sup> waqfed business, WB<sub>1</sub>, is expected to establish another waqfed business, WB<sub>2</sub>. WB<sub>2</sub> may be operating the same type of business, be part of the value chain of WB<sub>1</sub> or operating a

totally new type of business. One thing unique about this model is that in the initial start-up of WB<sub>2</sub>, WB<sub>1</sub> may act as either the parent company or the VP itself. The difference between the two is that the former will have control of WB<sub>2</sub>, while the latter will have temporary control and will execute the 'exit strategy' when the time is 'right' (or in accordance to the collateral).

As an added value to the model, the spirit of waqf is enhanced by establishing one or more special waqfed entities (SWE) that provide free goods or services to the needies. In contrast to WBs which operate under the normal market supply and demand, albeit operating at lower cost since they have no cost of equity (waqfed business), SWE could operate as outlets that provide free goods and services. With many WBs established, it is viable economically to establish few SWEs which could provide free goods and services.

#### **CONTRIBUTIONS OF THE PROPOSED MODEL**

The proposed model will be able to contribute to the society in many ways as discussed below:

##### **Creation of Waqaf Entities that Operates Sustainably without additional capital injection**

Alam (2010) writes that Venture Philanthropy means funding organisations with not only financial resources, but also management and technical support. With the monitoring from the expert, the business will have a great chance to be successful thus able to operate sustainably without the need of additional capital injection.

This will also be a value-adding tool to the concept of endowment, trust funds and charity in the western world. Endowment model also has influenced Western society until the model becomes the foundation of community development through the establishment of educational institutions, social service and welfare (Gaudiosi, 1988). For example in the year 1264, Walter de Merton College was established at the University of Oxford using the concept of waqf. The study made by The Sutton Trust found that 10 of the leading universities in the United States and the United Kingdom respectively raised a total of RM176.32 billion and RM29.25 billion in endowment. Harvard University in the United States alone raised a total of RM68.4 billion in endowments is used to fund educational activities and research, maintenance and operation of library scholarship fund (Razali, 2006).

##### **Low price of essential goods and services**

Price of goods essential for the public such as groceries, shelter, clothings, education, and health services, conceptually will be lower than the market price since the goods and services are produced by WB entities. These entities do not have the cost of equity (no shareholders), cost of capital (capital was provided by the VP without financing from financial institutions which requires profit to be paid to the capital provider).

##### **Creation of Employment Opportunities**

When a VP relinquished his business assets using waqaf mechanisms, WBs will be created. The WB needs employees who are responsible to manage every aspects of the business. This will create job opportunities, which in turn improve economic growth.

##### **Boost to the Growth of Size of Shariah-compliant Companies**

The growth of WB's size to cover more type of industries, this result to a greater numbers of Shariah compliant companies. WBs created originated from waqf fund (of VPs), thus required to operate in a Shariah-compliant environment, be it the activities and finance.

##### **Stimulates the Growth of Islamic Financial Institutions**

The growth of WB's will create the demand for Shariah-compliant savings and investment instruments provided by Islamic banks. Surplus funds initiated through waqf will be stored in Islamic financial institutions. With this, it could increase the bank's funds to be redirected to activities such as investment banking and credit creation. Profits derived from activities will be shared between the banks and waqf institutions. In addition, WBs will need takaful covers for fire and other mishaps as well as motor takaful to cover for financial loss and damage for fleet of vehicles owned by WBs

##### **Establishing a waqf-based Financing**

Elgari (2004) in a study conducted by Habeb (2007) proposes establishing a non-profit financial intermediary, the Qard Hassan bank that gives interest free loan to finance consumer leading for the poor. The capital of the bank would come from cash waqf donated by wealthy Muslims. Furthermore, Kahf (2004) and Ahmed (2003) propose establishing a microfinance institutions based on zakah, awqaf, and sadaqat. They suggest that the returns and funds generated from these sources can be used to finance productive microenterprises at subsidized rates.

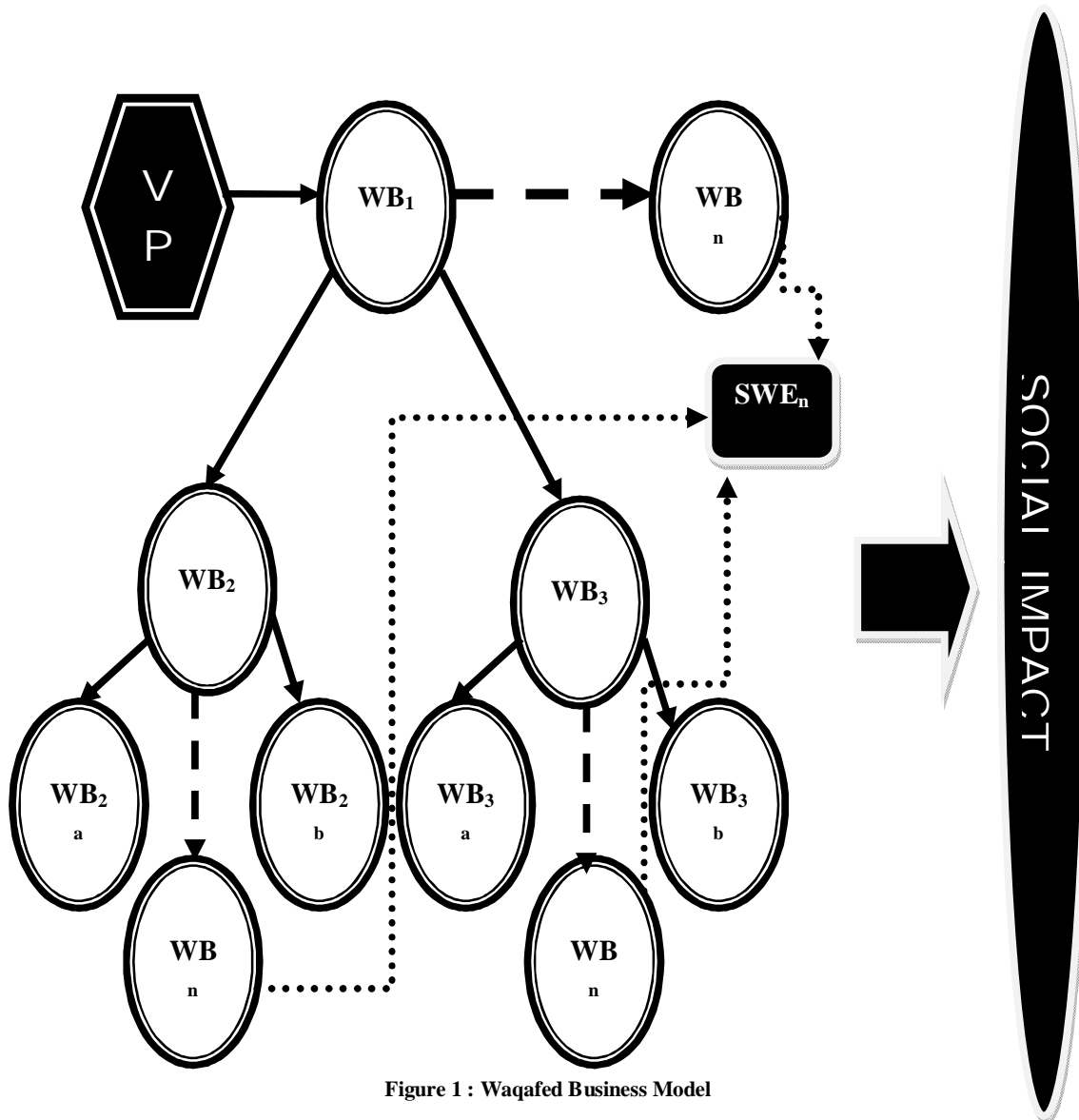


Figure 1 : Waqafed Business Model

#### CONCLUDING REMARKS, RECOMMENDATIONS AND FUTURE RESEARCHES

Waqf is a powerful tool for sustainable community development and for stimulating the economic growth of the nation. Therefore, it is high time to put more emphasis on how to re-energise the governance and the implementations of waqf. The proposed model will not only assist waqf in achieving its core objectives but will also be an opportunity for social entrepreneurs to widen their scope of contributions.

However, in order for the model to work and be successful, several issues need to be addressed and several important reforms need to be done. This is to provide a holistic framework of waqf governance and sustainability. The following are several recommendations and future research areas that may be explored:

##### Governance, Ethics and Law of Fiduciaries

In the current practice, laws of waqf are codified in all states in Malaysia:

- Wakaf (State of Selangor) Enactment 1999
- Wakaf (State of Malacca) Enactment 2005
- Wakaf (Negeri Sembilan) Enactment 2005
- Administration of Islamic Enactments / Act
- Subsidiary legislation (rules or regulations)
- Department of Awqaf, Zakat & Hajj (JAWHAR)

For example, S.32 Wakaf (State of Selangor) Enactment 1999 (No. 7 of 1999)"a dedication of any property from which its usufruct or benefit may be used for any charitable purpose whether as wakaf am or wakaf khas according to Hukum Syarak, but does not include a trust which a define under (the) Trustee Act 1949".

According to S.48(1) of the same enactment, "The Majlis shall take all necessary steps as soon as practicable to vest in itself wakaf which are created under this Act".

However, a waqfed business does not have "direct shareholders" which can be the watchdog. Therefore, waqfed business is exposed to agency and moral hazard issues. Alias (2012) has suggested a few reforms to the current governance, policy and law of waqf. Among the recommendations were to:

- design a waqf governance framework
- develop the fiqh law on fiduciary responsibilities
- extend the financial reporting standards and regulations to waqf
- appoint internal and external auditors
- establish an oversight body, for example (in Malaysia) Bank Negara Malaysia and Securities Commission
- reinstatement of the family waqf (as wealth management tool)
- the return of the independence and autonomy of the waqf to private management
- skill and knowledgeable staffs which will foster the movement cycle of waqf assets in accordance to Maqasid Shari'ah. This has been stated in Wakaf (State of Selangor) Enactment 1999 (S.21) on establishment of Waqf Management Committee. The powers of Waqf Management Committee (S.24) has been clearly spelled out.

In addition, the laws and regulations relating to the formation of a waqfed business must be established. For example, in Malaysia, a sole-proprietor, partners or a corporation intending to open-up a business will need to register with the Registrar of Companies (ROC), whilst a non- profit organisation needs to register with the Registrar of Society (ROS). However, for a waqfed business, the existence of law and regulation that outlines the procedures seems vague.

#### **Incentives for venture philanthropists and fund providers**

To encourage VPs to engage in waqfed business, the government needs to provide attractive incentives. This is because the VPs will be highly engaged with the business. Large amount of capital will be invested and a lot of resources such as time and expertise contributed will be an opportunity cost to the VPs. The individuals or entities that provide funding in establishing the waqfed business should also be provided with tax reliefs, exemptions or deductions.

It is hoped that with waqf being one of the focus in the recently presented Malaysian Budget 2013 by the Prime Minister, these issues will be addressed appropriately, at least in Malaysia

#### **Future researches**

As perpetuity is one of the main essences of waqf, certain measures have to be taken to ensure the sustainability of the funds or capital that was used at the initial start-up of the waqfed business and that were pumped in throughout the operations of the business. In the event where the business becomes insolvent, there needs to be a mechanism to safeguard the capital. Future research may explore the potential of having a takaful plan that covers this unfortunate event.

In the Malaysian context, the State Islamic Religious Council (SIRC) is the sole trustee to all the waqf properties. Malaysia has 14 states, therefore, there is a need to understand each state's law pertaining to waqf, its administration and constraints. This is important because if the model is to be implemented, it will need to seek approval from the SIRCs.

Since this paper is suggesting a model that links VP and the waqf concept, the areas where VP can play the most effective role in enhancing the waqfed business need to be explored. Further case studies on the strategies that are used by VPs need to be conducted. Aspects of leadership and performance measurement may also be explored to ensure that the VPs presence in the waqfed business gives the greatest positive impact to the society.

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