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Empowering and Synergizing Islamic Philanthropy
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Abd Halim Mohd Noor, Rawi Nordin, Mohamed Saladin Abdul Rasool, Dziauddin Sharif, Noormala Rabu, Fuadah Johari

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ZAKAT (STUDI KASUS PADA LAZNAS INISIATIF ZAKAT
INDONESIA (IZI)
Nana Sudiana

EP001:
**ENHANCING WELLBEING OF THE MUSLIM UMMAH THROUGH
ISLAMIC PHILANTHROPY**

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Abstract

Wellbeing is describe as a situation of positive feeling (happiness and satisfaction) and also positive functioning elements (engagement and self acceptance). Wellbeing derived from a combination of what a person has, what a person can do with what they have and how they think about what they have and can do. It includes the exchange of the resources that a person is able to command, to achieve with those resources, what needs and goals they are able to meet, the meaning that they give to the goals they achieve and the processes in which they engage. The objective of the paper is to present a framework of wellbeing from the perspective of muslim ummah through islamic philanthropy. Philanthropy is where welfare are being promote in term of voluntery, charitable giving or money donation. From an islamic view, wellbeing is explained through internal and external satisfaction, driving towards a peaceful life, named as Hayat-e-Tayyaba. In addition, it deliberates the role of Islamic philanthropy, namely zakat, waqf, infaq and sadaqah in addressing wellbeing of the muslim ummah. Particularly, this study would highlight the part of each of the components of Islamic philanthropy in addressing the internal and external satisfaction of life from a syariah point of view based on five dimensions of maqasid syariah.

Keywords : philanthropy, wellbeing, maqasid syariah, muslim ummah

INTRODUCTION

Wellbeing is described as a situation of positive feeling (happiness and satisfaction) and also positive functioning elements (engagement and self acceptance). Wellbeing derived from a combination of what a person has, what a person can do with what they have and how they think about what they have and can do. It includes the exchange of the resources that a person is able to command, what they are able to achieve with those resources, what needs and goals they are able to meet, the meaning that they give to the goals they achieve and the processes in which they engage.

The objective of the paper is to present a framework of wellbeing from the perspective of muslim ummah through Islamic philanthropy from an Islamic perspective. In addition, it deliberates the role of Islamic philanthropy in addressing wellbeing of the muslim ummah. Specifically the

study would highlight the role of philanthropy in fulfilling the inner and outer fulfillment of life from a *syariah* perspective based on the five principles of *maqasid syariah*.

Wellbeing Based On Islamic Perspective

The main purpose of Islam is to ensure and promote the wellbeing of all humanity and to avoid harm. Referring to al-Rusayni (1991), *maqasid syariah* is the objective that is controlled by the Islamic law and should be accomplished for the benefit of humankind. These categories outlined by *Al-Shatibi* and *Al-Ghazalli* are expected to increase the inner and outer fulfillment, driving towards a peaceful life, named as *Hayat-e-Tayyaba*. *Maqasid syariah* constitutes five elements related to human nature which are faith (*ad-din*), life (*an-nafs*), intellect (*al-'aql*), posterity (*an-nasl*), and wealth (*al-māl*) (Chapra, 2008; Mubashir et al., 2014). These five elements acknowledged by various authors such as Dar, (2004); Hasan, (2006); Anto, (2011); Dusuki and Bouheraoua, (2011); Ahmed, (2011); Ibrahim et al., (2011). The Quran reveal overriding interest in the overall welfare of mankind and needs to balance between this world and Hereafter:

“But seek, with that which Allah has bestowed on you, the home of the Hereafter, and not forget not your portion of lawful enjoyment in this world; and be generous as Allah has been generous to you, and seek not mischief in the land. Verily Allah likes not the mischief-makers.” (28;77)

Other researchers used multidimensional indices to measure wellbeing and most of them used the five dimensions of *maqasid syariah*. Seman and Dzolkarnain (2014) developed the *maqasid syariah* based Index of Socio-Economic Development using physical-self, religiosity, knowledge, offspring and wealth. Similarly, Amiruddin (2014) used the same five dimensions in developing the *Maqasid Syariah* Index (MSI) with the following indicators; role of religion, solat, fasting, pilgrimage and *zakat* representing religiosity, average life expectancy, freedom from malnutrition representing physical-self, survival of children, safety of person, environmental safety representing offspring, education representing knowledge and freedom from poverty representing wealth. Other indexes used by muslim scholars to explain wellbeing and development are shown in Table 1.

Table 1: Wellbeing Index Developed by Muslim Scholars

Authors	Name of Measurement
Amiruddin et al (2014)	Maqasid Al-Shariah Index (MSI)
Seman and Dzolkarnain (2014)	Index of Socio-Economic Development
Mubashir et al (2014)	Hayat-e-Tayyaba Index
Ghazal & Zulkhibri (2014)	Islamic Inclusive Growth Index
Kasri and Ahmed (2014)	Socioeconomic Development Index

Element Of Islamic Philanthropy

Zakat and *waqf* are two major element of Islamic philanthropy. Islam as a system seeks to establish and maintain justice (*‘Adl*) on earth and build a humane and cohesive society. Protecting people from hunger, ensuring social security and preserving human honour and dignity are essential elements of a strong and humane social order. Hunger, the Prophet of Islam is reported to have said, is the worst of deprivations.

Zakat

Zakat is the institution which saves man from starvation, guarantees socioeconomic justice in society, and procures for a man the environment that allows him to preserve his dignity and pursue the purpose for which Allah created him (Wahid, Kader and Ahmad, 2012). The primary socioeconomic objective of *zakat* is to eliminate poverty from Islamic society. Islam regards poverty as a serious problem. Poverty leads to crimes since a large number of crimes are committed due to poverty. It also leads to hatred between the rich and the poor, and hence to socio-political uprising (Sadeq, 1996). Therefore, poverty creates social conflict out of the sense of deprivation felt by some members of the community. The Holy Prophet (PBUH) also paid due attention to poverty. It is reported in an authentic tradition that he used to pray to Allah saying, “*O Allah! I seek refuge in You from poverty and kufr...*” (Al-Qardhawi,1980). It is also reported that the Prophet (PBUH) on many occasions made it clear to the companions that *zakat* should be spent for ameliorating the condition of the poor. Imam Abu Hanifa followed the same course and declared that *zakat* is meant only for the welfare of the poor (Al-Qardhawi, 2000). There is a consensus among Islamic scholars that the higher priority in the disbursement of *zakat* is the poor group.

Islam provides a social security system based on *zakat*. It is not based on individual assistance but is a regular concern for the government (Al-Qardhawi, 1980). The compulsory nature of its payment, the specific and broader categories of its expenditure and the government’s role in the management of the institution of *zakat* show that it is evidently a unique form of social security system. Thus, the social obligations of *zakat* are very conspicuous, comprehensive and direct.

A careful review of the main recipient groups of *zakat* will bear testimony to the above statement (Al-Quran, 9:60). First and foremost, *zakat* is meant for the *fuqra* (poor) and the *masakin* (needy) experiencing financial hardships. If they are poor, they will have their right to *zakat* through belonging to the poor category. If they have difficulties while running their business due to debt problems, for example, *zakat* is there to help them under the debtor category, provided that the debt incurred is not due to anything illegal from the *syariah* perspective. A Muslim is encouraged to do further study for the sake of Islam. If they have financial problems, they able to get some portion from the *zakat* fund under the *fi-sabillah* category. Ones need not to worry

about travelling anywhere on earth with a good intention. This is because, should he get stranded, there is a portion of the *zakat* fund under the wayfarer category.

In the Islamic social security system, *zakat* is a duty of some (the rich) and the right of others (the poor and needy). From the Islamic point of view, it is the socio-religious duty of the fortunate brothers of the community to share the misfortune of their fellow brothers. Thus, the *zakat*-based social system creates a sense of brotherhood, mutual economic commitment, social harmony and security in society, and it covers both the material, spiritual and cultural aspects of human life (Billah, 1996).

Waqf

Waqf is generally known as donation to the public. The main characteristics of waqf are irrevocability, perpetuity and inalienability (Iman, & Mohamad, (2014). Irrevocability means that the donor have no power in terminating the donation at any time. Perpetuity means the donation given are last longer. The declaration are made between the donor and receiver and it is automatically legally binding. For inalienability, it means the donation should be not sold, given as gift or being inherited (Iman, & Mohamad,2014). In addition, waqf consists of two categories which are general and specific. General means a donor waqf something without a specific purposes or specific people while specific means a donor waqf something with a specifi reasons towards specific people .

It is fascinating to note here that, on account of waqf, its reality does not come in light of financial issues, rather waqf has been there at the earliest reference point of Islam since the season of Prophet Muhammad (peace be upon him) until the last Ottoman Empire (Cizakca, 1998). Meanwhile, "Right" infers that Islam vigorously indicate the commitment of the general public, especially the rich, to contribute effectively in combating poverty in term of *zakat* and waqf (Ahmed, 2004). Then again, waqf as a willful segment establishment is a systematized philanthropy intending to convey welfare administrations to poor people, it can be as resources, (for example, land, building, automobile and so on) or, turning out to be more usually now, which is cash *waqf*.

Furthermore, waqf is well-known as a fixed title of a possessed resource from disposition and portion of its advantages for a particular reason or purposes (Chepkwony, 2008). Waqf is a voluntarily charity characterized in term of perpetuity. Therefore, the advantage can nor be discarded; nor its proprietorship exchanged. Just its advantages are to be utilized for the particular purpose(s), which is (are) fundamentally beneficent in nature. In this sense, waqf is a never-ending philanthropy and this unendingness is its fundamental trademark. The charitable purposes of waqf customarily included instructive organizations, orphanage, streets, religious foundations like mosques, burial grounds among other public facility. (Sadeq, 2002).

The Islamic waqf plan enable the proprietor of property to settle his for the utilization of recipients perpetuity. Waqf is established once the proprietor (*waqif*) makes a statement that the pay of the property is to be saved forever for a particular reason. Waqf can be said to be a piece of family law. The laws identifying with the waqf are a necessary piece of Islamic law (*syariah*). It has relations with different zones of law and society, for example, legacy, wills, endowments and marriage, subsequently waqf are generally managed as a feature of family law (Chepkwony, 2008). There are two types of dimensions in the institution of waqf which are making endowment of waqf and administration of waqf. Usually, a successful person will make an endowment of waqf as an act for charitable which has been belief by him/herself. For administration of waqf, it actually depends towards the term of waqf itself. Sometimes, a voluntary giving is made by *mutawalli* or someone who is trusted in order to take a good care of the waqf property. Management who is dedicated also seldomly being ask to look at the waqf property (Sadeq, 2002).

Enhancing Wellbeing Through Islamic Philanthropy

Scholars have used *maqasid syariah* principles to analyse wellbeing from a *syariah* perspective. Briefly, the five dimensions of the *maqasid syariah* principles can be explained as follows. Firstly, religion is considered as an important dimension of human needs. The central element of religiosity is belief as explained by the holy Quran:

“ Whoever, male or female, has acted righteously, while being a believer, we shall certainly make him live a good life, and shall give such people their reward for the best of what they used to do” (16:97)

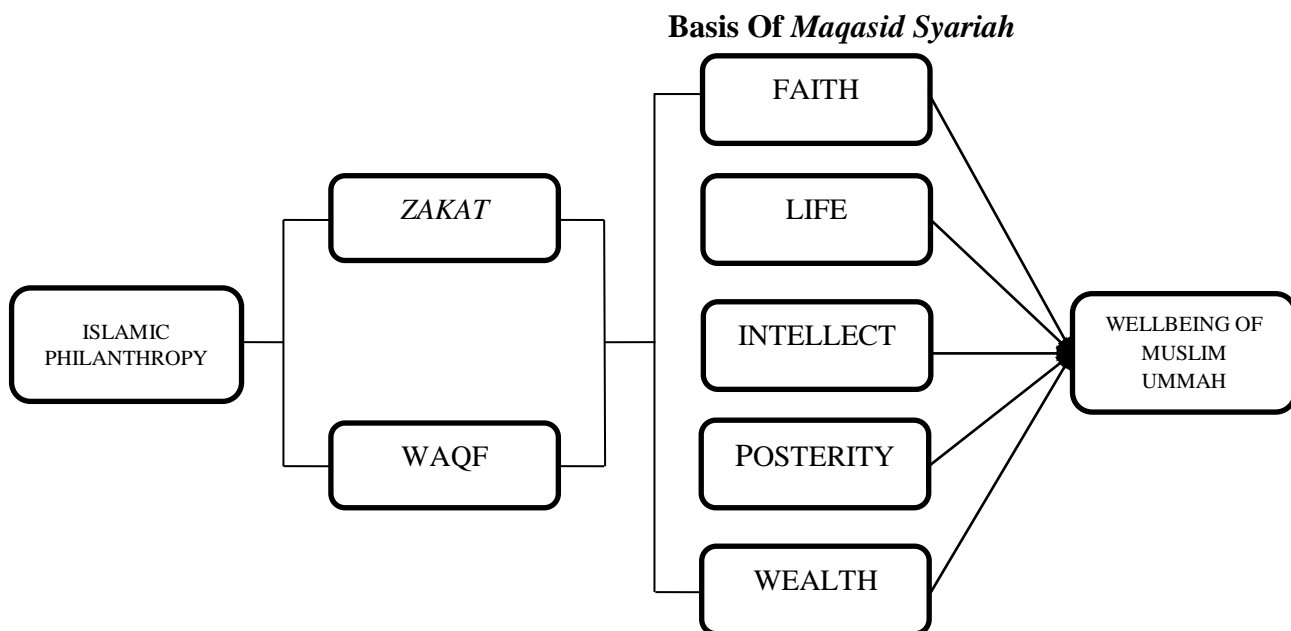


Figure 1: Element of Islamic Philanthropy in Enhancing Wellbeing

A strong belief would spur an individual to perform religious obligations. It is inclusive of the commitment to carry out religious obligations such as performing daily prayers, fasting in the month of *ramadhan* and performing *hajj*. In addition, being spiritually adequate is another important factor in this dimension because in many cases, the feeling of inadequacy is widely common among the poor despite receiving *zakat* aid from the authorities. Spiritual adequacy is closely related to *tauhid* (belief).

Secondly, physical self needs are physical needs in daily life such as healthcare and nutrition, quality of dwelling or living place, amenities, utilities, clothing and transportation. The prophet SAW mentioned that the worldly life is tillage for the hereafter. Thus it is imperative for a Muslim to preserve his/her life as it has big impact in the hereafter as mentioned the verse below:

'Our lord. We have seen and have heard: Now then send us back: we will work righteousness: for we do indeed (now) believe' (32:12)

Thirdly, knowledge or mind development is essential in developing the intellectual level and skills of individuals. Knowledge is an important aspect of human beings as it gives guidance for the correct way of thinking according to teachings of Islam. This is why Islam attaches great importance to knowledge and education. When the Quran began to be revealed, the first word of its first verse was '*Iqra*' that is, read:

"Read! In the Name of your Lord Who has created (all that exists). He has created man from a clot (a piece of thick coagulated blood). Read! And your Lord is the Most Generous. Who has taught (the writing) by the pen. He has taught man that which he knew not". (96: 1-5)

Education is thus the starting point of every human activity. Allah created man and provided him with the tools for acquiring knowledge, namely hearing, sight and wisdom as mentioned below:

"And Allah has brought you out from the wombs of your mothers while you know nothing. And He gave you hearing, sight, and hearts that you might give thanks (to Allah)". (16:78)

Fourthly, posterity or offspring are an important element of human needs. Besides having family, parenting skills and the ability to develop knowledge and skills in children today are essential in the current socioeconomic settings. Having children is a fundamental condition for the continuity of human life. The number of children in a family depends on a few factors such as the age of parents, genetic composition and climate (Rafiuddin, 2014). In this matter, Islam has stressed the importance of safeguarding of the life of children regardless of their gender as mentioned by Quran:

'And when the seas are set on fire. And when souls are united. And when the female infant buried alive is asked. For what sin she was killed? (81:6-9)

"..and know that your worldly goods and your children are but a trial and a temptation, and that with God there is a tremendous reward. (8:28)

Finally, wealth accumulation such as possession of fixed assets and durable goods, the ability to generate income or revenue from economic activities and expenditure on food and non-durable goods. Excess wealth is usually interpreted as a sign of the favour of Allah, while poverty is viewed as a sign of His displeasure. In fact both conditions are trials from Allah as mentioned below:

"Now as for man when his lord trieth him, giving him honour and gifts, then said he, My Lord hath honoured me. But when he trieth him, restricting his subsistence for him, then saith he (in despair), My Lord has humiliated me." (89:15-16)

In preserving the interest of muslim ummah who was ignored by his family and society, *zakat* shall be given to him in term of sponsoring Islamic education (faith), healthcare and nutrition (life) and also business capitalization (intellectual). Besides that, parenting skills and the ability in developing the knowledge in children (posterity) today is also important. This approach may increase their life quality as well as faith. As a return, they have to give back the benefits (wealth) they had received to the societies.

According to Sabran, (2002), *waqf* is to protect something such as building a affordable houses for the needy ones (Zuki, 2012) from being taken by a third person. Besides, *waqf* can be done in many ways in ensuring that it enhance wellbeing of muslim ummah which is by providing water for public consumption (life), providing Islamic institutions (faith) such as "*pondok*" for those who want to learn more about Islam (intellect), help those handicapped and the poor, building bridges, provide wealth accumulation in term of financing orphanages and the marriage of young people in need (wealth) (Zuki, 2012).

The main question remains how *zakat* and *waqf* would be able to enhance wellbeing of muslim ummah based on basis of *maqasid syariah*. It would require proper planning and implementation to alleviate each element of wellbeing. Scholars and practitioners should work together to execute effective distribution methods that would be able to alleviate inner and outer fulfilment from the *syariah* perspective, driving towards a peaceful life, named as *Hayat-e-Tayyaba* (Mubashir, 2014).

CONCLUSION

In general, an alternative way in enhancing wellbeing among households are through Islamic philanthropy. For instance, waqf is the one form of charity that is long-lasting because it has the characteristics of perpetuity (Chepkwony, 2008). If a donor make a donation which is in a form of a building where the benefit from the donation will be given to those needy ones who will benefit for a long time. Besides that, *zakat* is similar to waqf as its benefits is directed towards the beneficiary specifically (Amuda, 2013). Philanthropy is aimed at those who are in needs physically and mentally, either poor or low income households. The poor in the mainstream economy is today widely perceived as a relative and multi-dimensional, dynamic phenomenon (Francesconi et al., 2008; Ruspini, 2001; Dema Moreno and Díaz Martinez, 2012). Although poverty can be mitigated by policy interventions, Islamic institutions related to philanthropy and personal relationships may be a significant player. Personal relationships either family or non-family based would certainly compliment the role of formal and non-formal institutions (World Bank, 2003).

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**EP002:
THE INSTITUTION OF HISBAH: A WHITHER**

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Abstract

Legally speaking, the institution of hisbah has proved its significances, as well as the implications as a medium of the enforcement units in Islam. The genuine concept of hisbah is aimed at enjoining good and forbidding evil which refers to the administrative affairs of Islamic organizational system accordingly. This institution has been evolved progressively in terms of the organizational structures or even to the basic scope of duties for the appointed officers. It has been recorded that during the Islamic medieval era, the institution of hisbah has developed excellently and recognized as a blessing to the Muslim ummah. Thus, this paper is aimed at discussing the elements of hisbah and its scope with regards to the contemporaneous atmosphere; namely ombudsman within the ambit of modern world. Furthermore, this paper would like to explore the criticisms with regards to the certain arguments as to its validity and relevancy in this modern era; as happened in the State of Kelantan. In addition, it is hoped that; throughout this paper, a better understanding could be gained pertaining to the development; as well as future prospects of hisbah holistically.

Keywords: amar ma'ruf nahi munkar, hisbah, ombudsman

INTRODUCTION

Lexically, the term “hisbah” denotes some Arabic words of “ihtisaba”, “yahtasibu” and “ihtisaban” which refer to several meanings. Firstly, it can simply be understood as reward from Allah (*talab al-ajr*). On the other hand, it also indicates banning any wrongful acts which are against with the syara’. Besides, from the word “ihtasaba”, “yahtasibu” refers to the acts of thinking any possibilities which may be materialized, as what has been explained in numerous verses, inert alia, Surah 65:2-3, 39:47 and 59:2. In addition, it refers to the acts of making calculation or estimation of something. In this context, Allah has clearly enjoined in the Holy Quran, for example, 4:6, 17:14 and 33:39. On the other hand, *hisbah* also derived from the verb of “hasaba”, “yuhasibu” and “muhasabah” which carries the meaning of evaluating himself or examining one’s conscience. To illustrate this situation, it has been narrated from the incident of Umar Al-Khattab who has ordered Hatib ibn Abi Balta’ah to raise the price of the good sold by

him or otherwise, he has to leave the place. Later, Umar has reviewed the order made by him (*hasaba nafсах*) and asked forgiveness from Hatib for his wrongful order previously.

As regards to the technical approach, majority of the medieval Islamic jurists generally opined that the concept of *hisbah* actually refers to the act of enjoining good and forbidding evil (*al-amar bi al-ma'ruf wa al-nahy an al-munkar*). In fact, it is a collective responsibility of whole Muslims as prescribed in the Holy Quran. In this context, Al-Juwaini opined that the whole parts of the Islamic *syariah* principles are rooted from the duties of enjoining good and forbidding evil. Similarly, per Ibn Taimiya, he also emphasized that the most apex achievement in executing the public duties of Islamic institutions is to upheld goodness and get rid of evil. In a nutshell, by defining the term *hisbah* as “enjoining good and forbidding evil”, it visualized the whole Islamic –oriented institutions, as well as the public inclusively, in order to accomplish such duties. Hence, it can be observed thoroughly that this kind of responsibility does not merely lies on the *muhtasib* per se, but rather to the whole individual Muslim.

LEGAL INJUNCTIONS

Al-Quran

Generally, it can be understood that the main concept and nature of *hisbah* is pertaining to the religious obligation which is aimed at striving towards righteousness and fighting against the evilness in accordance with the Islamic faith. Hence, in respect with these duties, there are numerous verses in the Holy Quran, as well narrated Hadith which vehemently emphasized its significances, inner alia, by virtue of Surah Al-Maidah verse 87 – 88, Allah said:

O ye who believe! Make not unlawful the good things which God hath made lawful for you, but commit no excess; for God loveth not those given to excess.

Eat of the things which God hath provided for you, lawful and good; but fear God, in Whom ye believe.

(Al-Maidah :87 – 88)

Hence, by observing the aforesaid verses, it can be acknowledged that the Jews have been cursed by Allah since they have committed countless of wickedness and destruction on the earth. In fact, due to their arrogance and stupidity, they have exceeded the limit prescribed by Allah and eventually being cursed by Allah absolutely. On the other hand, Allah has stated:

Not all of them are alike: Of the People of the Book are a portion that stand (for the right): They rehearse the Signs of God all night long, and they prostrate themselves in adoration.

They believe in God and the Last Day; they enjoin what is right, and forbid what is wrong; and they hasten (in emulation) in (all) good works: They are in the ranks of the righteous.

(Ali – Imran 113 – 114)

Indeed, those people of the Book who have purified their inner-self with genuine and strong faith to Allah; they have welcomed the rise of Islam and eventually embraced it willingly. This group of people has been described as those who keen to uphold goodness and refraining themselves committing wrongful deeds. Apart from that, Allah also has elucidated whereby the actions taken by the righteous people when then they are entrusted with authorized power and chance to manage and administer any matters. Indeed, they will accomplish the trust with a great emphasis and do not hesitate to uphold the principles of enjoining good and forbidding evil. Similarly, this position also has been elaborated in Surah Al-Taubah verse 71 whereby Allah has clearly notified:

The Believers, men and women, are protectors one of another; they enjoin what is just and forbid what is evil: they observe regular prayers, practice regular charity, and obey God and His Apostle. On them will God pour His mercy: for God is Exalted in power, Wise.

Besides, the special status and privileges of Muslim as the followers of the Prophet Muhammad as the best and chosen people have been declared by Allah to be exemplified to the other people if they are still on the right path of Islamic teachings, inter alia, enjoining good, forbidding evil as well as to worship Allah with the utmost faith undoubtedly. To clarify this matter, Allah has asserted in Surah Ali-Imran verse 110:

“Ye are the best of peoples, evolved for mankind, enjoining what is right, forbidding what is wrong, and believing in God. If only the People of the Book had faith, it was best for them; among them are some who have faith, but most of them are perverted transgressors.”

Likewise, Allah has enjoined Muslims to urge people towards upholding the principles of righteousness and at the meantime, to refrain ourselves from committing wrongful deeds, as what has been affirmed in the gist of Surah Ali-Imran: 104:

Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity.

Hence, by analyzing critically these aforesaid verses, it can be concluded that the concept of *hisbah* is meticulously being materialized, as well as to institutionalized for Muslim ummah as a whole. Moreover, as it is well-regarded as *fardhu kifayah*, however, to certain extent, this kind of

collective obligation could also turn to be as individual responsibility for situations, by considering to its necessity.

Hadith of the Prophet

There are numerous narrated Hadith which signifies the fundamental concept and importance of *hisbah*, for example, the Prophet once has stated:

“There should be no single person in the Muslim ummah who has acknowledged there there is sinful act has been committed and has the power to stop it, however, he dos not take any action (if it happens), then Allah’s wrath is totally with him”.

(Narrated by Ahmad)

In the other occasion, it was excellently being reported that the Prophet said:

“If anyone of you has seen any wrongful acts have taken place, then you must stop it with your hands, if you are not able to do so, and then use your tongue, and if you still not able, then use your heart to hate it. It is the weakest faith of you”.

(Reported by Muslim)

By referring to the above hadith, it has been explained by the Prophet that it is an obligation imposed upon each individual Muslim to prevent the commission of any sinful act, by using any means, including with the power that we have. If not, we can advise him or even by giving such a warning not to do so. Finally, the last resort which can be applied is through heart, for instances, by not giving any help or not to cooperate to get involved, which indicate our disagreement with that evil. Nevertheless, this action has been perceived as the lowest degree of *iman* in the process of implementing the notion of Islamic teachings against any kinds of mischief. Similarly, the Prophet also has ordained the necessity of upholding truth and fighting against any evil. Hence, with regards to the plenty of hadith above, it can be understood that *hisbah* is recognized as been part of the *syariah* injunctions to be enforced as an obligation respectively.

Practice of the Companions

According to Ibn Taimiyah (1982), Islamic history has recorded that even though the concept of *hisbah* has not been made known specifically during the period of the Prophet and Companions, they have practiced these principles for the sake of aiming justice and avoiding evil. In the era of Khulafa’ al-Rasyidin, Saidina Umar has struggled for a betterment of this concept to function properly. He himself has ensured that any kinds of business transactions which involved weight, measurement, as well as the quality and quantity of the goods sold must be freed from any elements of cheating and oppressiveness. More interestingly, it has been reported that he once has split down a jar of milk on the ground since it has been mixed up with water deceitfully. In addition, he also has burnt the house of Rashid Al-Thaqafi because it was used to sell liquor.

In addition, the consistencies of Saidina Umar in improving this kind of concept has been proved whereby he has appointed several officers (*muhtasib*) in order to ensure that this institution could run effectively, based on their respective expertise and scope of duty accordingly. To illustrate this, he has appointed al-Saib bin Yazid, together with Abdullah bin Utbah bin Masud to supervise the business activities held at Madinah. On the other hand, instead of appointing men, he also has entrusted Syedah Al-Syifa and Al-Syedah Samra binti Nahik as the *muhtasib* at Madinah.

ELEMENTS OF HISBAH

As regards to the salient essentials pertaining to *hisbah*, reference can be made to several writings of the early period of Islamic era, as well as during the medieval Islamic period (Ibn Taimiyah, 1982). In fact, even though Yahya bin Umar (d. 289 H) has never used the words of “*hisbah*” and “*muhtasib*” in his twin masterpieces, *Kitab Ahkam al-Suq* and *Kitab al-Ahkam fi Jami Ahwal al-Suq*, however there are three criteria which are related to the concept of *hisbah* has discussed excellently. Surprisingly, these principles of *hisbah* have remarkably become such precedent to the subsequent scholars for hundred years’ everlasting. These three elements are, firstly, the person or individual who has been entrusted to supervise the *suquq* (markets) and other related transactions. Next, the duties and responsibilities delegated to him and finally, due to the punishments prescribed to be executed against the offenders. Hence, by referring to these trio elements, *hisbah* signifies as an institution, being entrusted to the appointed person, but later given to the specific officer who is known as *muhtasib* who plays the role to supervise and maintain the whole administrative activities of such city or place, which cater economics aspect, Islamic rulings, health authority, urbanization and others. Indeed, such duties imposed upon him basically recognized himself with the authority to ensure that all kinds of activities take place within his area must be in accordance with *syariah* teachings, as well as to penalize the wrongdoers who are against the prescribed rules respectively. Thus, by virtue of the *hisbah* concept, the officer in charge is known to be as *al-muhtasib*.

On the other, the accused person is called as *al-muhtasib ‘alaihi*. Besides, the subject-matter of the cases is named as *al-muhtasib fih*. Moreover, any actions taken by *al-muhtasib* are termed as *al-ihhtisab*. The term *hisbah* actually connotes four salient essentials regarding to al-*hisbah*, namely *al-muhtasib* (the officer in charge), *al-muhtasib ‘alaihi* (the offender), *al-muhtasib fih* (subject-matter of the case) and also *al-ihhtisab* (actions taken by al-*muhtasib*).

SCOPE OF HISBAH

As regards to the duties of enjoining good, such *muhtasib* must uphold and secure the very basic rights which belong to Allah, human beings and also those rights which are mixed up together (. In this situation, rights of Allah refer to the omission of an individual Muslim towards his responsibility towards Allah. This can be seen in the cases due to the failure to perform Friday prayer, breach of trust, does not covering his or her aurat and others. Thus, such enforcement

officer could urge the people to abide by the commandments, as well His prohibitions as prescribed.

On the other hand, for the rights which belong to human beings, it can be divided into two categories, namely general and the specific ones. For general rights, it can be seen in the situations whereby the *muhtasib* makes order relating to the public facilities, for example, to use the assets taken from Baitulmal or taxes from the rich people for emergency situations like famine, earthquake and others.

Besides, by referring to the rights, it is basically linked with certain individuals. It can be illustrated through the non-payment of debts owed by the borrower from the creditors. Here, *muhtasib* could pronounce an order to instruct for the payment of such debts to those who are entitled to it. Moreover, in the matrimonial cases, the *muhtasib* even could insist the husband to pay maintenance to the divorced wife and his children after the amount has been quantified by the judge.

Apart from that, for concurrent rights, it refers to the situations whereby both rights of Allah and human beings are combined altogether. This can be illustrated whereby the *muhtasib* could ask the parents or guardian to marry their daughters with suitable husbands.

In the similar vein, for the aspects of forbidding evil, those rights involved are belong to Allah, human beings and those which are concurrent.

As regards to the rights of Allah, it caters those rights which are prescribed clearly in the matters of *ibadah*, *aqidah* (belief), prohibitions and others. In this situation, the *muhtasib* could use his authority to combat against those who are refused to pay *zakat*, performing prayers and others. Besides, he is also responsible to fight against traders who are attempting to monopolize or commit hoarding to seek illegal profit (by rising up the prices).

On the other hand, for the rights which belong to human beings, al-Mawardi pointed out that if someone has committed nuisance towards his neighbors, for instance, by making noise, then he has violated the rights against others. Thus, the *muhtasib* is needed to make sure that this kind of problem to be settled accordingly.

Consequently, pertaining to the concurrent rights, it can be exemplified the instruction of the *muhtasib* towards the road users to be careful while driving due to the fact that by driving too speedy, it might jeopardize the other people' lives.

THE DEVELOPMENT OF HISBAH

Historically, Al-Tabari has explained the wisdom about the revelation of *Surah Al-Mutaffifin*. The reason is, it has been reported that once, the Prophet has made a visit to a market and found that there were plenty of deceptions committed by the traders for the sake of getting profit deceitfully. In addition, during the Prophet's lifetime, he has appointed Sa'id bin Sa'id bin al-As to supervise the markets.

Later, this practice has been continuously blossomed during the period of Khulafa' Ar-Rasyidin whereby it has been reported that Saidina Umar al-Khattab has once penalized a trader who has cheated in the business. Moreover, he also has assigned al-Sa'id bin Yazid and 'Abd Allah bin 'Utbah bin Mas'ud with the duties to take in charge of the business places at Madinah. In addition, it also has been reported that al-Harith bin al-Hakam has been appointed by Uthman bin 'Affan to become as enforcement officer at Medinah in supervising the business activities accordingly.

During that period, the appointed officers are assigned to maintain the activities of transaction at markets were known as *amil ala-suq*. Besides, the term '*arif*' refers to the officer which their scope of duty is similarly equated to the earlier one. Later, changes were made pertaining to the other appointed officers like *zakat* collector and district governors.

Similarly, during the periods of Umayyad and Abbaside reigns, the rulers also have given such great emphasis towards the effectiveness of this institution. Furthermore, the roles of the *muhtasib* also have been extended to ensure that management and administration system of the government could run smoothly, in accordance with the Islamic principles.

During the *Fatimiyyah* period, the importance of the institution of *hisbah* has become more obvious in terms of enforcing the prescribed rules and regulations. In fact, *muhtasib* is not merely investigating business places and determining the proper weights and measurements but also ensuring that there must not be overloaded items being carried out by the traders. In addition, the scope of *muhtasib*'s duties also has been extended since they also are responsible in maintaining the morality of the subjects so that the members could live peacefully in the society. Later, enforcement officers' institutions like police force have been set up to impose upon, together with enforcing the prescribed penalties among the wrongdoers.

HISBAH VS. OMBUDSMAN: A BRIEF ANALYSIS

The Western orientalist have put their enthusiasm to get involved in studying pertaining to the institution of *hisbah* for their academic's core subject-matter. It can be manifested through suggesting about the theoretical background and origin of this institution. Schacht, for instance, has argued that this concept is exemplified from agoranomos institution as practiced by the

Romans. In fact, this opinion is to strengthen the idea of Gaudefroy – Demomynes which initially has been put forward in 1939, as compared to Schacht which is only took place in 1964.

In addition, per Gustav E. Grenabaum (1939), a contemporary scholar, he opined that the term of *hisbah*, which is previously known to be as *sahib al-suq* (enforcement officers of the market) is originated from *agoranomos* institution as practiced during the Roman Byzantine era. This view has further been affirmed by Schacht who proposed that the development of the institution of *al-suq* to *hisbah* took place during the Abbaside reign. Indeed, these provocations seem to deny *hisbah* as a legacy of Islamic civilization which eventually declines that it has ever existed at the early period of Islam which is practiced by the Prophet, as well as continuously applied after his demise.

In fact, the institution of *hisbah* is originated from the legacy of Islamic civilization of Abbaside Empire, not extorted from the foreign culture accordingly. This misconception arises since the terms of *hisbah* and *muhtasib* which is merely being introduced by al-Mawardi since 5 Hegira. Nevertheless, it should be emphasized that even though these terms are quite “new” to be applied, but at principles, its practice and philosophy has been practiced since the era of the Prophet. It can be proved through the progress, as well as the development which have been evolved regardless of from the aspects of linguistic, for examples, ‘*amil ‘ala al-suq, sahib al-suq and nazir ‘ala-suq*, but also in terms of the roles and duties of the appointed officers. In addition, it can be observed too regarding to the scope and nature of the duties of the *muhtasib* which cater various aspects, namely including from the supervision of fraud at the market places till to the administrative affairs of the city. Thus, it does reflect the significances and complexities of this institution in the eyes of Islamic organizational system. Indeed, it can be upheld that the ideas which proposed that the institution is modeled from the Roman Byzantine Empire is totally rejected which eventually cannot be perceived. Moreover, some of the orientalist have argued among themselves due to the truth of this propaganda wholly. Claude Cahen and M. Talbi, for instance, hold that the *agoranomos* Roman institution have been disappeared about 300 years before the emergence of Arabs.

HISBAH IN THE STATE OF KELANTAN: AN OVERVIEW

It was a mere political rhetoric in the State of Kelantan whereby the late Menteri Besar, YAB Datuk Bentara Setia Nik Abdul Aziz bin Nik Mat admitted that the state government cannot implement *hisbah* during his reign since they “do not have sufficient competency and affordability; as well as due to the lack of expertise in managing such body as part of their good governance accordingly”. In fact, the establishment of *hisbah* is hoped to be an independent body to investigate and combat against the executive members from any corruption and misuse of power while managing the state affairs. This manifesto during the election period in 1990’s is not being upheld for almost more than 25 years even though they have come into power politically. Indeed, the remarkable idea of indulging the *Hisbah* Commission is for; inter alia, to protect and

promote the values of kindness and eradicate evil, to initiate an investigation into complaints by citizens of the Sultan against the State or any relevant body, thirdly is to protect the rights of individuals; as well as to review the actions or decisions of State officials in the matter and take appropriate action to correct any wrongful act or negligent behavior that neglects.

In relation to this context, the *Muhtasib* Am will be appointed to serve as an Officer *Hisbah* Commission and will be assisted by *Muhtasib* in each district whereas his scope of rights and duties shall be determined saved in accordance with law. Such *Muhtasib* can act within his own discretion or by the application or relevant information as well as records of any department or agency of the State Government that must do with it, and the officials concerned shall provide appropriate assistance to fulfill his request.

CONCLUDING REMARKS

Even though that the concept of *hisbah* has been established long time before, namely during the early stage of the Prophet's lifetime, but the concept and philosophy being rooted in it is duly relevant to be applied within the ambit of contemporary situation. Furthermore, by analyzing the current situation nowadays, many countries have adopted the institution of ombudsman to seek a betterment of their administrative system. Indeed, the theoretical concept of *hisbah* is basically for the sake of human benefits which could be developed gradually towards its excellent function in the society. It is undoubtedly true that both institutions of *hisbah* and ombudsman could be "entrusted" to become such a "backbone" of the government organs to enhance the efficiency of management and administration system. Furthermore, each government should put great attempt towards establishing an integration of these concepts so that any loopholes which could be traced from each institution could be improved meticulously. In a nutshell, it can be concluded that by looking to the integral features which denotes the genuine concept of these dual institutions thoroughly, their application should have materialized in each aspect of human life, not necessarily limited to matters solely.

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BP003:
FARAIID DAN HIBAH: PERSEDIAAN KE ARAH PENCEN HAKIKI

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Abstrak

Islam menganjurkan umatnya agar berusaha mencari dan mengumpul harta kekayaan, selagi mana tidak bercanggah dengan syariat. Namun begitu, adakalanya manusia terlupa bahawa harta kekayaan yang dicari tidak akan membawa kebahagiaan sekiranya tidak diuruskan dengan baik. Pengurusan harta yang teratur adalah penting sebagai persediaan ke arah pencen hakiki yang akan dilalui oleh setiap individu. Laporan yang diperolehi dari BH Online bertarikh 29 Mac 2016 menyatakan bahawa sebanyak RM60 bilion harta umat Islam tidak dituntut sejak merdeka dan kebanyakannya dalam bentuk hartanah dan wang. Antara faktor utama yang menyebabkan isu harta beku ini berlaku ialah kurangnya kesedaran mengenai kepentingan perancangan harta sebelum mati dalam kalangan masyarakat. Harta-harta ini perlu diuruskan dengan sebaiknya bagi memastikan harta tersebut dapat berfungsi sebaiknya samada kepada yang hidup ataupun yang telah meninggal dunia. Kajian ini dilakukan bagi menambahkan kefahaman masyarakat mengenai kepentingan pengurusan harta selepas mati melalui instrumen faraid dan hibah. Kaedah kajian dokumen dilakukan bagi mendapatkan data dan maklumat yang diperlukan.

Kata kunci: Faraid, Hibah, Harta Beku, Pencen Hakiki.

PENDAHULUAN

Harta merupakan keperluan kepada manusia, bagi memudahkan mereka menjalani kehidupan seharian di samping dapat melaksanakan ibadah, serta tugas sebagai khalifah Allah SWT di muka bumi ini dengan sempurna. Harta pada setiap masa menjadi suatu yang. Sebagai Muslim, harta amat diperlukan untuk menyempurnakan rukun Islam iaitu mengeluarkan zakat dan menunaikan haji. Harta juga dicari untuk memenuhi keperluan hidup dan dibelanjakan bagi memenuhi keperluan diri, ahli keluarga dan masyarakat yang memerlukan sebagai tanda kesyukuran terhadap nikmat yang diberikan Allah SWT. Namun begitu harta kekayaan yang dicari perlulah diuruskan dengan baik, agar ianya membawa kebahagiaan di dunia dan akhirat. Oleh itu untuk memastikan pengurusan dan perancangan harta diuruskan dengan baik, maka Islam telah menggariskan beberapa instrumen penting dalam perancangan dan pengurusan harta orang Islam. Antaranya ialah melalui, faraid, hibah, wasiat dan lain-lain. Faraid merupakan sistem yang telah syariatkan oleh Allah SWT dalam al-Quran, Sunnah dan Ijmak ulama. Manakala hibah merupakan salah satu instrumen perancangan harta umat Islam yang digalakkan

pelaksanaannya bagi menjamin kemaslahatan ahli waris yang tidak tergolong dalam *ashab al-furud* atau *asabah*. Islam juga melihat perancangan dalam pengurusan harta merupakan wasilah kepada pembangunan ekonomi dan juga untuk mencapai kehidupan yang lebih makmur dan sejahtera sama ada di dunia mahupun diakhirat.

Konsep Pemilikan Dalam Islam

Konsep pemilikan dalam Islam ialah setiap sesuatu itu adalah hak milik mutlak Allah SWT, dan manusia hanya di berikan hak milik sementara untuk mendapatkan manfaat dari harta tersebut. Islam telah mengiktiraf dua jenis pemilikan iaitu pemilikan individu dan pemilikan awam. Secara umumnya pemilikan individu boleh dibahagikan kepada dua bahagian iaitu pemilikan sempurna dan pemilikan tidak sempurna (Bakar, 2008). Setiap individu boleh memiliki harta sama ada melalui jual beli, pembahagian pusaka, pemberian *hibah* atau hadiah, wakaf, sedekah dan sebagainya. Pemilikan awam pula ialah pemilikan negara dan diletakkan dibawah kuasa negara seperti harta baitulmal, harta kerajaan dan sebagainya.

Konsep Pengurusan Harta Dalam Islam

Manusia memerlukan harta dalam menjalani kehidupan mereka. Oleh itu, setiap harta yang dimiliki perlu kepada perancangan yang rapi supaya dapat diuruskan dengan baik dan sempurna. Undang-undang Islam dan sivil menggalakkan pemilik harta menguruskan hartanya agar tidak menimbulkan sebarang permasalahan sama ada kepada pemiliknya, ahli waris atau masyarakat sekeliling (Mohd Zamro bin Muda W. Y., 2006).

Definisi Pengurusan Dan Perancangan Harta

Menurut Zamro Muda *et.al*, perkataan 'urus' atau 'mengurus' bermaksud mengawal, mentadbir dan mengendali. Perkataan 'pengurusan' bermaksud perihal kerja mengurus sesuatu atau kelolaan, jagaan, kendalian atau kawalan. Perkataan pengurusan juga bermaksud mentadbir atau mengurus, memelihara dan menjaga sesuatu perkara atau urusan supaya menjadi baik dan teratur mengikut undang-undang atau peraturan yang telah ditetapkan (Mohd Zamro bin Muda W. Y., 2006). Menurut Mohd Ridzuan Awang, pengurusan harta bermaksud perihal menguruskan harta, termasuk mengelola, menjaga, mengendali, mengawal dan merancang untuk mengembangkan harta pada masa akan datang melalui pelbagai cara yang dibenarkan oleh syarak (Mohd, 2006).

Berdasarkan definisi di atas dapat disimpulkan bahawa pengurusan dan perancangan harta ini bermaksud seseorang itu perlu berusaha untuk merancang dan mentadbir harta miliknya agar dapat memberi manfaat sama ada kepada pemilik harta mahupun kepada penerimanya. Perancangan harta ini penting bagi memastikan harta itu terpelihara daripada unsur-unsur yang bercanggah dengan syariat.

Kepentingan Pengurusan Harta

Bagi menjamin pengurusan harta yang baik dan sempurna, Islam bukan sahaja meletakkan harta sebagai penentu kepada kebahagiaan manusia di dunia malah mengaitkannya dengan sumbangan kebahagiaan di akhirat. Menurut Mohd Zamro (2006), perancangan dan pengurusan harta terbahagi kepada dua iaitu perancangan semasa hidup (*hibah*) dan perancangan selepas berlaku kematian pemilik harta (*faraid* dan wasiat). Walaupun *faraid* berperanan dalam urusan pembahagian harta pusaka, namun pengagihan harta melalui cara tersebut mampu menjurus kepada masalah-masalah tertentu jika tidak ditadbir urus dengan sempurna serta tidak difahami dengan betul.

Konsep Faraid

Ilmu *faraid* atau dikenali juga sebagai Ilmu *mirath* ialah ilmu yang berkaitan dengan masalah pembahagian pusaka, kaedah fiqh dan perkiraan, serta bahagian setiap waris daripada harta pusaka si mati (al-Khatib, 1415H/1994). *Al-Faraid* adalah *jama'* daripada perkataan *faridah* yang berasal dari kata *al-fard*. Manakala *al-fard* dari segi bahasa membawa maksud ketetapan atau kewajipan. Undang-undang Pusaka Islam (*faraid*) telah disyariatkan oleh Allah SWT secara berhikmah dan berperingkat-peringkat supaya bersesuaian dengan falsafah perundangan dan tabiat semula jadi manusia yang agak sukar untuk mengubah adat kelaziman mereka masing-masing (Awang M. R., 2008).

Faraid merupakan undang-undang yang lengkap dan memberi jaminan kepada waris-waris menerima hak masing-masing, selagi mana tidak terdapat perkara-perkara yang menghalang waris-waris si mati daripada menerima harta pusaka tersebut. Ini kerana Allah SWT telah menentukan hukum dan cara pembahagian dalam harta pusaka untuk ahli waris, dengan tujuan memberi keadilan kepada semua peringkat ahli waris dan mengelak pergaduhan dalam kalangan mereka.

Allah SWT telah menyusun waris-waris yang berhak menerima harta pusaka si mati kepada *ashab al-furud*, *asabah* dan *dhawi al-arham* beserta ketetapan bahagian masing-masing. Ketetapan pembahagian harta ini telah dinyatakan dalam ayat-ayat al-Quran yang dikenali sebagai ayat Mawarith, iaitu dalam surah Al-Nisa' ayat 11-12 dan ayat 176 (Alias Bin Azhar, 2014).

Konsep Hibah

Konsep *hibah* yang wujud dalam al-Quran dan sunnah serta diamalkan oleh orang-orang Islam di seluruh pelosok dunia termasuk Malaysia merupakan satu bentuk pengurusan harta yang dianjurkan Islam. Ia bukan bertujuan untuk membelakangi sistem pembahagian harta secara *faraid*, tetapi sebagai pelengkap kepada sistem pengagihan harta dalam Islam (Ahmad R. A., Pengurusan Harta Melalui Hibah:Kepentingan dan Manfaat Dari Pelbagai Aspek Untuk Kemajuan Ummah, 2013). *Hibah* dalam undang-undang Islam mempunyai konsep dan ciri yang

tersendiri. Pemahaman yang jelas mengenai konsep *hibah* adalah penting terutama bagi pemilik harta dalam konteks bagaimana dia ingin merancang agihan hartanya, di samping tidak mengabaikan masalah waris-waris yang tidak tergolong dalam waris *ashab al-furud* dan waris *asabah* (Nor Azlina Abd Wahab, 2015). Pelaksanaan *hibah* adalah sunat dan digalakkan di dalam Islam. Ini adalah berdasarkan dalil-dalil seperti berikut:

Firman Allah SWT dalam Surah Ali Imran :92 yang bermaksud:

“Kamu tidak sekali-kali akan dapat mencapai (hakikat) kebajikan dan kebaktian (yang sempurna) sebelum kamu dermakan sebahagian dari apa yang kamu sayangi”.

Selain itu, dalam Surah al-Baqarah :177 yang bermaksud:

“...dan mendermakan seseorang akan hartanya sedang ia menyayanginya kepada kaum kerabat”.

Pelaksanaan *hibah* juga telah disebut dalam sabda Rasulullah SAW yang membawa maksud:

Daripada Abu Hurairah RA daripada Nabi SAW bersabda yang bermaksud: *“Wahai wanita Muslimat, janganlah seorang jiran menghina jirannya walaupun kerana pemberian tulang yang terdapat sedikit daging padanya”.*

(HR Bukhari)

Saidatina Aisyah RA telah berkata bermaksud:

“Nabi SAW menerima dan membalas hadiah”. (HR al-Tirmidhi)

Secara kesimpulannya, berdasarkan dalil-dalil yang telah dibincangkan, dapatlah difahami bahawa *hibah* bukan sahaja telah mendapat pengiktirafan dalam Islam malah pelaksanaannya telah dipelopori oleh Nabi Muhammad SAW sendiri melalui hadis Saidatina Aisyah. Justeru, *hibah* bertindak sebagai suatu pelengkap kepada kesempurnaan sistem pengagihan harta dalam Islam dan amat sesuai diamalkan oleh masyarakat terutama apabila sistem pewarisan secara *faraid* gagal berfungsi dengan baik disebabkan masalah-masalah tertentu seperti kejahilan waris dalam memahami konsep *faraid*, pengabaian penyelesaian pusaka dan kelewatan akibat masalah pentadbiran (Ahmad R. A., Pengurusan Harta Melalui Hibah:Kepentingan dan Manfaat Dari Pelbagai Aspek Untuk Kemajuan Ummah, 2013).

Aplikasi Hibah di Malaysia

Amalan *hibah* atau pemberian telah lama dipraktikkan oleh masyarakat Islam di Malaysia. Walaupun amalan ini tidak dilakukan secara bersistem sebagai mana sekarang, namun terdapat bukti yang menunjukkan amalan *hibah* ini telah bermula seawal tahun 1900-an (Nasrul Hisyam Nor Muhammad). Amalan *hibah* ini boleh dilihat dalam aspek berikut:

i. Hibah dalam Perundangan Islam

Pelaksanaan *hibah* di Malaysia adalah mengikut undang-undang Islam yang tertakluk di bawah kuasa Mahkamah Syariah. Namun begitu, tiada peruntukan khusus mengenai undang-undang *hibah* yang dikanunkan. Ini bermakna Dewan Perundangan Negeri dan Parlimen (bagi Wilayah-Wilayah Persekutuan) tidak pernah meluluskan statut khusus mengenai *hibah* orang Islam untuk dilaksanakan di Mahkamah-mahkamah Syariah. Peruntukan yang wujud hanyalah peruntukan yang menjelaskan tentang bidang kuasa Mahkamah Syariah mengenainya termasuk dalam Butiran 1, Senarai II Jadual Kesembilan Perlembagaan Persekutuan yang menyatakan bahawa:

“Kecuali mengenai wilayah persekutuan Kuala Lumpur, Labuan dan Putrajaya, hukum syarak dan undang-undang diri dan keluarga bagi orang yang menganut agama Islam, termasuk hukum syarak yang berhubungan dengan mewarisi harta berwasiat dan tidak berwasiat, pertunangan, perkahwinan, perceraian, mas kahwin, nafkah, pengambilan anak angkat, taraf anak, penjagaan anak, pemberian, pembahagian harta dan amanah bukan khairat...”

Peruntukan di atas menunjukkan bahawa *hibah* adalah sebahagian daripada perkara negeri yang diletakkan di bawah pentadbiran agama Islam di setiap negeri dan secara langsung terletak di bawah bidang kuasa Mahkamah Syariah (Muda, 2008). Peruntukan undang-undang *hibah* di Malaysia tidak hanya terhad semasa hidup pemberi *hibah* bahkan juga semasa *marad al-mawt*. Kebiasaannya, kes *hibah* di Malaysia melibatkan aspek pengesahan *hibah*, pertikaian kadar dan penarikan balik *hibah*. Amalan *hibah* di Malaysia secara umumnya berlaku dalam kalangan ahli keluarga terdekat yang juga merupakan ahli waris. *Hibah* juga sering kali diberikan kepada anak tiri dan juga anak angkat (Muhamad, 2011).

ii. Hibah dalam Industri Perancangan Harta

Pengurusan harta yang sistematik dan terancang amat dititikberatkan oleh Islam bagi memastikan setiap individu memperoleh hak masing-masing. Tanpa perancangan awal pengurusan harta, pelbagai isu dan masalah akan timbul seperti perebutan harta, harta tidak dituntut dan harta terbeku. Oleh sebab itu, Islam mensyariatkan umatnya membuat perancangan awal harta. Sabda Rasulullah SAW bermaksud:

“Seseorang Muslim yang mempunyai sesuatu yang boleh diwasiatkan tidak sepatutnya tidur dua malam berturut-turut melainkan dia menulis wasiat di sisinya”.

(HR Bukhari & Muslim)

Hadis di atas menunjukkan bahawa langkah persediaan dalam menguruskan harta perlu dilakukan dan dirancang dengan sebaiknya oleh setiap Muslim terutamanya bagi individu yang memiliki harta. Ini kerana, kematian merupakan suatu perkara yang dirahsiakan oleh Allah dan

tiada seorang pun individu yang pasti bilakah dia akan menemui ajalnya. Terdapat tiga bentuk *hibah* yang boleh digunakan iaitu :

iii. Hibah Mutlak

Hibah mutlak (absolute assignment) merujuk kepada pemindahan hak milik oleh penghibah kepada penerima *hibah* secara langsung berdasarkan rukun, syarat dan *aqad* yang telah ditetapkan oleh hukum syarak. *Hibah* ini melibatkan proses pemindahan hak milik serta merta kepada penerima *hibah*. Sekiranya semua rukun dan syarat *hibah* telah dipenuhi, penerima *hibah* akan menjadi pemilik yang baru bagi *mawhub*. Dalam situasi ini, penghibah tidak di benar membatalkan *hibah* tersebut kecuali penghibah adalah bapa atau datuk kepada penerima *hibah* tersebut. *Hibah* secara mutlak ini biasanya dilakukan oleh individu yang memiliki jumlah harta yang melebihi tahap keperluan dan harta yang dihibahkan merupakan harta lebihan (Muhamad, 2011).

iv. Hibah Melalui Amanah

Hibah melalui amanah (*hibah via trust*) pula merujuk kepada satu pemberian *inter vivos* tanpa balasan kepada penerima *hibah (benefisiari)* melalui pemegang amanah (*trustee*) yang dilantik bagi pihak penerima *hibah*. Melalui *hibah* ini, penghibah tidak lagi mempunyai sebarang hak dan kepentingan terhadap harta selepas surat ikatan amanah (*trust deed*) ditandatangani. Bagi *hibah* melalui amanah ini, harta yang telah dihibahkan tidak akan terus dipindah milik kepada penerima *hibah* tetapi kepada pemegang amanah. Elemen *aqad* dalam *hibah* bentuk ini akan dilakukan oleh pemegang amanah sebagai menggantikan penerima *hibah*. Dari segi perundangan, pemegang amanah akan menjadi pemilik kepada harta tersebut manakala penerima *hibah* menjadi pemilik secara benifisial (Muhamad, 2011). *Hibah* bentuk ini biasanya digunakan untuk pemberian kepada penerima *hibah* yang tidak boleh menguruskan harta seperti anak yang masih di bawah umur serta penerima yang tidak sempurna akal di samping untuk tujuan kebajikan, perlindungan aset, pendidikan dan kesihatan.

v. Hibah Amanah

Secara asasnya *hibah* amanah ini termasuk dalam kategori *hibah* melalui amanah namun terdapat perbezaan antara *hibah* amanah dan *hibah* melalui amanah. *Hibah* amanah merujuk kepada gabungan antara *hibah* mutlak dengan *hibah* melalui amanah. *Hibah* bentuk ini melibatkan dua langkah (akad) dalam pelaksanaannya. Yang pertama ialah kontrak *hibah* antara penghibah dan penerima *hibah* mengikut rukun dan syarat *hibah*. Dalam akad yang pertama ini, *hibah* telah sempurna dan *mawhub* telah dimiliki oleh penerima *hibah*. Selepas sempurna akad yang pertama, pemegang amanah akan dilantik untuk menguruskan harta tersebut. Pada peringkat ini, ketiga-tiga pihak (penghibah, penerima *hibah* dan pemegang amanah) akan menandatangani surat ikatan amanah. Dalam surat tersebut, pelbagai syarat boleh dimasukkan dan dipersetujui oleh kedua-dua pihak termasuklah syarat *umra* dan *ruqba* (Muhamad, 2011). Contohnya seperti *hibah* amanah yang dilaksanakan oleh ASNB.

ASNB menyediakan perkhidmatan *hibah* amanah kepada pemegang unit sahamnya bagi memastikan harta pewarisan dalam ASNB tersebut dapat diagihkan dengan lebih cepat kepada ahli waris. *Hibah* amanah ASNB memerlukan pemegang unit saham untuk berdaftar terlebih dahulu dengan perkhidmatan *hibah* amanah. Sekiranya berlaku kematian, semua baki pelaburan unit amanah di dalam tabung unit amanah yang dihibahkan oleh pemberi *hibah* akan dipindah milik kepada penerima *hibah*, tertakluk kepada terma-terma dan syarat-syarat di dalam Surat Iktan *Hibah* Amanah. Dengan itu, segala urusan pentadbiran harta pusaka yang melibatkan unit amanah di ASNB dapat dilaksanakan dengan lebih cepat dan tidak perlu melalui proses pentadbiran harta pusaka yang rumit dan panjang. Walau bagaimanapun, ASNB akan mengenakan yuran bagi perkhidmatan *hibah* amanah mengikut jumlah pelaburan yang dimiliki mengikut kadar yang telah ditetapkan (www.asnb.com.my, 2015).

Pengurusan Harta Dan Persediaan Ke Arah Pencen Hakiki

Berdasarkan perbincangan di atas, seseorang individu perlu merancang dan menguruskan hartanya dengan baik bagi mengelakkan permasalahan yang mungkin timbul di kemudian hari. Persediaan awal untuk menghadapi kemungkinan-kemungkinan tersebut adalah amat perlu dan amat dituntut kerana hanya Allah SWT sahaja yang mengetahui apa yang akan berlaku di masa hadapan.

Maksud Pencen Hakiki

Pencen hakiki yang dimaksudkan adalah sebuah kematian yang akan dilalui oleh setiap manusia. Kematian sering kali dianggap sebagai penamat kepada sebuah kehidupan bagi seorang manusia. Hakikatnya kematian adalah satu perpindahan dari kehidupan di dunia kepada kehidupan di akhirat yang kekal abadi tanpa penghujung. Dalam al-Quran Allah SWT mengingatkan manusia bahawa dunia ini hanya persinggahan untuk menuju ke alam akhirat yang kekal dan setiap yang bernyawa pasti akan mati. Ini jelas melalui firman-firman Allah SWT yang bermaksud:

“Tiap-tiap yang berjiwa akan merasakan mati. Dan sesungguhnya pada hari kiamat sahajalah disempurnakan pahalamu. Barangsiapa dijauhkan dari neraka dan dimasukkan ke dalam surga, maka sungguh ia telah beruntung. Kehidupan dunia itu tidak lain hanyalah kesenangan yang memperdayakan”.

(Ali Imran: 185)

“Dan belanjakanlah sebahagian dari apa yang telah Kami berikan kepadamu sebelum datang kematian kepada salah seorang di antara kamu; lalu ia berkata: “Ya Tuhanku, mengapa Engkau tidak menangguhkan (kematian) ku sampai waktu yang dekat, yang menyebabkan aku dapat bersedekah dan aku termasuk orang-orang yang saleh?” Dan Allah sekali-kali tidak akan menangguhkan (kematian) seseorang apabila datang waktu kematiannya. Dan Allah Maha Mengetahui apa yang kamu kerjakan”.

(al-Munafiqun: 10-11)

Daripada firman Allah SWT di atas jelas membuktikan bahawa kematian dan kehidupan kekal di alam akhirat itu adalah suatu yang benar dan tidak dapat lagi dinafikan. Konsep kematian dan kehidupan di akhirat sebenarnya jelas menunjukkan satu bentuk perancangan yang harus dilakukan oleh semua umat manusia di atas muka bumi ini. Ini kerana alam dunia yang dihuni adalah tempat di mana seseorang itu merancang dan menguruskan diri sebagai bekalan akhirat yang kekal abadi (Muhamad Husni Hasbulah, 2015). Oleh itu, sebagai seorang mukmin persediaan untuk menghadapi kematian dan kehidupan semula di akhirat perlu diuruskan dengan baik. Sabda Rasulullah SAW yang bermaksud:

“Orang yang paling bijaksana dalam kalangan kamu ialah orang yang bermuhasabah diri dan menyediakan bekalan amal soleh sebelum menghadapi kematian, manakala orang yang tidak bijaksana ialah orang yang terpedaya dengan pujukan hawa nafsu dan sentiasa berangan-angan kosong terhadap Allah SWT (mengharapkan ganjaran Allah tanpa berusaha)”.

(HR al-Tirmizi & Ibn Majah)

Sehubungan itu perlu difahami bentuk-bentuk persediaan yang boleh dilakukan oleh setiap individu untuk menghadapi pencen hakiki. Kebahagiaan dunia dan akhirat dapat dikecapi dengan menjaga lima perkara utama iaitu hidup sebelum mati, sihat sebelum sakit lapang sebelum sibuk, muda sebelum tua dan kaya sebelum miskin (Rasid, 2012). Ini adalah berdasarkan sabda Rasulullah SAW yang bermaksud:

“Rebutlah kesempatan lima perkara sebelum datang lima perkara iaitu hidupmu sebelum matimu, sihatmu sebelum sakitmu, waktu lapangmu sebelum sibukmu, masa mudamu sebelum waktu tuamu dan masa kayamu sebelum masa fakirmu”.

(HR al-Baihaqi)

Setiap individu haruslah mempunyai perancangan dalam apa jua tindakan di dunia ini kerana ia akan dipersoalkan kembali di akhirat kelak (Muhamad Husni Hasbulah, 2015). Dalam konteks perbincangan kertas kerja ini, perancangan harta perlu dilakukan untuk memastikan harta sentiasa beredar dalam pelbagai sektor sehingga memungkinkan pengembangan harta dan penggunaannya secara meluas dan menyeluruh (Daud M. H., 2015).

Oleh itu, dengan wujudnya pelbagai bentuk instrumen dalam Islam seperti wakaf, *hibah*, wasiat dan amanah yang mempunyai prinsip tertentu yang harus diikuti berlandaskan hukum syarak sudah pasti mampu memenuhi impian dan hasrat pemilik harta terhadap harta yang dimilikinya.

Isu-Isu Berkaitan Pengurusan Harta

i. Harta Faraid Beku

Menurut statistik sebahagian besar daripada harta umat Islam bernilai RM60 bilion yang tidak dituntut di negara ini sejak merdeka, harta tersebut berada dalam bentuk hartanah dan wang. Masalah ini berpunca daripada beberapa faktor termasuk kejahilan waris mengenai prosedur perlu diikuti, selain sikap waris yang tidak menghiraukan aspek wasiat. Sikap ambil mudah menanggukkan permohonan pembahagian harta pusaka adalah antara faktor penyebab kira-kira RM60 bilion jumlah harta tidak dituntut oleh waris si mati sejak Malaysia mencapai kemerdekaan (Aziz, 2016). Penemuan fakta ini sebenarnya telah membuktikan bahawa terdapat terlalu banyak harta terutamanya tanah-tanah yang pemiliknya telah lama meninggal dunia dibiarkan tanpa sebarang tindakan penurunan hak milik kepada waris-waris yang sah, sehinggalah ada kalanya waris-waris sendiri tidak mengetahui tentang kewujudan harta terbabit. Fenomena kegagalan penyelesaian harta pusaka yang berlaku ini antaranya berpunca daripada sikap masyarakat yang sering beranggapan bahawa perancangan awal pengagihan harta adalah tidak diperlukan sama sekali memandangkan ia boleh diagihkan mengikut hukum *faraid* selepas kematian seseorang. Ini terbukti dengan kenyataan oleh Pengerusi Amanah Raya, Datuk Dusuki Ahmad, yang menegaskan bahawa tanggapan sebahagian besar orang Islam bahawa pengurusan harta boleh diselesaikan melalui hukum *faraid* adalah antara punca utama berlakunya kelewatan pembahagian harta pusaka (Yaakub, 2015).

ii. Salah Faham Konsep Faraid dalam Kalangan Waris

Pembahagian harta secara *faraid* sebenarnya tidak perlu ditafsirkan dengan terlalu rigid dan mengekang matlamat keadilan dalam pembahagian harta. Walau bagaimanapun, masyarakat Melayu sendiri telah menyempitkan pemakaian hukum pembahagian harta secara *faraid* sehingga mengakibatkan pelaksanaannya menjadi tidak praktikal. Hakikatnya, jelas bahawa masyarakat masih kurang memahami tentang konsep pembahagian harta secara *faraid*. Pembahagian hak kepada waris-waris yang berhak melalui pemahaman hukum ini secara literal telah menjurus kepada masalah pemecahan tanah pusaka kepada bahagian-bahagian yang kecil sehingga menjadikannya kurang bernilai serta tidak mempunyai potensi untuk dibangunkan. Pembahagian menurut hukum *faraid* sebenarnya adalah semata-mata untuk menentukan habuan dan hak seseorang ahli waris dan bukannya satu perintah untuk pembahagian tanah sehingga menyebabkan pemecahan harta pusaka secara fizikal. Malah penentuan dalam pembahagian yang ditetapkan dalam hukum *faraid* tersebut tidak menyatakan bahawa harta pusaka itu perlu dibahagikan satu persatu antara kesemua ahli-ahli waris mengikut bahagian masing-masing (Yaakub, 2015).

iii. Perebutan Harta

Pertikaian atau perebutan harta dalam kalangan keluarga atau waris terhadap harta pusaka si mati menyumbang kepada faktor urusan pembahagian pusaka tergendala. Pertelingkahan dan pertikaian yang berlaku sebelum kematian lagi dan berlanjutan menyebabkan ada waris-waris yang enggan bekerjasama dan tidak boleh langsung bertemu muka. Maka pengurusan dan

pembahagian harta tidak dapat diselesaikan. Begitu juga terdapat waris yang bimbang harta pusaka berpindah milik kepada waris yang lain, sekiranya mereka mempercepatkan proses pengurusan dan pembahagian harta pusaka si mati. Sebagai contoh, tanah pusaka yang di tinggalkan oleh mati, ini kerana terdapat waris-waris yang menduduki tanah tersebut membiarkan terus kekal atas nama si mati (Ibrahim, 2016).

iv. Salah Faham Konsep Wasiat

Walaupun wasiat telah lama berakar umbi dalam masyarakat Islam di Malaysia, namun masih terdapat kekaburan dalam kalangan umat Islam tentang pelaksanaannya. Dalam banyak keadaan, mereka memahami wasiat sebagaimana wasiat orang bukan Islam yang boleh berwasiat kepada waris dan tanpa had. Ketidakhahaman ini sudah tentu merumitkan urusan pengendalian harta pusaka mereka apabila mereka telah meninggal dunia. Hal ini berlaku mungkin kerana di Malaysia (kecuali Selangor, Melaka dan Negeri Sembilan) belum terdapat undang-undang yang khusus berkaitan dengan wasiat. Antara perkara yang menjadi salah faham dalam kalangan umat Islam di Malaysia semasa melakukan amalan wasiat adalah seperti berikut:

- a. Masalah wasiat melebihi kadar 1/3 daripada harta pewasiat.
- b. Masalah penangguhan dalam penyerahan harta wasiat dengan meletakkan syarat yang tidak menepati hukum syarak.
- c. Masalah wasiat kepada waris.
- d. Masalah pemberian pada masa *marad al-mawt*.
- e. Masalah penamaan (Muda, 2008).

Hibah Sebagai Instrumen Pengurusan Harta Ke Arah Pencen Hakiki

Instrumen Perancangan Harta

Hibah merupakan salah satu instrumen penting dalam pengurusan dan perancangan harta pusaka. Sekiranya *hibah* ini diuruskan dengan teratur dan menepati kehendak syarak, maka nasib kaum kerabat terdekat yang memerlukan bantuan akan terbela. Selain itu *hibah* juga boleh dijadikan sebagai proses perancangan awal harta seseorang untuk tujuan kebaikan, memupuk kasih sayang dan mencegah permusuhan. Melalui pelaksanaan *hibah* ini juga dapat mengurangkan harta yang tidak dituntut oleh waris atau harta beku, harta si mati dapat diagihkan dengan sebaik-baiknya kepada waris yang berhak. *Hibah* juga boleh digunakan ke atas anak angkat, anak susuan, bapa angkat, ibu angkat dan sebagainya yang mempunyai hubungan kasih sayang yang rapat tapi tidak berhak mendapat harta pusaka (Muda, 2008). Justeru itu, transaksi *hibah* ini dapat membantu mempercepatkan proses pembahagian harta baik semasa hidup atau selepas kematian. Sekali gus ianya boleh mengelakkan kelewatan atau penangguhan pembahagian harta pusaka kepada waris atau orang yang dikehendaki menerima harta (Marziana binti Abd Malib, 2015).

Instrumen Agihan Harta Secara Holistik

Hibah merupakan satu alternatif pengurusan harta yang membawa tujuan atau maksud yang sama dengan bentuk-bentuk sistem pewarisan harta yang lain iaitu pengagihan harta kekayaan secara adil dan boleh memupuk kasih sayang serta mencegah permusuhan. Dalam hal ini bagi memastikan agihan harta seseorang itu dapat diagihkan secara menyeluruh, maka minda masyarakat yang selama ini hanya menggunakan mekanisme pembahagian harta pusaka secara konvensional perlu diubah kepada konsep yang menggunakan pendekatan ‘pemberian semasa hidup’ seperti *hibah*. Antaranya ialah:

i. Harta Dapat di Agihkan Kepada Ahli Waris dan Bukan Ahli Waris

Pemberian *hibah* tidak dihadkan kepada sekumpulan orang tertentu sahaja sebagaimana yang terdapat di dalam sistem *faraid* yang memberikan hak hanya kepada ahli waris. *Hibah* juga tidak pula mengecualikan sekumpulan orang yang lain bagi mendapatkan haknya seperti mana dalam wasiat yang mengecualikan waris sebagai penerima wasiat. Oleh itu dengan pelaksanaan *hibah* ini, pemilik harta bebas untuk memberi hartanya kepada sesiapa sahaja yang disayanginya ketika masih hidup, seperti pemberian yang dibuat kepada waris. Ini kerana menurut Islam, tidak wujud halangan untuk membolehkan *hibah* dibuat kepada waris sendiri. Begitu juga *hibah* boleh diberikan kepada bukan waris, keadaan ini memberi ruang kepada pasangan yang mempunyai anak angkat bagi memperuntukkan harta mereka kepada anak yang berkenaan. Selain itu, *hibah* juga boleh diberikan kepada seseorang yang bukan beragama Islam. Sebagai contohnya, bagi orang yang baru memeluk Islam, mereka mungkin masih mahu mempunyai hubungan yang rapat dengan keluarga mereka walaupun keluarga tersebut bukannya beragama Islam. Perbezaan agama antara waris dengan pewaris merupakan salah satu daripada halangan pewarisan dan mereka tidak boleh saling mewarisi. Sebagaimana sabda Rasulullah SAW yang bermaksud:

“Orang Islam tidak boleh mewarisi (harta) orang kafir dan orang kafir tidak boleh mewarisi (harta) orang Islam”.

(HR al-Tirmidhi)

Oleh yang demikian, wujud keperluan kepada satu penyelesaian untuk membolehkan seseorang yang baru memeluk Islam untuk membolehkan mereka memberikan harta mereka kepada keluarga terutamanya ibu bapa yang telah banyak berjasa sebagai menghargai pengorbanan sekurang-kurangnya melahirkan dan membesarkan mereka walaupun berlainan agama (Ahmad R. A., 2013).

ii. Tiada Kadar Yang dihadkan

Bagi sistem *faraid* pemberian harta kepada waris hendaklah mengikut kadar-kadar tertentu sebagaimana yang telah disebutkan dalam al-Quran, surah al-Nisa’ ayat 11, 12 dan 176. Manakala bagi harta yang hendak diwasiatkan tidak boleh melebihi sepertiga (1/3) sahaja daripada harta pusaka bersih (Jaafar, 2015). Akan tetapi dengan pelaksanaan *hibah*, tiada had

jumlah yang perlu dipatuhi seseorang dalam pemberian *hibah*. Pemberian secara *hibah* kepada anak perempuan ada kewajarannya, demi untuk memastikan kelangsungan harta yang diwarisi terus dapat dipertahankan dan dimanfaatkan (Marziana binti Abd Malib, 2015).

Instrumen Penyelesaian Masalah Berkaitan Harta Pusaka

Pelaksanaan *hibah*, dapat membantu mempercepat proses pembahagian harta sama ada semasa hidup atau selepas berlaku kematian. Kesukaran melalui proses permohonan pentadbiran penyelesaian harta pusaka akan melambatkan proses pembahagian harta si mati.

i. Proses Pengagihan Harta Melalui Hibah Lebih Mudah

Harta pusaka orang Islam terdiri daripada dua aspek, iaitu pentadbiran dan pengagihan. Ramai yang memikirkan bahawa mereka tidak perlu merancang harta pusaka kerana sudah ada hukum *faraid*, namun mereka tidak menyedari bahawa selepas seseorang meninggal dunia, waris terpaksa melalui kepayahan terhadap proses pentadbiran sebelum harta boleh diagihkan mengikut *faraid* (Jaafar, 2015). Justeru itu, bagi memastikan kelancaran proses pengurusan dan pembahagian harta dapat dilaksanakan, kaedah pelaksanaan *hibah* ini bukan sahaja dikatakan dapat menjamin penurunan hak milik harta kepada waris mengikut kehendak pemberi *hibah*, malah akan mengurangkan jumlah kes harta pusaka di seluruh negara. Ini adalah kerana pengagihan harta melalui kaedah *hibah* tidak perlu melalui proses pentadbiran yang rumit seperti mana yang perlu dilalui dalam pembahagian secara *faraid* yang dikatakan kurang berkesan dan kadangkala boleh menimbulkan ketidakadilan.

ii. Harta Dapat diagihkan Kepada yang Berhak dan Bertanggungjawab

Pengurusan dan perancangan harta perlu dibuat semasa hidup pemilik harta. Ini kerana pemilik harta lebih mengetahui kepada siapa harta itu layak diberikan atau mungkin kepada pihak yang lebih diyakini untuk menjaga dan memanfaatkan harta tersebut. Ini adalah kerana pembahagian harta pusaka sebenarnya tidak boleh dianggap selesai sekiranya bahagian yang diperoleh setiap waris tidak dapat dimanfaatkan atau memberi apa-apa faedah kepada penerima. Melalui pendekatan *hibah* ini, pemilik harta boleh menentukan sendiri kepada siapa hartanya akan diberikan dan sejumlah mana hendak diagihkan dengan mengambil kira kesesuaiannya dari segi kedudukan ekonomi dan keperluan semasa waris-warisnya. Ini kerana keperluan seseorang individu daripada individu yang lain kebiasaannya adalah berbeza. Oleh itu, menghibah sebahagian harta yang lebih besar kemungkinan boleh dibuat kepada seseorang anak perempuan ataupun anak lelaki berbanding pemberian kepada seseorang anak lelaki lain, yang lebih berharta dan berkeupayaan. Begitu juga kadangkala, anak perempuan lebih banyak menunaikan tanggungjawab dan lebih banyak berjasa kepada ibu bapa dan keluarga berbanding dengan anak lelaki. Melalui pelaksanaan *hibah* ini, seseorang ibu bapa berhak memberikan bahagian harta yang lebih banyak kepada mereka yang lebih banyak memberi sumbangan (Ahmad R. A., 2013).

KESIMPULAN

Perancangan dan pengurusan harta semasa hidup seperti melalui sistem faraidh, *hibah*, wasiat, wakaf dan sebagainya sedikit sebanyak dapat membantu menyelesaikan permasalahan yang berlaku dalam kalangan umat Islam berkaitan dengan perancangan harta. Ini kerana kebanyakan umat Islam masih lagi ketinggalan dalam urusan perancangan harta. Adalah penting bagi seseorang yang mempunyai harta untuk merancang pembahagian harta mereka ketika masih hidup lagi. Ianya bertujuan untuk memastikan segala urusan perancangan harta berjalan dengan lancar. Kegagalan merancang dan menguruskan harta, boleh mengakibatkan pelbagai masalah dan kesulitan timbul dalam kalangan waris, bukan sahaja boleh meretakan hubungan silaturahim sesama waris, malah harta si mati juga terbiar tanpa dimanfaatkan oleh waris. Bahkan tanpa penyelesaian yang komprehensif, ianya boleh menyebabkan isu tersebut terus berpanjangan dan membelenggu pengurusan dan pentadbiran harta orang Islam di Malaysia. Justeru dengan menjadikan faraidh dan *hibah* sebagai persediaan ke arah pencen hakiki ini, dapat membantu dalam membangunkan ekonomi umat Islam, merapatkan ikatan persaudaraan dan pertalian kasih sayang sesama insan, selain dapat mengelak dari berlakunya masalah-masalah berbangkit di kemudian hari.

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**BP004:
PEMBUDAYAAN FILANTROFI DI ERA PEMERINTAHAN KHALIFAH
UMAR BIN ABD AL-AZIZ (99-101 H): SATU ANALISA**

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Abstrak

Filantropi ialah satu konsep yang digunakan secara meluas untuk menggambarkan pemberian wang sama ada dari seseorang individu, yayasan-yayasan, syarikat-syarikat, dan juga organisasi bukan berasaskan keuntungan. Konsep ini berkait rapat dengan sifat kedermawanan seperti yang dianjurkan dalam ajaran Islam iaitu zakat, sedekah, wakaf, hibah dan sebagainya. Sifat kedermawanan ini perlu dibudayakan dalam kalangan masyarakat Islam khususnya dalam sebuah pemerintahan kerana ianya amat bertepatan dengan maqasid syariah dan agenda pembangunan ummah. Sejarah mencatatkan pemerintahan Khalifah Umar Abd al-Aziz adalah antara pemerintahan yang cemerlang dari sudut pembangunan ummah, urus tadbir, ekonomi, infrastruktur dan sebagainya. Kertas kerja ini bertujuan untuk melihat elemen-elemen filantropi yang dibudayakan dalam pemerintahan beliau dan sejauh mana pembudayaan tersebut mampu mewujudkan keamanan dan keharmonian dalam pemerintahan yang diterajui. Metode historis (pensejarahan) dan metode analisis data yang bersifat kualitatif (kajian tekstual) digunakan dalam kajian ini bagi memperolehi fakta dan maklumat yang tepat berkaitan pembudayaan filantropi di era pemerintahan Khalifah Umar Abd al-Aziz. Secara umumnya kajian ini mendapati bahawa Khalifah Umar Abd al-Aziz telah membudayakan filantropi dalam pemerintahan yang diterajui beliau dan kesan daripada pembudayaan tersebut beliau berjaya mewujudkan sebuah pemerintahan yang adil, aman, dan harmoni.

Kata Kunci: Pembudayaan, Filantropi Islam, Khalifah Umar Abd al-Aziz.

PENDAHULUAN

Filantropi atau sifat kedermawanan yang menitik beratkan soal kebajikan merupakan aspek penting dalam membangunkan ekonomi dan sosial masyarakat. Sehubungan itu elemen-elemen filantropi perlu dibudayakan dalam kehidupan masyarakat sama ada di pihak pemerintah mahupun di pihak rakyat. Ini penting bagi memastikan kelangsungan baik sesebuah pemerintahan dan dalam masa yang sama kesejahteraan rakyat menjadi keutamaan. Hal inilah yang telah ditonjolkan oleh Khalifah Umar Abd al-Aziz sehingga sejarah mencatatkan pemerintahan beliau sebagai pemerintahan yang paling cemerlang di era Bani Umayyah. Justeru kertas kerja ini akan menganalisa elemen-elemen filantropi yang telah dibudayakan di era Khalifah Umar Abd al-Aziz semasa pemerintahan beliau.

Konsep Filantropi Islam

Berasal dari perkataan Greek, *philos* bermaksud *love*, cinta atau sayang dan *anthropos* bermaksud *man* atau manusia. Manakala filantropi pula bermaksud *for the love of mankind* atau demi rasa cinta atau sayang sesama manusia. Akibat daripada rasa sayang inilah, kita terdorong untuk menghulurkan bantuan, baik dalam bentuk material mahupun bukan material, kepada mereka yang memerlukan atau untuk sesuatu tujuan yang mendatangkan manfaat kepada manusia sejagat (Norajila Che Man, 2014).

Dalam kata lain, filantropi bermaksud kedermawanan dalam erti yang luas. Ia bukan hanya melibatkan pemberian wang ringgit dan barang-barang keperluan, tetapi juga memberikan masa dan tenaga. Tujuannya pula bukanlah hanya untuk membantu mereka yang memerlukan, tetapi juga untuk tujuan-tujuan lain yang boleh mendatangkan kebaikan kepada semua manusia (Norajila Che Man, 2014).

Filantropi mempunyai tiga ciri utama. Pertama, keprihatinan terhadap kesejahteraan orang lain, termasuklah kesejahteraan makhluk lain seperti haiwan dan alam sekitar. Kedua, keprihatinan itu khususnya kepada mereka yang berada di dalam kesusahan. Ketiga, bantuan secara sukarela adalah tanpa mengharapkan apa-apa balasan (Siti Fatimah Abd Rahman).

Selain itu filantropi dalam Islam terbahagi kepada dua iaitu secara wajib dan sukarela. Filantropi dalam bentuk wajib adalah zakat, sementara yang dikategorikan sebagai sukarela adalah sedekah umum. Dalam Al-Quran terdapat beberapa istilah lain yang merujuk kepada sifat kedermawanan. Ia diungkap di banyak tempat dengan pelbagai istilah. Antara istilah yang digunakan adalah infak, sedekah, wakaf, khairat, korban, ihsan, takaful, wasiat, jihad dan *taawun* (Hasan Bahrom, 2013).

Filantropi Islam ini sama ada secara wajib atau sukarela merupakan satu pendekatan semula supaya hasil kekayaan itu dapat diedarkan bukan sahaja kepada orang miskin tetapi juga kepada masyarakat keseluruhannya. Melalui pemberian tersebut, jurang kekayaan dalam kalangan masyarakat boleh dikurangkan atau dihapuskan (Azliza Azrah Mohd Zakaria, 2013).

Asas ideologi filantropi Islam ini berkait rapat dengan hubungan antara individu dan masyarakat (*hablu min al-nas*) dan hubungan antara individu dan Allah SWT (*hablu min Allah*). Oleh itu manusia dihubungkan antara satu sama lain melalui kewajipan kepada Allah SWT. Satu perbuatan amal tidak hanya merangkumi perbuatan iman atau perbuatan masyarakat tetapi ia adalah pembinaan masyarakat melalui iman dan iman adalah terbina melalui penghayatan masyarakat (Mariz Tadros, 2012).

Biodata Khalifah Umar Bin Abd Al-Aziz

Umar bin Abd al- Aziz bin Marwan bin al-Hakam bin Abi Al-As bin Ummu Asim bin Umar Ibn al-Khattab telah dilahirkan di Madinah pada tahun 63H. Ada juga pendapat lain yang menyebut bahawa kelahiran beliau adalah pada tahun 59H, 61H dan 62H. Selain itu ada juga pendapat yang mengatakan beliau dilahirkan di Hilwan ketika ayahandanya menjadi gabenor di Mesir pada masa pemerintahan Abd al-Malik bin Marwan. Nasab keturunan beliau bersambung dengan Khalifah Umar Al-Khattab, khalifah Islam yang kedua di sebelah pihak ibunya iaitu Umm Asim binti Asim bin Umar bin Al-Khattab (Ibn Kathir, 1997).

Proses pendidikan yang dilalui oleh Khalifah Umar bin Abd al-Aziz berlangsung di Madinah semenjak beliau kecil lagi. Menurut laporan sejarawan, walaupun bapanya salah seorang gabenor dalam pemerintahan Bani Umayyah di Egypt (Mesir) dari tahun 65-85H /684-704M, namun Khalifah Umar hanya berada di Mesir dalam tempoh yang singkat. Ini kerana ayahnya telah pun menghantar beliau ke Madinah bagi memperoleh pendidikan yang baik. Selain itu ia bertujuan agar beliau dibesarkan dalam suasana keluarga sahabat. Ini kerana majoriti keluarga keturunan Umar al-Khattab berada di Madinah (al-Dhahabi, 1990).

Di Madinah beliau memperolehi didikan pengetahuan dan moral dari tokoh-tokoh ulama Madinah. Pada masa itu, sememangnya Madinah terkenal dengan munculnya tokoh-tokoh ulama yang terkemuka dalam pelbagai disiplin ilmu seperti fiqh, hadis, dan lain-lain. Kemudiannya, Umar telah dilantik menjadi khalifah pada bulan Safar tahun 99H selepas kewafatan Khalifah Sulaiman. Keperibadian dan sifat kepimpinan yang dimiliki oleh Umar menyebabkan beliau dipilih oleh Sulaiman (al-Suyuti, 1959).

Pemerintahan Khalifah Umar bin Abd al-Aziz berakhir dalam tempoh selama dua tahun lima bulan sahaja berikutan kematian beliau pada 25 Rejab, hari khamis bersamaan 101H di Dir Sam'an. Usianya ketika itu tiga puluh sembilan tahun enam bulan. Menurut Al-Suyuti dan Ibn Kathir, kematian Khalifah Umar bin Abd al- Aziz adalah akibat diracun oleh kalangan ahli keluarga Bani Umayyah yang kurang berpuas hati dengan tindakan beliau (al-Suyuti, 1959).

Budaya Filantropi di Era Pemerintahan Khalifah Umar Bin Abd Al-Aziz

Pemerintahan Khalifah Umar bin Abd al-Aziz sebagai Khalifah Bani Umayyah yang kelapan telah bermula pada tahun 99H dan berakhir pada tahun 101H. Walaupun tempoh pemerintahannya singkat iaitu dua tahun lima bulan, namun pemerintahan beliau merupakan pemerintahan terbaik pada zaman Bani Umayyah (Norafifah, 2010).

Jawatan sebagai Khalifah Bani Umayyah telah diterima oleh Khalifah Umar bin Ab al-Aziz dengan penuh rasa amanah dan tanggungjawab. Walaupun Khalifah Umar hidup dalam serba kemewahan sebelum beliau menjawat jawatan khalifah, tetapi selepas beliau menaiki takhta kerajaan Bani Umayyah, segala kehidupannya yang terdahulu telah ditinggalkannya. Beliau telah

berubah menjadi seorang khalifah yang zuhud dan tidak sukakan kepada kemewahan kerana rasa tanggungjawab yang tinggi terhadap kebajikan rakyat (Norafifah, 2010).

Ini menunjukkan bahawa Khalifah Umar, walaupun beliau merupakan seorang khalifah yang memerintah sebuah negara yang kaya pada ketika itu, tetapi beliau hidup dalam keadaan sederhana dan tidak menyalahgunakan harta milik rakyat untuk kepentingan diri dan keluarganya. Kesejahteraan rakyat menjadi tumpuan utama pemerintahan beliau. Bagi menjamin kesejahteraan rakyat pelbagai pembaharuan telah beliau usahakan (Norafifah, 2010). Pembudayaan filantropi di era pemerintahan beliau dapat dilihat dari pelbagai aspek seperti berikut:

i. Aspek Pentadbiran

Budaya filantropi dalam pentadbiran Khalifah Umar dapat dilihat melalui tindakan beliau yang pertama sebaik sahaja beliau menjawat jawatan khalifah iaitu beliau telah menolak untuk menggunakan kenderaan khalifah yang layak untuknya dengan alasan bahawa kenderaan tersebut lebih bercirikan kemegahan dan beliau beranggapan bahawa kenderaan persendirian lebih terhormat untuknya. Malahan beliau meminta agar kenderaan tersebut dijual dan hasil jualannya dimasukkan ke dalam baitulmal (al-Suyuti, 1959).

Selain itu, beliau turut menolak untuk tinggal di kediaman khas yang telah disediakan untuk khalifah (Kathir, 1997) (al-Dhahabi, 1990). Perhiasan milik isterinya juga turut dimasukkan ke dalam baitulmal atas persetujuan isterinya. Beliau juga meminta penasihatnya Muzahim membacakan senarai daftar nama semua tanah yang diambil oleh keluarga Bani Umayyah dan beliau memerintahkan agar dikembalikan kepada baitulmal tanpa mengira siapa yang memberi atau menerimanya (Hakam, 1967).

Tambahan lagi, beliau telah memberi biaya perjalanan dan biaya makan bagi orang yang melaporkan kezaliman kepada beliau. Ini bertujuan untuk menggalakkan rakyat membuat aduan dan laporan atas masalah yang dihadapi. Bukan itu sahaja beliau juga telah memberi sebanyak lima ratus ekor kuda kepada pasukan tentera Islam. Hal-hal kebajikan pasukan tentera juga tidak diabaikan. Makanan dan ubat-ubatan yang secukupnya telah pun diberikan kepada pasukan tentera Islam. Ini jelas menunjukkan bahawa Khalifah Umar amat mengutamakan kesejahteraan rakyat dengan membudayakan Filantropi dalam kehidupan beliau sebagai seorang pemerintah (Hakam, 1967).

ii. Aspek Ekonomi

Dalam konteks ekonomi Khalifah Umar telah menghapuskan cukai yang tidak sepatutnya dikenakan seperti cukai *jizyah* yang dikenakan kepada orang-orang Islam bukan Arab. Sedangkan cukai *jizyah* hanyalah dikenakan kepada mereka yang tidak beragama Islam sahaja. Walaupun beliau telah menghapuskan beberapa cukai yang dilihat boleh memberi kesan negatif

kepada ekonomi negara, tetapi hakikat yang berlaku Umar berjaya menyelesaikan masalah ekonomi negara (Norafifah, 2010).

Pada masa pemerintahan khalifah-khalifah sebelum beliau, terdapat rakyat yang hidup dalam kemiskinan dan dibebani dengan pelbagai tanggungan cukai sehingga dinyatakan bahawa para petani terpaksa menjual segala ternakan mereka kerana tekanan untuk menjelaskan cukai (al-Salabi, 2006). Namun Umar berjaya menyelesaikan masalah ekonomi dengan melaksanakan dasar ekonomi baru dengan menekankan elemen-elemen filantropi.

Antaranya, beliau telah mengenakan cukai tanah (*kharaj*) ke atas tanah-tanah yang diperolehi melalui penaklukan dan tanah-tanah tersebut menjadi hak milik orang-orang Islam dan hasil tanamannya dikenakan cukai oleh kerajaan. Tanah-tanah *kharaj* ini tidak boleh dijual atau diagihkan kepada sesiapa pun sama ada dalam bentuk hadiah atau kurnia (Farrukh, 1972). Seterusnya beliau telah membezakan antara cukai *jizyah* dan *kharaj*. Pada zaman ‘Abd al-Malik dan al-Walid, cukai-cukai ini tidak dibezakan di mana orang yang dikenakan *jizyah* tidak dikenakan *kharaj* tetapi pada zaman ‘Umar, *jizyah* dikenakan kepada orang bukan Islam sahaja, manakala *kharaj* pula dikenakan kepada sesiapa yang memiliki tanah, sama ada yang beragama Islam ataupun tidak (al-Salabi, 2006).

Selain itu beliau turut mengharamkan tenaga buruh paksa yang tidak diberikan gaji. Beliau juga telah mengurangkan gaji beliau sebagai khalifah dan melebihi gaji pegawainya. Ini bertujuan agar pegawainya hidup senang dan dapat menghindarkan para pegawai daripada melakukan pengkhianatan (Hakam, 1967). Selain itu harta-harta rampasan juga tidak diambil oleh beliau untuk kegunaan peribadi (al-Salabi, 2006).

Tanah-tanah perumputan dan kawasan simpanan binatang buruan yang dihaskan kepada kerabat diraja atau orang kenamaan juga telah dibahagi-bahagikan kepada petani-petani yang tidak mempunyai tanah dan dijadikan harta awam. Beliau menggalakkan rakyat mengusahakan tanah-tanah yang terbiar dan pihak pemerintah tidak akan mengambil hasil tersebut melainkan cukai *kharaj*. Manakala zakat sepersepuluh daripada hasil bumi (*‘Usyur*) hanya dipungut daripada mereka yang memiliki hasil dari bumi seperti berladang (Hakam, 1967). Pendekatan yang diambil Khalifah Umar dengan menekankan elemen-elemen filantropi ini telah berjaya mengatasi masalah ekonomi rakyat yang dihadapi pada ketika itu.

iii. Aspek Keagamaan dan Sosial

Dalam konteks keagamaan, Khalifah Umar amat menggalakkan rakyatnya melakukan amalan bersedekah dan berdoa serta berzikir memuji Allah SWT. Selain itu kebajikan sosial juga tidak diabaikan. Khalifah Umar telah memberi perhatian serius terhadap golongan kurang upaya. Hamba-hamba yang diperolehi melalui perang dipertanggungjawabkan menjaga dan membantu golongan yang lumpuh dan menghidap penyakit bagi memastikan kehidupan harian mereka

berjalan sempurna. Demikian juga bagi golongan yang cacat penglihatan, mereka diberikan pembimbing dari kalangan hamba-hamba tersebut (Hakam, 1967).

Selain itu kebajikan anak-anak yatim dan masalah rakyat juga turut diberi perhatian (al-Makky, 2002). Ini dapat dilihat dari kisah Fartunah al-Sauda, hamba dari Mesir yang telah mengirimkan surat kepada beliau dengan mengadu hal bahawa tembok rumahnya rendah sehingga boleh dimasuki penjajah. Lalu Khalifah Umar terus bertindak dengan mengarahkan Ayyub bin Syurahbil (pegawai di Mesir) membaiki kelemahan tembok tersebut bagi menjamin keselamatan kediaman rakyatnya (al-Makky, 2002).

Budaya filantropi Khalifah Umar di era pemerintahan beliau jelas dapat dilihat terhadap sikap beliau yang mengutamakan keperluan dan kebajikan rakyat miskin berbanding hal lain. Ini terbukti apabila beliau pernah tidak bersetuju untuk menukar kelambu Kaabah kerana ingin memperuntukkan wang kepada rakyat miskin (al-Makky, 2002). Bagi beliau masalah kemiskinan rakyat lebih utama untuk diatasi. Oleh itu, bagi rakyat yang kurang berkemampuan dan terpaksa menanggung bebanan hutang untuk keperluan hidup, maka diizinkan kepada mereka untuk memohon wang dari baitulmal. Begitu juga bagi mereka yang telah layak berkahwin tetapi tidak mampu menyediakan mahar mas kahwin, maka dibenarkan mereka memohon bantuan daripada baitulmal (al-Makky, 2002).

iv. Aspek Insfrakstruktur

Dalam konteks kemudahan infrastruktur, jalan-jalan raya dibina untuk kemudahan rakyat. Antaranya ialah pembinaan jalan yang menghubungkan antara Khurasan dengan Makkah untuk memudahkan orang ramai menunaikan ibadah haji (al-Makky, 2002). Kemudian insfrakstruktur turut dibangunkan dengan membina masjid-masjid untuk tujuan ibadah. Keindahan masjid tidak menjadi keutamaan beliau. Bagi Khalifah Umar peranan masjid sebagai tempat ibadah itu jauh lebih penting daripada kecantikan senibinanya (Jawzi, 1984). Selain itu, rumah-rumah tumpangan di wilayah-wilayah untuk persinggahan para musafir juga turut dibina bagi memudahkan urusan pemuafiran (al-Salabi, 2006).

v. Aspek Pendidikan

Di era pemerintahan Khalifah Umar walaupun pembinaan sekolah belum dilakukan namun ia tidak menjadi halangan kepada proses perkembangan ilmu kerana masjid-masjid dijadikan pusat perkembangan ilmu. Justeru, para ulama digesa untuk menyebarkan ilmu secara terang-terangan dalam masjid-masjid di tempat mereka (al-Salabi, 2006). Khalifah Umar sangat mengambil berat dalam soal perkembangan ilmu. Berikutan itu, beliau memperuntukkan perbelanjaan yang banyak untuk program perkembangan ilmu yang berjalan di masjid-masjid. Ini adalah bagi membantu mereka yang bersungguh-sungguh meluangkan masa untuk menuntut ilmu. Selain itu, beliau turut mengutuskan para ulama ke merata-rata tempat bagi mengajarkan ilmu agama kepada masyarakat sehingga Madinah, Hijjaz dan Basrah menjadi pusat kecemerlangan ilmu yang terkenal (al-Salabi, 2006).

Elemen-elemen filantropi seperti infak, sedekah, zakat dan kebajikan jelas telah dibudayakan oleh Khalifah Umar Abd al-Aziz di era pemerintahan beliau. Ciri utama filantropi iaitu keprihatinan terhadap kesejahteraan masyarakat telah menjadi tumpuan dan keutamaan pemerintahan beliau sehingga beliau berjaya mengubah masyarakat ke arah kehidupan yang lebih baik terutamanya dari sudut ekonomi dan sosial masyarakat. Kesannya walaupun pemerintahan beliau hanya berlangsung dalam tempoh yang singkat iaitu dua tahun lima bulan namun dicatatkan pemerintahan beliau adalah yang paling cemerlang di zaman Bani Umayyah.

KESIMPULAN

Justeru, dapat disimpulkan bahawa Khalifah Umar Abdul al-Aziz merupakan seorang khalifah yang amat menekankan aspek kebajikan dan kesejahteraan rakyat dengan menerapkan elemen-elemen filantropi dalam pemerintahan beliau. Ini terbukti dengan tindakan beliau yang telah membuat pembaharuan dalam urusan pentadbiran dan ekonomi bagi mengatasi masalah rakyat pada ketika itu. Keselamatan dan kebajikan rakyat juga sering mendapat perhatian serius daripada beliau. Kemudahan-kemudahan infrastruktur turut disempurnakan demi kemaslahatan rakyat. Inilah yang menonjolkan sifat keadilan beliau di samping memaparkan budaya filantropi dalam pemerintahan beliau.

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BP005:
TANGGUNGJAWAB SOSIAL KORPORAT (CSR): PENELITIAN
MENURUT PERSPEKTIF AL-QURAN

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Abstrak

Konsep tanggungjawab sosial korporat (CSR) mula diperkatakan apabila Henry Ford mengetengahkan idea 'perniagaan adalah perkhidmatan'. Namun masyarakat ketika itu menolak sama sekali idea tersebut dan tetap mempertahankan matlamat utama perniagaan iaitu untuk memperoleh keuntungan maksimum. Hanya beberapa dekad kemudian, barulah idea ini mula bercambah kembali dan semakin hangat diperbincangkan terutamanya dalam dekad kebelakangan ini. Konsep CSR ini menekankan prinsip "doing well by doing good" dalam pelaksanaannya. Dalam Islam, konsep CSR ini bukanlah suatu perkara yang asing kerana Islam sememangnya mengambil berat aspek kebajikan dan keadilan sosial masyarakat. Kertas kerja ini secara umumnya akan membincangkan mengenai konsep CSR menurut perspektif Islam berdasarkan penelitian terhadap ayat-ayat al-Quran yang berkaitan. Bagi mendapat maklumat yang diperlukan, metode content analysis telah digunakan. Metode ini digunakan dalam meneliti ayat-ayat al-Quran yang berkait rapat dengan konsep CSR seperti kewajipan pelaksanaan zakat, galakan membelanjakan harta ke jalan yang benar serta larangan terlibat dalam riba, gharar, maysir dan lain-lain perkara yang diharamkan oleh Allah. Secara umumnya, Islam amat menggalakkan aktiviti-aktiviti bersifat kebajikan yang dapat memberikan manfaat kepada umat manusia. Ini dapat dilihat melalui banyak ayat-ayat al-Quran yang menyuruh manusia berbuat baik sesama manusia di samping membelanjakan harta ke jalan yang haq.

Kata kunci: CSR, perniagaan, keadilan sosial.

PENDAHULUAN

Tanggungjawab sosial korporat (CSR) secara umumnya ialah komitmen sesebuah organisasi untuk beroperasi secara ekonomik dengan mengambil kira keadaan persekitaran sosial di sekeliling mereka. Sesebuah organisasi tidak sepatutnya hanya mementingkan keuntungan semata-mata, namun perlu mengambil kira kepentingan sosial dan kebajikan masyarakat sekeliling. Oleh sebab itu, tanggungjawab sosial korporat ini diberi penekanan oleh kerajaan kepada pihak swasta dalam membantu memastikan kebajikan masyarakat sentiasa terpelihara. CSR merupakan komitmen syarikat-syarikat korporat dalam menyumbang terhadap pembangunan ekonomi dengan memberi perhatian terhadap pekerja, keluarga (pekerja), komuniti tempatan dan masyarakat seluruhnya bagi meningkatkan taraf hidup mereka melalui kaedah yang memberi faedah untuk perniagaan dan juga pembangunan. CSR merangkumi semua

aspek dalam pentadbiran korporat. CSR berkaitan dengan bagaimana syarikat-syarikat mengatur perniagaan melalui cara yang beretika, dengan mengambil kira kesan-kesannya terhadap ekonomi, sosial, alam sekitar dan juga hak asasi manusia (CIPD, 2015). CSR tidak hanya merangkumi pihak berkepentingan yang biasa seperti pemegang saham ataupun pembekal-pembekal tempatan, bahkan turut merangkumi rakan-rakan sosial seperti komuniti tempatan dan tanggungjawab global seperti memelihara alam sekitar dan memastikan standard kerja yang baik bagi pembekal-pembekal luar.

Persoalan mengenai CSR dari perspektif Islam bukan perkara yang baru diperbincangkan. Ia telah lama wujud dan menjadi panduan kepada mereka yang terbabit dalam bidang perniagaan. Ianya bersesuaian dengan matlamat pembangunan dalam Islam yang telah menggariskan beberapa perkara yang turut menjadi agenda utama keperluan tanggungjawab sosial sektor korporat semasa, contohnya seperti pembangunan sumber manusia, penghasilan keluaran berguna, peningkatan mutu hidup dan pembangunan seimbang.

Teori Dan Konsep CSR

CSR boleh difahami sebagai keadaan bertanggungjawab terhadap sesuatu, ataupun kebertanggungjawaban. Ia juga boleh didefinisikan sebagai etika di mana status bagi personaliti dianggap sebagai mampu untuk bertindak balas terhadap tanggungan yang telah ditetapkan oleh undang-undang moral ataupun oleh prinsip-prinsip etika (Blair J. Kolasa, 1972). CSR boleh juga difahami sebagai satu rangka kerja bagi peranan sesebuah institusi korporat dan meletakkan satu standard perlakuan di mana sesebuah syarikat mesti mengambil kira untuk memberi kesan yang positif dan produktif kepada masyarakat (Asyraf Wajdi Dusuki, 2006). Secara mudahnya dapat disimpulkan bahawa, CSR berkait rapat dengan tindakan atau keputusan yang dibuat oleh sesuatu organisasi yang memberikan kesan yang positif dan produktif ke atas kebajikan dan kesejahteraan masyarakat. Sesebuah organisasi korporat perlu memaksimumkan kesan positif dan meminimumkan kesan negatif terhadap masyarakat bagi mewujudkan tanggungjawab sosial dalam organisasi (Norajila Che Man, 2011).

Perbincangan mengenai konsep CSR telah bermula secara serius semenjak tahun 1917 apabila Henry Ford mengemukakan ideanya mengenai perniagaan merupakan perkhidmatan kepada masyarakat. Beliau mengemukakan pandangan tersebut di dalam mahkamah di Michigan semasa mempertahankan keputusannya untuk melabur semula keuntungan terkumpul yang diperoleh oleh syarikatnya, Ford Motor di samping mengurangkan harga kenderaan Model T pada masa itu. Beliau turut menyatakan matlamat syarikatnya itu iaitu “untuk melakukan sebanyak yang mungkin untuk kepentingan orang ramai, untuk memperoleh wang dan menggunakannya, memberikan peluang pekerjaan dan membuat kereta yang boleh digunakan oleh orang ramai.....dan secara tidak langsung untuk mendapatkan pulangan.....perniagaan adalah perkhidmatan dan bukannya bonanza” (Lee, 2008). Namun begitu, pandangan beliau ditentang sepenuhnya bukan sahaja oleh pemegang-pemegang saham, tetapi juga pihak mahkamah yang

akhirnya membenarkan permintaan Dogde bersaudara terhadap pemaksimalan dividen. 80 tahun kemudian, idea ini sekali lagi ditimbulkan oleh waris keturunan Henry Ford iaitu William Clay Ford Jr. apabila beliau memegang tampuk pimpinan syarikat tersebut. Idea ini mendapat sokongan padu dari pelbagai pihak berkepentingan (*stakeholder*) syarikat tersebut dan juga para pemegang sahamnya (Lee, 2008). William Ford Jr. juga tidak menghadapi sebarang masalah berkaitan dengan undang-undang ketika ini jika dibandingkan semasa zaman moyangnya.

Dua situasi ini menunjukkan bahawa konsep CSR telah mengalami dua zaman berbeza dalam pelaksanaannya. Masyarakat umum pada ketika itu melihat CSR sebagai satu konsep yang asing. Dalam tahun 1919, konsep CSR bagi institusi korporat terpisah sepenuhnya daripada prestasi kewangan bagi sesebuah syarikat. Masyarakat secara umumnya melihat syarikat dan firma merupakan organisasi yang mementingkan keuntungan. Oleh itu, secara logiknya tidak menjadi keperluan kepada perusahaan tersebut untuk mengambil berat mengenai kebajikan sosial kerana matlamat utamanya ialah menjalankan aktiviti perniagaan yang boleh mendatangkan keuntungan kepada perusahaan tersebut. Namun situasi ini mula berubah apabila masyarakat mula menerima konsep ini. Konsep CSR ini tidak lagi dianggap sesuatu yang membebankan bahkan pelaksanaannya dalam institusi korporat semakin digalakkan dan disokong oleh pelbagai pihak berkepentingan bagi institusi korporat.

CSR Menurut Perspektif Islam

CSR menurut perspektif Islam lebih menjurus kepada pendekatan kerohanian. Pandangan bersifat rohaninya adalah berteraskan daripada ajaran al-Quran dan al-Sunnah. Idea mengenai tanggungjawab sosial ini terkandung dalam ikatan kerohanian (*religious bond*). Ikatan ini memerlukan setiap individu untuk berserah kepada ketetapan syariah dengan melaksanakan setiap tanggungjawab yang telah ditetapkan dan menjalani kehidupan di muka bumi ini dengan berasaskan kebaikan dan kemurnian akhlak sebagaimana dituntut oleh syariah. Ikatan kerohanian ini menggambarkan komitmen terhadap standard moral dan juga norma-norma sosial dengan berasaskan kepada syariah (Asyraf Wajdi Dusuki, 2008). Ini kerana, dalam Islam matlamat yang ingin dicapai bukan tertumpu kepada keperluan material sahaja, tetapi turut juga merangkumi konsep kesejahteraan hidup manusia yang menekankan konsep persaudaraan dan keadilan sosioekonomi. Kedua-dua konsep ini memerlukan keseimbangan sama ada dari segi keperluan material ataupun spiritual bagi setiap insan (Gillian Rice, 1999).

Konsep CSR dari sudut nilai pandangan Islam adalah berdasarkan pandangan yang bersifat holistik yang melatih nilai-nilai moral dalam diri individu Muslim dan penilaian etika terhadap prinsip-prinsip syariah Islamiah. Elemen-elemen seperti takwa, tauhid, ukhuwah, adil dan fardhu menjadi asas dalam memahami pendirian Islam terhadap CSR. Konsep CSR ini bukanlah suatu subjek yang asing dalam pandangan Islam, bahkan ianya telah lama tertanam dalam syariah itu sendiri. Oleh itu, setiap institusi yang menjalankan operasi berasaskan prinsip syariah sepatutnya

melaksanakan CSR di dalam institusi masing-masing kerana ianya menggambarkan semangat Islam yang sebenar.

Asas-Asas CSR Dalam Islam

Dalam memahami konsep CSR dari sudut pandangan Islam ini, perkara utama yang perlu diberi perhatian ialah asas pembinaan Islam itu sendiri yang mendorong kepada pembentukan konsep tersebut, iaitu aqidah, ibadah dan akhlak. Elemen-elemen ini terkandung dalam syariah Islam yang menjadi pusat pandangan dalam Islam itu sendiri:

i. Takwa

Elemen takwa menjadi penggerak kepada individu untuk mencapai objektif-objektif syariah melalui jalan yang telah ditetapkan oleh syariah itu sendiri. Ketakwaan kepada Allah akan mewujudkan nilai-nilai moral di dalam diri individu untuk membentuk kehidupan sosialnya sendiri. Individu yang bertakwa akan memastikan hubungannya dengan Allah SWT, sesama manusia dan makhluk lain sentiasa terpelihara. Hubungan manusia dengan manusia seharusnya dihiasi dengan nilai-nilai yang wujud dalam Islam seperti kepercayaan, amanah, keadilan, saling menghormati, kebaikan dan tolak ansur. Setiap Muslim seharusnya mempunyai kesedaran sosial yang tinggi, pemurah dan memenuhi tanggungjawab masing-masing dalam memastikan keperluan setiap individu terpelihara (Muhamad, 2007). Oleh itu, hubungan-hubungan yang wujud ini perlu dipelihara oleh setiap individu bagi memastikan *al-falah* dapat dicapai. Allah SWT telah menjelaskan antara ciri orang yang bertakwa itu ialah sentiasa menginfakkan harta ke jalan Allah SWT dalam keadaan senang dan susah kerana meyakini sebahagian harta mereka itu mempunyai hak-hak orang lain.

Firman Allah SWT bermaksud,

“Di dunia mereka sedikit sekali tidur di waktu malam. Dan selalu memohonkan ampunan di waktu pagi sebelum fajar. Dan pada harta-harta mereka ada hak untuk orang miskin yang meminta dan orang miskin yang tidak mendapat bahagian.

(al-Dzariyat :17-19)

“Wahai orang-orang yang beriman! Bertakwalah kalian kepada Allah dan katakanlah perkataan yang benar, nescaya Allah akan memperbaiki amalan-amalan kalian dan mengampuni dosa-dosa kalian. Dan barang siapa yang mentaati Allah dan Rasulnya maka sungguh dia telah mendapat kemenangan yang besar.”

(al-Ahzab :70-71)

ii. Tauhid

Elemen tauhid atau mengakui keesaan Allah SWT ini menyediakan satu arah tuju dalam menjamin penyatuan semangat ke arah kepatuhan terhadap syariah Islamiah. Konsep tauhid ini juga turut menunjukkan peranan manusia sebagai khalifah Allah SWT di muka bumi.

Firman Allah SWT bermaksud,

"Dan (ingatlah) ketika Tuhanmu berfirman kepada malaikat; "Sesungguhnya Aku hendak menjadikan seorang khalifah di bumi". mereka bertanya (tentang hikmat ketetapan Tuhan itu dengan berkata): "Adakah Engkau (ya Tuhan kami) hendak menjadikan di bumi itu orang yang akan membuat bencana dan menumpahkan darah (berbunuh-bunuhan), padahal kami sentiasa bertasbih dengan memujiMu dan mensucikanMu?". Tuhan berfirman: "Sesungguhnya Aku mengetahui akan apa yang kamu tidak mengetahuinya".

(al-Baqarah :30)

Tanggungjawab sebagai khalifah bukan merupakan tiket kepada manusia melakukan apa sahaja yang dikehendaknya di muka bumi ini, sebaliknya manusia memikul tanggungjawab yang besar terhadap Allah SWT dan juga makhluknya yang lain. Dua peranan utama yang dimainkan oleh manusia ialah yang pertama sebagai hamba Allah SWT dan yang kedua sebagai khalifah Allah SWT di muka bumi (Mohd Rizal Muwazir @ Mukhazir, et.al, 2006). Sebagai seorang khalifah, manusia bertanggungjawab untuk menguatkuasakan syariah Islamiah dalam segenap aspek kehidupannya, memastikan keharmonian dan keamanan di atas muka bumi, memelihara alam sekitar dan mengamalkan sifat mahmudah dalam diri setiap individu. Manusia bertanggungjawab untuk memikul amanah yang telah ditetapkan oleh Allah SWT bagi memastikan kepentingan ummah sentiasa terpelihara. Oleh itu, dalam Islam prestasi perniagaan sesebuah syarikat korporat diukur berdasarkan bagaimana sumber alam yang ada digunakan dengan sebaiknya untuk memajukan masyarakat (Rusnah Muhamad, 2007). Sumber alam tersebut perlu digunakan dengan sebaik-baiknya kerana ianya merupakan amanah dari Allah SWT untuk generasi akan datang. Sekiranya sumber alam tersebut dibazirkan kesannya akan dapat dilihat pada generasi akan datang. Oleh itu, sumber yang ada perlu diuruskan dengan sebaiknya oleh organisasi perniagaan bagi menjamin kemandirian masyarakat akan datang.

iii. Ukhuwwah dan Al-'adl

Konsep CSR dalam Islam juga bercambah daripada konsep persaudaraan (ukhuwwah) dan keadilan sosial (al-'adl) kerana Islam telah menetapkan secara jelas hubungan antara sesama manusia yang berpandukan kepada dua konsep ini. Keadilan sosial merujuk kepada satu keadaan hidup apabila setiap individu mempunyai hak-hak mereka sendiri dan dalam mencapai hak-hak tersebut, hak-hak ahli masyarakat yang lain tidak diketepikan. Konsep ini juga boleh difahami dengan lebih jelas melalui prinsip-prinsip dan petunjuk keadilan sosial dalam Islam iaitu kemerdekaan individu, persamaan hak sesama manusia, peluang atau kesempatan yang sama untuk semua, hak untuk berpolitik secara demokrasi dan hak ahli masyarakat yang lain (kebajikan orang yang memerlukan) (Ahmad Sarji Abdul Hamid, 2005). Keadilan sosial tidak akan wujud sekiranya hak golongan yang kurang bernasib baik tidak dipelihara. Oleh itu, golongan yang berkemampuan selain kerajaan perlu bersama-sama bertanggungjawab menjaga

kebajikan golongan ini (Khairul Azhar Idris, 2007). Keadilan dan persaudaraan dalam Islam juga menekankan bahawa ahli masyarakat harus mengambil berat mengenai keperluan asas orang-orang fakir dan miskin (Gillian Rice, 1999). Amalan berkaitan keadilan sosial dan persaudaraan ini dapat menghalang individu daripada melakukan perkara yang mendatangkan kemudaratan kepada diri sendiri, orang sekeliling serta makhluk Allah SWT yang lain.

Firman Allah SWT bermaksud,

“Sesungguhnya Allah SWT menyuruh berlaku adil, dan berbuat kebaikan, serta memberi bantuan kepada kaum kerabat; dan melarang daripada melakukan perbuatan-perbuatan yang keji dan mungkar serta kezaliman. Ia mengajar kamu (dengan suruhan dan laranganNya ini), supaya kamu mengambil peringatan mematuhiNya”.

(Al-Nahl :90)

Ayat di atas menyuruh manusia berlaku adil dan saksama kepada setiap insan. Sebarang bentuk prejudis, bias, hasad dengki dan sebagainya tidak sepatutnya mempengaruhi pertimbangan seseorang individu dalam berurusan dengan individu yang lain. Keadilan akan menjamin keselamatan sosial dalam masyarakat dalam masa yang sama mewujudkan kasih sayang, kebajikan, simpati dan persaudaraan (Mohamad Taqiud-Din al-Hilali, 2010). Ukhuwah yang dirasai bersama oleh setiap individu akan mewujudkan keadilan dan menolak kezaliman sesama manusia. Insan yang bersaudara secara relatifnya akan sentiasa mengambil berat mengenai saudaranya dan tidak akan menyakitinya dalam apa cara sekalipun. Keadilan akan sentiasa ditegakkan sama ada terhadap diri sendiri, masyarakat dan juga alam sekeliling. Prinsip ukhuwah ini akan memastikan unsur-unsur eksploitasi, penindasan, pemerasan dan penyelewengan tidak berlaku dalam masyarakat (Surtahman Kastin Hasan & Sanep Ahmad, 2005).

Keadilan sosial juga diikat dan dikaitkan dengan konsep akidah dan keimanan yang berkait rapat dengan tugas manusia sebagai khalifah Allah SWT di muka bumi ini iaitu sebagai agen pembangunan jasmani dan rohani (Zin, 2007). Bermakna, keadilan sosial ini tidak hanya terhenti setakat keadilan dalam ekonomi dan material sahaja, sebaliknya ia turut merangkumi nilai-nilai spiritual yang berkaitan dengan keadilan manusia dalam setiap bidang yang diceburi. Terdapat banyak ayat dalam al-Quran yang menyuruh umat Islam berlaku adil dan melarang melakukan kezaliman. Antaranya ialah,

Firman Allah SWT bermaksud,

Wahai orang-orang yang beriman! hendaklah kamu menjadi orang-orang yang sentiasa menegakkan keadilan, lagi menjadi saksi (yang menerangkan kebenaran) kerana Allah, sekalipun terhadap diri kamu sendiri, atau ibu bapa dan kaum kerabat kamu. Kalaulah orang (yang didakwa) itu kaya atau miskin (maka janganlah kamu terhalang daripada menjadi saksi yang memperkatakan

kebenaran disebabkan kamu bertimbang rasa), kerana Allah lebih bertimbang rasa kepada keduanya. Oleh itu, janganlah kamu turutkan hawa nafsu supaya kamu tidak menyeleweng dari keadilan. Dan jika kamu memutar-balikkan keterangan ataupun enggan (daripada menjadi saksi), maka sesungguhnya Allah sentiasa mengetahui dengan mendalam akan apa yang kamu lakukan.”

(al-Nisa' : 135)

Ayat ini mewajibkan umat Islam supaya berlaku adil dalam semua urusan hidup mereka. Tidak hanya dalam urusan kehakiman sahaja, tetapi juga dalam aspek sosial bagi membolehkan semua insan dalam masyarakat mendapat keperluan asas seperti makanan, pakaian, tempat tinggal, peluang mendapat pelajaran, akses kepada kemudahan kesihatan dan sebagainya (Zin, 2007).

Pembahagian CSR Menurut Islam

Dari sudut pandangan Islam, terdapat satu rangka kerja dalam melaksanakan CSR bagi organisasi korporat Islam. Badan korporat Islam seharusnya melaksanakan tanggungjawab mereka berdasarkan obligasi dari ajaran syariah yang boleh dilihat sebagai tanggungjawab wajib (*compulsary responsibility*), dan tanggungjawab sunat (*recommendable responsibility*).

Tanggungjawab Wajib (Compulsory Responsibility)

Dalam tanggungjawab wajib, terdapat dua perkara yang perlu diberi perhatian oleh syarikat korporat Islam iaitu perkara yang wajib dilakukan dan perkara yang wajib dielakkan daripada dilakukan.

Zakat

Zakat dianggap sebagai tanggungjawab wajib yang perlu bagi setiap syarikat korporat kerana ianya merupakan sebahagian daripada rukun Islam yang lima.

Firman Allah SWT bermaksud,

“Sesungguhnya zakat-zakat (al-sadaqat), hanyalah untuk orang-orang fakir, orang-orang miskin, pengelola-pengelolanya, para mu'allaf, serta untuk para budak, orang-orang yang berhutang, dan pada sabilillah, dan orang-orang yang sedang dalam perjalanan, sebagai sesuatu ketetapan yang telah diwajibkan Allah. Dan Allah maha mengetahui lagi maha bijaksana”.

(At-Taubah 9: 60)

Perkataan *al-Sadaqah* yang disebutkan dalam ayat di atas membawa maksud zakat atau sedekah wajib. Berdasarkan nas ini, zakat bukan sekadar pemberian sukarela atau pemberian ihsan dari orang-orang yang diwajibkan zakat ke atas mereka malah merupakan kefardhuan dari Allah SWT (al-Suyuti, 2007).

Dalam ayat yang lain, Allah SWT berfirman,

“Ambillah zakat dari sebahagian harta mereka, dengan zakat itu kamu membersihkan dan menyucikan mereka dan mendoalah untuk mereka. Sesungguhnya doa kamu itu (menjadi) ketenteraman jiwa bagi mereka. Dan Allah Maha Mendengar lagi Maha Mengetahui.”

(al-Taubah :103)

Ayat ini menunjukkan bahawa Islam bukanlah agama ibadah, zikir dan doa semata-mata, bahkan ianya juga agama yang mementingkan keperluan terhadap fakir miskin serta kepentingan dalam menghimpunkan dana bagi keperluan sosial. Dari ayat ini juga dapat difahami bahawa mengeluarkan zakat, merupakan bukti kejujuran seseorang terhadap pengakuan imannya kepada Allah SWT. Bahkan Rasulullah SAW mengucapkan salam dan mendoakan orang-orang mengeluarkan zakat (Tafsir Al-Quran, 2013). Menurut Ibn ‘Arabi dalam kitab *Ahkam al-Quran*, ayat ini difahami bahawa perkataan ‘*Sadaqatan wa tutahhiruhum wa tuzakkihimiha*’ ini adalah suruhan supaya melakukan sedekah, nescaya dengan perbuatan sedekah ini, ianya penyebab kepada pembersihan dan pertumbuhan harta mereka (Ismail, 1422H/2002M).

Berdasarkan dalil-dalil ini, setiap individu yang layak, wajib mengeluarkan zakat termasuklah syarikat-syarikat korporat Islam. Syarikat korporat Islam wajib mengeluarkan zakat perniagaan pada kadar 2.5%. Zakat perniagaan ialah zakat yang wajib dikeluarkan hasil daripada harta perniagaan sama ada berasaskan pembuatan, perlombongan, perikanan, perkapalan, pembekalan, pertanian, perkhidmatan atau sebagainya dengan tujuan diperniagakan, sama ada dalam bentuk perniagaan persendirian, perniagaan perkongsian sesama Islam atau dengan bukan Islam, perniagaan semua jenis syarikat, koperasi atau perniagaan saham dan sebagainya (Lembaga Zakat Selangor, 2017).

Firman Allah SWT bermaksud:

“Wahai orang-orang yang beriman, keluarkan zakat sebahagian daripada hasil usaha kamu yang baik-baik dan sebahagian dari apa yang kami keluarkan dari bumi untuk kamu.”

(al-Baqarah :267)

Allah SWT menjelaskan bahawa segala ‘hasil usaha yang baik’ itu wajib dizakatkan. Oleh itu, bagi sesiapa yang menjadikan makan gaji itu sebagai satu profesion, maka itu juga termasuk dalam ‘hasil usaha’ yang wajib di zakat (Lembaga Zakat Selangor, 2017).

Menjauhi perkara-perkara yang dilarang

Syarikat korporat Islam mesti mengelakkan perkara-perkara yang dilarang dalam Islam seperti judi, arak, dadah, jual beli tembakau atau rokok termasuk juga terlibat dengan perkara-perkara yang syubhah sama ada komoditi (barang dagangan), perkhidmatan dan juga amalan moral

individu. Berikut merupakan beberapa perkara yang perlu dielakkan bagi menjamin CSR yang dilaksanakan bertepatan dengan tuntutan al-Quran:

1. Riba, Arak dan Maysir

Firman Allah SWT bermaksud:

“Hai orang-orang yang beriman, janganlah kamu memakan riba dengan berlipat ganda dan bertakwalah kamu kepada Allah supaya kamu mendapat keberuntungan”
(Ali Imran :130)

Menurut al-Maududi (Kadir, 1989), riba bermaksud pulangan pinjaman dengan nilai tambahan atau lebih daripada jumlah yang dipinjam dan ditetapkan terlebih dahulu kadar pertambahan itu berdasarkan kepada tempoh pinjaman. Riba’ bukan sahaja memberi kesan kerugian kepada ekonomi bahkan turut memberi kesan kepada akal dan sosial masyarakat kerana riba mengajar manusia bersifat rakus dan tamak dalam mengaut keuntungan tanpa usaha yang gigih. Pengharaman riba dalam al-Quran adalah untuk membina ekonomi yang adil dan bertindak melindungi orang-orang yang tidak berkemampuan daripada ditindas oleh orang yang berkemampuan.

Selain riba, judi dan arak turut dilarang dalam Islam. Ini bersandarkan kepada ayat-ayat yang terdapat dalam al-Quran. Firman Allah SWT bermaksud,

“Hai orang-orang yang beriman, sesungguhnya khamar, berjudi, (berkorban untuk) berhala, mengundi, adalah perbuatan keji termasuk perbuatan syaitan. Maka jauhilah perbuatan-perbuatan itu agar kamu mendapat keberuntungan.”
(Al-Maidah :90)

Judi bermaksud semua permainan yang mempunyai untung dan rugi kepada pelakunya (Ibn Manzur, t.t). Allah SWT mengharamkan judi sebaris dengan pengharaman arak kerana keduanya memberikan kesan negatif yang hampir sama kepada sistem sosial masyarakat. Arak dianggap sebagai ibu segala maksiat kerana apabila berada dalam keadaan mabuk, seseorang itu cenderung untuk melakukan jenayah yang lain seperti mencuri, vandalisme ,merogol dan lain-lain. Arak dan judi bukan sahaja merosakkan keamanan bahkan boleh memupuk sifat kebencian dalam sesebuah masyarakat.

Firman Allah bermaksud,

“Allah memusnahkan riba dan menyuburkan sedekah. Dan Allah tidak menyukai setiap orang yang tetap dalam kekafiran, dan selalu berbuat dosa.”
(al-Baqarah, :276)

2. Mengurangkan Timbangan

Al-Quran memperingatkan manusia agar berlaku adil dalam setiap perniagaan yang dijalankan. Ahli korporat Muslim seharusnya menjauhi perkara yang boleh menjurus kepada ketidakadilan

seperti melakukan penipuan dalam operasi perniagaan yang diusahakan. Allah SWT memberi peringatan secara jelas berkaitan sikap menipu dalam timbangan melalui FirmanNya bermaksud:

“Dan cukupkanlah segala sukatan dan timbangan dengan adil”.

(al-An‘am :152)

Menurut Hamka (1985) ayat ini asas adalah kepada ilmu ekonomi. Perbuatan mengurangkan timbangan dalam perniagaan akan menyebabkan timbulnya konflik dalam sistem sosial masyarakat kerana keuntungan itu dikuasai oleh satu pihak sahaja sedangkan di satu pihak lain akan mengalami kerugian dan menjadi mangsa penipuan. Sejarah juga telah mencatatkan bahawa penduduk kaum Madyan yang membudayakan kurang sukatan dan timbangan dalam urusan jual beli telah dilaknat Allah SWT sehingga hancur negeri itu akibat daripada perbuatan buruk mereka. Menurut Syed Qutb (2015) ayat ini menjelaskan realiti masalah perdagangan di mana manusia sukar bersikap jujur. Hakikatnya ia berkait rapat dengan akidah iaitu hubungan manusia dengan Pencipta. Malangnya kejahilan ini berlaku kerana akidah, syariah dan muamalat itu terpisah. Menurut Syed Qutb (2015) akidah yang benar pasti akan melahirkan perbuatan yang baik sesama manusia dan tidak melakukan perkara yang bertentangan dengan kebenaran dan keadilan.

Seterusnya Firman Allah SWT bermaksud:

Maksudnya: “Celakalah bagi orang-orang yang menipu; iaitu orang-orang yang apabila menerima sukatan dari orang lain mereka mengambilnya dengan cukup dan sebaliknya apabila mereka menyukat atau menimbang untuk orang lain mereka mengurangkan (sukatan atau timbangan tersebut)”.

(al-Mutaffifin :1-3)

Menurut Ibn Kathir (2004) ayat ini adalah berkaitan sikap seorang peniaga Madinah yang bersikap tidak jujur dengan timbangan yang dilakukan. Justeru dalam ayat-ayat ini Allah SWT mengingatkan manusia dengan azab neraka Wail bagi orang yang mencuri dalam timbangan dan ukuran. Perbuatan ini menggambarkan sikap tidak jujur dan amanah yang boleh merosakkan kepercayaan dan hubungan baik sesama manusia. Menurut Hamka (1985) golongan inilah yang menjadi punca kerosakan dalam sistem ekonomi masyarakat kerana ini adalah salah satu bentuk penipuan besar dalam dunia perniagaan. Ini jelas menunjukkan bahawa apa jua bentuk penipuan dalam operasi perniagaan dan muamalat adalah dilarang oleh Allah SWT. Hal ini akan merosakkan hubungan sesama manusia (Mohd Nizho Abd Rahman, 2008).

3. Sorok Barang Dagangan

Perbuatan menyorok barang dagangan (*ihthikar*) merupakan salah satu perkara yang amat dilarang dalam ajaran Islam dan ianya perlu dijauhi dalam operasi perniagaan dan keusahawanan. *Ihtikar*

dari segi bahasa bermaksud menimbun atau mengumpul sesuatu dan menahan (tidak mengeluarkannya) sementara menunggu harganya naik, kemudian menjualnya dengan harga yang mahal (Baliza, 2011). *Ihtikar* juga bermaksud *Istabadda* iaitu menyorok barang-barang agar dapat dijual dengan harga yang mahal di kemudian hari. Hakikat ini sering diamalkan dalam Sistem Ekonomi Kapitalis. Para Kapitalis atau pemilik modal biasanya melakukan penimbunan dan penyorokan barang untuk membunuh semua industri yang ada kecuali industri mereka. Setelah itu mereka melakukan penjualan barang tersebut di pasaran supaya mereka boleh menentukan harga mengikut apa yang mereka inginkan (Baliza, 2011). Dalam konteks ajaran Islam, menimbun dan menyorok barang adalah haram. Ini berdasarkan hadis yang bermaksud:

Dari Said bin al-Musayyab dari Mu'ammarr bin Abdullah al-Adawi bahawa Nabi SAW bersabda: "Tidak akan melakukan penimbunan kecuali orang yang salah (khati')." (HR al Bukhari)

Dalam hadis ini ada tuntutan untuk meninggalkan dan adanya celaan terhadap orang yang melakukannya iaitu disebut dengan perkataan khati' (orang yang berbuat dosa atau maksiat). Ini bermakna tuntutan meninggalkan di sini adalah tegas (jazm). Dalam pembahasan usul fiqh, apabila ada larangan dan ianya bersifat jazm, maka larangan tersebut adalah larangan tahrim (haram) (Baliza, 2011).

4. Pecah Amanah

Pecah amanah pula ialah melanggar amanah yang diberikan atau dipikul dan dengan sebab pelanggaran ini menyebabkan berlaku tindakan yang prejudis atau merugikan kepada pihak atau orang lain. Amanah merupakan sifat yang perlu ada kepada seorang ahli korporat, usahawan mahupun peniaga. Mereka tidak boleh membohongi pelanggan, mengkhianati pelanggan, menjual barangan dengan harga yang terlalu tinggi dan melengahkan pembayaran kepada pengedar atau pembekal barangan. Penekanan supaya bersifat amanah ini disebut dalam banyak ayat al-Quran. Antara ayat-ayat yang berkaitan adalah seperti berikut:

Firman Allah SWT bermaksud,

"Sesungguhnya Allah menyuruh kamu menyampaikan amanah kepada yang berhak menerimanya".

(an-Nisa' 4:58)

Berdasarkan ayat ini Syed Qutb (2015) menjelaskan bahawa tugas umat Islam ialah menunaikan segala amanah kepada yang berhak dan memutuskan hukum dengan adil di antara manusia mengikut kesesuaian manhaj dan ajaran Allah SWT. Ayat ini juga mengingatkan bahawa mensia-siakan amanah adalah khianat. Mengkhianati amanah adalah salah satu tanda orang munafik. Menerima sesuatu amanah dengan niat untuk mengkhianati amanah tersebut juga adalah satu penipuan yang perlu dijauhi (Hamka, 1985).

Firman Allah SWT bermaksud,

“Wahai orang-orang Yang beriman! Janganlah kamu mengkhianati (amanah) Allah dan RasulNya, dan (janganlah) kamu mengkhianati amanah-amanah kamu, sedang kamu mengetahui (salahnya)”.

(al-Anfal:27)

“Dan mereka yang menjaga amanah dan janjinya”.

(al-Mukminun:8)

Menurut Hamka (1985) amanah dibahagikan kepada dua kategori iaitu amanah sebagai khalifah di muka bumi dan yang kedua ialah amanah peribadi. Amanah sebagai khalifah suatu perkara yang cukup besar di mana langit dan bumi dan gunung-ganang juga tidak terpicul terhadap bebanan amanah ini. Setiap individu menanggung amanah yang tersendiri mengikut tugas dan tanggungjawab yang diterima seperti tugas sebagai pemimpin, peniaga, petani, menteri dan sebagainya (Hamka, 1985). Menurut Ibnu Kathir (2004) orang yang amanah dan menepati janji itu tergolong dalam golongan yang beruntung dan akan memasuki syurga Firdaus dan akan hidup kekal di dalamnya.

Sehubungan itu, segala tindakan dan keputusan dalam perniagaan yang berdasarkan sifat amanah adalah perlu bagi memastikan urusan perniagaan itu adil dan setiap orang sama ada pembeli atau penjual mendapat haknya. Penipuan dan penindasan akan dapat dielakkan sekiranya semua pihak bersifat amanah dan benar. Dengan sifat amanah ini peniaga akan mendapat keuntungan yang sewajarnya dan pembeli akan mendapat barangan atau perkhidmatan yang sepadan dengan harga yang dibayar (Mohd Nizho Abd Rahman, 2008).

Tanggungjawab Sunat (*Recommended Responsibility*)

Syarikat korporat juga amat digalakkan untuk melakukan tanggungjawab sunat seperti memberi sedekah, membantu orang yang memerlukan, menganjurkan program-program amal dan sebagainya. Setiap perkara yang dianggap sebagai aktiviti CSR pada pandangan konvensional merupakan tanggungjawab yang dituntut bagi syarikat korporat Islam selagi mana ianya tidak bercanggah dengan ajaran Islam.

a. Infak, sedekah dan filantropi (kedermawanan)

Infak, sadaqah dan filantropi merupakan satu pembuktian yang menunjukkan keimanan seseorang kepada Allah SWT, iaitu dengan mengambil berat terhadap saudara seislam yang memerlukannya dengan melaksanakan sifat kedermawanan yang tersebut di atas. Jika dilihat dari penggunaan ayat-ayat al-Quran istilah infak, sedekah dan filantropi ini sepatutnya menunjukkan kepada satu pengertian iaitu sesuatu yang dikeluarkan. Infak, sedekah dan filantropi memiliki persamaan dalam peranannya dengan memberikan komitmen yang penting dalam pembasmian

kemiskinan. Dalam al-Quran terdapat banyak ayat-ayat al-Quran yang Allah SWT sebutkan mengenai sedekah, infak atau filantropi.

Firman Allah SWT bermaksud:

“Bukanlah kewajiban menjadikan mereka mendapat petunjuk, akan tetapi Allah-lah yang memberi petunjuk (memberi taufik) siapa yang dikehendakiNya. Dan apa saja harta yang baik yang kamu nafkahkan (di jalan Allah), maka pahalanya itu untuk kamu sendiri. Dan janganlah kamu membelanjakan sesuatu melainkan karena mencari keredhaan Allah. Dan apa saja harta yang baik yang kamu nafkahkan, nescaya kamu akan diberi pahalanya dengan cukup, sedang kamu sedikit pun tidak akan dianiaya (dirugikan).”

(Al-Baqarah: 272).

Dalam ayat ini Allah SWT menggambarkan tentang orang-orang mukmin secara benar, bahawasanya mereka tidaklah bersedekah kecuali hanya untuk mengharapkan keredhaan dari Allah SWT, kerana keimanan merekalah yang mendorong mereka kepada hal tersebut. Maka khabar ini adalah satu kebaikan dan pernyataan baik bagi kaum mukminin, dan juga mengingatkan mereka untuk melakukannya secara ikhlas, dan Allah SWT mengulang-ulang pengetahuanNya tentang sedekah-sedekah mereka demi untuk memberitahu mereka bahawa Allah SWT tidak akan mensia-siakan sedikit pun disisi-Nya dari amal hambanya walaupun seberat zarah dan bila mana perkara ini adalah kebaikan maka Allah SWT akan melipat gandakan dan akan memberikan pahala yang besar. Menurut Abdullah Basmeih, pada zaman Nabi Muhammad SAW, sesetengah orang-orang beriman keberatan hendak menderma kepada orang-orang kafir. Maka turunlah ayat ini, untuk menerangkan bahawa apa yang mereka dermakan, sama ada kepada orang Islam atau kepada orang kafir, ianya tetap mendapat pahala, asalkan derma atau infak itu diberikan semata-mata kerana Allah SWT, bukan kerana riak atau lainnya (Basmeih, 1980).

Firman Allah SWT bermaksud,

“Dan di antara orang-orang Arab Badwi itu ada yang beriman kepada Allah dan hari kemudian, dan memandang apa yang diinfakkannya (di jalan Allah) sebagai jalan mendekatkan diri kepada Allah dan sebagai jalan untuk (memperoleh) doa rasul. Ketahuilah, sesungguhnya infak itu suatu jalan bagi mereka untuk mendekatkan diri (kepada Allah). Kelak Allah akan memasukkan mereka ke dalam rahmat (syurga)-Nya; sesungguhnya Allah Maha Pengampun lagi Maha Penyayang”.

(al-Taubah:99)

Dapat difahami dalam ayat ini bahawa orang yang beriman kepada Allah SWT dan kepada hari akhirat, akan mendorong mereka menginfakkan harta ke jalan Allah SWT. Ayat ini juga, turut

menjelaskan bahawa orang-orang yang hendak membelanjakan harta mereka itu, mestilah ikhlas semata-mata kerana mengharapkan keredhaan daripada Allah SWT.

b. Wakaf

Selain dari infak dan sedekah, wakaf juga termasuk dalam kategori tanggungjawab sunat CSR. Wakaf merupakan salah satu instrumen penting dalam membangunkan ekonomi umat Islam. Peranan wakaf tidak hanya terhad dalam konteks ibadah semata-mata bahkan melangkaui aspek-aspek lain seperti pendidikan, hartanah, kesihatan, kegiatan ekonomi, dan pelancongan.

Firman SWT Allah bermaksud,

“Hai orang-orang yang beriman, rukulah kamu, sujudlah kamu, sembahlah Tuhanmu dan berbuatlah kebajikan, supaya kamu mendapat kemenangan”.

(al-Hajj : 77)

Melalui ayat ini Allah SWT memberi perintah kepada orang yang beriman, selain mengerjakan solat, Allah SWT juga turut memerintahkan supaya mereka melakukan perbuatan *al-khair* atau kebajikan. Perkataan *al-Khair* ini bersifat umum, ianya juga boleh dimaksudkan sebagai silaturahim dan akhlak mulia. Disebabkan perkataan ‘*al-khair*’ atau ‘kebajikan’ dalam ayat ini bersifat umum, maka apa sahaja perbuatan yang baik dan mulia boleh dikategorikan sebagai perbuatan *al-khair*. Oleh yang demikian, disebabkan wakaf merupakan perbuatan yang bersifat kebajikan, maka wakaf boleh dikategorikan sebagai *al-khair*.

Firman Allah bermaksud,

Kamu sekali-kali tidak sampai kepada kebajikan (yang sempurna), sebelum kamu menafkahkan sebahagian harta yang kamu cintai. Dan apa saja yang kamu nafkahkan, maka sesungguhnya Allah mengetahuinya.

(Ali Imran : 92)

Dalam ayat ini dijelaskan bahawa untuk membolehkan sesuatu perbuatan itu sampai maksudnya kepada kebajikan yang sempurna, maka ianya adalah dengan cara menginfakkan sebahagian harta yang disayangi. Menginfakkan harta yang disayangi dalam ayat ini bukanlah berbentuk khusus. Oleh itu dapatlah difahami, bahawa mewakafkan sebahagian harta itu termasuklah dalam kategori menginfakkan harta yang disayangi. Menurut Abdullah Basmeih, bahawa mendermakan harta benda dan apa sahaja, walau bagaimana kecil dan sedikit jumlahnya, akan mendapat ganjaran pahala. Akan tetapi hakikat kebajikan dan kebaktian yang sempurna serta besar pahalanya, tidak akan dapat dicapai sebelum mendermakan harta benda dan apa sahaja yang bernilai dan sangat-sangat disayangi, kerana dengan melakukan yang demikian bermakna, perasaan bakhil serta kedekut itu dapat dikalahkan, dan dapat meningkatkan ketakwaan kepada Allah SWT (Basmeih, 1980).

KESIMPULAN

Berdasarkan perbincangan di atas, CSR merupakan satu medium terbaik untuk organisasi korporat melaksanakan tanggungjawab mereka terhadap masyarakat. Konsep ini seiring dengan ajaran Islam yang amat menggalakkan amalan kebajikan sama ada bagi individu ataupun syarikat korporat. Galakan ini dapat dilihat dalam ayat-ayat al-Quran yang telah dibincangkan dalam bahagian terdahulu. Sehubungan dengan itu, konsep dan pelaksanaan CSR ini perlu diperkemas dan dimantapkan bagi memastikan ianya dapat memberikan keputusan dan kesan yang diinginkan sesuai dengan matlamat pelaksanaannya. Dalam memastikan CSR ini dapat dilaksanakan dengan lebih baik di masa akan datang, semua pihak sama ada organisasi korporat atau pun masyarakat bahkan juga kerajaan perlu berganding bahu dan menggembeleng tenaga bersama-sama menjayakan CSR ini agar ianya tidak hanya menjadi satu konsep semata-mata.

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**EP006:
PROFILING INDIVIDUAL DONORS FOR RECURRING GIVING
LANDSCAPE**

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Abstract

Based on World Giving Index from year 2010 to 2015, it shows that the ranking for charitable giving in Malaysia are not consistent. World Giving Index Score ranged from 28 to 55. However, between 2013 to 2015, the rank increase dramatically from seventy-first place to seventh. This behavioral change is likely a reflection of the humanitarian effort undertaken due to various natural disasters such as Typhoon Haiyan. This is also in line with the increase in giving as recorded following other natural disasters in China and Japan. However, this also portrayed that charitable giving behavior are more likely to be influence by events i.e. one-off giving rather than consistently donating. As such charity organizations are facing difficulties in ensuring that it has a consistent source of funds. Charity organizations depend on the public for contribution to ensure their survival and growth. Meanwhile, donations are given for various purposes such as organization's expenditure, charity activities, and humanitarian projects. Past studies had been conducted on factors that influence donations intentions, however, less emphasis were given on repeat donation intention in the literature. Thus, the aim for this study is to profile individual donors recurring donating intention. Understanding this intention will assist charity organizations in increasing the likelihood of attracting consistent donors for their fund. Thus, ensuring that they are able to operate and serve their community as it is intended.

Keywords: Charitable Giving, Individual Donor, Malaysia, Multiple Regression, Recurring Giving,

INTRODUCTIONS

Non-profit organizations receive revenue from a host of sources including voluntary donations, government grants, fees, investment income, rents and sales of commodities (Khanna, Posnett, & Sandler, 1995). Private giving has always been an important source of financing for international development, and in fact pre-dates public funding for international development. Ranganathan and Henley (2008) have reported that charities have to depend on individual donors and less on the government for fundraising in order to survive in the competition. Although the Charities Aid Foundation (2015) shows that there are increasing ranking for charitable giving in Malaysia, the scenario in Malaysia shows that charity organisations are struggling to generate fund. The survival of charitable organisations depends more on monetary donations, this seems obvious since charitable organisations would not be able to help their beneficiaries when monetary

donations from generous parties are minimal, insufficient or, unavailable. As the charitable organizations depends on donor contributions to survive, it is important to understand not only why people donate but also to know what would trigger them to continue donating. Thus this study aims to identifying the characteristic and factors that influence individual donors to continue make donations via demographic factors, socio economic factors, cultural factors, ethic factors and cognitive factors. This is in contrast to the profusion of studies that have investigated the determinant of people's decision to donate to charitable organisations for the first time (Cogswell, 2002; Kashif, Sarifuddin, & Hassan, 2015; Ling, 2012; Teah, Lwin, & Cheah, 2014). Next, the paper presents previous literature on the variables that will be used in the analysis. Then, overviews of the methodology and key findings are discussed.

DETERMINANTS ON INDIVIDUALS' RECURRING GIVING INTENTION

Demographic Factors

When it comes to understanding donation behavior and charitable giving, past literature has shown that demographic variables, such as gender, age, marital status, household income, level of education and size of household are effective determinants in charitable behavior (Riecken and Yavas, 2005; Sargent, 1999; Dvorak and Toubman, 2013). Demographic factor is considered essential in determining the factor of people giving. While Shelly and Polonsky (2002) pointed out that in the giving literature some research has suggested demographic factors might actually serve as appropriate bases of segmentation.

Researchers and scholars suggest that gender is the main variable when trying to measure the characteristic of charitable donations (Lwin & Phau, 2013). However, it is an issue that is highly inconsistent in terms of the findings (Croson and Gneezy, 2009; Dvorak and Toubman, 2013). While, men made a huge average donations and tend to respond positively on donation. On the other hand, the researchers state that women a more frequently donate their money and time to charity (Lwin, Phau, & Lim, 2013, Schlegelmilch et al., 1997a; Lee and Chang, 2007; Simmons and Emanuele, 2007). Age another variable take part on charitable donation. However, the previous studies indicated mixed result or without conclusive results (Teah and Lwin, 2014). Some studies found that younger generation has a smaller amount to donate in charities (Smith and Mc.Sweeney 2007). There are contradicting finding in the previous research among the matured and eldest donor, as example a work by Danko and Stanley (1986) found that the likelihood of a donation is up to age of 65 and robust finding by Schlegelmilch et al. (1997) identified that the older people are identified as non-donors. They argue that the more matured and worldly views can encourage the willingness to donate.

Socio Economics Factors

Generally, charitable giving is positively associated with greater levels of income (James and Sharpe, 2007) and wealth. This argument supported by Paul (2000), that describe the families that have higher levels of income and wealth are more generous. There is a different concern

among the donor to channel their donation. Radley and Kennedy (1995) and Bennett (2003) emphasise the fact that people with a lower disposable income tend to donate to “more needy people”. In addition, a study by Bennett (2003) also found contradictory results to other literature, where low-income people tended to donate more than the national average. Furthermore, a study by Carrol (2005) found that the upper middle class are more likely to donate to charitable causes. Another socio economic factor is the level of education. Positive relations between the level of education and giving are found in most empirical studies. Previous studies have shown that education can have an impact on charitable donation (Chua and Chung, 1999; James, 2008). However, there is also evidence to support that the education level has no effect on charitable donations (Schlegelmilch et al., 1997). The literature further emphasises that individuals who had left school at an earlier age or left school without graduating are more likely to donate to charity in comparison to higher educated donors. In addition, higher levels of education are also associated with giving a higher proportion of income (Schervish and Havens, 1997).

Cultural Factor (Religious Beliefs)

Religion has been identified as one of the most critical elements in the cultural environment since religion affects the way in which people behave and may affect individual perceptions (Alias & Ismail, 2013). In addition, Religion is a very relevant subject for study by economists because of the many choices individuals make regarding their resources that are based on religious beliefs (Osoba & Virginia, 2004). Majority of the previous study had concluded that more religious individuals perceive themselves to be, the more likely they make donations (Lwin, Phau, Lim, Lwin, & Lim, 2013). According to Kasri, (2013), he stated that in his study the strongest motivator for charitable donations is religion. Study done by Ranganathan and Henley (2008) found that the higher one’s level of religious beliefs, it will influence the person to have better attitudes towards charitable organizations and donation intentions.

Ethical Factor (Public Trust)

Non-profit scholar and managers generally recognize that non-profits need the public’s trust for legitimacy, for effectiveness, and for non-financial as well as financial support (Bryce, 2007; Poppo & Schepker, 2010). In addition, public trust is one of the most valuable social capitals, and its decline will impose heavy expenditure on the political system and due to this issue, many studies have been conducted in several countries on this important research subject (Bryce, 2007; Fard et al., 2007). Charity and philanthropic organizations strongly depend on the public’s trust (René Bekkers, 2003). The relationship between the non-profit and the public can be framed as the reciprocity of expectations (the expectation that people will respond to each other in similar way) (Bryce, 2007). Melendez (2001) highlighted that non-profit organizations must earn the public trust every day in order to ensure donors of their trustworthiness and effectiveness. Donors do not contribute to organizations they do not trust and about which they do not feel confident.

METHODOLOGY

The data will be collected through questionnaire. The survey will be conducted in the central region of Malaysia which Wilayah Persekutuan Kuala Lumpur due to Wilayah Persekutuan Kuala Lumpur recorded the highest mean monthly household income. The data will be analysed by using hierarchical–multiple regression analysis to determine the effect of the different variables on people’s recurring donation intention. The technique enables the determination of the effect of predictor variables on the outcome variables in a sequential way - primarily according to the importance of independent variables as predictors of the dependent variables.

PROPOSED FRAMEWORK

This study will adapt instruments from (Lwin, Phau, Lim, Lwin, & Lim, 2013; Noor et al., 2015; Schlegelmilch, Love, & Diamantopoulos, 1997). There are three additional variables by examining the effect of cultural factor, ethical factor and cognitive factor (see figure 1).

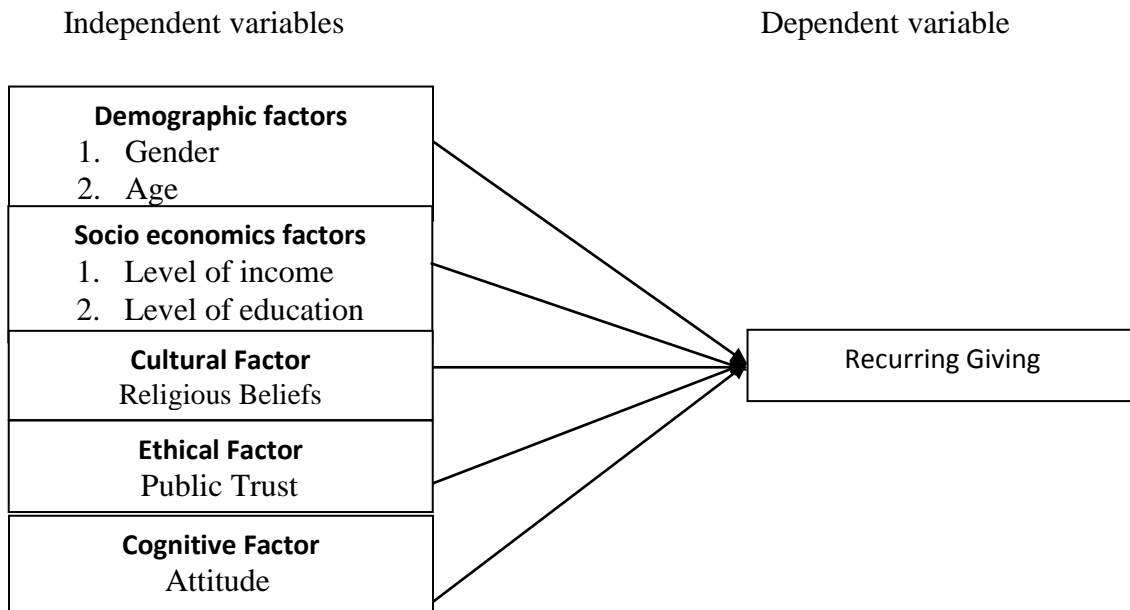


Figure 1: Proposed Framework

Figure 1 above shows the theoretical framework for the current study. As can be seen, there are five determinants which are demographic factors, socio economic factors, cultural factors, ethic factors and cognitive factors. While the dependent variable in this study individual repeat donation intention. Donations is referred to those donate more than 3 times in one week.

CONCLUSIONS

The aim for this study is to profile individual donors recurring donating intention. As the charitable organizations depends on donor contributions to survive, it is important to understand not only why people donate but also to know what would trigger them to continue donating.

Thus this study aims to identifying the characteristic and factors that influence individual donors to continue make donations via demographic factors, socio economic factors, cultural factors, ethic factors and cognitive factors. Understanding this intention will assist charity organizations in increasing the likelihood of attracting consistent donors for their fund. Thus, ensuring that they are able to operate and serve their community as it is intended.

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EP007:
**DIFFERENCES IN OWNERSHIP STRUCTURE AND MANAGEMENT
PRACTICES AMONG TAHFIZ INSTITUTIONS IN MALAYSIA**

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Abstract

Tahfiz institution produces tahfiz students (huffaz) who can memorize and recite the whole Al-Quran. Teaching method and technique of memorizing al-Quran have been extensively researched, however, far too little attention has been given on ownership structure and management practices of tahfiz institutions even though ownership structure and management practices have significant impact on productivity performance. There are three ownership structures pertaining to tahfiz institutions; totally owned by state government, individually owned and owned by organization or corporate bodies. The objective of this research is to investigate the differences in management practices among these three ownership structures of tahfiz institutions. A qualitative research approach is undertaken by interviewing the owners and managers from three tahfiz institutions representing each ownership structure. Using thematic analysis, findings of this study revealed that different ownership structures leads to different management practices in terms of; a) financial matters; b) physical development; c) human capital; and d) pedagogical system. The findings of this study are useful to policy makers in designing suitable policies for different types of tahfiz ownership structures.

Keywords: Tahfiz, ownership structure, management practice, Islamic

INTRODUCTION

Tahfiz educations were originally started in “*pondok*”, a traditional religious school. Tahfiz institutions (TI) are the educational institutions that focus in teaching students to memorize and recite the whole Al-Quran (Bani, Katan, Noor, & Fatah, 2014). Tahfiz institutions are managed by government (federal and state government) or privately owned. Tahfiz institutions managed by government through Islamic Development Department of Malaysia or state governments are funded by the government whereas privately-owned tahfiz institutions are self-funded.

Despite being self-funded, the growth of private tahfiz is encouraging. Presently, there are 547 privately-owned TI as compared to only 20 government-owned TI (JAKIM, 2016). Privately-owned tahfiz are owned by individuals or private entities. In terms of education stream offered by TI, there are two distinct streams; solely tahfiz education of fully Quranic teaching, and an integration of Quranic teaching and academics.

Teaching method and technique of memorizing al-Quran have been researched extensively, however, little attention has been given on examining the ownership structure and management practices of tahfiz institutions even though ownership structure and management practices have significant impact on productivity performance. Thus, the objective of this study is to investigate the differences in management practices among these three ownership structures. The findings of this study are useful to policy makers in designing suitable policies in the National Tahfiz Education Policy for different types of tahfiz ownership structures. This paper is organized as follows: section 2 explains the development of TI in Malaysia, section 3 presents the literature review, section 4 discusses research methodology, section 5 elaborates research findings and section 6 concludes.

LITERATURE REVIEW

The Development of Tahfiz Institutions in Malaysia

The first institutionalized TI set up by government in 1966 and it was called *Ma'ahad Tahfiz Quran wal Qiraat* operated under the Islamic Affairs Division, Prime Minister's Department. This TI began its operation at the National Mosque. Efforts to establish TI was made to ensure the continuity and revival of Quranic studies. Afterward more government-owned TIs were established in each state, starting with Kelantan in 1979 and in Terengganu, Perak, Kedah, Perlis and Selangor in the 1980's. In 1990's, government-owned TIs were set up in Negeri Sembilan, Melaka, Pahang, Sabah, Johor and Pulau Pinang. TI became school of choice among parent because TI provides specific environment, context and pace, away from the distractions and influences that would hinder students from reaching their peak in Quranic memorization.

The privately-owned TI also experienced tremendous growth from only 58 in 1999 to 547 in 2016 (JAKIM, 2016). Tahfiz development in Malaysia boosted with the introduction of tahfiz stream in the government's mainstream secondary schools. Moreover, Maktab Rendah Sains MARA (MRSM) introduced the Ulul Albab Program offering integrated tahfiz and academic education.

In short, tahfiz education is well accepted by Muslim in Malaysia. The perception that tahfiz students do not have career prospect and only suitable to become religious teachers is no longer valid. Nowadays tahfiz students can pursue their tertiary education by taking the Darul Quran Diploma Tahfiz Certification. This certification is equivalent to diploma from UiTM and it is recognized by the Public Service Department (JPA). Students with tahfiz diploma are accepted for admission into local universities for bachelor degree (JAKIM, 2002).

Prior Studies on Differences in Management Practices of Islamic Religious School

Previous studies have analyzed the management practices of different types of Islamic education institutions. Deviyati (2016) reported that Islamic Private School (IPS) and State Religious School (SRS) differ in terms of management, financial and curriculum. IPS is independently-

managed school and its governance is independent of the Ministry of Education. Meanwhile, SRS is government-owned religious schools using national curriculum and funded by government. IPS is fee-paying school and IPS may or may not use national curriculum. Ibrahim and Adelani (2014) also reported that IPS is financed by generosity of communities through donations in terms of cash and waqf land to build the school. A study by Siren, Ab. Majid, & Abdul Jalil (2013) on Islamic schools found out that there are differences in management practices related to administration, curriculum, financial, and staff based on the ownership structures. The ownership structures are the Islamic school managed by federal/state government, individually-owned and owned by non-government organization (NGO). Individually-owned and NGO-owned Islamic schools are independent in terms of financial and management. However, these studies are on Islamic schools that offered religious studies, not solely focus on tahfiz education. To the best of our knowledge, to date, the differences in management practices of TI have not been investigated.

METHODOLOGY

The purpose of this study is to investigate the differences in ownership structure and management practices among TI in Malaysia. Qualitative research approach is adopted. The respondents are owners of three selected TI representing each TI's ownership structure; namely government-owned, individually-owned, and owned by organizations. The owners can be a manager whom responsible to manage TI or operator whom responsible in operate the TI. An in-depth interview was conducted face-to-face with respondents at the time determined by them. An interview protocol was developed and used during the interviews as a guide to gain insights and to ensure each of the owner's information is fully uncovered (Flick, 2002). The interviews were audio recorded, transcribed and verified later against the audio to ensure the accuracy of the transcription for each of the respondent's information (Kvale, 1996). The text was organized and coded to gather the differences in management practices.

ANALYSIS AND RESULTS

A list of codes is identified from the transcript texts to represent four main themes in the data; financial matters, physical development, human capital, and pedagogical system.

Financial matters

Government-owned TI is funded by government whereas privately-owned TI is self-funded and depended on donation. Other than that, students can apply for assistance such as the *zakat* fund. *Zakat* is an important instrument to solve the problems of the Muslims in the efforts to eradicate or reduce ignorance, illiteracy, poverty and health problems. *Zakat* means 'to grow and to increase'. *Zakat* must be distributed to the rightful recipients. There are 8 groups (*asnaf*) eligible to receive *zakat* (Tarimin, 2005); al- *Fuqara*/'fakir (the poor); one who has neither material possession nor means of livelihood; one who suffers and has no means to sustain his or her daily needs, *al-masakin*/miskin (the needy); one with insufficient means of livelihood to meet his or

her basic needs, *amil* (administrators of *zakat*); one who is appointed to collect *zakat* and the expenses incurred in the administration of *zakat*, *al-Riqab* (slave); one who wants to free himself or herself from the bandage or shackles of slavery, *muallaf* (reconciliation of hearts); one who recently embraced Islam, *al-Gharimin* (who has a debt); one who is in debt but needs assistance to meet his or her needs, *fi-sabilillah*; one who fight in Allah's way and *ibn sabil* (The Wayfarer); stranded travellers on a permissible journey. Rahman and Anwar (2014) stated that all of the asnaf, except *amil* and *al-Riqab*, are mostly students who study either in primary, secondary and higher education institutions and they are entitled to receive *zakat* funds. Tahfiz students from individually-owned TI and organization-owned TI can apply for *zakat* funds. Below are the excerpts on the financial aspects as explained by the respondents:

"...the institutions or companies that want giving the private contribution to the students, they has to go through us since the school is owned by us....distribution done by the school administration to the students who are entitled to receive..." –Manager for government-owned TI

"The students have to apply zakat directly from financial institutions... need to attend an interview and the students have to be interviewed again for next time to continue receiving zakat fund. Distributed directly from financial institutions to students without using a school as third parties...." – Owner of privately-owned TI

"School funded by organization and donation from communities...but students who cannot afford can apply for zakat, suggested by school, for students whom perform well." – Manager of organization-owned TI

Physical development

Physical development of government-owned TI is under the responsibility of the government as stated by manager for government-owned TI, *"the land of Tahfiz school is owned and developed by government or state"*.

For TI which is individually-owned and organization-owned, the land is normally owned by the founder or the land is a waqf land as explained below:

"The land is bequeathed as waqf land to establish Tahfiz school... then developed by founders to build the school." – Owner of privately-owned TI and organization-owned TI

Waqf endowment became a pillar in the religious, social, cultural, scientific, economic and political life of Islamic society. Kahf (2002) defined waqf as an act of holding certain property and preserving it for the confined benefit of certain philanthropy, and prohibiting any use or disposition of it outside that specific objective. The Selangor Waqf Enactment (No 7 of 1999)

defined waqf as the perpetual dedication of any property from which its benefit may be used for any charitable purpose, whether as general waqf or special waqf according to Islamic law. General waqf is any waqf that is created for a general charitable purpose while special waqf is a waqf that is created for a specified charitable purpose. Waqf provides new opportunities and avenues for the Muslim community to take an active role collectively and to assist in the effort to provide sustainable and quality education yet executed and delivered in an affordable manner (Ahmad, Muhammad & Kamaruzaman (2012). Waqf lands are donated for education purposes to establish of religious school such as TI.

Human capital

The number of teachers and staff for government-owned TI are adequate since the school is managed and administered by the government. Their job scope is satisfactory with competitive salary scale. The expectation and job scope of teacher in privately-owned TI, either individually owned or privately-owned, are somewhat different that the government-owned TI. The teachers in privately-owned TI involved in more than teaching and learning process. The following narration explains job scope taken by TIs for their human capital.

“Mostly they are satisfied with their job scope and salary pay since the job of scope only involves in teaching and learning process and teacher-student relationship.” – Manager for government-owned TI

“...the job scope of Tahfiz teacher here is different than others... not only involves teaching and learning process but involves in administration and school system management...for example; sometimes involves in food services as chef who cook for students...” -Owner of private-owned TI

“...the willingness of the teachers to stay loyal with the schools ...regardless of their relatively low salary...” - Owner of private-owned TI

“Teachers are responsible in making students memorize the whole Quran at given time ...discipline of the students...” - Manager of organization-owned TI

Pedagogical system

Government-owned TI implemented national curriculum and tahfiz curriculum approved by the State Religious Department. The method in memorizing Quran is standardized following from Darul Quran’s system. Individually-owned TI implemented their own curriculum. Some of the memorization techniques used are Turki, Deobandy, Darul Quran, Pakistan, Arab Saudi, and Indonesia memorization system. The technique chosen depended on the technique used by the founder when he did his tahfiz education. Organization-owned TI also used own curriculum. The following narration explains effort taken by TIs to improve their pedagogical system.

“The curriculum used by all school owned and administered by us is standardized for which curriculum certified from Darul Quran.” - Manager for government-owned TI

“We implement our own curriculum... but students need to do exam and gain certificate from Darul Quran...”- Owner of privately-owned TI

“We implement our own Tahfiz curriculum without National curriculum but student also need to take SPM exam as advised by government for recognition of the certificate.” - Manager of organization-owned TI

Table 1: Summary of the Differences In Terms of Financial Matters, Physical Development, Human Capital, and Pedagogical System of These Three Distinct TI Ownership Structure.

Types of TI	(a) Financial matters	(b) Physical development	(c) Human capital	(d) Pedagogical system
Government-owned	State Government or State Religious Department	Government/ State land	No. of staff : Adequate Job scope: Teaching & Learning	Implement National Curriculum and/or State Religious Department Tahfiz Curriculum
Individually-owned	-Individually financed -Donation from communities -Zakat	-Owners/ founders' land -Waqf	No. of staff : Inadequate Job scope: Teaching & Learning, administration	Own curriculum
Organization-owned	-Privately financed by the organization that set up the tahfiz -Donation -Zakat	-Organization's or corporate bodies' land -Waqf land	No. of staff: Inadequate Job scope: Teaching & Learning, administration	Own curriculum

CONCLUSION

Using thematic analysis, findings of this study revealed there are different ownership structure leads to different management practices. Findings in this study can be an invaluable input for the government in their effort to set up National Tahfiz Education Policy. A standardized management practices for TI could lead better quality tahfiz graduates.

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**EP008:
DO ACCOUNTABILITY AND TRANSPARENCY FROM
BENEFICIARIES' PERSPECTIVES INFLUENCE PERCEPTION ON
SERVICES AND VALUES ON THE ASSISTANCE PROVIDED BY NPO?**

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Abstract

Being dependent on public for funding, an accountable and transparent charity organization will more likely to gain confidence from potential donors. Increased in the cost of treatment and medication caused a challenge in providing adequate health care to the public. Existence of nonprofit organizations in the health industry facilitates the provision of health care to a specific target group such as the poor and needy. This paper surveyed the literature on the influence of accountability and transparency on the perception on services and values from beneficiaries' perspective. A conceptual framework is suggested that explained the relationship among the variables.

Keywords: NPO, Healthcare, Accountability, Transparency, Perceptions

INTRODUCTION

Among the sought after services provided by NPOs are related to providing healthcare related services. Costly healthcare treatment is made possible through the assistance provided by NPOs. Some beneficiaries require lifelong treatments that are not within their reach. Thus beneficiaries accept whatever assistance that they can receive. Assistance that they receive might be of lesser quality and values. On the other side, NPOs in providing assistance usually hire a third party to provide services. NPOs provide fund to the other party as payment to services provided to the beneficiaries. NPOs obtain fund from a multitude of sources. One of the major sources of fund is from religious related bodies since assistance and charities are synonymous with religious behavior. This is the case of Islamic based NPOs that provide healthcare assistance through a third party service provider. Fund received by Islamic based NPOs are used for payment to health service provider.

In Islam, the primary function of Islamic charities is to help the communities in providing a better life to those in needs. In a sense, Islamic charities provide Muslims with an opportunity to put into practice the commands of God and fulfil their duties as Muslims. Allah s.w.t says, "take *sadaqah* (obligatory alms) out of their wealth through which you may cleanse and purify them" (al-Taubah 9:103). *Zakat* and *waqf* are the two main instruments for charity. They are devoted for the overall development of the Muslim society. The contributions nourish & flourish various educational, economic, social, and cultural dimensions of Islam. Islamic charities provide a

visible example of how Islam can be put to work to improve society and alleviate socioeconomic stagnation. (Robert Looney, 2006). However, in ensuring benefits are fully realized, it is critical that they are well governed. Accountability and transparency are important issues in ensuring services provided by NPOs meet the requirement sought by stakeholders.

Thus the objective of this paper is to provide a conceptual framework on the relationship between accountability and transparency as perceived by beneficiaries on the services and values provided by NPOs in the healthcare industry. The immediate sections discussed accountability framework and recipients' perception on accountability of NPOs. The following section presents on perception on services and values provided by NPOs. Finally, a conceptual framework and conclusion ends the paper.

ACCOUNTABILITY FRAMEWORK FOR NON PROFIT ORGANIZATION

The concept of accountability has been widely discussed particularly in the view of the organisation structure either it is profit oriented or non-profit institutions. However, there had been limited research regarding the perception of the end users or stakeholders in assessing the accountability and transparency carried on by the organization particularly in non-profit institution. The key mechanism of accountability concept is not only for the institution, but it is expected to embrace a more holistic accountability in terms of social, environment and economic outcomes arising from the actions of the organisation (Gray, 2002). The impact of good accountability practices can be feel by the organisation's stakeholders as it is significant to ensure the survival and sustainability of the organisation. In Islamic context, the scope of accountability is seen in wider perspective that involves relationship with Allah (i.e. *tauhid*) and to other human beings. The concept accountable to Allah implies also accountable to society which highlighted on rights of others are well defined and mutual respect between individual and organisation (Al, Saad, Aziz, & Sawandi, 2014)

Generally, accountability is defined as “the process of holding actors responsible for their actions” (Fox and Brown, 1998). This is supported by several past literatures (i.e. Cornwall, Lucas & Pasteur, 2000; Edward and Hulme, 1996; Chisolm, 1995) that described accountability is about holding responsibilities for oneself and other in both aspect; external and internal aspect. External aspect is referring to create a proper set of standard or system or prescribed behavior while internal aspect of accountability is being expressed through individual action and the mission of the organization with aim to satisfy their recipients. According to Naser and Abu Baker (1999), there are three basic elements of the accountability concept which are firstly, the organization should provide detailed and transparent information to their stakeholders, secondly the responsibilities of those who held accountable for their action and impact must be spelled out clearly and thirdly the stakeholders shall measure the stating standard and actions carried out by the organization and the impact on their decision.

The basic theory of accountability suggested that an organization would be responsible and accountable either solely to their owners or to those stakeholders who have the most power to influence achievement of the organisation's mission or to those who are potentially impacted by the organisation's operation and action (Unerman & O'Dwyer, 2006). It is considered as relational accountability whereby there is a relationship between people who are taking responsibility for their actions (i.e. an organization) and people who are potentially affected by the organisation actions and response (i.e. the stakeholders). The framework for accountability of social enterprise and non-profit organization must encompasses three main components as suggested by Connolly & Kelly (2011) which are legal or compliance accountability, constructive accountability and voluntary accountability. Legal accountability focusing to donors, regulators which includes the implementation of appropriate standard and reporting structures, control procedures to ensure funds are used properly. Constructive and voluntary accountability is primarily to beneficiaries, the public and media which focus on performance assessment to prevent wastage of resources (i.e. inefficiency) and concerned whether the organisation is achieving its mission through proper monitoring and continuous improvement. Thus, organizations particularly non-profit oriented must be accountable to multiple stakeholders including private and institutional donors, government, state and federal agencies, volunteers, program recipients and society as whole (Ebrahim, 2003).

The growing of non-profit institutions substantially in Malaysia has led the public awareness to ensure the non-profit demonstrate their accountability so that the mission and objectives of the institutions is achievable. Since non-profit more depends on public funding for their financial support, there is a justifiable reason that a need for higher accountability is required in this organization (Abu Bakar, Arshad, Najebah, Azman, & Omar, n.d.). Each individual who involves and works for non-profit organization whether a salaried staff or a volunteer or a board of director have to play a role in ensuring the organization is answerable to its stakeholders. The high degree of accountability is significant for non-profit since there is increasing demand from the stakeholders for the detailed disclosure especially regarding financial transaction in the organization (Ebrahim, 2010). In the other word, the rise of financial accountability has been viewed as vital in non-profit since the stakeholders eager to know where and how their money was spent for designated purpose and activities whether it is in line with the organization mission and goal.

USER'S PERCEPTION ON ACCOUNTABILITY IN NON PROFIT ORGANIZATION

According to the dictionary dot com, perception is defined as "the act or faculty of perceiving or apprehending by means of the senses or of the mind" and Oxford Dictionary described perception as "the ability to see, hear or become aware of something through the senses". Although there are limited studies about stakeholders' perception on accountability in the organization, some prior studies had mixed the element of governance and accountability to measure the perception level of people within the organisation. Good governance always being

portrays as an indicator for effective and efficient performance that could provide benefit to the key stakeholders. The element of governance is concerned with how the institutions discharge their accountability to their stakeholders (Hulton et al., 2016). Based on the past literatures, non-profit organization normally shown limited disclosures that could result to uncertainty regarding the relative performance and efficiency of that particular institution (Robert, 2009). This circumstance could create dissatisfaction among the donors as it is difficult for them to know the actual amount has been spent on charitable or philanthropic purposes. A lack of transparency and accountability in the non-profit sector also increases the opportunities for fraud since majority of the accountants (65 percent) working in accounting firm BDO perceived fraud to be a problem in the non-profit sector (BDO, 2006).

A study conducted by Dellaportas, Langton & West (2012) in Australian charitable organisations about the perception from Chief Financial Officers on the governance and accountability in the charitable sector concluded that a variety of disclosures is required to meet the needs of its diverse stakeholders groups. All of the respondents believed that an increasing level of disclosures will provide advantages for the non-profit sector and a proper set of accounting standards should be established in order to harmonise the financial reporting practice in this sector, thus improve the financial and compliance accountability. This finding's is significant in reducing the current gap on getting a good level of perception from the stakeholders about the management and operation of the non-profit sector as a whole. The management of non-profit sector is increasingly receiving attention from the public whether this sector able to provide enhanced accountability, governance and performance measurement in meeting the organisation goals and objectives (Connolly & Kelly, 2012).

HEALTHCARE SERVICES

Patient satisfaction remains an important element of the medical system performance and should be evaluated constantly. The quality of medical services affects directly the level of patient satisfaction and is not influenced only by the level of economic development. Studies show the level of patient satisfaction is correlated with experienced doctors, the physician ability to resolve as quick as possible their medical emergencies and emergency hospitals close to home. Patients involved in the study mention that their satisfaction is not influenced only by the doctor attention and the level of communication. Study participants expressed in general a good level of satisfaction but did not have the courage to express directly disagreement for fear of not being treated appropriately. It is necessary to enhance controls and to be implemented continuous monitoring systems to increase the patient satisfaction. (Dana, 2015)

Analysis of the key factors for healthcare quality emerge and, thus, a rational strategy for the service quality improvement can be identified. In particular, in the light of the obtained Customer Satisfaction values, strategic efforts toward the service quality improvement should concern the following service criteria: Healthcare staff and Responsiveness and, particularly: staff capacity to

work as a team, ability of doctors to understand patient needs, staff reliability and swiftness of registration and admission procedures. Conversely, the obtained discrepancies characterizing managers' viewpoints on service quality highlight that the importance of the service criteria, responsiveness, healthcare staff and relationships is not correctly perceived by them. Thus, actions should be primarily focused on improvements in marketing researches, direct interactions between managers and stakeholders and bottom-up internal communications to correctly understand what stakeholders actually want. Furthermore, effective internal communications of achievements in service quality should reduce the discrepancies between stakeholders' needs and how staff perceives those needs. (Lupo, 2016)

Study by Williamson et.al (2006), discuss the factor influencing low income participants' use of health-related services. Income status and quality of service were the two most extensively discussed factors influencing use of health-related services. In addition, some participants explained that transportation, geographical location of services, and waiting times influenced their decisions. Study shows that low-income Canadians' service-use is influenced by the quality of their interactions with front-line service providers also has policy and program implications. Low-income participants' service-use was restricted by interactions that lacked empathy, compassion, and respect on the part of service providers. This finding is not really surprising. Presumably, most people, regardless of income, avoid services where they have experienced dissatisfying interactions with providers in the past. There is, however, some evidence from previous research that low-income people are more likely to be treated poorly by service providers than are higher- income people, characteristics of patients, such as age, educational level, insurance status, and other demographic factors may assist or hinder efforts to improve the quality of services.

Macleod, (2012), list 7 predictors of patient satisfaction. According to him, the extent of nursing influence on patient satisfaction levels becomes further evident when considering those major factors identified as being the key predictors of overall satisfaction of patient.

- Concern shown by staff
- Staff treated patient as a person, not as a condition
- Staff made patient feel safe and secure
- Nurses anticipated patient needs
- Staff communicated effectively
- Nurses helped calm fears
- Nurses responded to requests

In order to be effective, a hospital- wide, system-integrated program should include at least the following considerations.

At the governance level	• A policy commitment to a patient centred culture of caring
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	<ul style="list-style-type: none"> • Nurse leadership on the hospital board • Patient satisfaction as elements in strategic plans and scorecards • Patient satisfaction as elements in board's quality committee responsibilities • Promotion of public awareness programs for satisfaction measures • Satisfaction measures as a standing, actionable board agenda item • Regularly reviewed trend and comparative satisfaction data reports • Satisfaction metrics included in chief executive officer performance evaluations
At the senior management level	<ul style="list-style-type: none"> • A comprehensive quality, risk, compliance, and satisfaction program • Hospital-wide commitment to continuous improvement • Adequate nurse staffing as an organizational priority • Satisfaction scores and associated Web links on the hospital Web site • Cultivation of positive nurse–physician relationships • Communication of financial implications for high and low scores • Sufficient resources and support services in patient care areas • Effective complaint management and service recovery programs
At the nurse leadership level	<ul style="list-style-type: none"> • Transformational patient satisfaction leadership • High expectations levels clearly communicated • Regular nurse leader rounds • Targeted programs of education and training • Minimized administrative burdens in patient care areas • Ongoing team and individual coaching • Staff nurse empowerment • A system of rewards and celebrations for success
At staff nurse level	<ul style="list-style-type: none"> • Full appreciation of staff nurse importance in determining patient satisfaction • Active participation in the design and “ownership” of patient satisfaction initiatives • Thorough understanding of expectations, accountability, and underlying rationale • A commitment to making every patient interaction count

	<ul style="list-style-type: none"> • Adoption of active listening and inquiry skills • Realization that “better” time is more important than more time • Focusing as much on the person as on the person’s condition • Post-discharge courtesy calls
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Source: Three Keys to Patient Satisfaction: Nursing, Nursing, and Nursing by Les MacLeod, EdD, MPH

CONCEPTUAL FRAMEWORK

From the survey of the literature, the following framework is constructed. It is envisaged that perception on NPOs accountability and transparency from beneficiaries’ perspective will affect the perception of services provided by NPOs. It in turn will also influence the perception on values of the service provided by NPOs to the recipients. Diagram 1 illustrates the relationship between accountability and transparency with services and values as perceived by beneficiaries.

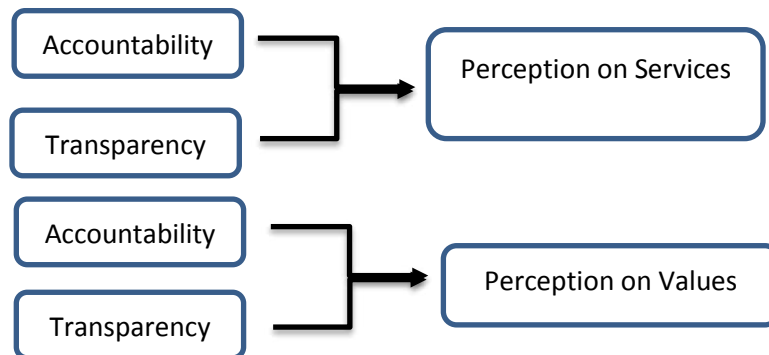


Diagram 1: Influence of Accountability and Transparency on Services and Values

A survey on healthcare recipients of an Islamic based NPO will provide the data for the study. The NPO receives its fund from various sources in the Islamic community. Funds are mainly in the form of *zakat* payments and waqf. The funds are used for many purposes for the benefit of the recipients. One of the purposes is to fulfil the healthcare need of the recipients.

CONCLUSION

Accountability and transparency are two instruments that influence services and values of any given services. Both contribute to better delivery of services to intended recipients. In the case of NPOs, they are accountable to many stakeholders with different expectation, to say the least. A holistic accountability and transparent practices are not only necessary requirement but the outcome will be felt most by the recipients, as such this paper posits the importance of exploring perception of accountability and transparency from the perspective of beneficiaries. Beneficiaries’ perception on accountability and transparency are hypothesized to influence the perception of level of services and values provided by NPOs. This paper proposed to study the

accountability and transparency of NPOs in the healthcare industry. With the rising cost of healthcare services, NPOs fill in the gap left by the public and private sector in providing health services to those in need but couldn't afford it. Understanding the importance of accountability and transparency ultimately will increase values and improved services provided by NPOs.

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**BP011:
NASIHAT YANG BAIK SEBAGAI SUATU APLIKASI AMALAN
SEDEKAH**

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Abstract

Good advices are likely favorable by all rational individuals in order to achieve peaceful world. Delivering good advices are one of religious teachings that need to be practiced in our daily lives. This practice is a prerequisite skill to develop a good relationship with other human beings. A good communicator possess the ability to accommodate oneself verbal skills in any situation. There are several elements of communication such as al-qawl al-sadid, al-qawl al-maisur, al-qawl al-ma`ruf, al-qawl al-baligh and al-qawl al-layyin that strongly recommended for all communicators in dealing with other individuals. Thus, effective communication will result better interaction between two parties. The process of listening and understanding will occur efficiently during the process of exchanging the messages. This article emphasizes the necessity of delivering good advices among human beings as prescribed in the religious teachings. Effective communication practices have to be blended together with good messages that can enhance delivering advices of the communicators. This article also discusses the elements of verbal communication that should be possessed by all individuals in the communication process as sender and receiver.

Kata Kunci: advice, verbal communication, al-qawl al-sadid; al-qawl al-maisur; al-qawl al-ma`ruf; al-qawl al-baligh; al-qawl al-layyin.

PENGENALAN

Dalam bahasa Arab istilah yang membawa makna komunikasi ialah *ittisal* yang bererti sampaikan (Saodah Wok et. al, 2003:215). Disini setiap mesej yang ingin disampaikan bergantung kepada bagaimana komunikasi dijayakan. Komunikasi lisan merupakan pengucapan (penggunaan bahasa dalam bentuk pertuturan dan penulisan) yang disampaikan kepada individu lain dengan tujuan perkongsian makna. Manakala secara umumnya komunikasi bukan lisan dikategorikan kepada lima perkara iaitu prosemik, kinesik, paralinguistik, kronemik dan artifaktual. Komunikasi sebagai proses pemahaman maksud yang disampaikan oleh pengirim kepada penerima dengan tujuan kebaikan bersama (Mohamad Baharudin Othman & Mohd Khairie Ahmad,2007:3).

Sebagai contoh, seorang pemimpin apa yang dikata dan apa yang dilakukan pasti menjadi bahan yang akan dilihat dan dinilai oleh para pengikut. Oleh itu komunikasi yang penuh dengan kata-kata nasihat penting dalam membina keluarga, masyarakat dan negara. Nasihat yang dilakukan

secara berkesan meningkatkan persefahaman antara insan, sekaligus menghasilkan keharmonian. Sarjana menjelaskan perkataan komunikasi dikatakan berasal daripada perkataan *communicare* yang bermaksud penyertaan atau pemberitahuan. Perkataan *communis* pula bererti milik bersama atau berlaku di mana-mana. Oleh itu perkataan “komunikasi” menekankan kegiatan seseorang individu atau kelompok serta sifat ingin mempengaruhi orang lain (Astrid S.Susanto’ 1987;1). Manakala menurut Onong Uchjana Effendy, M.A (1986), secara etimologi atau menurut asal katanya, istilah komunikasi atau dalam bahasa Inggeris *communication* berasal dari perkataan Latin *communicatio*, dan bersumber dari kata *communis* yang bererti sama. Sama di sini maksudnya adalah sama makna. Menurut Adair (1973) makna komunikasi ini:

“It comes from the same Latin root as ‘common’, namely the word comunis, whose own roots are shrouded in mystery. The first part of it presents no difficulties, for ‘com’ is known to be an English version of cum (with). The second part, munis, descends either from moinis (bound), or from the early Latin oinos (one). Dr. Johnson defined the first and major family of meanings of the word ‘common’ thus: ‘belonging equally to more than one’.”

Fungsi Kemunikasi Lisan

Beberapa fungsi utama komunikasi dapat diringkas sebagai berikut; komunikasi bertujuan untuk penyebaran informasi dan amaran, untuk menjalinkan hubungan dengan masyarakat, melaksanakan transmisi budaya masyarakat, hiburan, penentuan agenda, pemujukan, pendidikan, ekonomi, pemerhati, politik dan sebagainya. Oleh kerana luas dan besarnya peranan komunikasi maka setiap komunikator wajar sedar akan peranan mereka dalam menyampaikan nasihat yang diberi. Nabi Muhamad SAW bersabda:

أحب الأعمال إلى الله حفظ اللسان

Maksudnya: *Amal yang paling disukai oleh Allah SWT, ialah mengekang lidah.*
(H.R. al-Baihaqi)

Komunikasi lisan pemimpin memainkan peranan yang amat penting kerana ia boleh berfungsi sebagai wahana untuk memberitahu. Para pemimpin menggunakan komunikasi lisan sebagai wahana untuk memberitahu atau menyampaikan sesuatu mesej. Fungsi memberitahu ialah fungsi terawal yang digunakan oleh manusia dengan tujuan untuk memberitahu orang lain tentang sesuatu perkara (Aziz Abdul Rahman, 2002:7).

Ia juga berfungsi untuk mendidik, justeru para komunikator yang islamik sewajarnya menjadi pendidik masyarakat dengan menjadi ejen penyebar maklumat yang sahih. Manakala fungsi sebagai pendorong, jangan disalahgunakan komunikasi yang dilakukan. Maklumat yang

disampaikan harus tepat dan betul. Tonjolkan sifat kasih sayang dalam berkomunikasi. Tautan hati antara komunikator dan komunikan bakal menyaksikan komunikasi cemerlang.

Seterusnya, komunikasi lisan berperanan sebagai lambang sesuatu budaya dan identiti bangsa. Kewujudan pelbagai bahasa di dunia ini secara tidak langsung mewakili bangsa dan budaya pengamalnya. Harus diingat kepelbagaian yang ada bukan mengarah kepada perbalahan dan perpecahan. Kemampuan komunikator mendalami pelbagai bahasa yang ada bakal menjadi aset penting dalam mencorakkan kemesraan berbahasa. Malah kemampuan seseorang untuk menguasai pelbagai bahasa akan menjadikannya seorang yang selamat dalam banyak perkara. Justeru, kepelbagaian bangsa, bahasa, adat dan resam mesti dilihat dari aspek yang positif.

Disamping berperanan sebagai lambang sesuatu budaya, komunikasi lisan juga mampu berfungsi sebagai saluran meluahkan perasaan dan idea. Sebagai komunikator yang cemerlang, seseorang itu harus sentiasa memahami bagaimana cara menyampaikan dan meluahkan isi hati secara sopan dan tertib. Tidak dinafikan perbincangan serta penjelasan menggunakan bahasa (secara lisan) lebih mudah difahami dan ditafsirkan maknanya berbanding penggunaan komunikasi bukan lisan. Dalam aspek ini kemahiran berkomunikasi boleh dirujuk kepada kemahiran menggunakan bahasa bagi menimbulkan kesan-kesan positif ke atas hubungan sesama manusia (Abdullah Hassan, 2007; 221). Oleh yang demikian, gunakan bahasa yang sesuai dan mampu memberi dorongan yang positif kepada khalayak yang dihadapi.

Elemen Nasihat Secara Lisan

i. Qawlan Sadidan (Perkataan yang benar)

Benar (الصدق) dalam tutur kata sememangnya dituntut dalam ajaran Islam. Lawan bagi sifat benar ialah dusta (الكذب). Ia adalah sifat yang paling keji dan jahat. Benar ertinya betul atau benar apa yang dikatakan, benar apa yang dibuat dan benar apa yang diperakukan. Berkata benar adalah suatu kebiasaan yang baik, suatu sifat yang luhur, tumpuan akhlak dan budi pekerti yang tinggi. Ia adalah tanda kesempurnaan akal dan kemantapan watak. Sifat atau kebiasaan berkata benar menjamin keamanan pergaulan hidup dan ketenteraman masyarakat. Ia mempererat hubungan serta mempertebal kepercayaan di antara sesama sahabat, sesama keluarga dan sesama warga masyarakat. Benar adalah sifat yang paling mulia, kerana ia adalah sifat Rasulullah SAW dan orang-orang yang beriman, hingga dikatakan tidak beriman seseorang itu kalau ia tidak bersifat benar (Mohamed Jamil Awang Lirai, 1987; 35). Justeru, Islam menganjurkan agar umatnya berhati-hati dalam segala apa yang diucapkan atau diceritakan. Janganlah ia menceritakan segala apa yang ia dengar sebelum diteliti kebenarannya, kerana di antara berita-berita dan cerita-cerita yang ia dengar mungkin terdapat yang benar dan yang bohong. Firman Allah SWT dalam surah al-Nisa'

Dan hendaklah takut (kepada Allah daripada melakukan aniaya kepada anak-anak yatim oleh) orang-orang (yang menjadi penjaganya), yang jika ditakdirkan mereka pula meninggalkan anak-anak yang daif (yatim) di belakang mereka,

(tentulah) mereka akan merasa bimbang terhadap (Masa depan dan keselamatan) anak-anak mereka; oleh itu hendaklah mereka bertaqwa kepada Allah, dan hendaklah mereka mengatakan perkataan yang betul (menepati kebenaran).

(al-Nisa': 9)

Sifat *sidq* (benar) adalah asas kemuliaan, lambang ketinggian, tanda kesempurnaan dan gambaran daripada tingkah perlakuan yang bersih dan suci (Haron Din, 2003;51). Prinsip benar dalam berkomunikasi boleh diertikan dengan beberapa misalnya sesuai dengan kriteria kebenaran. Ucapan yang benar tentulah ucapan yang sesuai dengan al-Quran, al-Sunnah, dan ilmu. Al-Quran menyindir keras orang-orang yang berdiskusi tanpa merujuk kepada al-Kitab, petunjuk, dan Ilmu.

Firman Allah SWT yang bermaksud:

Di antara manusia ada yang berdebat tentang Allah tanpa ilmu, petunjuk dan kitab yang menerangi

(Luqman:20)

Al-Qur'an menyatakan bahawa berkomunikasi yang benar (menyampaikan pesan yang benar) adalah pra-syarat untuk kebenaran (kebaikan, kemaslahatan) amal. Dalam aspek ini setiap pemimpin bila ingin memperbaiki masyarakat mereka mestilah menyebarkan pesanan yang benar. Dengan kata yang lain, masyarakat menjadi rosak apabila isi pesanan komunikasi tidak benar, contohnya bila ada pemimpin yang menyembunyikan kebenaran kerana takut kehilangan kedudukan dan sebagainya.

Berteraskan nilai kebenaran (*al-haqq*) terutama dalam pemberitaan. Maka al-Quran memberikan peringatan tentang kewajipan menyampaikan berita yang benar. Ahli cerdik pandai menyatakan bahawa penyakit jiwa diperingkat individu mahupun masyarakat timbul akibat daripada penggunaan bahasa yang tidak benar. Al-Qur'an menjelaskan bahawa salah satu strategi memperbaiki masyarakat ialah memperbetulkan bahasa yang digunakan. Bahasa harus digunakan untuk mengungkapkan keadaan sebenar, bukan untuk menyembunyikannya. Di peringkat ini wajar sekali pemimpin berpegang kepada pepatah yang berbunyi berani kerana benar takut kerana salah.

Al-Qur'an juga menyuruh manusia agar sentiasa berkata benar. Kejujuran melahirkan kekuatan. Pemilihan akhlak yang tinggi adalah syarat untuk menjadi pemimpin Islam (Mustafa Haji Daud; 1992;400). Berkata bohong mendatangkan kelemahan. Berkata benar mencerminkan keberanian. Sabda Nabi SAW;

أحب الجهاد الى الله كلمة حق لاءمام جائر

Maksudnya: *Jihad yang paling disukai oleh Allah S.W.T., ialah kata-kata yang hak dan benar yang diucapkan dihadapan penguasa yang zalim.*

(H.R. Ahmad & Abi Umamah)

ii. *Qawlan Balighan* (Perkataan yang berkesan)

Bahasa yang mudah dan jelas hendaklah menjadi kriteria percakapan. Percakapan yang terlalu berhati-hati dan menggunakan suara yang parau hendaklah dihindari. Penggunaan kata-kata kuno yang janggal, sebagai percubaan untuk mendemonstrasi kebolehan berbahasa atau untuk menunjukkan dirinya lebih berpengetahuan daripada yang lain adalah ditegah sama sekali (Marwan Ibrahim al-Kaysi, 2000:141). Berlebihan dalam berbicara juga tidak perlu dilakukan, kerana ia menjerumuskan kepada sesuatu yang tidak penting serta menambahkan sesuatu yang penting melebihi kadar keperluannya (Imam al-Ghazali, 2003:24). Sifat sombong dan membanggakan diri bertentangan dengan budi pekerti dan akhlak serta adab Islam, dan sering menjadi bibit kebencian dan permusuhan di dalam pergaulan hidup. Adalah tidak baik bagi seseorang Muslim itu bercakap dengan bersumpah, sebaik-baiknya sumpahan dan bersumpah hendaklah dihindari (Marwan Ibrahim al-Kaysi, 2000:145). Firman Allah SWT yang bermaksud:

“Mereka itulah orang-orang yang diketahui oleh Allah akan apa yang ada dalam hati mereka, oleh itu berpalinglah engkau daripada mereka, dan nasihatilah mereka, serta katakanlah kepada mereka kata-kata yang boleh memberi kesan pada hati mereka.

(al-Nisa’: 63)

iii. *Qawlan Maysuran* (Perkataan yang menyejukkan hati)

Seseorang itu hendaklah sentiasa cuba menggunakan kata-kata yang mesra, menyenangkan dan berbicara secara bermoral (Marwan Ibrahim al-Kaysi, 2000:142). Elemen komunikasi lisan yang sentiasa menggunakan perkataan yang menyenangkan hati pendengar amat dititikberatkan oleh Islam. Perkataan yang kasar menjauhkan khalayak dan ini bakal menambahkan lagi benteng atau jurang komunikasi sedia ada. Bahkan Islam juga melarang umatnya dari perbuatan mengumpat, ini kerana perbuatan tersebut boleh memecahbelahkan masyarakat dan sekaligus menyumbang kepada proses de-Islamisasi (Abdul Ghafar Don & Zaleha Mohd Ali, 2008:21). Firman Allah SWT yang bermaksud:

“Dan jika engkau terpaksa berpaling tidak melayani mereka, kerana menunggu rezeki dari Tuhanmu yang engkau harapkan, maka katakanlah kepada mereka kata-kata yang menyenangkan hati.

(al-Isra’: 28)

Berilah kemaafan apabila berada dalam keadaan berkuasa dan berhak, begitu juga berilah nasihat secara ikhlas apabila diminta nasihat oleh orang lain serta bersikap sopan santun.

iv. *Qawlan layyinan* (Perkataan yang lemah lembut)

Digambarkan di sini bagaimana pendekatan yang sewajarnya diguna oleh setiap muslim dalam mendekati khalayak. Perkataan yang sopan dan penuh dengan kelembutan berupaya menyelami hati dan perasaan khalayak. Namun begitu apabila seorang wanita berbicara dengan seorang lelaki, tutur katanya hendaklah tidak menggoda, sebaliknya hendaklah tepat dan cepat (Marwan Ibrahim al-Kaysi, 2000:164). Jadilah orang yang pertama memberi salam kepada muslim yang lain. Tabiat suka memberi atau menjawab salam adalah sebesar-besar keutamaan dan menambah rakan dan kenalan. Ia juga merupakan amalan yang baik dan beradab. Sebagai Muslim seseorang itu tidak dibenarkan mencemuh atau mengina orang lain dalam percakapannya. Begitu juga ia tidak dibenarkan mencemuh atau menghina dirinya sendiri. Firman Allah SWT yang bermaksud:

“Pergilah kepada Firaun, sesungguhnya ia telah melampaui batas, Nabi Musa berdoa dengan berkata: "Wahai Tuhanku, lapangkanlah bagiku, dadaku; dan mudahkanlah bagiku, tugasku; dan lepaskanlah simpulan dari lidahku, supaya mereka faham perkataanku;

(Taha: 24-28)

Sabda Nabi SAW yang bermaksud;

Barangsiapa meninggalkan perbantahan, padahal ia dalam pihak yang benar, nescaya dibangun untuknya rumah di syurga yang paling tinggi, dan barangsiapa meninggalkan perbantahan, sedang ia dalam pihak yang salah, nescaya dibangun untuknya rumah di tengah-tengah syurga.

(HR. Al-Tirmidzi & Ibnu Majah)

v. *Qawlan Kariman* (Perkataan yang mengandungi penghormatan)

Islam telah mensyariatkan kebiasaan memberi dan membalas salam dalam pergaulan sehari-hari dan memerintahkan agar kebiasaan itu dipopularkan di antara umat Islam dalam setiap kesempatan bertemu dan kesempatan berpisah sebagai syi‘ar dan peradaban Islam yang luhur. Manfaat besar bagi amalan kebiasaan memberi dan membalas salam, hubungan seseorang dengan yang lain makin menjadi harmonis, tali persaudaraan semakin menjadi erat dan rasa simpati makin tumbuh dan merata. Dalam usaha mendekati manusia, penggunaan perkataan yang tepat amat dituntut. Sebagai contoh jika seseorang ingin memanggil orang yang tidak dikenalnya, cara terbaik sekali adalah dengan menggunakan panggilan secara umum tanpa mengaibkan orang yang dipanggil itu seperti menggunakan panggilan “kawan”, atau “saudara”. Penggunaan perkataan yang mengandungi penghormatan terhadap seseorang akan mengundang perasaan senang dan tenang. Tambahan pula menjadi naluri semula jadi manusia untuk dihormati

dan didekati. Bercakaplah dengan orang-orang tua dan orang-orang alim dengan adab sopan, muliakanlah mereka dan ambillah nasihat yang baik dari mereka. Dilarang mengolok-olok dengan maksud menghina dan merendahkan orang lain tanpa sebab dan alasan yang nyata, kerana ia menyentuh dan melukai perasaan orang yang diolok-olok dengan kata-kata atau dengan cara apa sekalipun yang mengandungi maksud merendahkan darjat manusia dan kedudukannya, demikian juga dilarang membusuk-busukkan orang dengan menyebut-nyebut kekurangannya, serta memanggil orang dengan menggunakan jolokan yang tidak disukainya. Islam juga turut melarang dari perbuatan mencari-cari kesalahan dan aib orang lain serta perbuatan mengumpat (mengunjing). Firman Allah SWT yang bermaksud:

“Dan Tuhanmu telah perintahkan, supaya engkau tidak menyembah melainkan kepadanya semata-mata, dan hendaklah engkau berbuat baik kepada ibu bapa. jika salah seorang dari keduanya, atau kedua-duanya sekali, sampai kepada umur tua dalam jagaan dan peliharaanmu, maka janganlah engkau berkata kepada mereka (sebarang perkataan kasar) sekalipun perkataan "Ha", dan janganlah engkau menengking menyergah mereka, tetapi katakanlah kepada mereka perkataan yang mulia (yang bersopan santun).

(al-Isra': 23)

Seterusnya maksud Allah SWT;

“Allah tidak suka kepada perkataan-perkataan buruk yang dikatakan dengan berterus-terang (untuk mendedahkan kejahatan orang); kecuali oleh orang yang dianiayakan. dan (ingatlah) Allah sentiasa Mendengar, lagi Maha mengetahui.

(al-Nisa': 148)

vi. *Qawlan Ma'rufan* (Perkataan yang baik)

Besederhana dalam berbicara adalah suatu sifat terpuji yang seharusnya dipupuk oleh setiap Muslim. Mengatakan sesuatu yang tidak penting, atau lebih banyak daripada yang penting, maka meninggalkannya lebih utama. Seseorang Muslim juga hendaklah berfikir dahulu sebelum berbicara, serta ia hendaklah menghindari dari memperkatakan sesuatu yang boleh membawa penyesalan dan yang menyebabkan ia perlu memohon maaf. Seseorang Muslim juga tidak dibenarkan untuk menggunakan bahasa yang kesat atau kotor dan perlu mengawasi diri daripada pengumpat dan pengeji. Firman Allah SWT yang bermaksud;

“Wahai isteri-isteri Nabi, kamu semua bukanlah seperti mana-mana perempuan yang lain kalau kamu tetap bertaqwa. oleh itu janganlah kamu berkata-kata dengan lembut manja (semasa bercakap dengan lelaki asing) kerana yang demikian boleh menimbulkan keinginan orang yang ada penyakit dalam hatinya (menaruh tujuan buruk kepada kamu), dan sebaliknya berkatalah dengan kata-kata yang baik (sesuai dan sopan).

(al-Ahزاب: 32)

Manakala Sabda Nabi SAW yang bermaksud;

Perkataan yang baik adalah sedeqah. (HR. Muslim)

Digalakkan menggunakan kata-kata *kinayah* dalam menerangkan hal-hal yang dipandang buruk. Seseorang Muslim hendaklah menghindari dari membicarakan sesuatu perkara yang tidak ada kaitan dengannya. Sebaliknya digalakkan untuk bertanya khabar dan prihatin terhadap kebajikan mereka.

Mau'izah Dalam Menasihati

Kalimah *al-mau'izah* merupakan kata terbitan dari perkataan *wa'az* (وعظ) bermaksud memberi peringatan yang baik dan seumpamanya yang timbul dari hati (al-Khalīl ibn Aḥmad al-Farāhīdī, t.t. 2: 228). Di dalam kamus "*Misbah al-Munir*" disebut bahawa *al-Wa'az* ialah wasiat dan perintah, *mau'izah* pula ialah nama kepada peringatan tersebut (al-Fayyumi, 1978:225).

Abdul Ghafar Hj. Don (2010: 130) menyebut terdapat sembilan belas kali kalimah *al-mau'izah* diulang di dalam al-Quran. Secara tidak langsung, hal ini menunjukkan kepentingan nasihat yang baik untuk mendorong manusia dan mengubah masyarakat agar taat dan patuh suruhan Allah. Antaranya adalah firman Allah SWT:

هَذَا بَيَانٌ لِلنَّاسِ وَهُدًى وَمَوْعِظَةٌ لِّلْمُتَّقِينَ

Maksudnya: Ini ialah penerangan kepada seluruh umat manusia, dan petunjuk serta pengajaran bagi orang-orang yang (hendak) bertaqwa.

(Ali 'Imraan:138)

Al-Thabari (2000:7:232) menyimpulkan kesepakatan ulama' berkenaan ayat ini dengan mengatakan al-Quran sebagai penerang kepada manusia dan petunjuk dan pengajaran bagi orang-orang yang bertakwa. Menariknya, Allah SWT telah menggabungkan sekurang-kurangnya empat kali terma '*mau'izah*' dengan '*muttaqin*' di dalam al-Quran menunjukkan bahawa betapa pentingnya elemen *mau'izah* kepada orang yang bertakwa.

Rasulullah SAW dianugerahkan dengan *Jawami'ul Kalim* (Mustafa al-Bugha & Muhyiddin Misto, 2015:299) iaitu kalimat yang ringkas, tapi mempunyai makna yang luas. Inilah keutamaan yang dimiliki oleh Rasulullah SAW, di mana baginda sangat fasih di dalam menyampaikan sesuatu. Kefasihan ketika menyampaikan kalimat sangat berpengaruh sebagai elemen komunikasi berkesan dan efektif. Rasulullah SAW bersabda:

وَأْمُرُ بِالْمَعْرُوفِ صَدَقَةٌ، وَنَهْيٌ عَنِ الْمُنْكَرِ صَدَقَةٌ

“Dan menyuruh berbuat kebaikan itu adalah sedeqah dan melarang membuat kejahatan itu adalah sedeqah” (Hadith Riwayat Muslim, Kitab Al-Zakat, Bab Penjelasan Bahawa Nama Sedeqah Diberi Kepada Setiap Cabang Kebaikan, No. 1006, Jil. 2, Hal. 697)

Abu Dzar RA menceritakan bahawa sebahagian kaum muhajirin dan ansar yang faqir merasakan bahawa terhadapnya kemampuan mereka untuk mengerjakan kebaikan dan kebajikan berbanding saudara Islam yang lebih berada. Lantas Rasulullah SAW menukulkan hadith ini dan beberapa lagi perkara yang boleh dijadikan sebagai sedeqah antaranya menjalankan seruan *amar ma'ruf dan nahi munkar* (Mustafa al-Bugha & Muhyiddin Misto, 2015: 334).

Dalam hadith yang lain, Rasulullah SAW menyatakan;

والكلمة الطيبة صدقة

Kalimah yang baik juga merupakan satu sedeqah

Kalimah yang baik merangkumi pelbagai perkara termasuklah mendokan sesama Islam tatkala bersin, memberi dan menjawab salam, pujian ke atas Muslim yang berhak, nasihat dan bimbingan di atas jalan yang benar, perbuatan yang boleh menggembirakan komunikan serta amalan-amalan salih yang lain (Mustafa al-Bugha & Muhyiddin Misto, 2015: 351-352). Perkara ini bersesuaian dengan firman Allah SWT:

..إِلَيْهِ يَصْعَدُ الْكَلِمُ الطَّيِّبُ وَالْعَمَلُ الصَّالِحُ يَرْفَعُهُ..

Kepada Allah lah naiknya segala perkataan yang baik (yang menegaskan iman dan tauhid, untuk dimasukkan ke dalam kira-kira balasan), dan amal yang soleh pula di angkatnya naik (sebagai amal yang makbul - yang memberi kemuliaan kepada yang melakukannya)

(Faatir:10)

Selain itu, komunikasi yang baik dapat menjernihkan hati penerima lantas mendatangkan rasa senang dan gembira dalam hati komunikan. Perkara ini dinyatakan melalui firmanNya:

قَوْلٌ مَعْرُوفٌ وَمَغْفُورَةٌ خَيْرٌ مِنْ صَدَقَةٍ يَتْبَعُهَا أَدَىٰ وَاللَّهُ غَنِيٌّ حَلِيمٌ

Maksudnya: “Dengan perkataan yang baik dan memaafkan (kesilapan mereka) adalah lebih baik daripada sedeqah (pemberian) yang diiringi (dengan perbuatan atau perkataan yang) menyakitkan hati. Dan (ingatlah), Allah Maha Kaya, lagi Maha Penyabar”

(Al-Baqarah:263)

Tambahan pula, *kalimah tayyibah* ini merupakan antara perkara yang harus disuburkan bagi setiap insan. Firman Allah SWT:

أَلَمْ تَرَ كَيْفَ ضَرَبَ اللَّهُ مَثَلًا كَلِمَةً طَيِّبَةً كَشَجَرَةٍ طَيِّبَةٍ أَصْلُهَا ثَابِتٌ وَفَرْعُهَا فِي السَّمَاءِ ۝

Maksudnya: Tidakkah engkau melihat (wahai Muhammad) bagaimana Allah mengemukakan satu perbandingan, iaitu: kalimah yang baik adalah sebagai sebatang pohon yang baik, yang pangkalnya (akar tunjangnya) tetap teguh, dan cabang pucuknya menjulang ke langit.

(Ibrahim :24)

KESIMPULAN

Kefahaman yang jelas tentang erti komunikasi dan nasihat yang wajar diberikan oleh seorang komunikator serta mematuhi etika komunikasi lisan, maka akan lahir satu bentuk komunikasi insan yang sejahtera. Selain itu, dapat disebut kebanyakan nasihat-nasihat yang diberikan oleh baginda SAW khususnya berkaitan sedeqah dengan lafaz-lafaz yang jelas dan ringkas serta meliputi segala kebaikan atau peringatan. Perkara ini sesuai dengan konsep mau'izah itu sendiri yang antaranya menyatakan komunikator perlu bersifat persuasif iaitu berupaya mempengaruhi atau meyakinkan sasaran (Zulkefli Hj. Aini & S. Salahudin Suyurno, 2016: 109). Pada masa yang sama, nilai-nilai galakan bersedeqah yang diunjurkan Baginda merupakan lafaz *targhib* bermaksud menggalak dan mendorong manusia mengamalkan amal solih dalam kehidupan Syeikh Shālih Abdullah Hamid (2001: 10).

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**BP012:
KEBERKESANAN INFAK TERHADAP PELAJAR KURANG
BERKEMAMPUAN:KAJIAN KES TERHADAP PROGRAM 'FOOD FOR
FREE' DI UITM MELAKA**

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Abstract

'Infak', an act of disbursement is an Islamic religious practice that has long been established since the time of Prophet Muhammad SAW. Its development was very rapid, especially during the reign of the Ottoman Empire which was based in Turkey. Of late, disbursement has become the main focus because of its reliability to act as a generator of wealth and capital in the economic development of the Muslims. Meanwhile, Institutions of Higher Learning are not left behind in the efforts to cultivate such act of charity for underprivileged students. This paper discusses the effectiveness of the funding program 'Food For Free' in UiTM Melaka. In addition, it also identifies students' perceptions of the program. The method used is based on observations made at several locations in UiTM Melaka. The study found that the program allows the underprivileged students to benefit from the fund with more comprehensive and effective manner.

Keywords: Disbursement, UiTM Melaka, Underprivileged Students, Food For Free.

PENDAHULUAN

Berdasarkan sejarah Islam, pemberian makanan secara percuma telah wujud sejak zaman kerajaan Islam Uthmaniah melalui perantara institusi wakaf yang terkenal, iaitu Pust Penyediaan Makanan (*Public Kitchen*) atau yang lebih dikenali sebagai *imaret*. Menurut Singer A. (2005), *imaret* berperanan dalam membantu megumpulkan harta-harta wakaf termasuk yang terdiri dari bentuk makanan untuk diagihkan kepada golongan yang memerlukan seperti golongan musafir dan tetamu. Beliau menyenaraikan tidak kurang daripada lapan puluh tiga buah *imaret* yang berfungsi menyediakan makanan percuma kepada golongan memerlukan telah dibina di bawah kerajaan Islam Uthmaniah.

Begitu juga jika dilihat pada kewajipan zakat pada zaman kegemilangan Islam terdahulu. Ia dilaksanakan dengan begitu efisien sama ada dari segi kutipan mahupun kaedah pengagihannya. Setiap golongan kaya merasa bertanggungjawab untuk menunaikan hak orang-orang miskin dengan mengeluarkan zakat dari harta mereka. Manakala di peringkat pengagihan pula golongan

yang ditugaskan mencari golongan miskin yang boleh diberikan bantuan zakat menjalankan tanggungjawab mereka dengan bersungguh-sungguh. Ini menunjukkan bahawa zakat merupakan salah satu mekanisma terpenting yang mesti dilaksanakan bagi membasmi kemiskinan yang berlaku.

Atas kesedaran ini, inisiatif pengagihan zakat, wakaf, sedekah, infak dan yang berkaitan perlu diperkemas dan diperkasakan bagi mencapai tujuan dan matlamat membantu meringankan golongan yang kurang berkemampuan. Walaupun secara asasnya, ia tertakluk atas tanggungjawab dan peranan pemerintah (kerajaan), namun sebenarnya usaha ini boleh digembeleng dan diperkasakan di peringkat bawahan seperti badan bukan kerajaan (NGO), persatuan-persatuan, institusi-institusi pendidikan, kumpulan-kumpulan masyarakat mahupun secara persendirian.

KAJIAN LEPAS

Bantuan atau pemberian makanan secara percuma merupakan mekanisme bantuan kecemasan jangka pendek dan jangka masa panjang sebagai program bantuan makanan yang membantu masyarakat yang kekurangan bekalan makanan. Dalam satu kajian yang dilakukan oleh John W. Mellor (1987), usaha pemberian makanan dapat memberi sumbangan kepada sekuriti makanan dan pembangunan ekonomi di sesebuah negara. Ini kerana dalam jangka pendek, bantuan makanan dapat melindungi rakyat yang kekurangan nutrisi makanan semasa berlaku pengeluaran yang defisit dalam sesebuah negara. Manakala dalam jangka masa panjang pula, bantuan makanan dapat membantu negara untuk memperolehi strategi pembangunan yang berorientasikan pertanian bagi merangsang pengeluaran makanan domestik.

Sementara itu, dalam satu kajian yang dihasilkan oleh Norzuraida Hasan dan Asmak Ab Rahman (2012), terdapat beberapa inisiatif badan-badan bukan kerajaan (NGO) yang dilihat begitu proaktif dalam usaha pemberian makanan secara percuma ini sejak dahulu. Dalam kajian ini, mereka lebih menfokuskan terhadap pengalaman beberapa program bantuan makanan daripada beberapa NGO seperti Pertubuhan Tindakan Wanita Islam (PERTIWI), yang mengusahakan projek 'Soup Kitchen', serta projek 'Pusat Makan Percuma' daripada Pertubuhan Membela Miskin Tegar Malaysia (BELAMISKIN). Kajian ini cuba mengetengahkan kaedah dan metod beberapa NGO yang berjaya dalam usaha merapatkan jurang golongan miskin khususnya dari sudut pemberian makanan percuma.

Ketidakmampuan untuk mendapatkan bekalan makanan akibat kemiskinan boleh menyebabkan berlakunya ketiadaan sekuriti makanan. Menurut Sophia Murphy dan Kathy McAfee (2005), pemberian makanan secara percuma merupakan faktor yang dapat mewujudkan sekuriti makanan. Daripada kajian beliau, kebanyakan daripada program-program bantuan makanan berjaya menggalakkan pelajar menghadiri sesi persekolahan atau kuliah. Begitu juga kajian oleh Takashi Yamano, Harold Alderman dan Luc Christiaensen (2005) menunjukkan bahawa bantuan

makanan turut berperanan dalam melindungi pertumbuhan awal kanak-kanak daripada kejutan seperti kemarau dan ketidaktentuan pendapatan. Manakala menurut Christopher B. Barrett (2006), bantuan makanan memainkan peranan penting terutamanya semasa kecemasan bagi memastikan sekuriti makanan golongan tersebut terjamin.

Kaedah Bantuan di UiTM Melaka

Di UiTM, program-program bantuan kepada pelajar-pelajar miskin dan memerlukan biasanya diagihkan dalam bentuk wang tunai. Ianya disalurkan melalui saluran formal dan tidak formal yang dikendalikan oleh pihak pengurusan tertinggi UiTM seperti bahagian kewangan, unit pengurusan zakat ACIS, unit-unit tertentu mahupun secara individu. Namun sejak akhir-akhir ini, kaedah bantuan dalam bentuk penyediaan makanan kepada pelajar-pelajar yang memerlukan mula mengambil tempat di kebanyakan institusi pendidikan tinggi termasuk di UiTM Melaka. Program-program berbentuk sedekah atau infak makanan ini mempunyai matlamat dan objektif yang sama dengan bantuan kewangan, namun ia dilakukan dalam bentuk penyediaan makanan yang sedia untuk dimakan.

Walaupun sehingga saat ini tiada laporan pelajar di UiTM Melaka menghadapi masalah kekurangan atau ketiadaan makanan yang serius, namun dengan kewujudan beberapa masalah kewangan dalam kalangan pelajar seperti kenaikan kos harga barangan keperluan asas, keperluan kos sara hidup, menyebabkan ada diantara mereka begitu terkesan sehingga mengganggu proses pembelajaran dan kehidupan mereka di kolej. Apatah lagi terdapat kajian yang menyatakan bahawa harga makanan peringkat global termasuk Malaysia dijangka akan meningkat pada masa hadapan berikutan pertambahan penduduk dan kenaikan kos input pertanian. Situasi ini pastinya menyebabkan para pelajar khususnya golongan yang kurang berkemampuan akan terkesan serta terdedah kepada ketiadaan sekuriti makanan.

Program ‘Food For Free’

Rentetan dari isu dan permasalahan-permasalahan ini, maka beberapa pihak di UiTM tampil menghulurkan tangan untuk meringankan beban pelajar-pelajar ini dengan merencana dan merangka beberapa pendekatan, antaranya dengan mewujudkan program *Food For Free* atau juga dikenali sebagai *Suspended Meal* iaitu kaedah pemberian makanan dan minuman percuma secara berjadual dan berkala kepada pelajar-pelajar yang memerlukan di dalam kampus UiTM.

Umumnya, program *Food For Free* ini beroperasi tanpa bantuan secara langsung daripada pengurusan tertinggi UiTM, tetapi ia lebih bergantung kepada khidmat sukarela, sumbangan derma ikhlas yang diperolehi dari kakitangan dan staf UiTM sama ada staf akademik mahupun staf pentadbiran. Bahkan konsep infaknya diperluas kepada pihak luar seperti badan-badan bukan kerajaan (NGO), syarikat-syarikat perniagaan atau individu-individu dermawan untuk sama-sama mengumpul sumbangan dan makanan itu sendiri.

Konsep infak atau sumbangan dari penyumbang-penyumbang terhadap program *Food For Free* ini terdiri dari dua bentuk, iaitu pemberian dalam bentuk kewangan mahupun sumbangan dalam bentuk makanan kepada pihak pengurusan *Food For Free*. Jika sumbangan dalam bentuk tunai, maka pihak pengurusan *Food For Free* bertanggungjawab untuk membeli makanan, seterusnya diagihkan pada para pelajar.

Senarai Program *Food For Free* Di UiTM Melaka

Program *Food For Free* di UiTM Melaka dapat dibahagikan kepada tiga kategori, iaitu berdasarkan jumlah kampus UiTM yang terdapat di negeri Melaka. Tiga kategori ini ialah Kampus Alor Gajah (KAG), Kampus Bandaraya Melaka (KBM) dan Kampus Jasin Melaka (KJM).

1. *Food For Free* Di Kampus Alor Gajah (KAG)

Berdasarkan pemerhatian dan penelitian pengkaji, terdapat sekurang-kurangnya empat projek atau program berbentuk pemberian makanan percuma kepada para pelajar di KAG, baik dalam bentuk rasmi, separa rasmi mahupun tidak rasmi. Berikut adalah senarai nama penganjur serta latar belakang program-program ini.

i. Akademi Pengajian Islam dan Kontemporari (ACIS)

Nama Program:	“Makanan Percuma”	Kumpulan Sasaran	Pelajar yang memerlukan, khususnya pelajar yang sering ke Masjid
Sumber Dana:	Pensyarah ACIS dan sumbangan orang ramai	Kaedah Pelaksanaan	Dua peti ais diletakkan di ruang luar (<i>wing</i>) masjid
Tarikh Pelancaran	Julai 2016	Jenis Makanan	Air minuman, roti dan sebagainya
Masa Beroperasi	Setiap masa, termasuk Sabtu dan Ahad	Hasil Kejayaan	-Mewujudkan suasana infak dan sedekah dikalangan staf -Menarik Pelajar hadir ke Masjid
Tempat Beroperasi	Masjid al-Hikmah, UiTM KAG	Kelemahan program	-Tiada penyumbang kekal -Kuantiti yang sedikit -pelajar sasaran tidak datang atau segan untuk ke masjid

Sumber: Mohd Zaky bin Md Rasul, Pegawai hal Ehwal Islam, Akademi Pengajian Islam dan Kontemporari (ACIS), UiTM Kampus Alor Gajah, Melaka

ii. Center for Islamic Philanthropy and Social Finance (CIPSF), dengan kerjasama Uni Charity Society (UCS) dan Sukarelawan Zakat (SUZA)

Nama Program:	“Free Shoppe”	Kumpulan Sasaran	Pelajar yang memerlukan, termasuk staf UiTM
Sumber Dana:	-Dikalangan ahli CIPSF, SUZA dan UCS -Termasuk juga	Kaedah Pelaksanaan	Satu bilik dijadikan seperti sebuah kedai mini, namun barangan di dalamnya adalah percuma. Terdapat juga

	sumbangan staf dan pelajar UiTM, serta masyarakat luar		barangan yang berbentuk bukan makanan seperti alatan membersih, pakaian dan sebagainya
Tarikh Pelancaran	Disember 2016	Jenis Makanan	Air minuman, roti, dan makanan kering atau segera seperti biskut, mee segera dan lain-lain
Masa Beroperasi	Setiap hari, pada waktu pejabat sahaja	Hasil Kejayaan	-Menerima banyak sumbangan berbentuk tunai dan barangan seperti beras -Mendapat maklum balas positif dari pelajar dan staf-staf pentadbiran UiTM.
Tempat Beroperasi	Stor belakang pejabat CIPSF, UiTM KAG	Kelemahan program	Bilik agak tersorok dari laluan pelajar, serta ruang yang kecil

Sumber: Sharifah Adlina bt Tuan Sayed Amran, Graduate Research Assistant (GRA) Dr Saladin, merangkap pembantu penyelarass CIPSF, UiTM Kampus ALor Gajah, Melaka

iii. Pelajar Fakulti Komunikasi dan Pengajian Media (MASSCOM), Kelas MC1104G

Nama Program:	"Suspended Meal 3.0"	Kumpulan Sasaran	Pelajar di KPP3 (Terbuka kepada semua)
Sumber Dana:	Pelajar kelas MC1104G (projek keusahawanan), dan staf UiTM serta Alumni UiTM Melaka.	Kaedah Perlaksanaan	Penyediaan kiosk dan bunting di kawasan sasaran, dan menetapkan ahli jawatankuasa untuk mengagihkan makanan.
Tarikh Pelancaran	Januari 2016	Jenis Makanan	Nasi lemak, roti, air minuman dan sebagainya (tidak tetap)
Masa Beroperasi	Setiap Hari Selasa, 8.00 pagi	Hasil Kejayaan	-Sambutan menggalakkan sehingga <i>trending</i> di Twitter dengan #SuspendedMeal. -Mendapat liputan seperti dalam Berita Harian, Kosmo dan Metro
Tempat Beroperasi	Dataran KPP 3	Kelemahan program	Hanya tertumpu dan terhad di KPP3 sahaja.

Sumber: Shafezah Abdul Wahab, penasihat program merangkap pensyarah MASSCOMM, UiTM Kampus Alor Gajah, Melaka

iv. Fakulti Pengurusan dan Perniagaan (FPP)

Nama Program:	“Peti Shakai Hoshi” (Peti Khidmat Masyarakat)	Kumpulan Sasaran	Pelajar Yang Memerlukan
Sumber Dana:	Pelajar FPP (daripada projek keusahawanan, minta sumbangan luar dan sebagainya)	Kaedah Perlaksanaan	Menyediakan sebuah peti ais
Tarikh Pelancaran	Ogos 2016	Jenis Makanan	Nasi Lemak
Masa Beroperasi	Setiap Hari (waktu pagi)	Hasil Kejayaan	Muafakat dikalangan pelajar-pelajar semakin erat, selain membiasakan pelajar dengan kerja-kerja khidmat masyarakat.
Tempat Beroperasi	KPP2, di kawasan laluan pelajar ke Kuliah	Kelemahan program	Karena birokrasi daripada unit Bendahari (duit derma dan sumbangan dari pihak luar perlu melalui bendahari, dan terdapat aduan kesukaran untuk proses mengeluarkannya semula.

Sumber: Nurul Zamratul Asyikin bin Ahmad, pensyarah Pemasaran, Fakulti Pengurusan dan Perniagaan (FPP), UiTM Kampus Alor Gajah,, Melaka

2. Food For Free Di Kampus Jasin Melaka (KJM)

Di Kampus Jasin Melaka, yang menempatkan hampir 6 ribu orang pelajar, terdapat hanya satu program yang bertujuan untuk membantu meringankan pelajar-pelajar yang kurang berkemampuan. Maklumat program adalah seperti berikut:

i. Pusat Islam UiTM Kampus Jasin Melaka

Nama Program:	“Program Makanan Sedekah”	Kumpulan Sasaran	Penerima zakat dari kalangan pelajar Diploma dan Ijazah
Sumber Dana:	Tabung Derma dan sumbangan para staf UiTM KAG	Kaedah Perlaksanaan	Disediakan meja di ruang legar Pusat Islam
Tarikh Pelancaran	Januari 2016	Jenis Makanan	Nasi berlauk, nasi lemak, mee goreng dan sebagainya.
Masa Beroperasi	Setiap hari Isnin, bermula jam 8.00 pagi hingga 12 tengah hari.	Hasil Kejayaan	-Mewujudkan suasana infak dan sedekah dikalangan staf -Dapat membantu para pelajar yang layak
Tempat Beroperasi	Pusat Islam, KJM	Kelemahan program	Pelajar yang tinggal jauh tidak dapat menikmati makanan, ia berikutan masa kuliah dan masa beroperasi yang tidak sama

Sumber: En Helmi bin Supian, Bilal Pusat Islam, Akademi Pengajian Islam dan Kontemporari (ACIS), UiTM Kampus Jasin, Melaka

3. *Food For Free* Di Kampus Bandaraya Melaka (KBM)

Kampus Bandaraya Melaka tidak terkecuali dalam menggerakkan aktiviti dan program-program membantu pelajar yang memerlukan. Hasil pemerhatian yang dilakukan, terdapat satu program yang telah dijalankan oleh para pensyarah dari Jabatan Perniagaan Antarabangsa (JPA). Program ini dilaksanakan secara tidak rasmi atas inisiatif En. Zaki Bin Sadik, pensyarah JPA bersama 10 orang rakan pensyarah dalam jabatan yang sama. Berikut maklumat program yang dijalankan.

i. Jabatan Perniagaan Antarabangsa, Fakulti Pengurusan dan Perniagaan, KBM

Nama Program:	"Suspended Meal"	Kumpulan Sasaran	Pelajar-pelajar UiTM KBM
Sumber Dana:	Sumbangan dari setiap pensyarah di Jabatan Perniagaan Antarabangsa, UiTM KBM	Kaedah Perlaksanaan	Makanan diletakkan di atas meja yang tersedia di ruangan <i>One Stop Business Centre</i> .
Tarikh Pelancaran	Oktober 2016	Jenis Makanan	Nasi Lemak, Nasi Goreng, Mee Goreng dan Kuih Muih
Masa beroperasi	Setiap dua minggu sekali (hari Rabu); 12 Okt, 26 Okt, 9 Nov dan & 7 Dis.	Hasil Kejayaan	-Maklum balas sangat positif dikalangan pelajar -Terdapat pensyarah dari fakulti lain turut mengambil peluang menyumbang makanan secara peribadi
Tempat beroperasi	Di <i>One Stop Business Centre</i> , Aras 5, UiTM KBM, jam 9 pagi	Kelemahan program	Lokasi terhad di Aras 5, sedangkan pelajar yang kebanyakan tertumpu di aras yang lebih tinggi sukar untuk memperoleh makanan.

Sumber: Mohd Zaki bin Sadik, Penyelaras Program BM246, fakulti Pengurusan dan Perniagaan, UiTM Kampus Bandaraya Melaka.

Kebaikan Program *Food For Free*

Sebagaimana yang telah disebutkan di awal kajian ini, program-program berbentuk infak dan sumbangan ini adalah satu usaha yang luhur dan murni, bagi mewujudkan masyarakat yang saling bertimbang rasa, budiman, dermawan, menghargai dan bersyukur. Pasti hasil kebaikan yang utama dari program ini ialah mampu membantu golongan pelajar yang kurang berkemampuan, meringankan kos sara hidup mereka di kampus, serta mengurangkan kegelisahan para pelajar ini untuk mendapatkan bekalan makanan seharian.

Selain daripada itu, program ini dapat mewujudkan satu fenomena berinfak di kalangan staf-staf UiTM, yang umumnya boleh dikatakan terdiri dari golongan pertengahan dan kaya, untuk sama-sama berfikir dan berusaha membantu meringankan nasib pelajar-pelajar kurang berkemampuan. Ianya juga sebagai pendekatan serampang dua mata bagi staf-staf terbabit, untuk merebut dan meraih pahala jariah dari amalan kebajikan yang mereka lakukan.

Ini terbukti berdasarkan pengalaman program-program yang dijalankan di atas. Sebagai contoh, kita dapat perhatikan bagaimana usaha secara skala kecil-kecilan dari pensyarah-pensyarah di Jabatan Perniagaan Antarabangsa (JPA), FPP UiTM KBM, akhirnya mampu menarik minat dan perhatian dari pensyarah-pensyarah fakulti lain untuk turut serta menyumbang makanan dan kewangan secara peribadi. Fenomena positif ini pastinya mampu menghasilkan kehidupan yang tenteram dan berkah dikalangan warga UiTM seluruhnya.

Kelemahan Program *Food For Free*

Dalam masa yang sama terdapat beberapa kekurangan yang dikenal pasti dalam program-program seperti ini antaranya:

- i. Golongan sasaran (yang benar-benar memerlukan) tidak menikmati makanan percuma yang disediakan. Ia berpunca dari beberapa sebab iaitu sama ada tidak mempunyai maklumat berkenaan program makanan percuma, sering tidak sempat (kerana terlebih dahulu diambil oleh pelajar yang tidak layak), segan mahupun diri pelajar itu sendiri yang malas atau tidak kesah.
- ii. Dana dan sumbangan makanan tidak tetap dan konsisten. Pendek kata terdapat program-program yang dianjurkan tiada sumber atau dana untuk menggerakkan program ini, tidak sebagaimana pada peringkat awal dilaksanakan. Ketiadaan penyumbang tetap atau inisiatif berterusan mengutip sumbangan dari staf-staf menyebabkan program-program seperti ini terhenti ditengah jalan, seterusnya tidak mencapai objektif yang diinginkan.
- iii. Tiada sambutan dan pembaziran. Terdapat juga program-program yang dijalankan tidak berjaya menarik perhatian pelajar sasaran sehingga menyebabkan makanan yang disediakan terbiar dan rosak tanpa diambil. Makanan-makanan mudah rosak seperti nasi, mee dan kuih muih yang tidak terusik dibiarkan sehingga berlakunya pembaziran. Dalam sesetengah kes, berlaku kekotoran di lokasi program ini dilaksanakan apabila makanan-makanan ini dikunjungi binatang-binatang seperti kucing, gara-gara tiada pelajar mahupun pengawasan dari pihak penganjur.

CADANGAN PENAMBAHBAIKAN

Terdapat beberapa cadangan penambahbaikan dari pemerhatian dan penelitian pengkaji berdasarkan senarai kelemahan dan masalah-masalah yang timbul. Antara cadangan yang dilihat berkesan bagi mengenalpasti golongan sasaran yang sebenar dan selayaknya ialah, dengan merujuk data dan maklumat pelajar seperti berikut:

- i. Pelajar Yatim piatu – Hampir semua dari mereka adalah tergolong dalam golongan individu yang terputus dari sumber pendapatan ibubapa atau

- penjaganya. Walaupun tidak kesemuanya tergolong dalam kumpulan kurang berkemampuan, namun hampir kebanyakan mereka tergolong dalam kumpulan yang memerlukan ‘perhatian’.
- ii. Pelajar yang pernah disabitkan kes kesalahan mencuri – Terutama mencuri atas tujuan untuk makanan harian. Ianya secara tidak langsung menunjukkan keperluan mendesak untuk mengelak berulangunya gejala negatif ini.
 - iii. Pelajar yang menerima zakat – Pelajar-pelajar yang layak menerima zakat setelah melalui proses temuduga secara automatiknya merupakan sebahagian dari golongan pelajar yang berhak dan layak untuk disasarkan dalam program-program seperti ini.

Kaedahnya, maklumat pelajar ini dikumpulkan daripada bahagian pendaftaran maklumat pelajar dan pengurusan zakat Akademi Pengajian Islam (ACIS). Setelah maklumat pelajar-pelajar ini diperolehi, maka pihak penganjur boleh terus berhubung dan memaklumkan pelajar-pelajar sasaran ini untuk hadir ke lokasi *Food For Free* ini diadakan, pada masa dan tarikh yang ditetapkan. Pihak penganjur atas inisiatif sendiri juga boleh mewujudkan satu *group Whatsapp* dan lain-lain medium untuk memudahkan perhubungan antara mereka dengan golongan sasar ini supaya tidak berlaku kejadian tidak diingini seperti sebelum ini.

Sementara itu, bagi menghadapi isu kekurangan dan ketiadaan dana sumbangan secara berterusan, pihak penganjur khususnya dalam kampus yang sama, perlu berbincang dan bekerjasama dengan membahagikan waktu dan hari yang berbeza bagi setiap program yang berbeza. Misalnya di Kampus Alor Gajah, keempat-empat penganjur ini boleh bekerjasama dengan membahagikan hari yang berbeza bagi setiap penganjur, sama ada hari Isnin, Selasa, Rabu dan hari seterusnya. Kaedah ini sedikit sebanyak dapat membantu meringankan kewangan penganjur, selain memastikan agihan makanan percuma tidak terputus, serta memudahkan pelajar sasaran untuk mengingati tempat dan waktu persediaan makanan percuma.

Bagi sesetengah program yang tiada sambutan daripada pelajar, atau makanan rosak sebelum sempat habis diambil pelajar, pihak pengurusan tersebut perlulah memikirkan kaedah dan solusi terbaik dalam usaha menyelesaikan isu ini. Melantik beberapa orang pelajar bagi membantu kerja menyebarkan maklumat dan mengagihkan makanan sebenarnya salah satu kaedah yang baik, dalam memastikan program ini bergerak lancar, seterusnya mencapai matlamat dan objektif yang diinginkan. Tidak salah bagi mereka untuk mencontohi kaedah atau SOP (*Standard Operating Procedures*) daripada penganjur-penganjur *Food For Free* yang lain, yang dilihat berhasil dan berjaya sehingga mendapat pujian dan penghargaan dari staf dan pelajar UiTM.

KESIMPULAN

Mekanisma bantuan makanan di UiTM Melaka dilihat satu usaha yang murni dan mampu memberi sumbangan yang besar dalam meningkatkan tahap sosio ekonomi dikalangan pelajar. Dengan menggabungkan elemen waqaf dan infak yang ditekankan di dalam Islam, program *Food For Free* ini dilihat sebagai satu pendekatan serampang dua mata, iaitu bukan sekadar

membantu meringankan golongan pelajar yang kurang berkemampuan, dalam masa yang sama melahirkan golongan kakitangan UiTM khususnya para pensyarahnya untuk bersikap dermawan.

Melalui inisiatif seperti projek pemberian makanan percuma *Food For Free* ini, ternyata ia mampu membantu meningkatkan sekuriti makanan khususnya dikalangan pelajar-pelajar di institusi pengajian tinggi seperti UiTM. Ini kerana ia telah mewujudkan salah satu komponen utama dalam sekuriti makanan iaitu akses terhadap makanan yang membantu pelajar kurang berkemampuan untuk mendapatkan makanan secara percuma. Apabila pelajar mempunyai akses terhadap makanan, ia memudahkan mereka untuk mendapatkan makanan yang mencukupi bagi keperluan tubuh badan dan seterusnya dapat meningkatkan tahap sekuriti makanan.

Justeru, tiga cara penambahbaikan program yang dicadangkan di atas seperti mengenalpasti golongan penerima zakat sebagai antara golongan yang boleh dipertimbangkan untuk mencapai matlamat dan objektif asal program ini diwujudkan. Dari sudut sumber dana atau sumbangan bagi menggerakkan program ini secara konsisten, kajian mencadangkan agar staf UiTM boleh menyumbang sedekah mengikut jabatan atau fakulti masing-masing secara tetap dan dijalankan secara pusingan. Ini bagi melihat program ini terus berjalan secara konsisten. Sekaligus dapat menterjemahkan tanggungjawab moral dan sosial dari kalangan warga UiTM khususnya dari kalangan staf akademik dan pentadbiran untuk memberi tumpuan yang lebih luas kepada isu kemiskinan dan kesusahan dengan menawarkan bantuan dalam pelbagai cara.

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EP015:
**A CONCEPTUAL STUDY ON STRATEGIC CORPORATE
PHILANTHROPY PRACTICES IN MALAYSIA**

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Abstract

Theoretical and empirical debates surrounding corporate philanthropy (CP) have recently grown from the 1930s, in line with the importance of corporate social responsibility (CSR) in the public realm. A report from INCIEF mentioned that the performance of a firm's CSR practices in Malaysia is mostly focusing toward Philanthropic activities. However, "doing good is not good enough" when a firm failed to give a contribution to its shareholder as well as to the society. Realizing the importance of Philanthropic activities in CSR strategy for a companies to respond to the firm and social sustainability, the study is done to firstly explore corporate philanthropy (CP) practices established by a firm in Malaysia by having a conceptual review of previous research as well as from a secondary data of a firm CSR report and web report. The findings shall be very significant for a future study on the modelling of a new strategic framework for a CP to sustain and beneficial the firm and society thus maximizing the CSR strategies of philanthropy.

Keywords: Corporate Social Responsibility (CSR), Philanthropy, Corporate Philanthropy (CP),

INTRODUCTION

Corporate Social Responsibility (CSR) practices are growing on a global scale and Malaysia is riding that momentum. Philanthropy responsibilities which in line with the elements of CSR area as established by Carroll (1991) attempted to integrate previous conceptualisations by introducing a four element of CSR; economic, legal, ethical and philanthropic.

K Fulton, A Blau (2005) has recognized philanthropy as one of society's mechanisms for addressing challenges that emerge in the world. It is an ancient practice, honoured by every religious tradition. It is voluntary and independent, and to the degree it is rooted in basic willingness to help others, it is timeless. Indeed, the word philanthropy literally means "love of humankind." The notion of philanthropy or concern for humanity is common and close to the heart of a firm in Malaysia. In recent periods, philanthropy has expanded and gained prominence due to the increase in economic influence and the growing wealth of countries in the region. More important, this tradition is increasingly becoming more formalized and organized.

However, does the philanthropic help to sustain a firm performance and the development of society? Is doing well is good enough? Indeed, a growing of philanthropic strategy has been discussed and highlighted due to the roles of philanthropic for a sustainability of the firm performance as well as societal development. Even though a few report from ACCA and INCEIF mentioned that most of the public listed company (PLCs) in Malaysia are focusing on the philanthropic activities which has limited CSR strategic area, this study has seen this specific subject (philanthropic) has a gap and should be given an attention to ensure this philanthropic of CSR strategies chosen by most PLCs shall positively contribute to the sustainability of a firm performance as well as resolve a societal problem strategically with a long-term impact. Responding to this issue, a study is done to initially understand and explore the philanthropic practices established by a firm and thus to further study how to strategies philanthropic responsibility so that it will contribute positively toward a sustainable firm performance as well as societal development.

LITERATURE REVIEW

Corporate Social Responsibilities

Tareq Bin Hossain et al (2013) has defined Corporate Social Responsibility (CSR) to be a company's responsibility towards economy, environment and society. Business would embrace responsibility for the impact of their activities on the environment, consumers, employees, communities, stakeholders and all other members. Furthermore, business would proactively promote the public interest by encouraging community growth and development, and voluntarily eliminating practices that harm the society as well as the environment.

The notion of CSR refers to the idea that a firm will have an obligation beyond profit orientation which includes protecting the environment, caring for employees, being ethical in trading, and getting involved in the social and philanthropic activities. In a more comprehensive approach, Carroll (1991) attempted to integrate previous conceptualisations by introducing a four element of CSR; economic, legal, ethical and philanthropic. It's been believed that a firm will not only have the economic responsibility of being profitable and the legal responsibility to follows laws and regulations, but they also have ethical and philanthropic responsibilities that encompass social norms and standards.

Philanthropy

Philanthropy is literally "love of humanity." Philanthropy enhances what it is to be human kind through the process of giving and receiving as well as private giving for the betterment of others. It gives to society in many ways. M.R Muwazir et al (2013) have referred philanthropic responsibilities to the common desire to see business contribution in terms of financial and non-financial resources to the betterment of society and community.

Most philanthropy is directed to supporting individual and collective human initiative and ingenuity, an expression of belief that the answers to societies' toughest. The value of a philanthropic portfolio is that it enables a firm with modest resources to support the development of a society and support disparate organizations and interventions at any time. H Grady (2014). However, philanthropic giving is still focus on traditional giving like neighbourhood community and religious donation. Indeed, as for the world is confronted with a serious number of social problems that call for immediate action, there is a wide range of organizations that aim to tackle these social problems such as philanthropic foundations and corporations practicing philanthropy. However, despite the existence of cost-effective solutions to some of these urgent problems, most organizations that aim to 'do good' seem to fail to embrace these solutions. Instead, they frequently employ or support interventions that research has shown to be less effective, or of which the effectiveness is unknown.

In fact, fundraising events for non-profit work are slowly gaining success in the region. Among the activities related to these are community chest and child sponsorship campaigns, and the use of proceeds from gambling events (horse racing, motor boat and automobile racing) to support grant making foundations. A more recent trend however, is the establishment of endowed grant making foundations whose funding comes from public sources but are managed by semi-autonomous boards of trustees. The endowment comes in various forms such as local currency proceeds from debt swaps, proceeds from the sale of donated food commodities, endowment grants from bilateral donors, corporate donations of blocked local currencies and cash donations. G Velasco (2003). So it is not at all surprising that today there is a great deal of energy dedicated to making philanthropy "better": more eff active, more productive, and more accountable to the society that makes it possible. But individual changes alone will not be sufficient to make significant progress in closing the gap between philanthropy's potential and its performance. If they were, the culture and practices of philanthropy would have changed far more than they have in the modern era.

Corporate Philanthropy

Corporate philanthropy (CP) shall be a strategic instrument for a company to achieve a sustainability on the firm performance as well as the societal development. KM Leisinger, K Schmitt (2011) define corporate philanthropy as an umbrella term which encompasses a number of different values, interests, mind-sets and alternative approaches. Corporate philanthropy goes far beyond what bottom-line duties require. It is one way to demonstrate what values the company stands for: making a difference and being part of the 'solution' even where turnover and profit are not increased.

Strategic corporate philanthropy describes a corporate contribution concept whereby present or future business activities are supported while creating measurable social value. This 'giving for reward' style of philanthropy is a springboard for improving corporate financial performance

and, as such, focuses on areas of strategic interest to the company. Recent years have shown steady growth in strategic corporate philanthropy.

Integrated into the overall corporate strategic plan, it endeavours to strike an optimal balance between business interests and community needs. In its purest form, it is based on rational economic choice, investing only in activities expected to create measurable value for shareholders. KM Leisinger, K Schmitt (2011). Examples consistent with business charity being instrumental finding that corporate philanthropy is becoming increasingly strategic, and associated with profit maximization and managerial reward.

CORPORATE PHILANTHROPY PRACTICES IN MALAYSIA

Some examples of CSR activities undertaken and disclosed by the firms that relate to the community in their annual reports are listed in table 1 below;

Table 1: A content based analysis of CSR report of six (6) largest industry in Malaysia

No	Industry	Company	Focus CSR Strategy	Focus Philanthropic Activities
1	Telecommunication	DIGI	1) Ethical & Responsible Business 2) Winning Team 3) Climate Change & Environment 4) Empower Societies	1) Development of Children 2) Cyber-Safety
2	Professional services	PWC	1) Quality and ethics 2) Workplace and diversity 3) Community involvement 4) Environment	1) Financial contribution Community contribution (cash, time and in-kind) 2) Employee involvement 3) Beneficiaries
3	Palm Oil	SIME DARBY	1) Contributing to a better society 2) Minimizing environmental harm 3) Delivering sustainable development	1) Fund 2) Safety & Health 3) Volunteer
4	Banking & Finance	CIMB	1) Community 2) Workplace 3) Marketplace 4) Environment	Foundation - Learning & Education
5	GLC	Khazanah National Berhad	Sustainability	1) Education Fund 2) Protection and care of children

6	Automotive	UMW	1) Governance 2) Employee 3) Community 4) Environment	1) Charitable giving 2) Volunteerism
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Based on the table above, a content analysis has been done toward six (6) largest industries in Malaysia which has significantly contributed to the development of economy and society of the nation. DIGI Telecommunication in its sustainability report has strategies its CSR into four (4) areas which are: - Ethical & Responsible Business, Winning Team, Climate Change & Environment, and Empower Societies. DiGi understands and appreciates that what they are today is largely the result of their past. In community (philanthropic), DIGI has contributed a fund to the children as well as to ensure a cyber – safety of the society since the firm is involving with a telecommunication services. Digi.Com Bhd, Annual Report (2016).

While Pricewaterhouse Coopers (PWC) a firm involve in professional services also seen SCR as on the responsibility by a firm. In its sustainability report, the firm has ranked its CSR strategy into four (4) which are: Quality and ethics, Workplace and diversity, Community involvement AND Environment. Among the philanthropic strategy done by a firm were: Financial contribution Community contribution (cash, time and in-kind), Employee involvement and Beneficiaries. Pwc.annualreport.co.uk (2016).

Sime Darby is a Malaysia-based diversified multinational with operations in 25 countries & 4 territories and a total workforce of more than 120,000 employees. The group is involved in 5 core sectors, namely Plantation, Industrial Equipment, Motors, Property and Logistics. It basically concentrating into three (3) areas of CSR which are: contributing to a better society, minimizing environmental harm and delivering sustainable development. While specific to its contribution to the society Sime Darby has established its philanthropic strategy into a fund, safety & health as well as a volunteering program. It is parallel to a firm vision which to be a leading multinational corporation delivering sustainable value to all stakeholders, other than for a sustainable business and society. Sime Darby sustainability report (2016).

While looking at a sustainability report provided by one of leading banking firm in Malaysia, CIMB mentioned that a firm has categorized its CSR area into community, workplace, and marketplace as well as an environment. And specific to it community (philanthropic) strategy, CIMB is focusing on funding education of a child for a positive development of life. CIMB Annual report (2015).

Khazanah's vision is to enhance CR principles by delivering sustainable value through; strategic investments, human and social capital development, and the protection of the natural environment. All CR initiatives are designed to work towards Khazanah's CR vision. In addition to education programmes, Khazanah is also involved in initiatives that are linked to the

protection and care of children. Khazanah's assistance through a programme grant fund that was used to hold a series of legal trainings on children's rights in collaboration with lawyers, magistrates, prosecutors and pupils-in-chamber to build the capacity of stakeholders in child protection in the legal system. Khazanah Sustainability Report (2016).

Lastly, UMW which is a leading industrial enterprise with diverse and global interests in the *automotive*, equipment, manufacturing and engineering, and oil and gas industries has categorized its CSR activities into governance, employee, community and environment. While looking at its community strategy, a firm has established a practice of giving a charitable fund and encourage volunteerism between the employees as well as a firm itself.

CONCLUSION AND RECOMMENDATION

Based on the above content analysis as well as previous research a study conclude that most of a large firm in Malaysia has conducted its CSR practices and specific to a philanthropic, its seems to be common among a firm. However, the philanthropic strategy is still can be improve and to add the value so that it will give a positive impact toward a sustainability of a firm's performance as well as societal development. Future study can be done to further explore on the factors of a firm in making a deciding its strategy and whether those factor will have a positive relationship toward a sustainability impact.

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**EW016:
ERADICATING POVERTY AMONG ASNAF THROUGH THE
INTEGRATION OF WAQF-BASED REAL ESTATE AND ZAKAT: A
CONCEPTUAL FRAMEWORK**

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Abstract

Malaysian asnafs especially faqir is still suffering from poverty. The problems felt by asnafs in Malaysia which further magnified the gap between the haves and the have-nots are unemployment, chronic diseases, food shortages, and low levels of education amongst the poor. The purpose of this study is to identify the model used by State Islamic Religious Councils (SIRCs) in eradicating poverty among asnafs in Malaysia. Interestingly enough, some of the SIRCs merged a novel concept of zakat and waqf to provide the highest benefits to the asnafs. Vacant waqf lands and allocations from zakat funds are combined to identify the best outcome for the needy. This research identified the economic indicator strategies that are in line with the Qur'an and Hadith. This research adopts a content analysis method to analyze data, which is gathered from literature and previous studies. The tools that significantly contribute to the development and welfare of the community are being integrated. They are real estate waqf, cash waqf, funds from Baitulmal, funds from zakat, microfinance components, involvement from corporate social responsibility (CSR) initiatives, and asnaf (a) as the target group. The common belief among Islamic economists and Fuqaha (Islamic religious law scholars) is that waqf does not affect zakat expenditure. Hence, waqf and zakat are treated independently as charitable resources in Islamic economy. The findings of this research demonstrated the best model integrating real estate waqf management and zakat system to eradicate poverty among zakat fund recipients (asnafs) in Malaysia.

Keywords: Real estate waqf, Integrating Awqaf, Integrating Zakat, The Best Model of Waqf and Zakat

INTRODUCTION

A large majority of Malaysian Muslims, especially *faqir* is still suffering from poverty. The main problems felt by *faqirs* in Malaysia which magnified the gap between the haves and the have-nots are unemployment, chronic diseases, food shortages, and low levels of education. One of the most urgent economic problems faced by the country is poverty among the Muslims, most notably among the Malays. Eradication of poverty among Muslims in Malaysia is one of the

development plans agenda implemented by the Government of Malaysia (GOM). Various measures were taken by the government to tackle poverty among Muslims in Malaysia. A bridge gathering the donations given by the rich to the poor in Malaysia could be one of the solutions to eradicate poverty among Muslim communities. Islam has enabled *zakat*, *waqf*, *sadaqah* and *infaq* as social instruments to narrow the gap between the rich and the poor.

The charity endowment entailed by *zakat*, *waqf*, *sadaqah* and *infaq* concepts aim at managing religious and social consciences among individuals, and in society at large. Even though the concepts of *zakat*, *waqf*, *sadaqah* and *infaq* were established in the early days of Islam, the performance of Muslim social mobility around the world, especially in Malaysia was not encouraging, unlike its achievement historically. Hence, this study intends to explore the implementation of an integration of *zakat* and *waqf* in Islam, specifically in Malaysia. It provides the findings of a preliminary study on the factors that influence the integration of *zakat* and *waqf* towards poverty eradication among *zakat* fund recipients in Malaysia. The current paper starts with a literature review on the *zakat* and *waqf* concepts, the integration of *zakat* and *waqf* in Islam and the various factors that influence the integration of *zakat* and *waqf* towards the eradication of poverty among *zakat* fund recipients in Malaysia and around the world.

The evidence from this study shows that even though Allah has created sufficient resources, poverty still exists and one of the key reasons is that a few greedy people own the majority of the world's resources. The word greed appears eight times in the Quran. The greedy rich has more thirst for resources (Hoque, Khan, & Mohammad, 2015).

PROBLEM STATEMENT AND ISSUE

Poverty has been a serious problem and a great challenge especially for developing countries. Most of the IDB member countries (MCs) are also facing the same problem, where the level of poverty is severe and in terms of housing, with more than 50 percent of their population living on less than \$1.25 a day (Shirazi, 2014). In Islam, poverty is defined based on an individual's failure to fulfil any of the five basic human requirements of life that is based on *Maqasid Syariah*: i) religion, ii) physical self, iii) knowledge, iv) dignity, and v) wealth (Farah Aida Ahmad Nazri, 2012).

In Islam, a significant aspect of poverty may be eradicated through *zakat* and *waqf*, Ali & Aziz (2014), as cited in Mohamed Saladin et.al (2011), iterated that every state in Malaysia has its own *zakat* institution which uses the monetary approach in measuring poverty based on the *had kifayah* (HK) method. It is similar to the Government Poverty Line Income (PLI) method as it uses income as the variable to determine whether the individual or the household is poor, and vice versa. It is thus necessary to clarify exactly what is meant by poverty in *zakat* distribution. Another interesting study related to the distribution of *zakat* is: how much should the deserving *asnaf*, namely the poor and needy, receive (Saad & Abdullah, 2014).

Throughout this research proposal, the researcher has highlighted that *zakat* distribution is unable to stand alone to cover the needs of the *zakat asnafs*. Islam plays an important role in eradicating poverty, proposing strategies involving not only the *zakat* system but also the operation of waqf towards enhancing the quality of life among *asnafs*. It is imperative to clarify that Allah has decreed in the Quran that *zakat* become one of the pillars to solve poverty problems. The pertinent issues to be discussed here centre on the implementation of these tools through human management. In utilising *zakat*, waqf also plays a vital role in enhancing the economic life of Muslims especially the needy.

In Malaysia, real estate waqf with a total area exceeding 11,091.82 hectares has great potential for development (Sallehuddin Ishak, 2013; Zaim Ismail, Ikhlas Rosele & Mohd Anuar Ramli, 2015) whereby an area of 3,300.78 hectares or 29.75% has been developed. This area includes 23,771 hectares or 0.21% developed under the Property Development Program managed by the Department of Awqaf, *Zakat* and *Hajj* (JAWHAR). There are 7,791.04 hectares or 70.25% of real estate waqf that has yet to be developed (Anan C. Mohd, 2015). The evidence presented thus far supports the idea that real estate waqf has not been properly developed due to the lack of financial resources. Financial aspects play critical role in any business development, more so developments involving the real estate sector due to the high stakes involved. JAWHAR has received many applications from SIRC's to develop waqf projects. Under the Ninth Malaysia Plan (RMK9), out of a total of 39 waqf project applications submitted, only 23 projects were approved for development. Under the Tenth Malaysia Plan (RMK10), 42 projects were submitted for development approval including 10 projects from the Ninth Malaysia Plan submitted for extension. Unfortunately, no new projects have been approved for development under the Tenth Malaysia Plan, further highlighting the problem of funding in the waqf sector as reported by Utusan Malaysia (2009). A previous study by Abdul Majid & Said (2014) listed 18 variables examined through four main components of the problems that exist in the administration and management of waqf properties. Siti Nadiyah Mohd Ali et al. (2014) claimed that the majority of waqf lands are located in rural and non-commercial areas leading to difficulties in developing the waqf lands. In addition, many studies reported the lack of waqf funds being the most common problem faced by waqf developments (Mohammad, 2011; Mohsin, 2013; Abdullah, 2014) which are used to finance different needs of society. As this problem very clearly demonstrates, it is crucial that real estate waqf raise alternative funds from any source approved by *Syariah*.

The idea of integrating *zakat* and waqf becomes more meaningful and efficient when the *zakat asnafs* receive the income in the form of "wages". *Zakat* fund distribution have to be meticulous in the details of distribution and cannot be uniformed in terms of the proportion of *zakat* funds given out to each recipient as it should take into consideration the needs of individual *asnafs*.

Ideally, *zakat* funds should provide the poor and impoverished, relief from hardship (Saad & Abdullah, 2014).

The findings of a study by Azhana Othman & Abd Halim (2015) based on a study by Abd Halim, Rawi & M Sulaiman (2010) reported that an average of 77% of the *zakat* funds were distributed and the remaining 23% was not distributed. Negeri Sembilan showed the highest *zakat* funds distribution but Sarawak and Pahang on the other hand, registered the lowest *zakat* funds distributions, lower than 50% despite being two of the largest states in Malaysia.

During the Caliph Umar Abdul Aziz period, surplus in *zakat* funds was managed by investing them for the benefit of the *zakat* recipients (*asnafs*) (Ram Al Jaffri, Norfaiezah, & Rahayu, 2016) Previous studies of *zakat* distribution by al Kasani n.d.; Ibn Rushd 1966 ; Ibn Qudamah 1968; al Syirazi, n.d., cited by Abu Bakar & Abd Ghani (2011) corroborate that scholars from the Shafie and Hanbali schools of thought agree that the justifiable proportion that should be given to the poor and needy *asnafs* must be enough to help these recipients settle their needs.

Currently, research problem statements have tended to focus on integration of real estate waqf which is lacking in funds and not fully developed due to many challenges. Other significant aspects to be highlighted should be the surplus of *zakat* funds and the poverty faced by *zakat asnafs* as the focus of attention. Having discussed how the problems came about in the construct of real estate waqf and *zakat* components, the final section of this paper addresses ways of developing a framework that integrates those tools.

THEORETICAL BACKGROUND OF INTEGRATION OF REAL ESTATE WAQF AND ZAKAT APPROACH

One of the most important social problems addressed by Islam is poverty (Abdelhak Senadjki & Jamalludin Sulaiman, 2015). Poverty in Malaysia has been pushed into the spotlight lately, with many factors influenced by economic factors. Before looking at the state of poverty in Malaysia, it is plausible to briefly consider Malaysia's poverty reduction programmes at national level. Regarded as Malaysia's plan for prosperity, the GOM since 1956 has wielded the Land Development Ordinance of 1956 to be used for the development and relocation of lands with the objective of poverty eradication through the cultivation of oil palm and rubber. The Land Development Ordinance of 1956 (FELDA) was one of the agenda by the GOM to provide land and generate income for the rural populations.

A study done by Mohamed Aslam Haneef et al. (2015) has specifically stressed that the majority of the poor are landless and this is the same focus for poverty alleviation strategies of non-governmental organization (NGOs), particularly on the possibilities for income generation in the rural areas. Tackling poverty is not the responsibility of the government alone, non-governmental organizations also need to pull their weight. Various researchers have found that historically,

Islam has placed greater emphasis on eradicating poverty through its socioeconomic, cultural, and political systems (Abdelhak Senadjki & Jamalludin Sulaiman, 2015; Hassan, 2014). Greater concepts in Islam such as waqf, *zakat* and *qard hasan* are ideal solutions to eliminate poverty.

Raimi, Patel and Adelopo (citing Cizakca, 2004; Ahmed, 2007; Mohsin, 2013) agreed with the mainstream clerics and Islamic economists across the globe who argued that social justice, equity, and redistribution of income could have been achieved in contemporary Muslim societies through *zakat*, waqf and interest-free loans called *qard hasan*. Hence, the general consensus among those knowledgeable in social justice concept in Islam strongly advocates developing *zakat*, waqf and *qard hasan* to eradicate poverty.

According to Raimi, Patel and Adelopo (citing Doi, 1990; Adebayo, 2008), over the past century, *zakat* has been an obligation decreed in the Quran. It is compulsory alms as well as the third pillar of Islam which entails giving out 2.5 per cent of an individual's net monetary income or wealth to eight disadvantaged groups in the society annually. *Zakat* recipients are entitled to get *zakat* collection depending on what category they are qualified under.

The success of *zakat* depends on the awareness of the rich to pay it. Islam believes that although both rich and poor people exist in a society, the responsibility between the rich to the poor will give a good impact to eradicate poverty (Aziz and Mohamad, 2016; Abdelhak Senadjki and Jamalludin, 2015).

Overall, these empirical research supporting the view that *zakat* can fulfil the basic needs of *asnaf* is very little. Research done by Ahmad et al. (2015) revealed that the main medium utilized to obtain *zakat* information was by word of mouth. The findings of this study could be beneficial to *zakat* institutions in evaluating the efficiency of *zakat* management in meeting the needs of the *zakat* recipients.

Many scholars hold the view that, the *zakat* system is a lasting strategy to enhance the quality of life of the needy albeit requiring a multi-dimensional approach on the development of human capital, creativity, and resourcefulness of the poor, building upon their resources, capabilities, and survival skills, to ensure their sustainability against poverty (Sahiba Abdullahi Ammani et al. 2014; Hoque et al. 2015; Shafiai et al. 2015)

Waqf can be defined as an endowment made by a Muslim for a religious, educational, or charitable cause. It is a way of approaching Allah, or being near to Allah (*taqarrub ilallah*) through wealth. Waqf is also one of the early ways of worshipping Allah in Islam and it is allowed by law and has evolved into becoming the back bone in Islamic economic expansion. The real estate waqf is prohibited from being used or disposed outside of the specific purpose for which it is held. In Malaysia, State Islamic Religious Councils (SIRCs) is the sole trustee of real estate waqf. Basically, real estate waqf refers to the gift of real estate to be developed by SIRCs.

Similarly, waqf also plays important roles to enhance the quality of life among the poor and needy in a sustainable manner, and its main contributors are the concepts of welfare and distribution of wealth (Abdelhak Senadjki & Jamalludin Sulaiman, 2015). The missing factor in *zakat* that that would be captured through synergizing with waqf is the capability of waqf asset (Aziz & Mohamad, 2016) to generate or regenerate income or capital benefits to certain areas of investment, as recommended by Mohamed Aslam Haneef, Ataul Huq Pramanik, 2015 (citing Kahf, 2007).

Raimi, Patel and Adelopo hold the view that (citing Cizakca 2004) waqf is significant today and forever. Hence, constant work is needed to enlarge the scope of income generation by waqf assets by recognizing that waqf is the main capital for poor members of society.

It has been shown from many reviews that the sources of funding are vital to make sure the potential development of real estate waqf can be brought to reality. Several studies have revealed the importance of cash waqf in financing not only religious areas but also financing different goods and services, such as education, health, social care, and commercial activities, basic infrastructures, besides opening jobs for the majority of people. (Mohsin , 2013 ; Chowdhury et al., 2011; Mohammad 2015)

INTEGRATING WAQF-BASED REAL ESTATE AND ZAKAT WITH CORPORATE SOCIAL RESPONSIBILITY (CSR)

The integration of waqf and *zakat* have been much more efficient, according to Raimi, Patel and Adelopo (2015), through adoption of the philosophy of Corporate Social Responsibility (CSR), in the integration of waqf and *zakat*. A more comprehensive study has been specifically examined by looking at the philosophy of CSR, which is similar to the Islamic concepts of waqf and *zakat*. The findings justified the plausibility of integrating corporate social responsibility (CSR), Waqf system (WS) and Zakat system (TZS) as Faith-Based Model for poverty eradication, enterprise development and economic empowerment in Muslim majority nations.

The second major finding according to Abdelhak Senadjki & Jamalludin Sulaiman, (citing Liala, 2010) is that although previous study has successfully demonstrated that a strong relationship between waqf and *zakat* has been established, it also showed that another variable could be the integration of waqf and *zakat*. The current study found that the integration of *sadaqah* and waqf with the Islamic financial system could also be a strategic integration for poverty alleviation. The needy as the borrowers (who are able to work and generate income) in this case are obliged to repay the loan.

INTEGRATING WAQF-BASED REAL ESTATE AND ZAKAT WITH MICROFINANCE

Another important finding by Hassan (2014) in an empirical study indicated that some Islamic microfinance groups have intentionally linked their financial services (group loans, grants from

cash *awqaf* or *zakat* fund). The integration of waqf and *zakat* needs to be explicit on what is meant by the word integration. Arshad et al. (2015) alluded that Islamic funding such as waqf, *zakat* and *sadaqah* (charity) as well as the formulation of relevant strategic models in support of developing Islamic-based sustainable organisations played important roles in enhancing societal and economic developments.

Why do we need an integration of *zakat* and waqf to eradicate poverty? Previous studies highlight the lack of development financing (Mohsin & Mohammad 2015; Mohammad & Mar Iman 2006; Rahman et al. 2006; Mohd Puad et al. 2014). Thus, a reasonable approach to tackle this issue could be the integration of *zakat* funds and real estate waqf as one of the solutions to cater to the funding problems. The principle of *zakat* funds is to distribute fairly among people of the particular categories as stated in the Quran (Quran, 9:60) according to needs. Since this distribution of *zakat* in accordance with *Syariah* has not been found elsewhere, it is strategic to enhance the quality of life among the poor.

It is widely accepted practice of the applicability of integrating real estate waqf or cash waqf (Mohamad Suhaimi, Ab Rahman, & Marican, 2014) with *zakat* funds and *zakat* recipients, also known as *asnafs*, plays an important role in encouraging and spreading this religious duty among the Muslim community (Ahmad et al., 2015). In reviewing the literature, there is some studies suggesting that the association between waqf and *zakat* could be blended using another variable, such as an approach using microfinance concept to explain to the micro-entrepreneurs. Lack of collateral is the most frequent obstacle in availing conventional credit, and it hinders the overall investment and profitability of the business (M. K. Hassan, 2010). It is thus important to note that cash waqf and *zakat* funds can be one of the winning solutions to support development funding.

Figure 1 presents the operational model of how the microfinance from NGO could help to integrate *zakat* funds and waqf-based real estate. The selection of a locality would also depend on other factors such as: a demographic study of the locality, identifying probable micro-credit project options, and understanding the prevailing infrastructure, for its important marketing and the distribution impacts (Hassan, 2010). The selection of *zakat asnafs* is also an important criterion to be considered in this model. The target group will be finalized according to their interest and capability to run the course. This study has shown that NGOs are also involved in poverty eradication programs based on credit repayments in weekly instalments, which is the microfinance concept. The model represents limitations by dividing target populations into groups of five members among the *asnafs*. This limitation into smaller groups is necessary to ensure the commitment of members and to facilitate a more efficient management with small numbers of people.

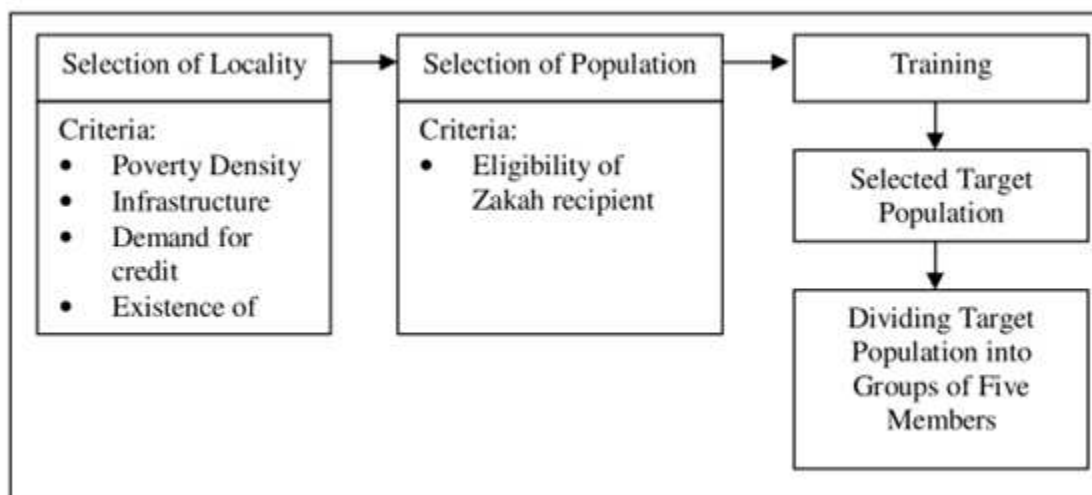


Figure 1: Operational Model Of On How The Microfinance From NGO

Sources : M. Kabir Hassan (2010)

THE DEVELOPMENT MODEL FOR ERADICATING POVERTY AMONG ASNAF THROUGH THE INTEGRATION OF WAQF-BASED REAL ESTATE AND ZAKAT

Referring to the literature review by various researchers, the researcher came out with the idea of integrating *zakat* and waqf but formulated with a new approach. The integration should blend with economics, investment and welfare objectives to develop the best practices model. The existing waqf and *zakat* integration models promoted by other countries especially Bangladesh are found wanting whereby the developments did not effectively eradicate the poverty in Bangladesh. In this research, the researcher aims to investigate what would be the added value in Malaysia if the integration efficiency shows Malaysia could eradicate poverty using this traditional method. Various researchers have attempted to describe the significance of a study by enhancing waqf and *zakat* performances with other variables such as microfinance, corporate social responsibility, cash waqf or others.

Figure 2 illustrates the integration of waqf-based real estate and *zakat* will be bound by the moderating variable in the relationship between the dimensions. Based on the literature review, it is expected that the new tools and problem-solving dimensions will contribute significantly to the overall waqf-based real estate and *zakat* project.

Previous studies of waqf-based real estate and *zakat* integrations have attempted to combine waqf, that has been recognized by the Islamic World for centuries, with another new dimension, and this phenomenon is challenging to predict. Such a combination should be analyzed by project-based analyses. If the ultimate aim of such combinations is to mobilize global funds in financing real estate waqf for the social development among the *zakat asnaf*s, then that in itself is an excellent idea. Thus, the correct instrument of choice should be recognized in order to achieve

the best practices of the integration.

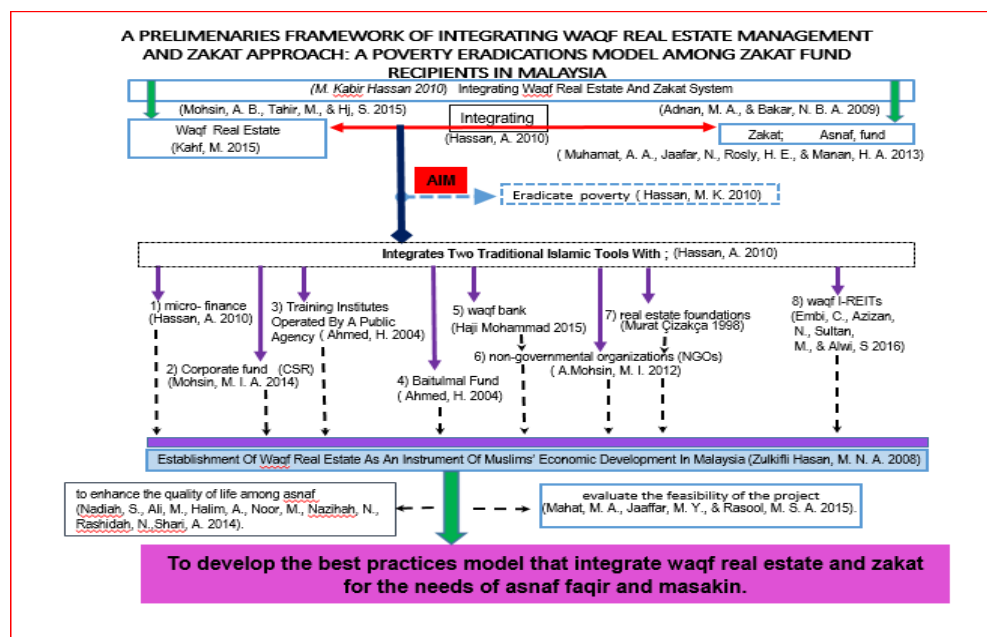


Figure 2 The Integration Of Waqf-Base Real Estate And Zakat Will Be Bound By The Moderating Variable In The Relationship Between The Dimensions
Sources: Researcher (2017)

CONCLUSION

Waqf-based real estate and *zakat* integration has been replicated in several studies outside Malaysia. The microfinance revolution and the Grameen Bank experience in Bangladesh highlighted the right of the needy to get help. It has been recognized that the combination of microfinance in the *asnaf* project has brought about major impact to the livelihoods of the poor. The microfinance concept allows the *zakat asnaf*s to operate within their own means without having to resort to huge borrowing that will undermine their sustainability.

Waqf-based real estate and *zakat* integration projects will appreciate the value of *zakat* and waqf principals in Malaysia, as they demonstrated comprehensive models to encourage and promote sustainable communities as per the models highlighted in sustainable development agenda. These projects promote not only the real estate waqf and *zakat* approach but also ways of creating more harmonious and egalitarian communities co-existing peacefully sharing the economic pie. The output of this research can be directly used by SIRC's as the best practices in the integration of waqf and *zakat* principles especially in projects where the poor and needy are the direct beneficiaries.

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EW017: ENHANCING WAQF AWARENESS AMONG MALAYSIAN MUSLIM YOUTHS: AN APPLICATION OF UTAUTON DIGITAL GAME

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Abstract

Waqf comes from the Arabic root verb waqafa which signifies “causing something to stop and standstill”. It also defines as holding or keeping. In shari’ah, waqf is defined as “holding a maal (property) and prevent the usage for the purpose of issuing benefits continuously to represent truth objective or the good of charity” (Aziz, Johari and Yusof, 2013). A great deal of Malaysians nowadays has inadequate awareness and understanding of the importance of waqf which nevertheless is in relation to the Islamic teaching. Therefore, this study aims to provide young Muslims in specific, in enhancing their awareness and understanding of waqf and its importance. Furthermore, we intend to construct a multi-level knowledge tool functioning as game based learning such as digital game / social media or online application that could shed more light on waqf in a more compelling approach. We chose it simply because of the fact that they are the embodiment of ‘in thing’, relevant in this era to help guide the detached Gen-X, Y and Z ethos. Thus, considering the pace of technological advances as compared of using the conventional board game. This research will be applying Technology Accepted Modal (TAM) as our fundamental theory to establish a better grasp on waqf by means of digital game / social media or online application. We believe that our approach may somehow build/ create/ enhance the awareness and understanding of the meaning and concept of waqf in young Malaysian Muslim community.

INTRODUCTION

The definition of Waqf has been interpreted by scholars in few ways. The root verb for waqf in Arabic is *waqafa* which means “causing something to stop and standstill”. *Syariah* further defined it as “holding a *maal* (property) and prevent the usage for the purpose of issuing benefits continuously to represent truth objective or the good of charity” (Aziz, Johari and Yusof, 2013). Another scholar defines Waqf as hold, to prevent or restrain in Arabic word or in legal terms it means to protect a thing from becoming the property of a third person (Sabran, 2002). It is defined as permanent submission by a Muslim of a valuable property to the ownership of Allah swt. According to Sabran (2002), it is the mutawalli (manager) obligation to govern the Waqf properties to the best interest of the beneficiaries once Waqf founder had determined the type of management of his / her Waqf. First priority is to preserve the property and secondly to maximize the revenues of the beneficiaries. The revenues are used for the welfare of the society including social, spiritual and economic objectives, which is distributed among the poor and the

needy, mosques, schools, graveyards, orphans, widow, old folk's etc. The list of the beneficiaries is unlimited, as long as the donor determines the need of a group or individual for any *Syariah* compliant purpose the donation would be considered valid.

There are many issues discussed by Muslims scholars all over the world with regard to waqf. In our paper, we want to explore the young Malaysians' awareness and understanding of the importance of waqf in our daily lives. The lack of awareness may pose barrier to the implementation of Islamic fundamentals as a whole. Furthermore, limited knowledge and awareness on this particular subject may even affect the perception as well as the involvement of Muslims in boosting the communities' economy.

Unified theory of acceptance and use of technology (UTAUT)

There are three prominent issues in relation to the current study that will be referred to in this literature review, beginning with a review on game-based learning that can be linked to the Unified Theory of Acceptance and Use of Technology (UTAUT). It will then be narrowed down to how waqf awareness can be achieved through digital game / social media or online application. Here, game-based learning is differentiated from traditional learning methods, on how it will focus on the learning process being much more laid back on the path to intellectual growth.

Game based learning

Game based learning (GBL) is a type of game play that has defined learning outcomes. Generally, game based learning is designed to balance subject matter with gameplay and the ability of the player to retain and apply said subject matter to the real world. Game based learning describes an approach to teaching, where students explore relevant aspect of games in a learning context designed by teachers. Teachers and students collaborate in order to add depth and perspective to the experience of playing the game. Good game-based learning applications can draw us into virtual environments that look and feel familiar and relevant. Within an effective game-based learning environment, we work toward a goal, choosing actions and experiencing the consequences of those actions along the way. We make mistakes in a risk-free setting, and through experimentation, we actively learn and practice the right way to do things. This keeps us highly engaged in practicing behaviors and thought processes that we can easily transfer from the simulated environment to real life.

Learners of this generation so to speak, have a low attention span and it is of utmost importance to intrigue and retain their interest, which in our case is to apply digital games or applications to create a fun process of learning. When they are intrigued, then it may somehow urge them to discover knowledge through the incorporation of technology, gaining meaningful insights as well as unlocking learners' academic potential.

This paper is divided into six sections, namely the introduction, background of the study, literature reviews, methodology, expected findings, as well as conclusion and recommendations.

BACKGROUND OF THE STUDY

Even though waqf's efficacy as a mean of economic empowerment played a major role in the formation of Islamic civilization, Malaysian Muslims' awareness of it remains modest. Waqfunlike charity is a permanent fund that must not be tampered with and can only be used for the benefit of Muslim ummah. According to Qayoom (2015), waqf affairs in Malaysia are under the Islamic Religious Council of each state, authorized to manage and be responsible for the running of waqf properties. The State Islamic Religious Councils are fourteen in total, one for each of the thirteen states and one under the Federal Territory.

According to the Islamic religious councils of the federal territory, pillars of waqf consist of the waqf giver (*al-waqif*), wealth designated for the endowment (*al-mawquf*), recipient of the endowment (*al-mawquf 'alaih*) and legal statement of the endowment (*al-sighah*) namely explicit statement (*lafz sorih*) as well as implicit statement (*lafz kinayah*). Categories of waqf on the other hand, can be dissected to charity waqf (*waqf khairi*) and family waqf.

If we were to look at the problems surrounding waqf per se, we might want to pinpoint at the waqf administration in Malaysia which can be seen as handicapped due to its management system. Chowdhury et al. (2012) claim that other than the waqflands are being managed by non-Muslims as *mutawalli* who are deemed incompetent, these properties are also put on idle due to delay in the management process. This delay takes place not only since the properties were given out orally in the absence of registration and documentation, but the accounting practices are also not in compliance with the Islamic accounting norms.

The researchers further added that certain cases of waqf properties are no longer under MAIN's (state Islamic religious council) jurisdiction which therefore resulted in cases like defaulting land tax and tax associated to waqfland properties. Consequently, waqf land office and waqf premises are sealed by local authorities.

There are few issues being raised under the topic of waqf. There are the lands under waqf is not well developed, poor waqf management, complicated process of ownership, low value of waqf properties and even our Malaysian law in the enactment of waqf billed by the states is not uniformed and synchronized. Not forgetting the bureaucracy and the long process of management.

LITERATURE REVIEW

The Economic Definition of Waqf

Waqf is a charitable foundation. It improves by the effect of moral and religious motivation. The words charities have permanence and continuity, so that people can benefit from them for years, generations or even centuries. It should also be noted that the Islamic definition of Waqf makes its assets cumulative, in the application to the principle of perpetuity in Waqf. It means that a Waqf properties may not be sold or disposed of in any form, i.e. a Waqf properties remains in the Waqf domain perpetually and any new Waqf will be added to that domain, implying that the Waqf properties are only liable to increase. They are not permitted to decline since it is illegal to consume the properties of Waqf or to leave them idle by any action of neglect or transgression.

Component of Waqf

Khalid (1988) had stated that Waqf in general can be identified into three types which are *Al-I'qar* (irremovable assets), *Al-Manqul* (removable assets) and *Waqf Al-Irsod*. The irremovable assets refer to any assets that cannot be moved, relocated or changed. In MAIS, the institution has dealt with irremovable wealth such as land for agriculture, school building, mosques and orphanage. Throughout MAIS establishment, the institution can be proud as many irremovable assets have been successfully developed in Selangor such as Masjid Tengku Kelana Jaya Petra (RM 8 million), Masjid An-Nur (RM 0.35 million), Waqf premises (RM 1.05 million), MAIS Centre of Information and Community Cyber (RM 0.35 million) and recently International Islamic University College's Library (RM 13.3 million).

The second categories are *Al-Manqul* or a removable asset which refers to asset or possessions that can be removed, as for example cash, book, table, chairs, agricultural equipments, poultry, etc. MAIS personally received these kinds of Waqf to be managed which are Saham Waqf, Waqf for vehicle, such as funeral van, road tax, etc. Lastly, *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.

Lack of awareness of Waqf among Muslims

In Malaysia, most people believe that waqf obligation is only for Muslims society. However, waqf can also be contributed by non-Muslims as well. This information is not being promoted to society due to lack of awareness of Waqf among them. Other than that, Muslim society still does not realize on the important 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. From the survey made by MAIS in 2008, almost 70 per cent of Muslims in Malaysia do not aware on Saham Waqf done by the institution.

In Malaysia, waqf had been governed by the Islamic Religious Council of each state (Hasan & Abdullah, 2008). There are 14 State Islamic Religious Councils in this country with each aimed of making the administration of waqf is systematic and effective for the *maslahahummah*. Each

institution is empowered to administer waqf properties with the best standard of practice and contemporary management system to project the excellence of Islam.

Unfortunately, the great potential has yet to be realized by Muslim. Waqf today perceived and understood to be very narrow, unmodern, non-economic, anti-social and resolves only around religious issues. Thus, it is a great challenge for Waqf institution in this country to participate a role in uplifting the pride, dignity and supremacy of Islam in Malaysia.

Unified theory of acceptance and use of technology (UTAUT)

The UTAUT model which aims to explain technology acceptance, is based on eight technology acceptance theories or models. In particular, the UTAUT draws on the Theory of Reasoned Action (TRA), the Technology Acceptance Model (TAM), the Motivational Model, the Theory of Planned Behavior (TPB), the combined TAM and TPB, the model of Personal Computer Utilization, the Innovation Diffusion Theory and the Social Cognitive Theory (Venkatesh et al. 2003). At the core, the UTAUT model uses behavioral intention as a predictor of the technology use behavior. The included predictors of behavioral intention are based on the components the eight technology adoption models reviewed. The basic form of the UTAUT model is shown in Figure 1.

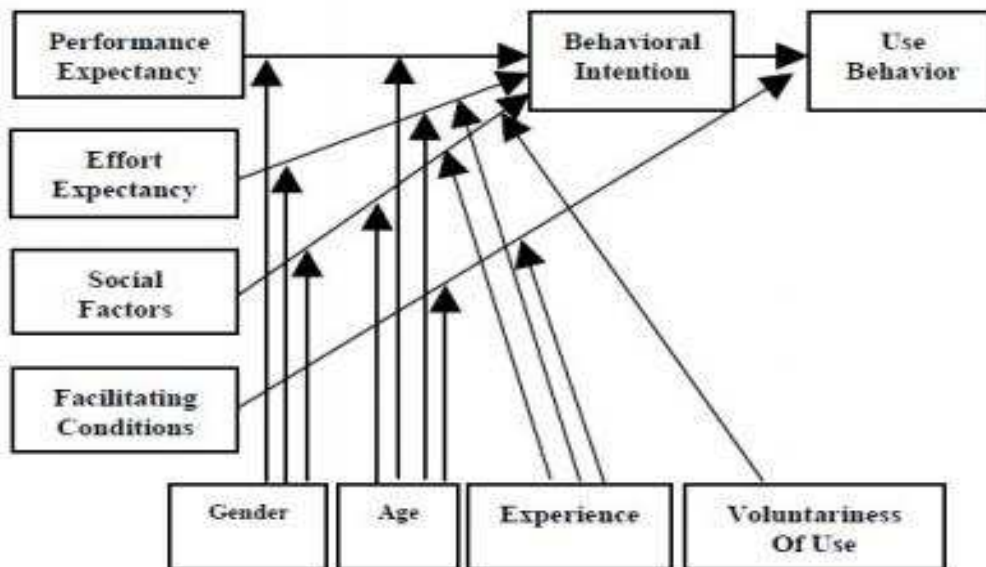


Figure 1: The UTAUT Model (Venkatesh et al. 2003)

In addition to behavioral intention and use behavior, the UTAUT model consists of four constructs:

- Performance Expectancy: The degree to which the individuals believe that the use of the technologies will results in performance gains. This may also be viewed as the perceived

usefulness of the technologies.

- Effort Expectancy: The ease of use of the technologies.
- Social Factors: The extent to which the individuals believe that important others believe that they should use the technologies.
- Facilitating Conditions: The perceived extent to which the organisational and technical infrastructure required for the support of the technologies exist.

The model also includes four moderating variables: age, gender, education and voluntariness of use.

In the UTAUT model, performance expectancy, effort expectancy, and social factors have direct effects on behavioral intention, which along with facilitating conditions have direct effects on use behavior. The effects of interactions of each of performance expectancy, effort expectancy and social factors with each of age and gender; interactions of experience with each of effort expectancy and social factors; and an interaction of voluntariness of use and social factors on behavioral intention are also included. Finally, there are effects of interactions of age and facilitating conditions and experience and facilitating conditions on use behavior (Venkatesh et al. 2003).

Although, attitude which refers to the individuals' feelings (positive or negative) towards the use of the technologies (Fishbein&Ajzen 1975) is an important component of the TRA and the TAM, it is not explicitly included in the UTAUT model. According to Venkatesh et al. (2003), the effect of attitude on behavioral intention is spurious and it emerges only when performance expectancy and effort expectancy are omitted from the model. This means that attitude towards the use of the technologies does not provide enough unique information beyond that which is already provided jointly by performance expectancy and effort expectancy.

METHODOLOGY

The main purpose of this research is to identify / study the behavior /perception/ level of knowledge and the awareness of 'waqf' among young Malaysian Muslim. This is very important because the lack of awareness in 'waqf' will lead to bigger issues. If the youngsters are not aware of the importance of 'waqf', it surely will have huge effects in the understanding of the concept of 'waqf' and as a result will be something that we are all terrified of what would happen in the near future.

In this research, as an entry level, researchers will be using a set of questionnaire to identify the level of general knowledge of students in UiTM Melaka branch. These students are diploma and degree students from Alor Gajah and Jasin campuses. We plan to have around 120 students as our samples. These students will be presenting the youngsters of Malaysian Muslim.

The questionnaire will be divided into four parts. The first part will be based on the demographic information, second part will be based on general knowledge of the concept and the meaning of 'waqf' and the third part will be on if the students have the interest to learn more about 'waqf' and the last part will be on their preferred method on how to learn more on 'waqf'.

Expected findings

'Waqf' is not something the Malaysian Muslim youngsters are being exposed to daily. Most of the youngsters are not even aware the definition of the word 'Waqf'. Only some of them might have the basic guess of the meaning of 'Waqf'. This is worrying because 'waqf' is very important in Muslim economic system. By utilizing game based learning applying TAM, hopefully more numbers of young Malaysian Muslim will be exposed to this concept. The researchers hope to create more awareness on 'waqf' among Malaysian Muslim youngsters through digital game/ online applications.

CONCLUSION & RECOMMENDATION

It is our responsibility to create the awareness of 'Waqf' among young Malaysian Muslim community. This awareness is important not only we can educate the youngsters but could also help the growth of our National Key Economy Area (NKEA). The method of creating the awareness is by creating a game based learning on Waqf. By doing this, hopefully we can attract the attention of our Muslim youth to be more aware of the importance of Waqf in daily live.

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EW018:
INVESTIGATING FACTORS AFFECTING THE INTENTION TOWARD
WAQF-BASED ENTREPRENEURSHIP AMONG STUDENTS IN HIGHER
EDUCATION

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Abstract

This scope of this study focuses the entrepreneurial intention that uses the capital provided by waqf. This is due to the huge potential of waqf as entrepreneurship capital that should be extremely promoted. Waqf-based entrepreneurship becomes the prominent issues among researchers in economic studies. Many researchers focus on several issues on waqf or entrepreneurship. Even the issue of the research is very helpful, but this issue didn't detail on waqf-based entrepreneurship intention theoretical model. Despite, the increase of interest in the entrepreneurial intentions among students, the prediction theoretical model needs to be developed using reliable theory. Therefore, this paper attempts to propose a model using extended theories of planned behaviour (TPB) to determine the factor that can contribute to the entrepreneurship through waqf fund. TPB was uses to fill the gap between waqf-based entrepreneurship and student personal intention-behavior. The reason of choosing TPB as a model of research mainly because of the widely uses of it for research projects approaching entrepreneurship intention. Moreover, TPB became one of the most common psychological theories that have ability to predict human behaviour, including entrepreneurship and to provide a basis of the effectiveness improvement in entrepreneurship education. The research is expect some highlights of the further development of the theoretical understanding of waqf-based entrepreneurial intentions behaviours as main dependent variables of research that use in the TPB model.

Keywords: Theory of planned behaviour; Entrepreneurial intentions; Waqf

INTRODUCTION: OVERVIEW OF WAQF

As one of the Islamic endowment, waqf should be more outstanding in the mainstream macroeconomic policy in Malaysia (Kahf, 2013). Apart from that, waqf also becomes the designed instrument designed for the Muslim community to meet the financing needs in areas such as education, health, security, transportation, infrastructure, job creation, and food. In fact, the usage of waqf funds to enhance economic development is not a new thing and it has an impact on the establishment of many fundamental services to ummah like education without putting any cost to the government (Saduman & Aysun, 2009). Normally waqf revenue is spent on religious activity, such as salaries of imams, the teachers in Islamic study and maintenance Islamic activity building. Others waqf beneficiaries are those who low incomes, orphans,

disability person, students and elderly. Waqf evolution is trusted in developing not for profit organisation (NFP) and at the same time increasing the quality welfare service. All waqf assets are trusts that have potential to general benefit to the public in order to provide wealth and profitability (Tohirin, 2010).

In Malaysia, waqf assets worth more than RM1.9 billion in the year of 2009 (Isa et al., 2011). Therefore, waqf has become a significant endowment that has the ability for huge development potential. However, the local waqf institution has not been very successful in utilising waqf properties to improve the socioeconomic (Rahman et al. 2006). Some of the waqf assets are not fully utilising effectively. It is estimated that less than 30% of the total acreage has been developed for various uses, such as shop house, rented house, petrol station, and agriculture (Nghah, 1992). Thus, waqf should be effective in generating a positive return to stakeholders by giving priority to projects or programs that give more value to the waqf development such business and entrepreneurship.

The roles of waqf in financing entrepreneurship through financial are the crucial effect that needs to be emphasized (Kahf, 2013). This endowment is the part of the social capital that able to provide a structure for understanding the social contexts that have high potential to enhance ummah quality of life and well-being (Lewis et al., 2012). This has been supported by Dr Mahmood Ahmed (2015), The Executive Vice President of Islamic Bank Bangladesh. He had stated that waqf can be the part of funds in business or entrepreneurship.

WAQF-BASED ENTREPRENEURSHIP STUDIES

There are allocations of legislation in regard to waqf property in Malaysia which allow the activity of developing waqf property through commercial activities for beneficiaries' continuous benefits. For instance, in Johor, Section 25, 1978 Islamic Administrative Enactment allows the Waqf Committee to invest waqf adhering to the terms approved by the Islamic laws. Other than that, Section 7 (2) (c), (Act 505) endorses the Council and other agencies or individuals do activities in line with the meaning implied by the Section concerned (Mahamood, 2007).

Besides, there is the space, opportunity, and power of the legislation allowing the administrators of waqf to add value to the waqf asset through the commercialization activity centralising on business or entrepreneurship. Thus, waqf assets and property is very much potential to be developed innovatively as the entrepreneurial source of activity. There are few studies had focused on waqf entrepreneurship recently:

Table 1: Summary of Past Studies on Waqf Entrepreneurship

No.	Authors	Focus/Issues	Model/Theory	Main Finding
1.	Abdullah (2014)	To develop a waqf-based financing model in order to facilitate the corporate	Musharkah Based Financing	Waqf fund is suggested to finance the corporate entities then after the growth of this fund, it will start

		entities to finance their investments.		financing the unprivileged class of the society at a low cost and partnership.
2.	Zainol et al. (2014)	To explore how social entrepreneurship model via corporate waqf can be implemented in the context of eradicating urban poverty in Malaysia.	-	There are three key characters of waqf-based entrepreneurship, which is innovation, proactive, and risk taking.
3.	Ali et al. (2015)	To develop quality, durability and high competitive entrepreneurs based on waqf model.	Adaptive Structuration Theory	The adaptive structuration theory may contribute significantly to waqf young entrepreneur framework to create the structure of young entrepreneur that links with waqf fund that will benefit the government and the students.
4.	Salarzahi et al. (2010)	To explain the Islamic and sustainable social entrepreneurship model for development and social welfare programs.	Islamic and sustainable social entrepreneurship model	Waqf is as one of the successful entrepreneurship patterns that require using simultaneously business skills and entrepreneurial innovation and using the profits for eliminating poverty and social welfare strata.
5.	Hariadi (n.d)	To address the recent development of waqf field in Indonesia, its potential, the problem that still occurs and the idea for improvement.	Model of scheme work of waqf management.	These practices help to fulfilment the religious requirement through performing various activities and mobilising resources from rich to poor, creating employment opportunity to develop socio-economic conditions of the poor and whole society as ultimate results.
6.	Harun et al. (2014) ¹	To study how waqf fund empowering education.	-	Suggestions for the potential products of waqf for education. 1. The use of waqf <i>Istibdal</i> (From Perpetuity to Un-perpetuity) in financing education 2. University as waqf centre of Excellence
7.	Harun et al. (2014) ²	To sustaining the entrepreneurship through waqf fund.	-	This study provides suitable innovative instruments and mechanism through waqf sector in financing to sustain the entrepreneurship.
8.	Harun et al. (2014) ³	To create, a waqf-based entrepreneurship incubator among students in higher education institution	-	This study comes to a proposal for an entrepreneurship incubator model that can be implementing in higher education institution.

Base on the above table, waqf is expected to become the new mechanism in the mobilising resource to needy, including the student in HEIs, especially through entrepreneurship investment.

In utilising business skills and entrepreneurial innovation to develop this social funding, waqf will able to create employment opportunity to develop socio-economic and to reduce poverty.

ENTREPRENEURSHIP INCLINATION

Nowadays, entrepreneurial activities have been emphasised in many countries as the way of boosting economic growth (Lee et al., 2006) by overcoming unemployment and improving social status. In this sense, entrepreneurship research has been conducted by many scholars, following two main lines, which are personal characteristics or traits of the entrepreneur (Lortie & Castogiovanni, 2015). This research provides insight for the policy maker, to design policies that bring benefits to society and educational institution as well as significant contributions to the literature.

Therefore, there is a significant suggestion for entrepreneurship should be widely practice in HEIs. Entrepreneurship activity in HEIs is tended to be greater in contexts where investment in new knowledge is relatively high. This is suitable for the function of entrepreneurship as a vehicle for knowledge transfer among students in HEIs (Guerrero & Urbano, 2014).

A previous study has proven that there is a low inclination among student in HEIs toward entrepreneurship and self-employed (Sumra et al., 2011) although the experience volatility entrepreneurship intention exerted a significant effect on the entrepreneurial career chance (Lengyel, nd). Even though, there are various factors that can lead into student inclination on entrepreneurship, study always focusing on examining the influence of entrepreneurship education and personality trait toward entrepreneurship inclination. The available factors are demographic, experience, opportunities, program of study, entrepreneurship education, attitude towards entrepreneurship, PBC, subjective norms of entrepreneurship (Nazri et al., 2014; Keat et al., 2011; Mahajar, 2012; Zegeye, 2013), religiosity (Alam et al., 2012; Harcrow, 2010; Shakona, 2013) and also several external factors such as knowledge (Zegeye, 2013).

Despite the factors that encourage student inclination, several factors are found to be responsible for the low trend in the inclination toward entrepreneurship among student in HEIs. The factors included lack of innovation and credibility, lack of risk tolerance, lack of resources, unsupportive social environment, lack of support from self-employed people, lack of promotion of self-employment from the lecturer, lack of entrepreneurship education, low number of self-employed parents, lack of required human skills and long study hours. All of these factors positively relate to the low of inclination and intention toward entrepreneurship among student. (Sumra et al, 2011).

Hence, it has been indicated that students entrepreneurial intention may strongly influence by demographic, psychological or behavioral factors (Marques et al., 2012; Abd rani, 2014). This study had chosen study on the behavioral area by drawing the inspiration models from the TPB

to explain the (Ajzen, 1991) the complex phenomenon of entrepreneurship (Lortie & Castogiovanni, 2015).

THEORY OF PLANNED BEHAVIOR: HISTORY OF TPB

Theory of Planned Behavior was developed in 1985 by Theory of Reasoned Action (TRA) from their founder which was Martin Fishen and Icek Ajzen (1975) (Ajzen, 1985; Ajzen, 1991; Ajzen & Fishen, 1980; Ajzen & Fishen, 1975). TPB was purposed by Icek Ajzen through the article titled "From intention to action: A theory of planned behavior". According to TRA, positive attitude and subjective norms will lead to higher intention and motivation. In addition, a high correlation of attitude and subjective norms to behavioral intention and subsequently to behavior had been confirmed in many studies. High behavioral intention and actual behavioral had also been proposed.

However, the behavioral intention has not always led to actual behavior. Therefore, since TRA cannot be the determinant of behavior where an individual had been controlled by the behavior, Ajzen had introduced TPB by extending the TRA to cover the non-volitional behavior for predicting behavior intention and actual behavior by adding PBC (Ajzen, 1985).

The previous study revealed, that the PBC component was originated by Self-Efficacy Theory (SET), which was developed by Bandura (1977). This theory was contributing to explaining various relationships between belief, attitude, intention, and behavior. According to Bandura (1977), the expectation associated with repeated failure determined the effect and behavioral intention.

TPB is found to be well supported by empirical evidence (Ajzen, 1991) by performing behavioral indifference area using predicting components which were high accuracy from the attitude toward behavioral, subjective norms and PBC. The intention was accurately predicted from this TPB component and this was proven previous studies (Davis & Ajzen, 2002; Azjen, 1991). Such as:

1. Attitude refers to the degree to which a person has a favourable or unfavourable evaluation or appraisal of the behavior in question (Kautonen, 2011).
2. Subjective norm refers to the perceived social pressure to perform or not to perform that behavior (Kautonen, 2011).
3. Perceived behavioral control refers to the perceived ease or difficulty of performing the behavior (Kautonen, 2011).

EXTENDED IN THEORY OF PLANNED BEHAVIOR

TPB is well known the predictive model for intention prediction (Hasbullah et al., 2014). Despite its huge potential in prediction, some scholars had argued on the narrow view of TPB

components and suggested additional component beyond the available on the available three component model improve the predictive ability on intention (Hasbullah et al., 2014; Ajzen, 1991). Indeed, Ajzen (1991) had also stated that TPB may include external predictor besides the theory current variables. The first scholars that used to extend TPB are Conner and Armitage (1998). Their research is focused on evidence supporting the further extension of TPB in various ways. This research provides 6 additional variables to TPB. In suggestion for the further study of the model that using the TPB model as a foundation, as long as the additional external variables resemble a significant proportion of the variance in intention after all the existing variable of TPB have taken into considerations (Hasbullah et al., 2014).

WAQF-BASED ENTREPRENEURSHIP INTENTION: A TPB AND EXTENDED TPB PERSPECTIVE

Up until now, the entrepreneurship literature regarding TPB had grown over the last 2 decade (Lortie & Castogiovanni, 2015). The previous research support TPB to be used in the areas of entrepreneurship in using three conceptually independent determinants, which is attitude, subjective norms, and Perceived behavioral control. These three determinants are well known as the significant predictors of entrepreneurial (Kautonen et al., 2013; Lortie & Castogiovanni, 2015; Ajzen, 1991).

Attitude (ATT)

This TPB component determinant is a behavioral belief which represents perceived outcome or attribute to the behavior (Conner & Armitage, 1998). Evidently, attitude is viewed as an important useful concept to predict understandings or explains human behavior (Ajzen & Cote, 2008; Ajzen 1991). In the scope of entrepreneurship study, attitudes towards entrepreneurship are referring to the degree of student's favourable or unfavourable evaluation or appraisal of entrepreneurship behavior (Kautonen et al., 2011). According to Botsaris and Vamvaka (2014) attitude towards entrepreneurship contains three separate components which are student cognitive in nature, being experiential by the student, and lastly, is representing student opportunity costs. The more students perceive a beneficial outcome of starting a business, the more favourable their attitude towards entrepreneurship behavior should be. Therefore the stronger should be the student's intention to start out a business (Kibler, 2013). Previous studies had documented the importance of the relationship between attitude toward entrepreneurship and entrepreneurship intention (Ajzen & Cote, 2008). Therefore, in this study, student's attitude will be measured to relate with the waqf entrepreneurship intention among student in HEIs.

Subjective norms (SN)

This normative belief is an expectation or subjective that a given reference from individual or groups such friend, family, spouse, co-worker, supervisor, teacher, parent, family members or counsellor approve or disapprove of performing behavior under investigation (Davis & Ajzen, 2002). Subjective norms toward entrepreneurship are a review on perceived social pressure to

perform or not to perform entrepreneurship (Kautonen et al., 2011). This TPB component is regarded the importance of reference group or individual who suggests student present or not to present entrepreneurship. Student's willingness motivation to do or not to do others opinion or mind that are regarded importance that the student has to or not to behave (Budiman & Wijaya, 2014). The more student care about the opinions of an important reference group or individual the more supportive they believe those people. As according to Ajzen (1991), subjective norms are defined as perceiving social pressure whether to perform the behavior. Previous research discovered a strong relationship between subjective norm and behavioral intention. Therefore, it is expected that subjective norm has an effect on waqf-based entrepreneurship participation. In this study, lecturer, parent, friends, classmates and other relatives will be the reference group to measure subjective norms.

Perceived behavioral control (PBC)

Ajzen (1991) had defined PBC as people's perception of the ease or difficulty of performing the behavior and interest. This TPB component is assumed to become assessable control beliefs. These control factors include required skill and ability or lack of time, money and resources. A control belief is defined as people subjective probability that given facilitating or inhibit factor will be present (Ajzen & Cote, 2008). According to Davis and Ajzen (2002), PBC makes a strong contribution to predicting intention and can be measured by asking direct questions about the capability to perform behavior or indirectly on the basis belief about the ability to deal with specific inhibiting or facilitating factors. PBC refers to the perceived ease of difficulty of a student in performing the behavior (Kautonen et al., 2011). The more students believe a regard in their ability to successfully start and run a business, the stronger their intention to become an entrepreneur (Kibler, 2013). In this study, the relationship between perceiving behavioral control and waqf-based entrepreneurship intention will be measured. This study will be focusing on HEIs required skill and ability as waqf-based entrepreneurship intention control factor.

Knowledge

Knowledge is explained on the student's ability to understand the information, especially related to waqf on business or entrepreneurship, waqf concept, type of waqf, the condition of waqf and other relate information. Based on previous research, knowledge is an important aspect in influencing student entrepreneurship inclination or intention (Zegeye, 2013). In fact, there is the relationship between knowledge and intention-behavior. This is proven by many researchers in various studies (Zegeye, 2013; Alajmi, 2011; Botosaneanu et al., 2011) that were also using knowledge as one of the additional variables in TPB. This study, therefore, will use knowledge as the additional variable in TPB model (Hasbullah et al., 2014). The objective to measure knowledge is due to the function of knowledge as part of a crucial need for student decision in favour or against to become an entrepreneur (Dohse & Walter, 2012). The knowledge that they have about waqf is expected to help them to the better understanding of waqf entrepreneurship.

In general, high knowledge about waqf among student may also translate to a high level of commitment toward waqf activities (Alajmi, 2011).

Religiosity

Waqf-based entrepreneurship had been classified as social entrepreneurship model in Islam. This activity assists the fulfilment of the religion requirement through performing various actions and mobilising resources. Therefore, religiosity has the ability to engage the prosocial behavior (Harcrow, 2010). Religiosity is referred to the religious commitment that able to be one of the predictors of the intention of students to participate in waqf-based entrepreneurship. This variable is important to study on intrinsic orientation toward religion into all aspect of student life which provides them with a primary motivating force to choose waqf-based entrepreneurship. Besides, the previous study had indicated that religiosity plays important role in creating entrepreneur intention in Malaysia. The high level of religiosity will lead to the higher level of intention (Alam et al., 2012; Harcrow, 2010; Shakona, 2013), and for this use, an entrepreneurship intention. Therefore, the use of religiosity in waqf-based entrepreneurship intention is the relevant issue to be included.

PROPOSED FRAMEWORK

The framework of the proposed is presented in the figure below:

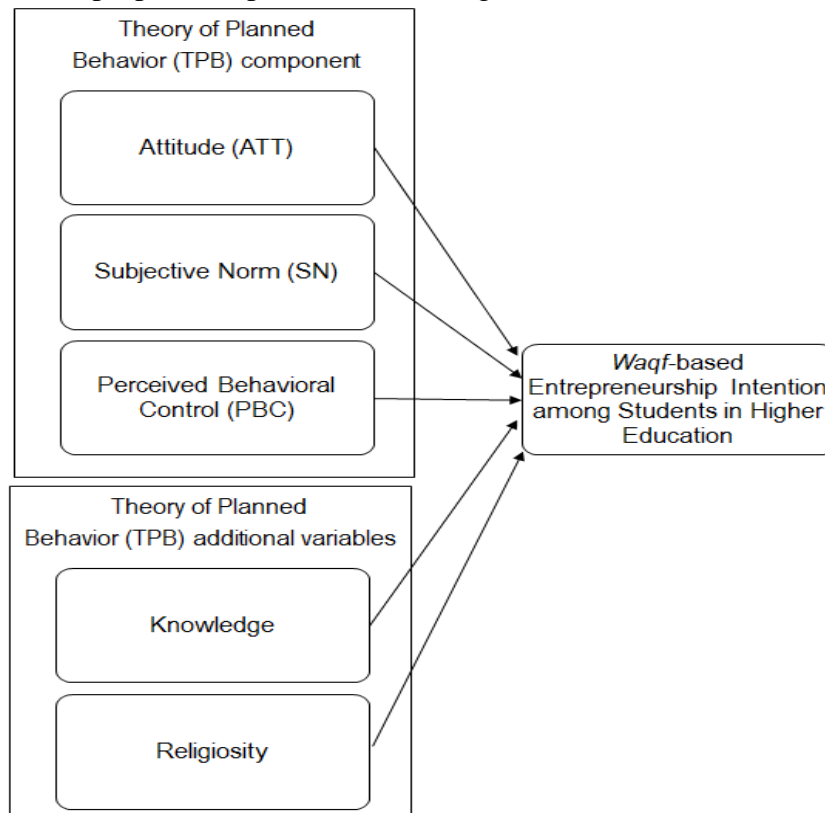


Figure 1: Waqf-Based Entrepreneurship Intention among Students in HEIs

Adapted from Ajzen (1991), Zegeye (2013), Dohse and Walter (2012), Botosaneanu et al., (2011), Alam et al. (2012), Harcrow (2010); Shakona (2013)

The Figure 1, shows waqf-based entrepreneurship intention among student in HEIs is the variable of primary interest to the researcher. The researcher's goal is to explain or predict the variability in intention. The researcher was interested in quantifying and measuring intention, as well as other independent variables.

CONCLUSION

Waqf has a huge potential in assisting HEIs in terms of financing the students. A Proper waqf can give a part in shaping the entrepreneurial capabilities, particularly among students. The income for waqf can be distributed to entrepreneur among students as part of waqf human investment. The usage of waqf funding in entrepreneurship has the potential to help an entrepreneur to do entrepreneurship without riba and at the same time can utilise the functions of waqf. Despite, waqf that has a perpetuity characteristic can be a long-lasting charitable trust. The use of waqf funds as entrepreneurship, funding among student is expected to have a huge potential to develop this endowment in local HEIs. Thus, this research aims to contribute to the literature with the corresponding objective of generating a better understanding of waqf-based entrepreneurship intention and the factors preceding the formation of this intention among HEIs student. In order to analyse such effects, this research establishes causal relationships between behavioral factors.

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EW019: DEVELOPMENT AND CONTEMPORARY ISSUES ON WAQF IN MALAYSIA

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Abstract

Waqf is one of the most important socio-economic institutions in Islam. As a nonprofit organization, an effective management of waqf properties will generate positive returns for both beneficiaries and waqif (giver). In Malaysia the duty of managing and developing waqf properties is under the jurisdiction of State Islamic Religious Council (SIRCs). SIRCs act as a sole trustee and responsible for developing all waqf properties endowed by the waqif based on the jurisprudence in each state. This study employed library research analysis. Library research data are comprised of secondary data which the information are extracted from Waqf institutions' annual reports and website, relevant books, journals, internet websites and scientific conference papers. Hence, it was found that basically, the assets endowed will be developed for business and entrepreneurship, hotels, health, and education. However, it is reported that there are various problems currently faced by the SIRCs in managing waqf which cause a lot of waqf properties left undeveloped namely waqf development barriers, governance, management, legal and cash waqf collections. Thus this paper will highlight the development of waqf properties in some states in Malaysia and challenges faced by the SIRCs as a sole trustee.

Keywords: development, issues, waqf.

INTRODUCTION

The word waqf is derived from the Arabic root verb “*waqafa*” which means to stop, prevent or detain (Harun, Isa, & Ali, 2012; Laldin, Mahmud, & Sawari, 2008). The waqf can be defined as: The confinement of property, movable or immovable, from the founder (*Waqif*) and the dedication of its usufruct in perpetuity for the welfare of society (Hosseini, Salari, & Abadi, 2014). The Islamic jurists define “*waqf*” as detaining assets that are beneficial and physically lasting to be given as charity. From the definition, basically waqf can be said as locking up of the title of an owned assets from disposition and the benefits will be allocate according to its purpose (Sadeq, 2002).

Waqf is divided into two type namely general waqf and specific waqf. A waqf considered as general waqf when the *waqif* dedicated the assets for public welfare while specific waqf is when the *waqif* specifically mention the beneficiaries. Basically, there are four conditions of waqf in order to ensure it become valid based on Islamic jurisprudence namely *waqif*, *mawquf*, *mawquf ‘alayh*, and *sighah* (Yaacob, 2013). This four conditions must be there when someone have

intention to endowed their assets in order to make the proses is valid with accordance to Islamic jurisprudence.

Waqf is different from other types of philanthropy because it has a perpetuity characteristic which makes waqf a long-lasting charity. Perpetuity means once the assets or property declared as waqf, it will remain as waqf forever (Kahf, 2003). It is widely known that the basic role of waqf is to be used in religious purpose such as development of mosque, religious school, hospitals or other institutions with purpose to help the needy. However, from the economic perspective, waqf can also be used to reduce government expenditure, decreasing the interest rate, alleviation of poverty, enhancing the development of economic and restoring the distribution of income (Budiman & Wiranata Kusuma, 2011; Cizakca, 1998). However, it is reported that there are various problems currently faced by the SIRC's in managing waqf which cause a lot of waqf properties left undeveloped.

This paper is organized as follow: the next section will discuss the significance of waqf. Waqf institutions in Malaysia are presented in Section 3. Section 4 presents development of waqf institutions followed by challenges and issues pertaining of waqf in Malaysia. The last section will conclude the paper.

SIGNIFICANCE OF WAQF

Waqf is different from other types of philanthropy because of its perpetuity characteristic which makes waqf a long-lasting charity. It is widely known that the major role of waqf is to be used in religious purpose such as development of mosque or other religious institutions such as schools and Madrasah. Despite the continuous benefits given to the donor and beneficiaries, waqf also give a positive impact to the economics of Muslim by eradicating the poverty and enhance the economic development. Furthermore, waqf might help government to reduce their expenditure.

Regardless of all methods to reduce the poverty and balance the socio economic, charity is one of the efficient ways and undoubtedly the long-lasting charity is paramount (Hosseini, Salari, & Abadi, 2014; Saifuddin, Kayadibi, Polat, Fidan, & Kayadibi, 2014). Hence, perpetuity characteristic of waqf makes it as a long-lasting charity. The past decade has seen one of the ultimate goals of waqf is to reduce poverty among Muslims. In Malaysia cash waqf has increasingly gaining awareness among Muslims due to its flexibility and become an effective tool for poverty alleviation (Mohd Umar et al., 2012). In fact, cash waqf give opportunity for the middle income group to make donations. By using cash received, *Mutawalli* can invest the money to the real sector or any Islamic based investment fund. Profit gained from the investment will be distributed to the needy for eradication of poverty. There are numerous studies have been done in identifying the role of waqf as poverty alleviation. Amuda, Hidayat, & Buang (2015), have found out that cash waqf can reduce poverty rate among Nigerian less privilege Muslims and beyond if the cash waqf is commercialized properly and accordingly. Moreover, Saifuddin et

al., (2014) conclude that a better cooperation between public, waqf institutions and government might become solution to the centuries-long problem of poverty.

On the other hand, waqf also gives benefits to government by having a massive reduction on government expenditure (Budiman & Kusuma, 2011). By utilizing waqf system, numerous essential services to public like health and education can be provided without putting any cost to government. This is because the development of public services such as mosque, school, university and hospital is fully financed by waqf. As a result, government can reduce their cost of expenditure and reduce the budget deficit which will lead to lower the needs for government borrowing. From the economic perspective, when the government expenditure is decrease, indirectly the interest rate also can be reduce. By having a reduction in interest rate, *riba* (interest) also can be eliminating (Cizakca, 2014). Hence, it is corresponding with the principles of Islamic economics that prohibited the transaction which includes *riba* (Cizakca, 1998; Samad, Gardner, & Cook, 2005).

WAQF INSTITUTIONS IN MALAYSIA

In Malaysia, management of waqf is granted to State Islamic Religious Council (SIRCs) as the sole trustee. SIRCs was established in 1951 after the colonial period with objective to monitor and supervise the management of mosque and later expanded into Islamic matters by the Council (Siraj, 2012). Then, all states government has also established a SIRCs in accordance with their state enactments and jurisprudence. Hence, the SIRCs in each state can exercise their own power, authority and jurisdiction in administer the Islamic matter. There are 14 State Islamic Religious Councils, one for each of the 13 states and one for the Federal Territory.

Basically, SIRCs in each state have two present roles. The first is to advise the ruler (Sultanate) on all Islamic matters and second is to develop, supervise, administer and manage all Islamic matters including waqf. At present, most states put the administration of waqf along with *zakat* under the *baitulmal*. However, some of the states such as Johor, Selangor and Wilayah Persekutuan have separated the management of waqf and established a corporate organization to manage the waqf. Beside the Islamic Religious Council, government of Malaysia has formed a department for *zakat*, waqf and *haji* (JAWHAR) under the Prime Minister's Department on the 27th March 2004 with the aim of making the administration systematic and effective (Hasan & Abdullah, 2008). Meanwhile on 2006 Malaysia Waqf Foundation (MWF) was founded, and effectively operated on June 2008. It was an associated agency of JAWHAR that responsible as waqf administration in Malaysia (Siraj, 2012).

FINDINGS AND DISCUSSION

State Islamic Religious Councils are the legal sole trustee in each states responsible in managing waqf assets. SIRCs need to develop all waqf assets according to the *waqif's* intention. Basically, all cost incurred for the development of waqf assets support by SIRCs with support from

government. For instance, in 9th Malaysian Plan, government has allocate RM256.5 million to finance 23 waqf projects (Ahmad & Muhamed, 2011). The better development of waqf assets leads to the better performance efficiency of the institutions. This is because with the current number of input, the institutions managed to produce large number of output and fully utilized all resources that they have. Hence, in this chapter, review on development of waqf in selected states presented.

REVIEW ON DEVELOPMENT OF WAQF IN MALAYSIA

Since the establishment of State Islamic Religious Councils in 1951, this sole trustee have developed numerous waqf assets to benefits the ummah. The ultimate objective of the development is to deliver the benefits to the Muslims. The development of waqf assets depends on the objective of the *waqif*. The most common waqf assets development are mosque, madrasah and religious schools. However, some potential waqf received by the SIRC's from the *waqif* which located in the strategic place have been developed into several projects such as hotels, shop lot, housing, clinic and schools to create more outcome and maintain sustainability of the waqf. Basically the development of this project using fund from federal or state government of financial institutions. To date, SIRC's have used several mode of finance such as joint venture, long lease and *ijarah* contract. However, even though SIRC's practice these types of mode of finance, the function of SIRC's as sole trustee cannot be undertake by other parties.

Business and Entrepreneurship

One of the recent large scale investments of waqf land in Malaysia was initiated by the Federal Territories' Islamic Religious Council (MAIWP) together with Tabung Haji, TH Technologies Sdn. Bhd. and Bank Islam Malaysia Berhad. This project involved the construction of a 34-storey building with total cost of development RM151 million. This project is considered as the first large-scale commercial development on waqf land in Malaysia. The development of this building was located at a 0.484-ha site on Lot 168/169, Jalan Perak, which is known as "Golden Triangle of Kuala Lumpur". The council entered into an agreement with Lembaga Tabung Haji (LTH) as funder while MAIWP as the land owner. This project was developed by the TH Technologies Sdn Bhd a subsidiary of LTH with agreement to construct the building within 48 months based on based on the principles of *al-iththina* and *al-wakalah*. As a consideration of the said arrangement the LTH will enjoy the right to utilize the building and the land for a period of 25 years. At the same time MAIWP will receive RM56.6 million from the LTH as a rental payment for the lease of the land based on the principle of *al-ijarah*. At the end of the lease period the LTH will hand over the building and the land to the MAIWP.

Besides that, through high impact small projects development program Federal Government has channelled RM30 million to MWF to collaborate with SIRC's across country. Under this program MWF has developed a project that give impact to enhance the economics of the poor Muslims through entrepreneurship and job opportunities (Ahmad & Muhamed, 2011). Since 2010 MWF

has successfully developed 69 units of Bazar Wakaf Rakyat and Wakaf Mart (see appendix) at the selected mosques across country (Ismail, Muda, & Hanafiah, 2014). Bazar Wakaf Rakyat is a retail space provided for Muslim entrepreneurs and the poor to run various types of businesses in order to increase their income. While Wakaf Mart is a halal grocery store which provides a variety of daily household goods at a competitive price. Undoubtedly this projects have given business opportunities to 296 Muslims and the current income generated from this projects are RM68, 245 per month (Anan C. Mohd, 2015).

Meanwhile in Pulau Pinang, MAINPP have taken initiative to develop their waqf land (Taman Wakaf Seetee Aisah) by having a joint venture with UDA Holdings Berhad, a Government-Link Company (GLC). This project involved the development of 76 unit terrace houses and 9 unit shops or offices in 9.86 acres land. The gross development cost of this project was RM24.09 million and fully funded by UDA Holdings (Anan C. Mohd, 2015). On their agreement, UDA will give the ownership of 9 unit offices to MAINPP while the 76 unit of terrace houses will be sold with 99 years leasehold method. The income from the 76 unit of houses will be divided by 70% UDA Holdings and 30% MAINPP. The benefit from the development of this waqf land has be specifically stated by the waqif such as for the development of mosque in Permatang Pauh, sending money to Makkah yearly and given to her heirs.

Hotel

Another profitable and highly potential development by the government through Blue Ocean Strategy together with State Islamic Religious Councils and Malaysia Waqf Foundation is hotel waqf project. Government has successfully build the hotel in four states which are Melaka, Negeri Sembilan, Perak and Terengganu (Mohammad & Ahmad, 2014) with allocation of RM117.7 million from 9th Malaysian Plan. After four years of operations, this project have collected almost RM10 millions of income (Anan C. Mohd, 2015). In this project, government is the *waqif* who provided fund for the hotel development. Meanwhile SIRC identify the potential waqf land and solve all problems related to the waqf. Two agreements have been executed between SIRC with Federal Lands Commissioner (FLC) and SIRC with JAWHAR. JAWHAR will responsible for the development of the project. After the development finished, the hotel was given back to SIRC to be manage. However, MAIM, MAIPk and MAIDAM have appointed MWF to manage run the management of the hotel. While MAINS appointed their subsidiary MAINS Holding Berhad (Ismail, Omar, & Harun, 2013; Mohammad & Ahmad, 2014). Figure 1 illustrate the process of waqf hotel development.

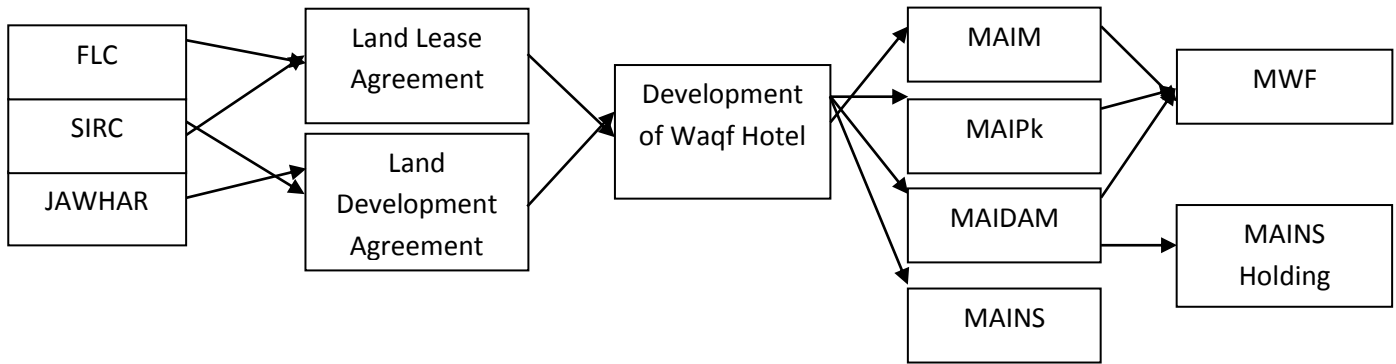


Figure 1: Waqf Development Process
Source: Adapted from (Mohammad & Ahmad, 2014)

Health

Health is an important aspect and should be seriously emphasized by the government. Government have to provide a better hospitals for the society to get treated. However, the increasing cost of hospitals become burden to the society especially the poor. Hence, in 2007 Waqf An-Nur Corporation Berhad (WANCorp) have established the first clinic initiated from waqf to provide health services for the community. Klinik Wakaf An-Nur (KWAN) in Pasir Gudang was the first waqf clinic and later on transform into Hospital Wakaf An-Nur (Mohamed & Rahman, 2015). To date, WANCorp have established 20 clinics including a hospitals and received 1,281,766 number of patients. The objectives of this hospital is to give and provide medical treatment and health care at a price that affordable by the public, especially the poor, regardless of race and religion (Anan C. Mohd, 2015; Isa, Ali, & Harun, 2011).

Since the establishment, KWAN has been giving services to patients in several states such as Selangor, Negeri Sembilan, Sarawak, Perak and Pulau Pinang.

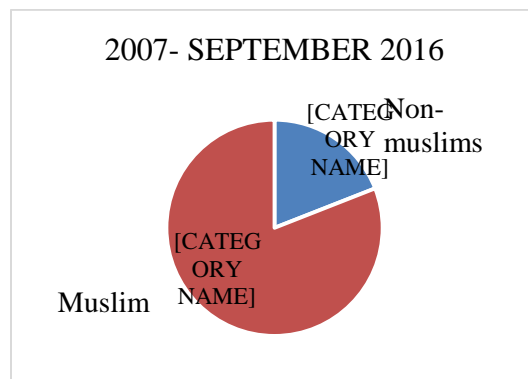


Figure 2: Total Patients in KWAN
Source: JCorp Berhad

Figure 2 show the total number of patients in all KWAN from 2007 to 2016. There are 135,095 non-Muslims and 1,146,675 Muslims get treatment. While 442 patients received dialysis treatment using 66 dialysis machine which are one of the cash waqf project. Increasing number of patients or beneficiaries gives a positive impact towards the level of performance efficiency of waqf institutions as intermediaries. This is because the input has been fully utilized and produced maximum number of outputs. In fact, the significance of waqf as a tools to help the poor and needy can be achieved.

Education

Waqf also has significant role in enhancing the development of religious schools. Waqf education institutions is an organization that developed by using waqf whether cash, land or building for the purpose of religious education (Latif, Ramli, Ismail, Sulaiman, & Daud, 2008). The history of waqf education in Malaysia was started with ‘Sekolah Pondok’ which resulted to establishment of Madrasah and later on was converted to religious schools. Basically, in Malaysia there are three types of waqf schools which are differentiate from the type of ownership and management. The first type of religious school is registered as private school under waqf ownership and the management is under the responsibility of the teacher or society. However, this school was financed by the federal or states government and state Islamic Religious Council. Another type of waqf schools are State Religious School (SAN) and Society Religious School (SAR). Both schools are under the responsibility of SIRC as sole trustee and fully financed by the state government (Salleh & Rahman, 2014).

Despite the development of waqf in other sector, Malaysia yet to have waqf based university or higher education. Thus, in line with the policy of government under “Pelan Strategik Pengajian Tinggi Negara” to transform higher education, stressed on self-earning for the purpose of development and management (Muhammad, Rahman, & Ahamd, 2016), waqf is seen as one of the solution for the this financial issues in education (Hilmiyah, Mohd Shafiai, Ahmad, Ramzi, & Che Hariff, 2013). Moreover, increasing in cost of development also affect the cost of education significantly. Indirectly, this current situation give impact to the poor Muslims. Even though Malaysia yet to have waqf based university, some of the higher education institutions have started their waqf university or waqf based university concept which focusing on the collection of cash waqf (Ali & Wahid, 2014). Hence, this study has identified six public universities and one private university in Malaysia which have established waqf endowment program in their institutions.

The earlier institution was International Islamic University Malaysia (IIUM) which has introduced International Islamic University Malaysia Endowment Fund (IIUMEF) in 1999. In 2002, Universiti Putra Malaysia (UPM) had introduced “Wakaf Ilmu” scheme while Universiti Kebangsaan Malaysia (UKM) with their “Dana Wakaf” and Infaq UKM. Universiti Malaysia Sabah (UMS), Universiti Teknologi Malaysia (UTM) and Universiti Malaysia Pahang (UMP)

introduced Tabung Amanah Biasiswa, Tabung Endowment UTM and Tabung Amanah Endowment respectively. Meanwhile, University College Bestari (UCB) had used the sell and waqf concept (Che Yaacob & Muhamad Don, 2013; Salleh & Rahman, 2014). The university management have sell the overall land of UCB and waqf it for RM30 per 0.01 meter square. This concept has successful and UCB managed to collect up to RM6 million from the waqf. Basically, most of these universities donating cash waqf by purchasing the scheme or via monthly salary deduction. Most of the beneficiaries of this waqf fund are students to finance their education and help to reduce their financial burden (Ali & Wahid, 2014; Ismail, Rosele, & Anuar, 2015; Latif et al., 2008; M. Sulaiman et al., 2009). For instance, IIUMEF had successfully help 4000 of students by providing a scholarship in IIUM.

CONTEMPORARY ISSUES OF WAQF INSTITUTIONS IN MALAYSIA

Despite the development of waqf assets, some major issues have been frequently highlighted by the researchers. The issues arise in almost all SIRC in Malaysia which could hinder the performance efficiency of waqf institutions in performing their objectives.

Waqf Development

Despite all development that have been done by SIRC, there are a lot of waqf with high potential of commercialization yet to be develop due to several obstructions. One of the most common issue in development of waqf is financial shortage (Bakri, 2014; Shafii, Iqbal, & Tasdemir, 2016; S. Sulaiman, 2012). Financial issue has major impact to the development of waqf projects. Federal government has allocated budget in 9th and 10th Malaysian plan for the development of waqf projects however, the amount is insufficient to develop all waqf project that SIRC proposed (Anan C. Mohd, 2015). Moreover, studies have found that even though most of SIRC have their own sources of income from the waqf assets, the issue of financial shortage yet to overcome. This is because lack of knowledge in managing waqf assets properly and systematically. For instance, SIRC lease the building or house with economical cost and the income received is lower than the expenses (S. Sulaiman, 2012). Hence, SIRC need to find solution for this financial issue such as enhancing the cash waqf promotions to increase collection. Furthermore, collaboration with other financial institutions is needed to encourage more participation in the development of waqf assets.

In addition, some of the waqf assets left idle due to some physical barriers such as size, type and geographical location of the waqf land (Ismail, Salim, & Hanafiah, 2015). This matters have to be take into consideration before the development of any waqf land. Size of waqf land become problem because small size prevent the development of projects. Moreover scattered land also make the development become difficult. However, some of waqf land located at the strategic place yet to be developed due to some reason such as those land are specific waqf. The development must according to the *sighah*. Moreover, in some cases, developer not interested to develop the waqf assets even though the land is located at the most strategic place due to lack of

awareness and understanding of waqf among the society (Jabatan Audit Negara Malaysia, 2014b; Rohayu Abdul Majid & Rosli Said, 2014). Consequently, this issue will slow down or prevent the development of waqf assets and give impact to the performance efficiency of waqf institutions as the sole trustee of waqf assets.

Management

Management of an institutions is a vital aspect to look after to ensure the objective of the institutions achieved. A better management system will lead to better achievement which eventually effect the performance efficiency of an institutions. However, this study will highlight some of the management issues pertaining to waqf institutions in Malaysia generally and five selected states specifically. As far as this study concern, human resource is one of the major problem in almost all waqf institutions in Malaysia (Hamat, 2014). Previous studies reported that most of the waqf institutions is lack of expertise (Ismail et al., 2015; Pitchay & Jalil, 2016) such as in investment analysis, property management, property evaluation and project management (Zakaria & Sani, 2014). Meanwhile, understaffing also cause to another problem such as invasion of waqf land. This is because SIRC's did not have adequate number of employee to perform periodic supervision to all waqf land (Puad, Rafdi, & Shahar, 2014) especially which is located far from the office. Hence, another parties take advantages from this issues to use waqf land without permission. Thus, the objective of the *waqif* cannot be executed properly (Jabatan Audit Negara Malaysia, 2014a).

Besides problem of human resource, registration of waqf land also become one of the major issues in Malaysia. This issues was continuously from the previous problem where during that time there is no written documentation was made for waqf. The absence of waqf record because of that time waqf only occur verbally. They have appointed head village as Mutawalli. The absence of written record in past create problem in present (Ismail et al., 2015). Moreover, the number of unregistered waqf land was higher. SIRC's is having a problem in claiming right as sole trustee for those waqf. It became worst when the *waqif* was died and the heir are refuse to give cooperation and they claimed the land as theirs. Most of this issues occurs due to the lack of awareness (Puad et al., 2014).

In addition, SIRC's also are having problem in managing rental for their premises. Most of waqf institutions developed their assets to build premises for business purposes. The profit gained from the business distributed to the poor and needy. However, problem arises when the tenant failed to pay their rent consistently although the rent fees are lower from the market level. Moreover, some of the tenant rent the premise without permission from the SIRC's as Mutawalli. They just make an agreement with the Management of Mosque (Jabatan Audit Negara Malaysia, 2014a). Despite the high number of rent overdue and legal issue, there is no action taken against the tenant due to the inadequate number of staff to make investigation to the premises and records keeping (Jabatan Audit Negara Malaysia, 2014b). Previous study found that most of the

problems occurs due to lack of waqf literacy and awareness among society regarding waqf. For instance in Melaka, the total overdue of premises rent as per May 2015 is RM420, 083. The highest overdue was 29 months with total cost RM4, 350 and the highest value is RM224, 000 with 14 months overdue. Indirectly, this rent arrears has reduced the amount of income to be received by the SIRC. Thus, this problem creates another problems in future such as lack of funds to finance other potential projects also affecting the performance efficiency of waqf institutions.

Legal

Since all matters pertaining to waqf are under the responsibilities and jurisdiction of each states, waqf are govern by a law different in each states. All States Islamic Religious Council except Selangor does not have a separate enactment, but still adopting Islamic Religious Administration Enactment of the Federal Constitution, which restricts only a third of the wealth of the Muslims can be endowed (Mahamood, 2006; Zakaria & Sani, 2014). The first enactment waqf was established in Selangor in 1999. Even though each states have its own law pertaining to waqf, the enforcement of this law are at minimal number. For example as mentioned earlier, there are some tenant rent the waqf premises without permission by the SIRC, however no action taken toward the illegal tenant.

In addition, issue on invasion of waqf land also occur in some states. This is due to the failure of the SIRC to put a sign as waqf land and the area of waqf land is not fenced. Hence, most of the people assume the land was an abandoned land. Lack of staff to monitor also contribute to this issues (Jabatan Audit Negara Malaysia, 2014a). The issue become critical when they have developed some premises such as building, house and plantation activities at the specific waqf land. For instance, the *waqif* have given his/her land to build a mosque however there is another building on that land. SIRC had to bear the cost to clean up the area before carrying out the construction of the mosque. This will increase the cost of operation of the SIRC. Table 1 below shows an example of invasion of waqf land in Johor. There are 10 invasions of waqf land in Johor found by the National Audit Department.

Table 1: Invasion of waqf land in Johor

No	District	Waqif Objective	Type of Invasion
1.	Johor Bahru	Cemetery	Tyre Shop and four storey building
2.	Johor Bahru	Religious School	Rental car parking
3.	Muar	Religious School	Banana plantation
4.	Johor Bahru	Mosque	Store and food stall
5.	Batu Pahat	Mosque	Palm oil plantation
6.	Muar	Cemetery	Timber deforestation
7.	Kulai	Surau and general welfare	Public parking
8.	Muar	Cemetery	Kemboja plantation and garbage dump
9.	Batu Pahat	Cemetery	House
10.	Kulai	General	Food stall

Source: MAIJ

From the table, 9 out of 10 invasion was occur on the specific waqf. This will makes the process of development become difficult because SIRC needs to develop the land according to the objective of the *waqif*.

Cash waqf collection

Potential of waqf as a tools for improving the economics of Muslims ummah is undeniable. In fact, waqf can be used to enhance the development of economic of a country. However, some studies revealed that one of the major problems related to waqf is lack of fund to finance the development of waqf assets. Currently the major sources of waqf fund is mainly from cash waqf, return from investment and government budget (Ismail et al., 2014; Mokhtar, Sidin, & Razak, 2015). Apart from all, cash waqf have its own advantageous and benefits. For instance, cash waqf create more opportunities for Muslim to donate because cash waqf did not require amount of wealth and it could be as small as RM1. This statement supported by the study from Ibrahim, Nor, & Muhammad (2013) revealed that Malaysia could collect up to RM4.3 billion a year if each Muslim adult Malaysia citizen donate RM1 per day or RM30 per month to cash waqf fund.

Selangor Corporate Waqf (PWS) has become prominent institutions that has highly focused on collecting cash waqf. PWS is a subsidiary appointed by Selangor SIRC to manage all matters related to waqf (Osman, Htay, & Muhammad, 2012). Hence, PWS has introduced their first program called 'Sahabat Wakaf Korporat' an agreement with a few financial institutions (Bank Muamalat Malaysia Berhad (BMMB) and Maybank Investment Bank), 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 (Mokhtar et al., 2015; Talib, Ismail, & Azizan, 2014). Besides that, PWS also have produced few waqf products to enhance the collection of cash waqf namely Skim Infaq, Gold Waqf and Art Waqf. Skim Infaq is a monthly salary deduction with minimum amount of RM5.00 per month. Meanwhile Gold Waqf is focusing on women with gold assets to waqf the assets, which will be sold and the cash received from the sale will be given to cash waqf fund. The Art Waqf is new product introduced by the PWS focusing on Malaysian Islamic singers, writers, celebrities, artists under National Association of Artistes (Persatuan Seniman Malaysia) and Malaysian Animation Artist (Persatuan Animasi Malaysia, ANIMAS). The collection of cash waqf is through some percentage or amount on their artwork such as albums, concert or paints as long as it is Shari'ah compliance (Mokhtar et al., 2015).

Different from Selangor, Johor collected cash waqf based on their projects. Wakaf Johor will open the project until the cash waqf collected reach the maximum amount stated. For instance, the previous projects namely Purchase Haemodialysis Machine with cost RM4, 500,000 million

have been successfully collected. This 100 units of Haemodialysis machines have been placed at Dialysis centres owned by MAIJ, hospitals, mosques operate dialysis and haemodialysis centres that treat patients who financed by MAIJ. Another successfully cash waqf collected was the project of Student Dormitory Building in Jordan with cost of development RM10,000,000 million (Wakaf Johor, n.d.).

Although the concept of cash waqf has been introduced long time ago, the amount of cash waqf received is lower as compared to the forecasted amount. This is due to the low level of awareness and understanding of society towards the importance of waqf (Farhana Mohamad Suhaimi & Asmak Ab Rahman, 2014). Most of the Muslims understand waqf limited to land, mosque, madrasah and graveyard only (Othman, 2015). Previous study by Nadiah, Hairunnizam, & Sanep (2015) indicated that majority of Muslims (57.9%) does not have basic knowledge about cash waqf. From 42.1% of respondents who have knowledge about cash waqf only 4.2% have donated cash waqf. Hence, it is shown that level of knowledge and awareness of Muslims will influence the number of Muslims donating cash waqf. Thus, action should be taken to create and increase awareness and understanding of society towards the importance of cash waqf in the states and national level.

CONCLUSION

The study has been set out to provide evidence of performance efficiency of waqf institutions in selected states in Malaysia. By applying library research and literature review, this study examine the development and contemporary issues related to waqf institutions in Malaysia. Waqf institutions have successfully developed many iconic and beneficial assets including business and entrepreneurship, hotel, education and health. Despite the massive development of waqf assets, it was found that there are four major issues arise in waqf institutions namely waqf development issues, management, legal and cash waqf collection. Form the discussion above, it is clear that waqf institutions gives positive impact to the living standard of muslims and society as a whole. However, having a numbers of waqf assets does not help anything if development of the assets not taken by the responsible body. Thus, it is important for the SIRC's to plan and find a new ways in generating fund such as implementation of cash waqf to finance the development of the project. In addition, placing the qualified and knowledgeable person to manage waqf assets also can help in improving the development and management of waqf institutions.

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EW020: WAQF IMPACT ASSESSMENT FRAMEWORK FOR SOCIAL BUSINESS

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Abstract

Malaysia's New Economic Model proposed elements of high income, inclusiveness, and sustainability in obtaining a better quality of life. These elements are mirrored closely to the effort in inculcating benevolence in the society. In Islam, various instruments namely waqf, zakat, and sadaqah are the primary tools in creating a benevolent society. Waqf, in particular, plays a significant role in ensuring a better living environment and a promising future for its beneficiaries. Dependent on donations alone limits operator's ability to fully utilize their waqf assets. As such, NPOs are turning to business activities to support their mission. This has led to the establishment of social business (SB) as it uses economic activity to pursue its social objective. SBs have gained awareness and interest among researchers, yet little is known how these organizations can create social and economic value. A social impact assessment is, therefore, necessary to gauge whether SBs are providing real and tangible benefit to the community. Although there are accepted accounting principles that support financial reporting, similar standards related to measurement and social impact are not yet available. Furthermore, limitations of financial accounting, which excludes non-monetized items and focuses more on shareholders rather than employees and users at large lacked in providing a complete view of overall performance. Therefore, the objective preliminary on this study is to develop a waqf impact assessment framework for SBs. A mixed method approach will be undertaken; it will involve an extensive literature survey, which will then be followed by a hierarchical cluster analysis in determining the frameworks. Seminars, visits, and surveys will be employed to obtain first-hand information and data. Developing this framework offer a better understanding of SBs, it also improves resource allocation to maximize social benefits. The framework is also essential for funders in evaluating investment undertaken by SBs.

Keywords: Waqf, Social Business, Waqf Impact Assessment.

INTRODUCTION

Creation of social business (SB) evolved from the need of organizations to move beyond the traditional belief that their economic value is separate from and in conflict with their social value. Social business (SB) has gained in awareness and interest among researchers, yet little is known how these organizations can create social and economic value. SBs aim to solve social, environmental or societal problems by using modern management practices and means of innovation (Polak & Warwick, 2013). Compared with traditional non-profit organizations, SBs

strive to be profitable. They have developed income strategies and are profit-driven. This is preliminary study seeks to understand how organizations, such as waqf –based SBs have managed to achieve scale and sustainability – often lacking the institutions, networks, and resources required to support their growth – while also maintaining their focus on a social mission.

Though SBs might be successful in sustaining their parent organizations, the impact on the society as a whole requires further investigation (Wilson & Post, 2013). Thus, a waqf impact assessment framework is, therefore, necessary to gauge whether waqf based SBs are providing real and tangible benefit to the community. Although there are accepted accounting principles that support financial reporting, limitations of financial accounting, which excludes non-monetized items and focuses more on shareholders rather than employees and users at large lacked in providing a complete view of overall performance. Furthermore, similar standards related to measurement and overall impact are not yet available (Grieco et al., 2014). Thus, that the necessary to develop such as waqf impact assessment framework.

WAQF

The word waqf originated from the Arabic language. It can be translated to stop, hold, obstructing. However, in the term of Islamic law, waqf is referred to any property attached waqif rights on the assets of any business transaction, inheritance, wills or gift. While he or she is maintaining its physical resources, for charity with the intention of getting closer to Allah SWT (Hasan & Shahid, 2010).

Waqf present a consumption of opportunity for the charity purpose for providing income and services (Kahf, 1998). This religious endowment is one's or portion of cash or property and assets that can be used for social benefits of the Muslims (Embi&Ramlee, 2013). Waqf plays roles in policies of distribution of assets and opportunities. The rewards for the person that donating their money and asset for waqf will remain even after the donor's death, as long as the beneficiaries continue to receive an advantage or benefit from that waqf (Abul Hassan, 2010). Although waqf had established before Islam, waqf had been accepted and built into an institution with the legal framework to fulfill the various need of Muslim communities. This waqf institution has proven in such a long decade in developing the nation by charitable instruments (Hasan & Abdullah, 2008).

Waqf, which is value loaded and value driven Islamic institution, is gaining interest due to the increasing importance of the third (voluntary) sector in the economy. This is partly due to the inability of the rigid two-sector (public-private) to successfully address social, economic issues (Arshad & Hanef, 2015). Modern re-emergence of waqf requires it to be positioned as entities that will be able to sustain its activities calls for an innovative approach suited for the challenges of the contemporary economy. Although Waqf has mostly existed as a traditional welfare model,

currently more waqf bodies have adopted the enterprise-business model in ensuring sustainability of their organizations.

Waqf, in general, can be identified into three types which are *Al-I'qar* (irremovable assets), *Al-Manqul* (removable assets) and *Waqf Al-Irsod*. The permanent assets refer to any property that cannot be moved, relocated or changed. In State Religious Islamic Council (SRIC), the institution has dealt with irremovable wealth such as land for agriculture, school building, mosques and orphanage. Throughout SRIC establishment, the institution can be proud as many permanent assets have been successfully developed. The second categories are *Al-Manqul* or a removable asset which refers to asset or possessions that can be removed, as cash, book, table, chairs, agricultural equipment, poultry, etc. SRIC personally received these kinds of Waqf to be managed which are Saham Waqf, Cash Waqf. Waqf for a vehicle, such as a funeral van, road tax, etc. Lastly, *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.

SOCIAL BUSINESS

Non-profit organizations have traditionally operated in the social sector to solve or ameliorate such problems as hunger and homelessness. They have also provided certain essential social goods such as education, they arts and health care. Increasing the number of non-profit seeking additional revenues by behaving more like for-profit organizations and some raising funds through auxiliary commercial enterprises. Some non-profits are beginning to commercialize the core programs through which they accomplish their mission; that is, they are looking for ways to make these programs rely less on donations and grants and more on fees and contracts (Dees, 1998). This hybrid organization is also known as Social Business (SB).

SB is quite distinct from either traditional profit-maximizing business or a not-for-profit organization (which relies on charitable donations). SB's goal is to solve a social problem by using business methods, including the creation and sale of products and services. SB is quite different from the term "social enterprise" and "social entrepreneurship" as frequently used in the literature. In contrast, SB is a very particular type of business – a non-loss, non-dividend company with a social objective. SB may pursue goals similar to those sought by social entrepreneurs, but the particular business structure of SB makes it distinctive and unique (Yunus, 2010).

SB challenges many economic and social theories which run against the motivation of SB. SB promotes the development of a society with minimal gaps between the poor and the rich. Unlike conventional profit-maximizing businesses, SB aims to create opportunities for the less privileged through allowing them to compete in the market based economic activities as equals (Rahman and Hussain, 2012).

WAQF IMPACT ASSESMENT (WIA)

As a holistic system, Islam provides various mechanisms in mobilizing resources and channeling of funds in an equitable manner to all. Tracing back the role of waqf over the years, waqf has been a source of financing for various sectors such as administration of schools, mosques and more. Good governance system plays a significant role to ensure an efficient finance and development programs of any organizations. As such, the allocation of funds is to be done resourcefully. By having good governance, desirable organizational outcomes can be attained especially in meeting social business objectives. Waqf is proven to be one of the effective means guided by Islamic principles which could elevate socio-economic development of recipients and community as a whole.

Waqf impact assessment is similar to social impact assessment that it can be defined as the process of assessing or estimating the consequences that are likely to follow from particular Waqf project. Waqf impacts assessment include all social and economic consequences to all stakeholders that alter the ways in which people live, work, play, relate to one another and organize to meet their needs (Burdge and Vanclay,1995), Wolf (1982). WIA provides a direction for understanding the process, and guidance on the management of change in advance of the implementation of the proposed changes to stakeholders. WIA the process of identifying the future consequences of a current or proposal action by Waqf Institutions which related to the individuals, organization, and social macrosystem.

WIA facilitates a decision-making process to choose between alternative possibilities. In general, the WIA process provides direction in (1) understanding, managing, and controlling change; (2) predicting probable impacts from change strategies or social business projects that are to be implemented; (3) identifying, developing, and implementing mitigation strategies in order to minimize potential social impacts (4) developing and implementing monitoring programs to identify unanticipated social or economic impacts that may develop; (5) developing and implementing mitigation mechanisms to deal with unexpected impacts; and finally (6) evaluating social and economic impacts caused by earlier developments and projects.

Muhammad Yunus, Bertrand & Ortega (2010) pointed out the practices of Grameen Bank Business Model in helping the poor to become entrepreneurs and lift themselves out of poverty. Collaboration with the other partners such as Telenor (people in the rural area can make connections with the friend, family, and business with minimum cost), Veolia (provide safe drinking water an affordable price to the inhabitants in Bangladesh) and Danone (offers the healthy product on a daily basis) can be emulated by others. Jedrzej (2008) however claimed that positive contribution of CSR to development are unjustified based on four arguments:(1) lack of empirical evidence;(2) analytical limitations of CSR;(3) the constraints of the business case for CSR and (4) unresolved governance questions. A more recent study by Sanders & McClellan

(2014) however, discovered that being business -like in the non-profit sector will lead to the most efficient use of resources, increased accountability, and more sustainable solutions.

Following Burdge&Vanclay(1995), with fundamental WIA issues on; a) How is the 'affected community' to be defined and identified? b) What should be the role of the community participation in the WIA? c) What impacts are to be considered? and d) How should impacts be weighted? This study on assessing the effectiveness of waqf based a social business fills the gap through the development of a waqf impact assessment framework.

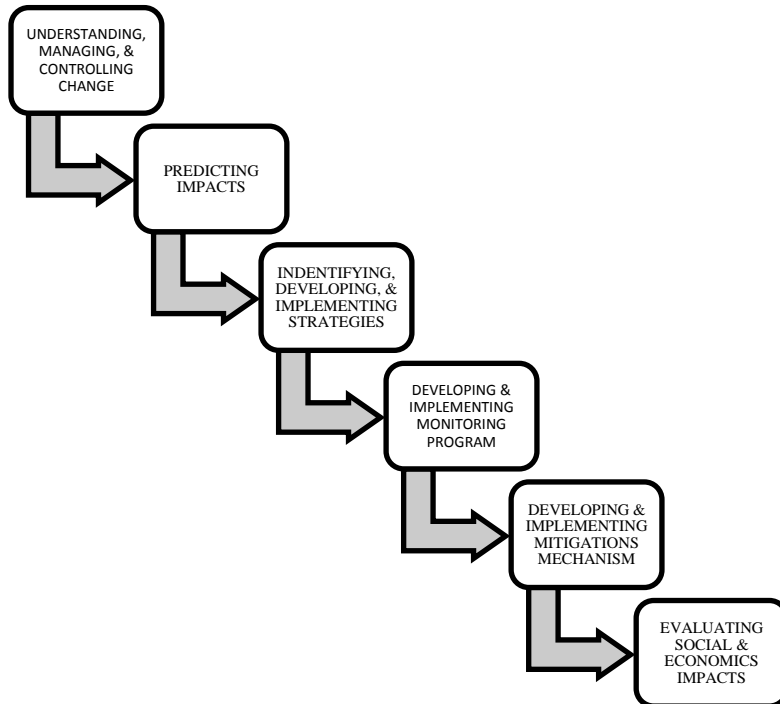


Figure 1: Waqf Impact Assessment Framework

Source: Wolf, C. P. (1982). Social impact assessment. Impact Assessment, 1(1), 9-19

METHODOLOGY

Plan of this study including 4th phase. The first phase is to conduct literature survey in identifying frameworks and methods utilized in undertaking impact and measurements of concern various organizations with social objectives. In developing the appropriate impact assessment, various “frameworks” were utilized by researchers to determine the social implications. However, studies on Social Business (SB) are relatively recent, and studies on the social impact of waqf based SBs are lesser still, exploring the nature/framework of social impacts of SBs will be dependent on partially similar organizations. Frameworks are preferred over models/methods since the latter are often based on financial criteria. The literature survey will also include studies on developing social impact indices.

In the second phase, the identified influencing factors (from Phase 1) of waqf based social business impact will be explored via Delphi techniques. Experts and practitioners will participate in the process of further identification/exploring the factors and frameworks. A hierarchical cluster analysis (HCA) of the identified frameworks will be then undertaken. HCA is a method of cluster analysis, which seeks to build a hierarchy of clusters. A “top down” hierarchical clustering approach will be employed. With this method, all observations start in one cluster, and splits are performed recursively as one moves down the hierarchy. The Ward’s method will be used to identify the clusters. Meanwhile, the Euclidean distance will be employed to determine the similarities between the models. The results of the cluster analysis will be presented in dendrogram.

The third phase involves analyzing the characteristics of the clusters and developing the relevant descriptive profile for each cluster. The analysis will be able to identify relevant cluster for waqf based social business (SB) organizations. A waqf impact framework will be developed from the clusters. Focus group sessions will be held with practitioners and experts in the field to exchange ideas and feedback on the established framework.

Fieldwork is the fourth phase. In this phase, visits, structured interviews, and surveys will be conducted on waqf-based SBs. Utilizing a purposive sampling technique, the survey will involve 300 respondents from the staff of identified waqf based SBs. Among others, the purpose of the fieldwork is to verify the social impact assessment framework. Participating SBs for the survey will be determined once the population of waqf-based SBs is identified. A second focus group session will be conducted to present the framework for further verification and refinement.

CONCLUSION

Waqf institution is indeed recognized as apart of the mechanism of eradicating poverty; as well as generating the development of Muslim ummah from the economic dimension. Good governance system plays a significant role to ensure an efficient finance and development programs of any organizations. As such, the allocation of funds is to be done resourcefully. By having good governance, desirable organizational outcomes can be attained especially in meeting social business objectives. This research is also very timely and in line with Government Transformation Program 1 and 2 (GTP1 and GTP2) which aims to improve the standard of living of beneficiaries. The proposed framework will play a vital role in determining the effectiveness of fund provided to support social enhancement program.

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BW021:
TADBIR URUS DAN PERUNDANGAN MENJAMIN KELESTARIAN
MANFAAT WAKAF DI MALAYSIA.

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Abstrak

Penyebaran maklumat berkenaan waqaf semakin meluas akhir-akhir ini dan kewujudan harta waqaf juga semakin tumbuh dalam pelbagai bentuk dari harta tak alih hingga ke harta alih. Tambahan pula waqaf merupakan salah satu sumber kekuatan sosio-ekonomi umat Islam dengan ciri-ciri tersendiri. Ia turut menjadi agenda kebanyakan masyarakat Islam di dunia ini. Namun demikian amat penting untuk memastikan kelestarian harta waqaf ini serta kelangsungan manfaatnya seperti yang dihasratkan oleh waqif. Objektif berwaqaf tidak akan tercapai sekiranya isu tadbir urus dan peruntukan perundangan tidak ditangani dengan cekap dan berkesan. Kajian terdahulu turut menunjukkan terdapat kelemahan tadbir urus dan faktor peruntukan perundangan yang tidak seragam apatah lagi peruntukan berkaitan tadbir urus tidak komprehensif. Penekanan kepada aspek akauntabiliti dan ketelusan juga perlu sama dititikberatkan. Oleh yang demikian objektif penulisan ini akan melihat aspek tadbir urus oleh Mutawalli dan peruntukan perundangan sedia ada di Malaysia di dalam mencari jalan penambahbaikan pengurusan waqaf. Sedikit perbandingan dengan negara jiran turut disentuh berkaitan pengurusan waqaf. Penulis akan mengupas isu-isu ini melalui kertas konsep dan kaedah Kualitatif dengan merujuk sumber primer dan sekunder seterusnya melibatkan juga kaedah temubual ke atas pihak yang terlibat dalam pengurusan waqaf khususnya mutawalli. Adalah diharapkan kajian ini dapat membantu penambahbaikan tadbir urus dan peruntukan perundangan sedia ada dalam menjamin kelestarian harta waqaf dan membantu kekuatan sosio-ekonomi umat Islam.

Kata kunci: tadbir urus, undang-undang, kelestarian, mutawalli

Pengenalan

Akhir-akhir ini wakaf menjadi perhatian yang tinggi dalam masyarakat Malaysia dan turut menjadi liputan meluas di media cetak, media elektronik dan juga media baru. Antara perkara-perkara yang disebar-luaskan di media massa adalah manfaat wakaf yang berpanjangan untuk dunia dan akhirat. Malah wakaf menjadi semakin diketengahkan oleh pelbagai pihak kerana manfaat wakaf yang terbukti menjadi instrumen penting ke atas tiga perkara iaitu sebagai pembiayaan negara, mengurangkan perbelanjaan yang ditanggung kerajaan dan menghapuskan sistem riba (Murat Cizakca, Monzer Kahf, 1998). Wakaf diperakui sejarah, sebagai instrumen yang memainkan peranan penting dalam pembangunan sosio ekonomi umat Islam (Monzer Kahf, 2003).

Melalui perkembangan terkini, sekalipun manfaat dan kelebihan wakaf dizahirkan dan semakin banyak aset wakaf yang wujud dalam pelbagai bentuk dari berbentuk aset tak alih, aset alih, saham dan lain-lain bentuk yang cuba perkenalkan, namun isu kelestarian dan kelangsungan aset wakaf tetap menjadi kebimbangan dan keraguan ramai pihak. Kajian lepas turut menunjukkan ada berlakunya krisis pengurusan, tadbir urus dan faktor perundangan. Terdapat banyak harta wakaf yang ditadbir secara salah dan terabai, berlaku korupsi, penyalahgunaan kuasa dan kecuaiian (Arrif, 1991; Hoaxter, 1998; Bremer, 2004 Abul and Abdus Shahid, 2010). Perkara ini sememangnya menyumbang kepada masalah wakaf di masa akan datang dan tiada jaminan kelestarian harta wakaf tersebut.

Oleh itu penulisan ini akan melihat peranan pemegang amanah (*Mutawalli*) dalam mentadbir urus wakaf dan peruntukan perundangan sedia ada dalam hal ehwal wakaf di Malaysia. Seterusnya melihat masalah yang dihadapi dan cadangan penambahbaikan untuk memastikan kelangsungan harta wakaf dan hasrat pemberi wakaf (waqif) dapat dicapai. Sedikit perbandingan salah satu dengan negara jiran iaitu Singapura juga akan dibincangkan sebagai rujukan penambahbaikan.

Pengurusan Harta Wakaf dan Perundangan di Malaysia

Pihak yang menguruskan wakaf antaranya digelar *mutawalli*. Mutawalli adalah pihak yang dilantik di bawah surat ikatan wakaf untuk menguruskan hal ehwal harta wakaf. *Mutawalli* tidak ada kepentingan dan hak kepada harta tersebut tetapi menguruskannya sebagai amanah yang hak miliknya adalah Allah SWT. Amalan di Malaysia, wakaf adalah di bawah naungan Sultan. Majlis Agama Islam Negeri (MAIN) mendapat mandat dari kuasa yang diturunkan dari Sultan. Pengurusan harta wakaf oleh MAIN adalah merujuk kepada Enakmen setiap negeri. Terdapat empat belas (14) negeri di Malaysia dan terdapat empat belas (14) enakmen yang dirujuk bagi negeri masing-masing. MAIN adalah pemegang amanah tunggal bagi semua jenis harta-harta wakaf (Nurdin Ngadimon, 2014). Perlantikan ini bertujuan untuk memastikan tidak berlakunya penyelewengan pengurusan harta wakaf oleh sesiapa sahaja tanpa kawalan undang-undang di samping memudahkan kawalan dan pembangunan aset wakaf (Baharudin Ashak & Salahudin 2006).

Peranan MAIN antaranya mentadbir dan mendaftar aset-aset wakaf, mengagihkan aset-aset wakaf mengikut hasrat waqif, menjaga dan membangunkan harta wakaf yang ada potensi untuk dimajukan, menyelaras dan menyelesaikan tanah-tanah wakaf dan hal ehwal aset yang tak berwaris. MAIN juga berperanan meningkatkan penghayatan berwakaf di kalangan masyarakat sepertimana yang disyariatkan oleh ajaran Islam. MAIN turut mempunyai bidang kuasa untuk menentukan peraturan pelaksanaan wakaf dan melantik pihak sebagai wakil dalam pengurusan aset wakaf. Setiap negeri ada peranan masing-masing yang kebanyakannya sama tetapi terdapat juga perbezaan; antara perbezaannya ialah struktur organisasi dan jawatankuasa masing-masing.

Oleh demikian skop bidang kuasa dan peranan boleh berbeza dari satu negeri dengan negeri yang lain.

Seterusnya MAIN dibantu rapat oleh Jabatan Wakaf, Zakat dan Haji (JAWHAR). Antara fungsi JAWHAR ialah menyediakan bantuan berbentuk kewangan dan bukan kewangan seperti peraturan atau *Standard Operating Prosedur* (SOP) dan latihan kepada Unit wakaf setiap MAIN. Pada Oktober 2004 JAWHAR diletakkan di bawah Jabatan Perdana Menteri. Tujuan penaiktarafan ini, adalah untuk meningkatkan lagi kualiti perkhidmatan, memastikan tadbir urus yang lebih baik seterusnya membantu merancang, mengkoordinasi dan melaksanakan polisi-polisi kerajaan dalam pembangunan Wakaf, Zakat dan Haji (Sohaimi dan Syarqawi, 2008). Antara usaha JAWHAR ialah menyediakan manual kod etika dalam pengurusan wakaf, dan merangka agenda pro-aktif sebagai penanda aras kepada pelaksanaan strategik, sistematik dan berkesan. Namun JAWHAR juga berdepan dengan dilema skop bidang kuasa dan budibicara sebagai jabatan kerajaan terutama berkaitan isu mengkomersilkan aset-aset wakaf. Isu pengkomersilan turut memerlukan kepakaran tertentu dalam memastikan aset wakaf dapat dijana secara cekap dan menguntungkan. Kesannya pada tahun 2008 JAWHAR mewujudkan Yayasan Wakaf Malaysia (YWM). YWM hanya fokus kepada wakaf komersil (Sohaimi dan Syarkawi, 2008)

Merujuk kepada pihak yang menguruskan wakaf seperti yang dibincangkan di atas, sekalipun MAIN adalah pemegang amanah tunggal untuk mengurus dan mentadbir hal ehwal aset wakaf, MAIN masih memerlukan bantuan untuk memastikan tadbir urus dan pengurusan wakaf lebih cekap dan berkesan. Tertubuhnya JAWHAR dan YWM dilihat sebagai langkah penambahbaikan tadbir urus wakaf setiap negeri dengan masing-masing mempunyai fokus peranan tertentu, namun masalah tetap wujud.

Dari sudut perundangan, wakaf dalam Perlembagaan Malaysia di jadual 9, senarai II, senarai negeri iaitu merujuk pada artikel 74(1)(4). Oleh kerana wakaf disenaraikan dalam senarai negeri, setiap negeri ada undang-undang masing-masing. Setiap negeri tidak mempunyai satu Enakmen yang seragam. Tidak semua negeri mempunyai peruntukan yang komprehensif dan mentakrifkan wakaf secara terperinci. Hanya negeri Selangor, Negeri Sembilan, Melaka dan Perak mempunyai Enakmen wakaf yang lebih terperinci manakala Johor walau tiada lagi Enakmen Wakaf, tetapi ada peruntukan berkenaan wakaf yang terperinci melalui kaedah-kaedah wakaf Johor 1983. Isu ketidakseragaman turut berlaku melibatkan perundangan sedia ada. Masalah ketidakseragaman undang-undang dan tadbir urus akan turut dibincangkan selepas ini.

Terdapat tiga bentuk undang-undang yang diamalkan di dalam sistem perundangan di Malaysia iaitu hukum syarak, Enakmen Pentadbiran Agama Islam Negeri dan Enakmen Wakaf Negeri. Undang-undang *substantif* wakaf terkandung dalam hukum syarak. Apa yang terkandung di dalam hukum syarak ini, ditakrifkan di dalam Enakmen Pentadbiran setiap negeri yang merujuk

kepada Mazhab Shafie dan atau mengikut mana-mana satu mazhab Hanafi, Maliki dan Hambali. MAIN diberi kuasa melalui Enakmen untuk merujuk kepada Jawatankuasa Fatwa Negeri untuk mendapatkan pandangan apabila terdapat kekaburan dan kekeliruan dalam Suratcara wakaf. Jawatankuasa Fatwa Negeri, hukum syarak akan dirujuk untuk memutuskan fatwa atas isu yang dibangkitkan. Sekiranya terdapat percanggahan antara peruntukan perundangan dan hukum syarak, peruntukan tersebut dibatalkan. Ini merujuk seksyen 46 Enakmen Wakaf (Selangor) 1999.

Konflik Tadbir Urus Dan Perundangan Wakaf

Sepertimana yang dibincangkan sebelum ini, MAIN, JAWHAR dan YWM terlibat di dalam menguruskan harta wakaf. Antara masalah dalam menguruskan aset wakaf, menurut Hassan dan Shahid (2010) walaupun wakaf mempunyai potensi yang besar dalam pembangunan sosio-ekonomi umat Islam, realiti ketika ini, pengurusan Institusi Wakaf adalah tidak memuaskan. Dalam kebanyakan negara, Institusi Wakaf tidak diberi perhatian yang penting. Ini mengakibatkan sejumlah besar aset wakaf tidak diurus dengan baik sekalipun aset wakaf itu mempunyai potensi yang besar untuk dibangunkan. Kesannya adalah aset tersebut tidak dapat memberi hasil keuntungan yang optimum dan manfaat yang besar kepada masyarakat dan negara. Antara faktor yang dikenal pasti adalah antaranya kelemahan atau *lacunae* perundangan, krisis pengurusan dan sikap mengambil ringan pihak yang mengurus aset wakaf.

Kajian lepas mendapati isu pengurusan sumber manusia yang paling kritikal dihadapi oleh MAIN (Sohaimi Mohd Salleh & Syarkawi Muhammad, 2008). Pihak MAIN menghadapi masalah kekurangan sumber manusia dalam pelbagai bidang kepakaran untuk menguruskan Institusi Wakaf. Dalam masa yang sama kakitangan MAIN yang terlibat dalam pengurusan wakaf juga dibebankan dengan pelbagai tugas lain. Di sesetengah negeri, bahagian yang menguruskan wakaf ini kebiasaannya terdiri dari tiga atau empat orang kakitangan yang diselia oleh seorang pegawai (Abu Bakar Manat, 2007). Ini mengakibatkan tiada pengkhususan tugas dan kurang perhatian diberikan kepada pembangunan wakaf. Manakala menurut Abdul Rahim, Mohammad dan Ismail, (1999), mendapati antara masalah yang timbul ialah menunjukkan terdapat bukti dokumentasi dan sistem rekod yang lemah, sistem perakaunan yang tidak teratur dan terdapat Institusi Wakaf yang langsung tidak menggunakan sistem perakaunan. Ini disokong oleh kajian Maliah Sulaiman & Muntaka Alhaji Zakari, (2013) mereka mendapati terdapat masalah pelaporan yang tidak lengkap (*inadequate disclosure*), sistem perakaunan yang sangat lemah (*poor accounting practices*), pengelasan perakaunan yang mengelirukan dan tidak tepat (*improper classification of classes of accounts*) sekalipun telah diaudit akauntan bertauliah. Seterusnya tiada penyata kewangan yang terkini untuk dirujuk. Ini jelas wujud masalah kebertanggungjawaban atau akauntabiliti yang kronik. Sedangkan isu urus tadbir adalah isu asas dalam memastikan kecekapan dan keberkesanan pelaksanaan pengurusan aset wakaf.

Menurut Mohd Tahir Sabit dan Abdul Hamid Haj Mat Imran (2006) pembangunan wakaf juga terbantut kerana faktor isu kekangan syarat aset wakaf, pemasaran, kefahaman, kesediaan pihak pemerintah dalam menyokong usaha pembangunan semula wakaf. Dalam satu kajian yang berkaitan, rumusan yang dibuat terdapat tiga elemen asas pewujudan wakaf, iaitu muktamad, kekal, dan tidak boleh dipindah milik memberi kesan langsung dari aspek kecairan, ketiadaan wang tunai dan timbulnya konflik perundangan khususnya yang melibatkan wakaf bertempoh. Implikasinya aliran tunai tersekat dan dalam masa yang sama, menghalang usaha untuk membangunkan harta wakaf. Akhirnya harta wakaf akan terus bermasalah dan sukar dibangunkan. Perkembangan terkini berkenaan institusi wakaf, faktor pemasaran dan kesediaan pemerintah dalam menyokong pembangunan wakaf, tidak lagi menjadi masalah. Namun sekiranya isu tadbir urus dan *lakuna* (ketiadaan atau kekurangan) undang-undang tidak ditambahbaik, matlamat untuk mencapai objektif waqif dan kelestarian aset wakaf serta kelangsungan manfaatnya sukar untuk dicapai dan ini menyumbang kepada krisis keyakinan masyarakat untuk terus berwakaf.

Antara isu perundangan turut menjadi masalah dalam pembangunan institusi wakaf iaitu walau undang-undang digunakan hampir sama tetapi tiada keseragaman pentadbiran dan pengurusan. Ketidakteraturan dan ketidakselarasan ini menimbulkan banyak konflik dalam menguruskan harta wakaf dan lebih buruk lagi, data dan maklumat harta wakaf tidak dikemaskini serta terdapat masalah nama dan fungsi bahagian atau unit pentadbiran yang juga tidak seragam. Ini menyebabkan ketidakcekapan urustadbir wakaf oleh MAIN (Abd. Halim Ramli 2005, Suhaimi B. M.Salleh 2008).

Seperti yang telah dibincangkan, institusi wakaf di setiap negeri merujuk kepada negeri masing-masing. Namun adakalanya aset wakaf dan benefisiari tersebut berada di negeri lain. (Hashim Dafterdar, 2013) Keadaan ini boleh menimbulkan kekeliruan di dalam pengaplikasian perundangan dan tadbir urus. Adakalanya bercanggah dengan badan kehakiman yang memutuskan kes, penggubal dasar dan pihak yang mentadbir. (Syed Khalid Rashid, 2006). Isu bidang kuasa mahkamah juga turut menimbulkan dilema dalam melancarkan pengurusan aset wakaf. Terutamanya melibatkan aset wakaf, waqif dan benefisiari di tempat yang berbeza-beza dan apatah lagi bila melibatkan pihak bukan Islam. Isu bidang kuasa mahkamah turut menjadi punca terganggunya pembangunan aset wakaf dan manfaatnya (Siti Mashitoh, 2006). Ketidakteraturan juga wujud melalui takrifan wakaf dalam setiap enakmen negeri dan pemahamannya, struktur pengurusan wakaf juga berbeza-beza bagi setiap negeri kerana tiada peruntukan khusus dalam tadbir urus wakaf. Setakat ini, negeri Selangor mempunyai struktur pengurusan wakaf yang lebih baik berbanding negeri-negeri lain.

Dilihat dari sudut kekangan dan masalah pembangunan harta wakaf tersebut, ia adalah amat membimbangkan ke atas hasrat kelestarian dan kelangsungan aset dan manfaat aset wakaf. Oleh

itu strategi penambahbaikan perlu dilakukan dengan komprehensif, segera dan berkesan bagi menjamin pembangunan mampan wakaf.

Cadangan Dan Saranan Ke Arah Tadbir Urus Dan Perundangan Yang Lebih Baik.

Konflik urustadbir ke atas organisasi kebajikan yang bukan berasaskan keuntungan, adalah memberi fokus ke atas akauntabiliti kepada pihak yang berkepentingan (*stakeholder*) (Stone dan Ostower, 2007; Hyndman dan Mc Donnel, 2009). Kebiasanya waqif menjangkakan badan yang dipertanggungjawabkan adalah satu badan yang diyakini menggalas tanggungjawab yang diamanahkan, berintegriti, cekap dan boleh memberi impak ke atas aset yang diwakafkan sepertimana harta itu dapat memenuhi program-program pembangunan sosial yang dirancang ke atas benefisiari iaitu penerima manfaat (Basri dan Abdul Khalid, 2011). Masalah-masalah tadbir urus yang dibincangkan di atas amat membimbangkan. Ini kerana ia menghilangkan keyakinan masyarakat untuk berwakaf dan membantutkan pembangunan wakaf.

Penulis berpendapat, masalah keyakinan masyarakat boleh diselesaikan dengan meningkatkan akauntabiliti *mutawalli* dan elemen ketelusan (transparen) terhadap transaksi wakaf dari awal hingga benefisiari mendapat manfaat wakaf. Dengan cara ini, waqif dapat melihat bagaimana dan sejauh mana serta ke mana aset yang diwakafkan diuruskan. Sekiranya merujuk kepada negara jiran iaitu Singapura, pembangunan wakaf sangat cepat berkembang. Salah satu faktornya ialah semua transaksi wakaf mudah diakses oleh umum terutama waqif sendiri. Melalui pangkalan data yang diwujudkan ini, ia memudahkan akses maklumat-maklumat wakaf dan kesannya terhadap pendapatan Majlis Ugama Islam Singapura (MUIS) melalui aset wakaf semakin meningkat dan juga ia turut mengaktifkan lagi aktiviti menjana pendapatan melalui wakaf.

Faktor perkembangan pesat wakaf di Singapura bukan sahaja MUIS meningkatkan pendapatan wakaf tetapi juga menambahbaik sistem pendaftaran dan menstruktur secara sistematik pengurusan aset wakaf. MUIS telah mengusahakan satu pangkalan data khusus untuk semua aset wakaf, pendapatan, perbelanjaan, maklumat setiap bayaran yang diterima dan dibuat. Malah semua maklumat ini dapat diakses oleh umum. Jelas di sini wujud transparensi dan ketelusan semua transaksi. Ini memberi keyakinan kepada masyarakat. Malaysia boleh mencontohi sistem penyampaian maklumat melalui laman sesawang dan pangkalan data yang dicipta oleh negara Singapura. Ini menjamin ketelusan kepada semua pihak dan memudahkan pengurusan mengesan dan mencari dokumen-dokumen yang direkodkan seterusnya umum boleh mengikuti perkembangan pembangunan aset wakaf dari proses awal hingga dimanfaatkan seperti yang diamanahkan oleh waqif.

MUIS dahulu juga mempunyai masalah yang sama iaitu cabaran membangunkan aset wakaf dengan cekap dan berkesan. Faktor kepakaran dikenalpasti menjadi punca kepada masalah ini, namun MUIS telah mengambil langkah mengambil dan melatih pekerja yang profesional dalam

menguruskan hal ehwal wakaf. MUIS telah melantik pihak yang profesional dan pakar dalam bidang berkaitan; antaranya jurutera sivil, arkitek dan juru ukur bahan sebagai sebahagian dari pasukan dalam potfolio menguruskan aset wakaf. Dari penubuhan pasukan ini, tercetus usahasama dengan Warees Pte.Ltd (WPL), WPL mempunyai kepakaran di dalam menguruskan dan mentadbir aset wakaf dan baitulmal. WPL memegang potfolio menguruskan hal ehwal aset bernilai lebih RM250 juta yang melibatkan aset berkaitan keagamaan, komersil, tempat kediaman dan bangunan untuk pendidikan. Dari usahasama ini WPL menunjukkan prestasi yang cemerlang dengan membuat transformasi aset-aset wakaf sedia ada ke penjanaan pendapatan, keuntungan dan pulangan yang lebih tinggi. WPL turut terlibat dengan aktiviti pelaburan dan pembangunan aset wakaf MUIS (Norma Md Saad, Salina Kassim dan Zarinah Hamid, 2013). Transformasi dan usahasama yang dilaksanakan oleh MUIS menjadi faktor besar perkembangan positif aset wakaf di Singapura. Malaysia boleh mengadaptasi transformasi ini di dalam menambahbaik tadbir urus wakaf di Malaysia.

Maliah Sulaiman dan Muntaka Alhaji Zakari (2013) mencadangkan dalam menambah baik tadbir urus institusi wakaf supaya tidak hanya bergantung kepada satu sumber pendapatan dan aset sahaja. Ia perlu dipelbagaikan dalam pelbagai bentuk seperti pelaburan dan kaedah yang kontemporari menjana pendapatan agar dapat menjamin kelestarian aset wakaf bersesuaian dengan laporan rancangan Malaysia ke Sembilan (RMK9). Laporan itu turut mencadangkan menambahbaik amalan perakaunan dengan memastikan pendedahan maklumat yang cukup dan telus. Penegasan keseragaman sistem perakaunan wakaf untuk tadbir urus yang lebih baik turut dibincangkan. Sistem perakaunan yang seragam, jelas telus dan sistematik, adalah asas kepada pelaksanaan akauntabiliti yang baik dan betul (Ihsan and Shahul, 2011).

Di Malaysia, isu keseragaman perlu merujuk kepada dua (2) mekanisma iaitu pertama, kuasa Parlimen di dalam meluluskan undang-undang dengan melihat bidang kuasa negeri sedia ada. Kuasa ini merujuk kepada artikel 75 Perlembagaan Malaysia dan kedua melalui kerajaan persekutuan menggunakan proses rundingcara dengan kerajaan-kerajaan negeri dengan mewujudkan satu model undang-undang yang boleh diikuti oleh negeri-negeri lain. Penyeragaman undang-undang bertujuan mewujudkan satu undang-undang yang jelas (*legal certainty*) bagi melancarkan penggubalan dasar pembentukan strategi untuk menambahbaik pengurusan Institusi Wakaf di setiap negeri, kebangsaan dan global (Syarifah Zubaidah Syed Abdul Kader, 2016). Antara usaha keseragaman undang-undang dan pengurusan harta orang Islam, wakaf dimasukkan ke dalam skop Jabatan Kemajuan Islam Malaysia (JAKIM) untuk menyelaraskan dan mengkoordinasi undang-undang Islam seluruh Malaysia yang mana JAKIM selaku urusetia kepada Majlis Kebangsaan bagi hal ehwal agama Islam (MKI). MKI mempunyai kuasa menyeragamkan undang-undang Islam. Ini kelihatan satu langkah positif ke arah keseragaman. Seterusnya usaha-usaha untuk menyeragamkan undang-undang Islam masih perlu ditambahbaik untuk mencapai keberkesanan tadbir urus di setiap negeri begitu juga isu konflik

bidang kuasa mahkamah syariah dan sivil turut menjadi perhatian untuk diharmonikan supaya objektif wakaf tercapai.

KESIMPULAN

Sebagai rakyat Malaysia yang beragama Islam amat berharap institusi wakaf yang banyak manfaat dan penting kepada pembangunan sosio ekonomi umat Islam, perlu diberi nafas baru dengan menambahbaik tadbir urus dan peruntukan perundangan supaya terus menjadi wadah kelangsungan kekuatan ekonomi umat Islam. Ini adalah kerana ciri wakaf itu sendiri iaitu bersifat kekal (*perpetuity*). Namun ciri dan objektif wakaf itu tidak akan tercapai sekiranya isu tadbir urus dan perundangan yang tidak menyeluruh serta seragam, tidak dapat direalisasikan. Isu Akauntabiliti *mutawalli*, elemen ketelusan dan kepakaran kakitangan turut sama pentingnya untuk diberi perhatian. Rujukan kepada pelaksanaan wakaf di Singapura wajar dijadikan panduan di dalam mencapai aspek tadbir urus yang baik, cekap dan berkesan.

Di Malaysia akhir-akhir ini, pelbagai pihak realitinya gigih berusaha di dalam memastikan institusi wakaf terus maju kerana ia merupakan sektor penting membantu ekonomi negara tanpa pergantungan secara langsung dengan kerajaan. Melalui penubuhan JAWHAR, YWM dan wakaf korporat adalah bukti usaha penambahbaikan institusi wakaf telah dipandang serius oleh semua pihak termasuk kerajaan Malaysia. Penubuhan badan dan yayasan ini, jelas membantu MAIN sebagai pemegang amanah tunggal aset wakaf dalam menguruskan aset wakaf dengan lebih baik, cekap dan berkesan. Namun dari kajian lepas, terdapat situasi di mana usaha JAWHAR mewujudkan garis panduan dan kod etika pengurusan wakaf untuk digunapakai oleh MAIN, tidak diadaptasi dengan baik dan tidak dirujuk dalam menguruskan aset wakaf. Malah ketidakpatuhan ini, tidak pun menjadi kesalahan yang boleh diambil tindakan. Ini adalah kerana JAWHAR tiada bidang kuasa untuk menguatkuasakan ke atas institusi wakaf ini. Sekiranya perkara seperti ini berterusan, penyelesaian masalah sukar dicapai. Ia kelihatan usaha yang dibuat akan menjadi sia-sia. Oleh itu isu bidang kuasa dan penguatkuasaan undang-undang juga perlu dilaksanakan segera disamping isu penyeragaman pelaksanaannya. Wakaf perlu melalui proses transformasi dan reformasi tadbir urus dan perundangan dengan segera supaya manfaat wakaf yang bersifat jangka panjang dan lestari kepada pembangunan ummah dan sosio ekonomi negara akan menjadi lebih signifikan dan relevan. Untuk berubah, semua pihak perlu istiqomah meneruskan usaha penambahbaikan institusi wakaf ini, sekalipun berdepan dengan pelbagai cabaran.

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BW022:
**PENGURUSAN DANA WAKAF BEBERAPA INSTITUSI TERPILIH DI
MALAYSIA, SINGAPURA DAN INDONESIA**

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Abstrak

Kejayaan pemerintah dalam pengurusan dana wakaf di Malaysia dan Negara Islam yang lain menunjukkan peranan signifikan dalam mengembalikan semula kecemerlangan institusi wakaf. Namun kejayaan beberapa institusi terpilih di Malaysia, Singapura dan Indonesia dalam pengurusan dana wakaf juga boleh menjadi model untuk dicontohi. Justeru kajian ini, mengenal pasti penglibatan institusi terpilih dalam pengurusan dana wakaf, kaedah agihan dan pengembangan wakaf sebagai perbandingan. Skop kajian ini tertumpu kepada 3 buah institusi yang dikenal pasti iaitu Wakaf An-Nur Corporation Berhad (WANCorp) di Malaysia, Majlis Ugama Islam Singapura (MUIS) dan Dhompot Dhuafa (DD) di Indonesia. Bagi memperoleh data dan maklumat kajian, aktiviti lawatan kerja dan temu bual bersama individu terlibat di WANCorp, MUIS dan DD dilaksanakan. Selain itu sumber literatur daripada laporan tahunan syarikat, jurnal dan kertas kerja seminar turut dijadikan rujukan. Pengkaji mendapati kejayaan JCorp memperkenalkan Konsep Wakaf Korporat, MUIS membangunkan hartanah wakaf di Singapura dan DD menubuhkan SMART Ekselensia Indonesia dan Rumah Sihat menggunakan mekanisme wakaf sangat membanggakan. Justeru kejayaan ini wajar dicontohi bagi menyerlahkan potensi dana wakaf untuk kemajuan ummah sejagat.

Kata kunci; Pengurusan Dana Wakaf, Kaedah Penjanaan Wakaf dan Kaedah Agihan Manfaat Wakaf

PENDAHULUAN

Institusi wakaf memainkan peranan signifikan dalam mengangkat syiar, martabat dan keagungan Islam. Ia tidak terhad dalam aspek kerohanian dan ketuhanan tetapi juga aspek lain seperti ekonomi, politik, geopolitik, kemasyarakatan, pendidikan dan sosial. Malah dengan pengurusan secara profesional, terbaik dan kontemporari dapat menyerlahkan kegemilangan Islam (Mohamad Salleh Abdullah)¹

Amalan ini juga selari dengan sejarah pewakafan Islam terawal yang menjurus kepada aspek pendidikan, kemudahan kesihatan, pembinaan rumah ibadat dan keperluan infrastruktur awam seperti jalan raya, jambatan dan lain-lain. Dikatakan Zubaidah iaitu isteri kepada Khalifah Harun al-Rasyid telah mewakafkan kesemua kekayaannya untuk membina jalan raya dari Kota Baghdad ke Makkah untuk kemudahan jemaah haji (AbulHasan M. Sadeq,2002).

Dalam konteks ini kepakaran secara berkelompok dalam pelbagai bidang di bawah sebuah bumbung dapat menjana potensi wakaf dengan lebih efektif. Hartanah wakaf yang diurus oleh syarikat juga akan mendapat manfaat yang lebih besar daripada gerak kerja berkumpulan dan pengurusan profesional termasuklah pengurusan rekod dan data wakaf yang lebih teratur (Muhammad Yusuf Saleem, 2009).

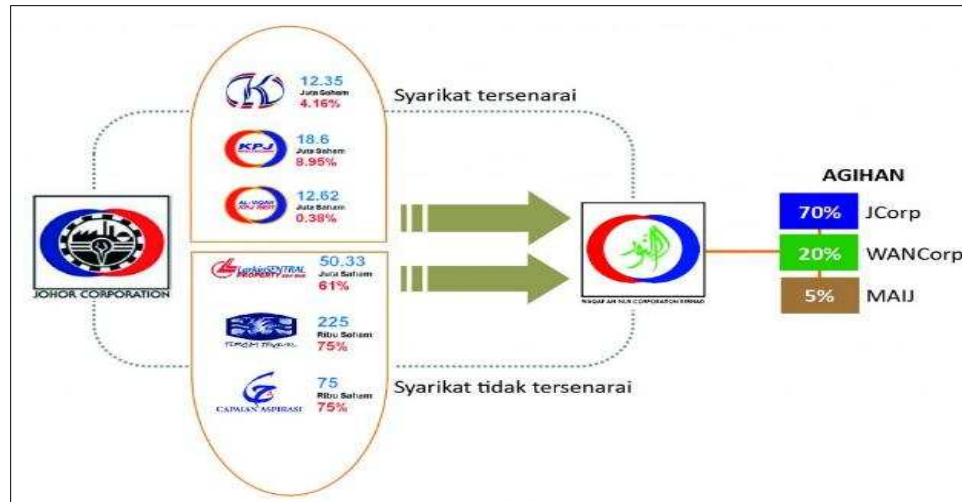
Kejayaan beberapa institusi kerajaan dan swasta dalam pengurusan dana wakaf di Malaysia, Singapura dan Indonesia wajar dicontohi. Ini kerana sektor swasta apatah lagi syarikat yang bermotifkan perniagaan biasanya kurang berminat dalam aktiviti sosial dan kebajikan. Sedangkan dengan kepakaran yang ada serta modal yang mencukupi institusi tersebut boleh membantu meringankan beban kewangan kerajaan sekali gus mengimbangi sumber perolehan Baitulmal di peringkat Negeriyang terhad (Siti Mashitoh, 2007).

Ini terbukti dengan nilai aset bersih saham yang diwakafkan di bawah pengurusan Wakaf An Nur Corporation Berhad (WANCorp) iaitu anak syarikat Johor Corporation Berhad (JCorp) berjumlah RM407.6 juta pada 2014 (Laporan Tahunan WANCorp 2014). Penglibatan Warees Ptd. Ltd. (Warees) sebagai anak syarikat Majlis Ugama Islam Singapura (MUIS) turut membanggakan dengan pendapatan berjumlah S\$711 juta hasil daripada hartanah yang diwakafkan pada tahun 2015 (<http://www.warees.sg/>). Manakala kejayaan Dhompot Dhuafa' (DD) di Indonesia sebagai pengurus harta wakaf bukan kerajaan juga tidak dinafikan dengan penubuhan institusi pendidikan dan kesihatan berteraskan mekanisme wakaf yang manfaatnya dinikmati golongan miskin di Indonesia.

Justeru kertas ini mengenal pasti kaedah pengurusan dana wakaf, kaedah agihan dan pengembangan dana wakaf oleh ketiga-tiga institusi terlibat yang memberi impak kepada perkembangan pendidikan, kesihatan dan pembangunan ummah secara kolektif. Ia sekali gus bertindak sebagai institusi sokongan kepada kerajaan dalam menyediakan pelbagai kemudahan kepada rakyat.

Pengurusan Dana Wakaf Oleh WANCorp

JCorp melalui WANCorp telah memainkan peranan secara langsung dalam pengurusan dana wakaf di Negeri Johor khasnya dan Malaysia amnya. Ini dilakukan dengan pengenalan Konsep Wakaf Korporat (KWK) pada 3 Ogos 2006. Melalui amalan wakaf saham ini JCorp mewakafkan saham berjumlah RM200 juta pada tahun 2006 (Laporan Tahunan JCORP 2006) dan kini meningkat RM407.6 juta dalam tiga buah syarikat tersenarai di Bursa Malaysia dan 3 buah syarikat tidak tersenarai seperti rajah 1 berikut;



Rajah 1: Jumlah Saham Diwakafkan

Sumber: <http://wancorp.com.my/wp-content/uploads/2015/05/Laporan-Tahunan-2014-Published.compressed.pdf>

Implikasi positif daripada pengenalan KWK, telah dimanfaatkan dalam pelbagai bidang antaranya menerusi penyediaan kemudahan rawatan kesihatan pakar dengan kos serendah RM5.

Penubuhan Klinik Wakaf An-Nur (KWAN) pada 1 November 2008 di Plaza Kota Raya Johor Bahru telah berjaya mengubah konsep wakaf tradisional kepada bersifat kontemporari dengan penyediaan rawatan kesihatan tanpa mengira latar belakang kaum dan agama. KWAN turut menawarkan perkhidmatan rawatan dialisis pesakit buah pinggang di 7 klinik wakaf dengan keupayaan 54 buah mesin dialisis termasuk di Sarawak. Pada tahun 2015 seramai 280 pesakit menerima manfaat tersebut dengan caj RM90 sekali rawatan. Sehingga kini terdapat kira-kira 20 buah rangkaian KWAN di seluruh negara dan telah memberi rawatan kesihatan kepada lebih 1,138,146 orang sehingga Disember 2015. Daripada jumlah itu sejumlah 87,874 rawatan telah diberikan kepada pesakit non-Muslim (Laporan Tahunan WANCorp 2015).

Lebih membanggakan apabila WANCorp berjaya menubuhkan sebuah hospital wakaf dikenali Hospital Wakaf An-Nur (HWAN) di Pasir Gudang pada tahun 2006. Bangunan hospital yang bernilai RM1.6 juta terletak di atas tanah wakaf berkeluasan 14.88 ekar itu juga turut menyediakan kemudahan rawatan kecemasan serta kemudahan rawatan lain mengikut jadual yang ditetapkan (Laporan Tahunan WANCorp, 2006). Kadar caj yang dikenakan juga berpatutan iaitu RM60.00 sahaja. Manakala bagi pesakit yang kurang berkemampuan dan berpendapatan kurang daripada RM1500.00 caj dikenakan RM10.00 sahaja (Laporan Tahunan WANCorp, 2009). Menariknya lagi sebahagian besar KWAN dibina berhampiran masjid demi memperluaskan peranan masjid yang tidak terhad kepada aktiviti ibadah sahaja.

Di sudut lain WANCorp turut menyediakan modal kewangan perniagaan berdasarkan konsep Wakaf Dana Niaga (WDN). Ia dimulakan pada 5 Mei 2007 dengan dana terkumpul daripada wakaf tunai individu sebanyak RM14,000 dan ditambah daripada peruntukan kebajikan am sebanyak RM200,000 (Laporan Tahunan WANCorp 2010). Melalui kaedah ini peniaga diberi modal pinjaman perniagaan sebanyak RM3000-RM7000 dan dikehendaki membayar semula pinjaman dalam tempoh 2 tahun berdasarkan prinsip *qardulhasan*. Malah penerima hanya dikenakan yuran proses sebanyak RM10 sahaja. (Laporan Tahunan WANCorp 2011). Jadual 1 berikut menunjukkan taburan urus niaga yang diusahakan oleh peserta WDN.

Jadual 1: Taburan Bisnes Peserta WDN 2011

Jenis Perniagaan	Jumlah Peserta	Jumlah Pinjaman (RM)
Makanan/Minuman	54	140,200
Kedai Jahitan	8	24,000
Kafetaria/kantin	4	19,000
Salun kecantikan/andaman	8	21,900
Sudut Ayammas	138	88,100
Lain-lain,400	32	91

Sumber: Laporan Tahunan WANCorp 2011

Secara keseluruhan sejumlah RM2.61 juta manfaat wakaf telah diagihkan untuk keperluan masjid, sekolah, pertubuhan kebajikan dan golongan kurang berkemampuan pada tahun 2015. Sesungguhnya Konsep Wakaf Korporat yang pertama di dunia ini baik untuk dicontohi dengan pewakafan syarikat berasaskan kerajaan dan badan-badan korporat swasta milik umat Islam (Muhammad Ali, 2009).

Pengurusan Dana Wakaf Oleh MUIS

Amalan berwakaf bukanlah merupakan sesuatu yang baharu di kalangan masyarakat Islam Singapura. Masjid Omar Kampung Melaka yang dibina pada tahun 1826 dianggap bukti terawal pewakafan hartanah di Singapura. Masjid ini telah diwakafkan oleh Almarhum Syed Omar Ali Aljunied seorang pedagang Indonesia yang berasal dari Yemen (Shamsiah Abd Karim, 2010). Terdapat 189 aset wakaf didaftarkan di Singapura. Daripada jumlah itu tanah wakaf yang terkenal ialah Madrasah Al-Junied dan Kompleks Masjid Bencoolen yang terletak di Bencoolen Street. Aset wakaf di Singapura juga tidak terhad kepada sektor pendidikan dan rumah ibadah sahaja, malah meliputi sewaan rumah kediaman dan rumah kedai yang manfaatnya disalurkan untuk kegunaan masyarakat Islam (<http://cyberita.asia1.com.sg>). Hartanah wakaf di Singapura diurus oleh MUIS selaku pemegang tunggal harta wakaf di Singapura manakala bakinya diurus oleh *trustee* yakni pemegang amanah wakaf persendirian yang dilantik oleh MUIS (<http://www.muis.gov.sg>). Pecahan jenis-jenis aset wakaf tersebut dapat dilihat pada Jadual 2 ;

Jadual 2: Pecahan Jenis Wakaf Di Singapura

Jenis Wakaf	Jumlah	Nilai Wakaf(S\$)
Madrasah	3	
Masjid	13	
Institusi	2	
Komersial/runcit/rumah kedai/kediaman	155	0.5 billion
Kediaman	14	
Jumlah	187	

Warees Investment Pte. Ltd iaitu anak syarikat milik penuh MUIS berperanan sebagai *Mutawalli* untuk mengurus dan membangun semua aset Baitulmal dan wakaf. Dalam hal ini Warees bertanggungjawab menyediakan kemudahan projek dan pengurusan, menjalankan kerja perundingan dan nasihat, pengurusan sewa-menyewa dan membangunkan pelaburan hartanah.

Menurut Zaini Osman (2012), pemisahan pengurusan wakaf menjadikan MUIS lebih fokus kepada fungsi teras, manakala Warees menumpukan kepada pembangunan komersial. Ia sekali gus meningkatkan keberkesanan, kecekapan, dan keanjalan dalam pengurusan dan pembangunan aset wakaf di Singapura. Dikotomi ini juga menjadi penyelamat kepada MUIS daripada sebarang risiko komersial yang berkemungkinan dipertanggungjawabkan kepadanya.

Bagi membangunkan potensi aset wakaf, Warees melaksanakan strategi *joint venture* (JV) dan *partnership*. Pelaksanaan kaedah ini dilihat sangat efektif terutama dengan peningkatan nilai hartanah dan masalah kekurangan tanah di Singapura. Malah berdasarkan peruntukan dalam *Rent Control Act 2001*, tuan tanah boleh mengenakan sewaan berdasarkan nilai hartanah semasa yang pastinya memberi pulangan menguntungkan kepada MUIS (Shamsiah, 2006). Di bawah konsep ini juga, sebanyak 24 aset wakaf yang kurang produktif telah dijual dan hasilnya digunakan membeli sebuah bangunan di Beach Road bernilai S\$31 juta. Menurut Alami Musa, satu inovasi pengurusan wakaf oleh MUIS ialah penggunaan instrumen kewangan Islam, sukuk atau bon musharakah. Inovasi ini telah diaplikasikan bagi mengumpul dana sebanyak S\$35 juta untuk wakaf Masjid Bencoolen bernilai S\$87 jutapada 2001. (<http://cyberita.asia1.com.sg>).

MUIS telah berjaya mengagihkan manfaat wakaf sebanyak S\$2.79 juta pada tahun 2015 untuk benefisiari terpilih iaitu masjid, madrasah, pertubuhan Islam dan golongan memerlukan (MUIS Annual Report 2015). Pecahan agihan manfaat itu dapat dilihat pada Jadual 3berikut;

Jadual 3: Pecahan Agihan Manfaat Wakaf MUIS 2013

Jenis Wakaf	Jumlah S\$	Peratus %
Masjid	1,334,158	47
Madrasah	542,980	19
Benefisiari luar negara	355,021	13

Orang miskin, pengkebumian & beras	262,977	9
Kebajikan	192,161	7
Pertubuhan India Muslim	105,000	4
Jumlah	\$2,823,223	

Sumber: www.muis.gov.sg

Kini, amalan berwakaf kurang mendapat perhatian di Singapura. Wakaf persendirian kali terakhir direkodkan pada 1993 berikutan nilai hartanah yang mahal. Untuk menyemarakkan semula amalan berwakaf, MUIS memperkenalkan konsep Wakaf Ilmu iaitu wakaf tunai yang dilaburkan dalam hartanah atau pelaburan berlandaskan syarak. Pada 2015 sejumlah S\$160,000 telah diagihkan kepada 6 buah madrasah sebagai benefisiari dengan jumlah dana terkumpul S\$9.45 juta sejak diperkenalkan pada tahun 2012 (MUIS Annual Report 2015).

Pengurusan Wakaf Oleh Dhompot Dhuafa

Dompot Dhuafa (DD) telah dirasmikan pada 2 Julai 1993 dan menjadi sebuah institusi sosial berasaskan Akta Notaris No 41 tanggal 14 September 1994 (<http://www.dompetdhuafa.org>). Pada peringkat awal DD terlibat dalam pengurusan dana zakat, wakaf, infak dan sedekah (ZISWAF). Pada 14 Julai 2005, pengurusan dana wakaf DD dipertanggungjawabkan kepada Tabung Wakaf Indonesia (TWI) bagi mengoptimumkan peranannya sebagai nazir profesional. Perubahan ini bertitik tolak kepada potensi dana wakaf DD yang semakin berkembang dan bertambah. Jadual 4 menunjukkan jumlah dana TWI dari 2009 -2013.

Jadual 4: Jumlah Dana Wakaf TWI 2009-2013

Tahun	Jumlah (juta)
2009	Rp. 1.060
2010	Rp. 1.658
2011	Rp. 1.453
2012	Rp. 4176
2013	Rp. 6087

Sumber: Rozalia (2015)

Pada tahun 2016, anggaran pendapatan yang berjaya dikumpulkan melalui dana Wakaf oleh DD berjumlah Rp. 1.286.905.523,00 (<http://www.dompetdhuafa.org/donasi>). Namun dana tersebut belum mencukupi untuk membasmi kemiskinan sejumlah 27.76 juta orang di Indonesia pada tahun 2016 (<http://www.bps.go.id/>). Sungguhpun begitu kewujudan institusi *non government* seperti DD mampu menyalurkan kebajikan yang terhasil daripada agihan wakaf untuk manfaat majoriti penduduk Islam di Indonesia terutama dalam bidang pendidikan dan perkhidmatan kesihatan secara percuma.

Penubuhan SMART Ekselensia Indonesia (SMART) sebagai contohnya merupakan sebuah sekolah pintar khusus untuk kanak-kanak miskin dari seluruh Indonesia. Ia telah dibuka secara rasmi pada 29 Julai 2004 di atas tanah wakaf yang berkeluasan 20, 446 m² dan terletak di Jalan Parung KM 42, Bogor, Jawa Barat. Bagi memilih pelajar yang benar-benar layak memasuki institusi ini pelajar terpilih disaring menerusi beberapa kriteria antaranya;

- i. Jumlah pendapatan keluarga rendah
- ii. Tiada sumber pendapatan lain
- iii. Hanya memiliki dua daripada barangan yang berikut; Televisyen, radio, telefon tangan, VCD/DVD Player, tanah (ladang/sawah) dan motorsikal.
- iv. Latar belakang pendidikan keluarga rendah
- v. Pelajar yang layak perlu memiliki sekurang-kurangnya 7.0 nilai rapor minimum dan tiada nilai \leq di 6.0.
- vi. Melempi saringan kesihatan dan psikologi

Pada tahun 2015 seramai kira-kira 450 pelajar SMART dan SMART 1 memperoleh biasiswa penuh DD termasuk tambang pulang ke kampung halaman masing-masing sekali setahun (https://issuu.com/pradilamaulia/docs/annual_report_2015_kecil).

Pihak DD juga menyalurkan manfaat wakaf dengan menubuhkan klinik kesihatan percuma yang dikenali sebagai Layanan Kesihatan Cuma-Cuma (LKC). Kos rawatan kesihatan yang diberikan diperoleh daripada dana ZISWAF yang berjaya dikumpulkan oleh DD. Justeru itu pesakit yang ingin mendapatkan rawatan akan ditapis dan diberikan kad pengenalan *mustahik* yang membolehkan mereka menerima rawatan percuma selama setahun. Antara kemudahan yang disediakan oleh LKC ialah rawatan perbidanan, klinik kanak-kanak, juga rawatan penyakit kronik seperti penyakit jantung dan tibi oleh pengamal perubatan yang berpengalaman secara sukarela (Laporan Tahunan Dhompét Dhuafa' 2010).

Pada 2010 DD telah membina sebuah hospital khusus untuk golongan *mustahik* di atas tanah wakaf yang berkeluasan 36, 000m² di Daerah Bogor, Jawa Barat. Hospital ini yang dikenali sebagai Rumah Sehat Dhompét Dhuafa menelan belanja pembinaan sebanyak Rp. 20 juta melalui dana ZISWAF (Ismail A. Said, 2010).

Usaha yang dijayakan DD sebagai sebuah institusi bukan kerajaan di Indonesia dalam pengurusan dan pengembangan dana wakaf merupakan usaha murni ke arah mengembangkan potensi harta wakaf sehingga manfaatnya diraih oleh umat Islam di Indonesia.

KESIMPULAN

Terdapat sekurang-kurangnya tiga kaedah pengurusan dana wakaf yang boleh dijadikan model untuk dicontohi. Pertama kaedah pengurusan dana wakaf secara korporat oleh WANCorp yang merupakan model amalan *Corporat Sosial Responsibility* (CSR) Islam yang murni. Tanpa menyetepikan aspek penjanaan keuntungan daripada aktiviti pelaburan yang dijalankan, WANCorp berupaya menyalurkan manfaat wakaf kepada pelbagai benefisiari termasuklah perkhidmatan kesihatan tanpa mengira latar belakang kaum dan budaya. Kedua, pengalaman Warees sebagai pengurus hartanah wakaf di bawah MUIS berjaya mengaplikasikan mekanisme *sukuk*, *musyarakah* dan *ijarah* sebagai asas pengembangan aset wakaf yang memberi pulangan lumayan kepada MUIS.

Melalui kaedah ini aset wakaf yang tidak berdaya maju dibangunkan semula oleh Warees dan manfaatnya dikembalikan semula kepada pewakaf dan benefisiari dalam dan luar negara. Ketiga, manfaat wakaf DD yang diperluaskan kepada bidang pendidikan dan perkhidmatan kesihatan percuma berjaya meringankan bebanan golongan miskin di Indonesia. Sekali gus menunjukkan betapa wakaf jika diuruskan secara profesional mampu membasmi kemiskinan di kalangan umat Islam. Justeru kejayaan pengurusan wakaf oleh ketiga-tiga institusi ini boleh dijadikan contoh oleh sektor korporat, pemerintah dan badan persendirian demi menyemarakkan kembali peranan wakaf yang gemilang semasa era Uthmaniyah di Turki.

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EW023: THE INVOLVEMENT OF ISLAMIC BANKING IN WAQF ACTIVITIES

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Abstract

Islamic Philanthropy is defined as charity contribution consists of zakah, sadaqah, waqf and infaq. The objective of Islamic Philanthropy is to assist those who are in need and to promote economy sustainability as well. Even though waqf is not an obligation for Muslim, its importance is as significant as zakat itself. Waqf has been proven as one of the tools in alleviating poverty around the world. Corporate bodies including Islamic bank act as one of the major contributors of waqf activities. Therefore, the study is to investigate the role played by the corporate bodies as an agent in spurring the economic growth as well as helping Muslims' economy in general. It is hoped that this study can contribute to the development of philanthropy in Islam.

Keywords: Waqf, Islamic philanthropy, corporate body, Islamic banking

INTRODUCTION

In Islam, Islamic philanthropy is introduced as a method of alleviating poverty. There are several instruments that are in use to assist the needy group such as *zakah, infaq, sadaqah, hibah* and *waqf*. *Waqf* is considered as a fund that cannot be withdrawn its right by the *waqf* giver (to be returned to Allah) and the benefit from the *waqf* property can be used for a perpetuates. *Waqf* has been practised during the lifetime of our prophet, Muhammad (PBUH) where the first *waqf* mosque is the Quba' mosque in Madinah. This proven that *waqf* activities existed during in earlier era of Islam and continuously in practice till today. The types of *waqf* have now been enlarged to include modern instruments such as cash *waqf* and share *waqf*.

Recently, awareness of corporate bodies in *waqf* activities gives huge impacts to the society and as a significant tool to alleviate the poverty in general. The involvement of corporate bodies in charity will lead less dependency on the government fund. In Malaysia, *waqf* giver (also known as *waqf* donor) will enjoy a tax exemption i.e. 7 percent for individuals and 10 percent for companies. Hence, in this study, Bank Islam Malaysia Berhad (BIMB) and Bank Muamalat Malaysia Berhad (BMMB) were chosen as corporate bodies participating in *waqf* activities.

The involvement of corporate bodies is to relieve the burden of the needy group as well as to alleviate the poverty. Monzern stated in his study, the categories of *waqf* beneficiaries are the

poor, the needy, the orphans, the person in prison (jailed person) and others. AbulHasan, M (2002) focused on the role of waqf institutions in poverty alleviation. Poverty mostly is categorised as the lower income group or non-income factors due to poor health and low literacy rate and lack of access to opportunities such as physical facilities, resources and employment.

This paper is organised as followed; the next section will discuss the overview waqf in general, followed by the role of waqf as an Islamic philanthropy instrument. Then, this paper will discuss in brief on cash waqf, followed by waqf and Islamic banking in Malaysia and ends with conclusion.

THE CONCEPT OF WAQF

Waqf come from the root word ‘awqaf’ literally means ‘To stop, to hold, to restrain, to detain, to prevent or preventing from disposition’. Technically, it is referred as ‘irrevocable dedication of a portion of one’s wealth for the purpose of expanding its usufructs to legitimate causes or charitable & righteous ends with the overriding objective of getting closer to Allah’. (ISRA, 2011). Ibn Manzur defines waqf as ‘make an endowment of the land and give to the needy’. Waqf is explained in Arabic word as hold, confinement or prohibition (K, Monzer). In Islam, waqf generally refers as holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition of it that is outside that specific objective.

Some of legal evidences specifically focusing on Islamic philanthropy as a whole include waqf activities. It has been mentioned either through Qur’anic verse or hadith.

The Prophet (PBUH) mentioned in the hadith:

“Whence a child of Adam dies, his or her deed comes to an end except for three things; running and continuous sadaqah, knowledge that benefits (other) and righteous child who pray for him or her”.

(Hadith reported by Muslim, Tarmidhi, Abu Dawud, Nasa’i and Ibn Majah).

‘By no means shall you attain *Al-Birr* (piety, righteousness-here it means Allah’s reward, i.e. paradise), unless you spend (in Allah’s cause) of that which you love; and whatever of goods you spend, Allah knows it well’. (Al-Imran: 92)

Based on the evidence mentioned earlier, Islam encourages Muslims to participate in charity activities especially to help or to reduce burdens of the needy, and the same time, the donor or giver will get the blessing from Allah not only in this world but also for hereafter.

WAQF AS ISLAMIC PHILANTHROPY INSTRUMENT

As mentioned earlier waqf is one of the contributor tools in alleviating poverty around the world. Therefore, it is also being used as a tool of wealth redistribution in achieving the economic development. Asmak (2009) stated that cash waqf was practised by the Uthmaniyyah period in bridging the gap between the needy group and the richest group by providing a variety community economic development activities such as education aid, health, welfare and other activities which benefited the community as a whole. To that extent, it can be seen that what we practice today in our community either through the involvement of the individual or corporate bodies in this kind of activity.

Abd. Shakor (2011) highlighted that waqf is divided into two categories which are known as waqf *khairi* (solely on charities) and waqf *zurri* (family waqf). Waqf *khairi* is general waqf without concern on the waqf recipients while waqf *zurri* is specifically restricted to the benefit of the family. The researcher extended the form of waqf either immovable property or movable, where immovable property such as land and building such as mosque and school while movable property such as cash waqf and share waqf.

CASH WAQF

Other than physical property, modern instruments are also considered as the types of waqf. Cash waqf used to be established by well-off people for certain specific purposes (AbulHasan, M. 2002) either to be invested or generates income by giving loan out or utilising the earned income by financing the target project. Farhah et al (2014) defined cash waqf as the dedication of money from one's possession and establishing of waqf based on that amount and offering it to the benefit of people in general or allocating it to be used by some segment of the community only.

As to date, the awareness of corporate bodies participating in waqf activities has been increasing tremendously. This is supported by studies (Khairi, K.F, Laili, N. H., N, & Sabri, H, 2015) that review the cash waqf program of Maybank Islamic Berhad. It discusses the role of Maybank Islamic Berhad's Corporate Waqf Model in details. Thus, this study focuses on the involvement of full-fledged Islamic banking, namely Bank Islam Malaysia Berhad (BIMB) and Bank Muamalat Malaysia Berhad (BMMB).

WAQF AND ISLAMIC BANKING IN MALAYSIA

Malaysia has been practising dual banking system, namely conventional banking and Islamic banking sector. Currently, there are 43 banking institution operating in Malaysia either conventional or Islamic banking, local or foreign bank (Central Bank of Malaysia, 2013). For Islamic banking system, Islamic Banking Act 1983 (IBA) was introduced to allow the establishment of IBS alongside the Conventional Banking System. The IBS offers products and services in accordance with the *syariah* law as well as principles which are subject to Bank Negara Malaysia regulation (Central Bank of Malaysia, 2006).

The establishment of first Islamic bank in Malaysia was due to the success achieved by Lembaga Urusan Tabung Haji (LUTH) and to meet the needs of Muslim in Malaysia for a banking system that offers *syariah* based products and services. BIMB the first Islamic bank in Malaysia established in 1983 while BMMB was set up in 1990 to cater the increasing demand of Islamic banking to Malaysian, especially for Muslims.

Currently, BIMB and BMMB are seriously participating in waqf or Islamic philanthropy activities. This is proven by the establishment of AMAL in 2015 by BIMB and Wakaf Selangor Muamalat by BMMB on 27th September 2012 in collaboration with Perbadanan Waqf Selangor. The total waqf fund received by Wakaf Selangor Muamalat as at 31st March 2014 is approximately at RM5, 687,238.39 and the disbursement amount is RM604, 133.80. There are some payment method to those who wish to channel their fund either through *hibah* from BMMB's Wadiah account from their deposit, cash payment and direct debit from saving or current account or by using a cheque. Meanwhile, the sources of fund for BIMB was from *zakat* payment, corporate responsibility (CR) funds, Amal Jariah, Bank Islam *Infaq Sadaqah* Programme and Surau Wakaf Ahmad Dawjee Dadabhoy. Activities or programmed conducted by BIMB and BMMB by using waqf fund can be illustrated in the following table.

Table 1: Aid disbursed by BMMB & BIMB Data

Recipients	Types of Aid	Amount	Bank
Maahad Tahfid al-Quran Wa Ulumuddin, Sungai Besar	Hostel equipment	25,860.00	BMMB
Pusat Jagaan al-Fikrah, Kajang	Medical equipment	35, 600.00	BMMB
Mobile Clinic	-	254,900.00	BMMB
Pusat Dialisis Islam Makmur (PHIM), Kuantan	2 Units of Dialysis Machines	80, 000.00	BMMB
Projek Bantuan Rumah	Bantuan Rumah	4,700,000.00	BIMB
School Adopted involving 18 schools	Educational aid	-	BIMB

Sources: Annual Report of Bank Muamalat Malaysia Berhad data & Annual Report of Bank Islam Malaysia Berhad (2014)

CONCLUSION

As a conclusion, the involvement of corporate bodies play a vital role in alleviating poverty, act an agent in spurring the economic growth as well as helping Muslim economy in general. This study reviews the role played by Islamic banking in Malaysia particularly fully-fledged Islamic banks. As mentioned earlier, both banks have their own initiatives by establishing AMAL and Wakaf Selangor Muamalat by organising charity activities or program. The programmes are divided into few categories activities such as community-building and educational support in protecting the environment and poverty alleviation. For further insight, the study can be expanded by conducting studies on other Islamic banks or conventional banking industry or

other corporate sectors such as plantation, manufacturing, construction sectors involving Islamic philanthropy as a whole.

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EZ024:
**SYARIAH REVIEWS ON ZAKAT FUND DISTRIBUTION: A CASE OF
TAPEM (TABUNG AMANAH PENDIDIKAN MELAKA)**

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Abstract

The Syariah issues of zakat fund distribution are not a newly discussed. The implementation of zakat fund for education loan, the qualified authorities in zakat fund distribution and the penalty of late payment are always become ongoing debate among modern scholars as it not being discussed in detail by traditions. Thus, this study revisited the Islamic traditional and modern scholar's views on how they justify their rulings regarding the view on the distribution of zakat fund. In fact, TAPEM as one of the authorities of issuing education loan is also being examined in term of its practices and governance. By using the discourse analysis, this study aims to examine the justifications of certain ruling and implementation that have been conducted by TAPEM. Through this method, the justifications of allowing their ruling and implementation are being examined in order to reconfirm its syariah validity. The process of reconfirming its validity involves the arguments towards various instruments of istidlal in syariah such as qiyas, maqasid syariah and masalih mursalah that previous scholars have justified. In relation to that, this study approaches TAPEM to see how they implement and justify their practice in zakat fund distribution. It is hoped by conducting the process of reconfirming their syariah validity in term of governance practice, may enhance the practitioners and public confidence towards related authorities.

Keywords: Zakat Fund, Education Loan, Syariah Reviews.

INTRODUCTION

Tabung Amanah Pendidikan Melaka (TAPEM) is a trusty agency under Melaka state government that provides loan facilities and scholarship to the students who want further their studies to the higher education. These loan facilities and scholarships are entitled to the students who were born in Melaka or having their parents who also were born in Melaka as well as to the poor and needy students. The largest source of TAPEM funds come from the Melaka Islamic religious council (MAIM), namely by 70%, whilst the remaining 30% came from the contribution of the subsidiaries to the state government such as Yayasan Melaka, Syarikat Air Melaka Berhad, Perbadanan Kemajuan Negeri Melaka (PKNM) and others. Per records, TAPEM disbursed RM35 millions of fund to the related recipient each year. (Norhafiz, 2016) Due to its implementation involving millions of ringgits of zakat fund, several *Syariah* issues need to be examined in terms of its practice to ensure it is *Syariah*-compliant.

METHODOLOGY

According to Guy Cook (1989), discourse can be defined as a stretch of language consisting of several sentences which are perceived as being related, not only in terms of ideas, but also in terms of the jobs that they perform. This paper adapts the discourse analysis technique as suggested by Guy Cook (1989). In this regards, the data from the existing practice, the classical text of Islamic jurisprudence, the modern views of contemporary scholars and the interviews of the industry players will be reviewed in constituting a coherent unit, so that the enhanced practice is not only *Syariah* compliance but also can be suited to the industry within their framework and policy. The existing practice of the trust agency (in this case of TAPEM), the opinions of Islamic jurists and the data from interviews are therefore discoursed altogether in considering the enhancing structure.

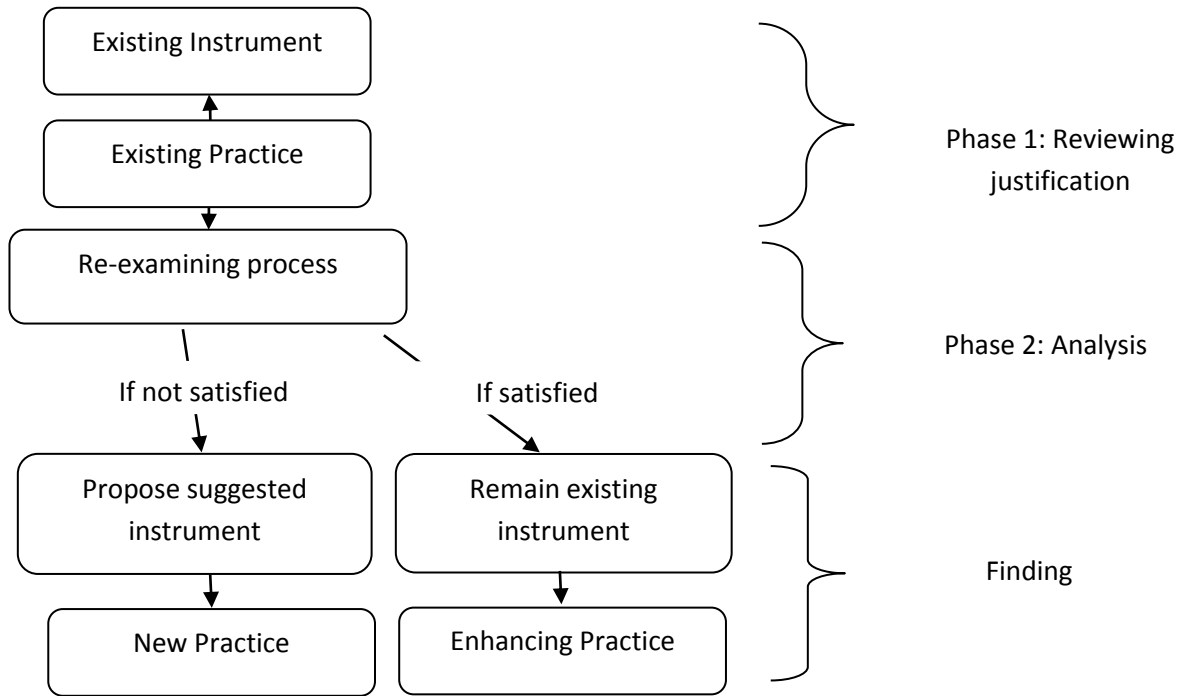


Figure 1: Discourse Framework on Zakat Funds Distribution

Based on the diagram above, there are two phases of discoursing data; (i) reviewing justification and (ii) the analysis. In the first phase, the instrument that is used to justify the existing practice will be determined. The knowledge of determining the instrument used is important, so that the analytical process will begin. Meanwhile, in the analysis phase, the process of examining toward the existing practice is conducted, so that the instrument used can be justified as an appropriate or not, according to the *Syariah* needs and objectives.

ISSUES AND DISCUSSION

Using *zakat* funds as *Qard al-Hasan*

Islamic commandment was revealed to all mankind in facilitating their affairs and preventing them from any difficulty and hardship. It is compatible with the following method, which says "*when things are narrow, its related law becomes widespread* (Imam Jalaluddin, 1997)." This shows the completion of the concept of law must look over the available time and space it had, so it can meet the needs of the community. Islam gives space to qualified scholars for their '*ijtihad*' as a tool to solve problems or issues that arise, so that the *syariah* doctrine remains relevant as a solution at all times. However, the implementation of Islamic law that adapts the current issue shall be guided through proper *syariah* instruments. Although the consideration of *ijtihad* shall be associated with time changing, surroundings and interests of the people, still the fundamental values of religion is upheld.

In case of *zakat* funds to be distributed in a form of loan, *ijtihad* is the best way to assist scholars in verifying the practice either it is allowable or not. Basically, there is no plain evidence in al-Quran and al-Hadith that discussed in detail on this issue. However, some contemporary scholars allow this kind of distribution by restricting only contract of *Qard al-Hasan* to be used. The instruments of evidence used by them are:

Qiyas Jalliyy

Qiyas Jalliyy also known as *Qiyas Min Bab al-Awla* can be defined as a method of analogy in determining a new ruling of the certain issue that have not mentioned specifically in Al-Quran, Hadith or Ijma with the law that have mentioned it, whereas the strength of the unmentioned ruling is more concerned than the one that has been mentioned (Yusuf Siddik, 2014). For example, the Quran does not specifically mention about the prohibition of beating elders, but the Quran prohibits the words 'ah' (a word that hurt their feelings). This evidence shows if the word "ah" is not allowed, the act of "beating" is more forbidden which is in fact worse than saying the word "ah". According to this instrument of *ijtihad*, the prohibition of unmentioned word "beating" is more concerned than the mentioned ruling of the word "ah".

In case of giving loan from *zakat* funds, some scholars ruled that such practice is permissible. Their judgment is based on the hadith narrated by Abu Hurayrah as the prophet said: "*Food for two people (better) if it can be enough for three people, and food for 3 people (better) if it can be enough for four people*" and the additional narration by Ibn Umar and Jabir say that "*food for four people (better) if adequate eight*" (Ibrahim, 2000). Based on the hadith, the scholars opined that if funds can be distributed to more person than it originally been provided, then it is more advisable.

Review

If the use of analogy is allowed in the case of giving loan from *zakat* funds, there must be an *'illah* (a tied reason) between *zakat* and loan, so that a ruling through *qiyas* can be accepted. However, *zakat* is an obligatory act and there are *asnaf* who are entitled to it, while giving money as a loan is more on optional act, and it can be given to anyone, not limited only to *asnaf*. Furthermore, if *zakat* is collected from *muzakkiy* (*zakat* payer) and to be given to *asnaf* (*zakat* recipient) each year, the issue related to inadequate funds will not arise in case of sponsoring student in their studies. Furthermore, the annual allocation of RM35 million granted to TAPEM as a source of funds, not much improved. In fact, the loan education issued by TAPEM in 2016 has decreased by 350%, amounting to only RM4.6 million compared to 14 million in the previous year (<http://tapem.melaka.gov.my/1/page.php?id=26>)

Masalih Mursalah

In *fiqh*, some scholars say the loan from *zakat* funds is using the instrument of *masalih mursalah*. *Masalih* literally means benefit or interest which is quite a generic expression. Meanwhile, *masalih mursalah* can be defined as the benefit or interest of the public. It is one of the secondary sources in Islamic jurisprudence used by some schools of thought (*mazhab*) to interpret the *Syariah* general principles that present in the Qur'an and the Sunnah in order to set rules. It is invoked to prohibit or allow something on the basis of whether it serves the common good or public welfare (Abdul Aziz Sattam, 2015).

There are several requirements using *masalih mursalah* as a source of Islamic law: (Khallaf, 1978M / 1398H).

1. The benefit shall be in accordance with the objectives of *syariah*, not contrary to the law or the principles which were based on Quranic texts, Hadith and consensus.
2. The benefit must be rational, clear and unambiguous, so that it can be able to provide benefits or to reject harm.
3. The benefit must be related to the public interest, not private interest.

Review

In case of students who receive *zakat* funds as a loan, it cannot be regarded as *maslahah am* (public interest) as the loan given is more on personal interest than the public interests such as organizations, foundations and others. It is against one of the requirements which is only for the sake of public interest. Although some say that education is an investment that will ultimately be beneficial to society, but its direct impact is still vague. In this regard, an education loan is more to personal use as compared to a loan granted to entrepreneurs, who want to develop their business that may involve families and society members.

Late Payment Charges

The late payment charges are applicable for *Syariah* compliant products for housing facilities and other financing instruments. According to the “Guidelines on Late Payment Charges for Islamic Banking Institutions” (BNM/RH/GL 008-14, Guidelines on Late Payment Charges for Islamic Banking Institutions) late payment charges consist of *ta'widh* and *gharamah*. Both *ta'widh* and *gharamah* are late payment charges. However, they differ in application. “*Ta'widh*” means amount that may be compensated to the lender based on the actual loss incurred due to default while *gharamah* refers to penalty charged on the defaulters over and above the *ta'widh*. The confusion may be due to the word “late payment charge” being used in the same sentence as “*ta'widh*” or “*gharamah*”; giving the impression that late payment charge is distinct from “*ta'widh*” or “*gharamah*”. In case of Islamic financial institution (IFIs) for instance, they have the option whether to charge *ta'widh* only or a combination of *ta'widh* and *gharamah*. The rationale behind it because of the *ta'widh* amount is usually minimal and *gharamah* is used to top up the *ta'widh* amount. In case of TAPEM’s loan, the borrower or the students will be charged 4% if they failed to repay their loans within a specified period after graduation (Norhafiz, 2016).

Review

According to the *Syariah* Advisory Council of the Securities Commission Malaysia on December 31, 2014, in the 150th meeting decided that *ta'widh* that can be charged on late payments, which were not brought to court are as follows:

- i. Default of payment before the maturity date may be imposed as *ta'widh* and it must not exceed 1% of the outstanding amount and cannot be compounded. In addition, *gharamah* may also apply, and the combination between *ta'widh* and *gharamah* not exceed 10% of the outstanding amount, or as determined by the SAC (*Syariah* Advisory Council) from time to time.
- ii. Default of payment after the due date may be imposed as *ta'widh* and it must not exceed the current prevailing daily overnight Islamic Interbank Money Market rate of the outstanding balance (outstanding capital and accrued profits). In addition, *gharamah* may apply, and the combination between *ta'widh* and *gharamah* not exceed 10% of the outstanding amount or as determined by the SAC (*Syariah* Advisory Council) from time to time.

Based on the above resolution, it is important to TAPEM to state clearly about the status of the 4% rate that imposed on the late payments, either it is referring to the concept of *ta'widh*, *gharamah* or a combination of both. The determination of the concept used in the loan agreement is very important, so that it can be clearly freed from any form of benefits that could come to TAPEM and ultimately may cause *riba*. However, since they do not have the *Syariah* advisory committee, the rate of 4% could not be ascertained whether it is based on *ta'widh* or *gharamah*.

CONCLUSION

Based on the review of the issues raised, in-depth discussions should be conducted by the relevant parties regarding TAPEM practices in issuing loan from the *zakat* funds that they obtained from Melaka Islamic council (maim). In addition to the two issues that have been raised, the issue of *syariah* governance such as the absence of *syariah* advisory committee and the practice of distributing *zakat* other than baitulmal (practice of *amil* upon *amil*) should be given a priority in the future as it relates to this work's discussion.

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Mohd Norhafiz Bin Sahad. Personal Interview. 18 August 2016.

BZ025:
**KESEDARAN MEMBAYAR ZAKAT EMAS PERHIASAN DI MALAYSIA :
SATU TINJAUAN AWAL DI NEGERI PERAK, PULAU PINANG ,
SELANGOR, MELAKA, DAN NEGERI SEMBILAN.**

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Abstrak

Emas merupakan harta yang wajib dikeluarkan zakat apabila cukup nisab. Zakat emas terbahagi kepada dua iaitu pertama zakat emas dan ke dua zakat emas perhiasan. Kebanyakan ulama menegaskan kewajipan zakat ke atas emas perhiasan berasaskan uruf setempat. Berdasarkan pemikiran tersebut, kertas kerja ini menumpukan kepada pelaksanaan pembayaran zakat emas perhiasan di kalangan masyarakat Islam di Malaysia . Zakat emas perhiasan, juga merupakan salah satu sumber dalam meningkatkan ekonomi umat Islam di Malaysia . Namun pada masa kini masih ramai masyarakat tidak tahu akan kewajipan zakat emas perhiasan yang dilaksanakan mengikut amalan negeri masing-masing. Dalam penulisan ini dapat dilihat tahap kefahaman masyarakat Islam terutama golongan wanita dalam menjalankan kewajipan berzakat ke atas emas perhiasan. Penulisan ini juga akan menganalisa sejauh mana kesedaran masyarakat Islam terhadap kewajipan menunaikan zakat emas perhiasan. Sebanyak 13 borang soal kaji selidik telah diedarkan kepada pusat-pusat zakat negeri bagi mendapatkan maklum balas berkaitan zakat emas perhiasan. Hasilnya, diharapkan melalui penelitian ini akan dapat membantu meningkatkan kesedaran terhadap kewajipan menunaikan zakat emas perhiasan di kalangan masyarakat Islam di Malaysia .

Kata Kunci : Zakat Emas Perhiasan ,Kesedaran Menunaikan Kewajipan

PENDAHULUAN

Islam merupakan agama yang syumul (sempurna), iaitu merangkumi semua bidang kehidupan manusia. Islam diturunkan untuk semua manusia, sebagaimana firman Allah SWT dalam Surah Saba' ayat 28 :

Maksudnya: “*Dan kami tidak mengutuskan kamu melainkan kepada umat manusia seluruhnya sebagai pembawa berita dan sebagai pemberi peringatan*”.

Terdapat lima rukun Islam yang wajib ditaati dan dilaksanakan oleh seorang Muslim, antaranya ialah menunaikan zakat. Zakat Fitrah diwajibkan keatas Muslim dan dilaksanakan pada bulan Ramadhan, manakala zakat harta diwajibkan keatas harta tertentu orang Muslim dan mencukupi syarat yang telah ditetapkan oleh syarak. Selain itu zakat harta juga terbahagi kepada beberapa jenis, antaranya ialah zakat pertanian, zakat perniagaan, zakat ternakan, zakat pendapatan, zakat KWSP, dan zakat emas, zakat saham, dan zakat wang simpanan (Zuhdi, 2003).Kewajipan

menunaikan zakat keatas individu Muslim adalah sama dengan kewajipan menunaikan solat fardhu, sebagaimana dapat dilihat perintah menunaikan zakat seiring dengan ayat-ayat al-Quran yang memerintahkan kewajipan solat fardhu. Sebagaimana firman Allah SWT dalam surah at-taubah 103 :

Maksudnya : *“Ambillah (sebahagian) dari harta mereka menjadi sedekah (zakat), supaya dengannya engkau membersihkan mereka (dari dosa) dan mensucikan mereka (dari akhlak yang buruk) dan doakanlah untuk mereka, kerana sesungguhnya doamu itu menjadi ketenteraman bagi mereka dan (ingatlah) Allah Maha Mendengar, lagi Maha Mengetahui”.*

(At-Taubah:103)

Seterusnya, dapat dilihat akan kepentingan pelaksanaan zakat di sesebuah negara, yang mana ia dapat menjamin keadilan dan kestabilan sosial serta merapatkan jurang pendapatan antara masyarakat dan menghindari dari berlakunya permusuhan dan sifat dengki sesama manusia. Walaupun kewajipan mengeluarkan zakat ini diletakkan atas individu Muslim, namun kesannya bukan sahaja kepada kumpulan sasar penerima agihan zakat malah juga kepada pihak pelaksana iaitu institusi zakat.

Di Malaysia, Perlembagaan Persekutuan telah menyenaraikan bahawa hal berkaitan agama Islam iaitu zakat adalah tertakluk dibawah bidang kuasa negeri-negeri. Negeri- negeri telah memperuntukkan perkara berkaitan urusan kutipan dan agihan melalui Fatwa, Enakmen atau Akta bagi mengawalselia serta menguatkuasakan hal ehwal zakat di setiap negeri. Bagi pelaksanaan zakat keatas emas perhiasan wajib dilaksanakan apabila seseorang itu telah mencapai uruf yang ditetapkan mengikut negeri masing-masing, seperti mana yang telah diputuskan oleh Majlis Fatwa Kebangsaan pada 21 Mei 2006. Mesyuarat bersetuju bahawa perhiasan emas wanita (الحلى) tidak dikenakan zakat selagimana ia tidak melebihi kadar uruf bagi wanita-wanita Islam yang dianggarkan seberat 850 gram.

Pensyariatan Zakat Emas Perhiasan

Emas dan perak adalah sejenis galian yang diwajibkan zakat. Ini adalah kerana logam ini sangat berguna berdasarkan penggunaannya sebagai nilai tukaran wang bagi segala sesuatu. Adapun barang perhiasan selain daripada emas dan perak iaitu intan, mutiara, sutera, suasa dan sebagainya adalah tidak wajib zakat ke atasnya. Emas dan perak wajib dizakatkan sekiranya cukup syarat. Bagi perak ia termasuk perhiasan atau barangan yang disimpan. Ia dikira mengikut harga 1 gram perak semasa. (Zuhdi, 2003)

Ini adalah berdasarkan Firman Allah SWT yang bermaksud:

وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يَنْفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ

Maksudnya "Dan mereka yang menyimpan emas dan perak dan tidak membelanjakan pada jalan Allah SWT (mengeluarkan zakat) maka khabarkanlah kepada mereka dengan azab yang pedih pada hari emas dan perak dibakar di dalam neraka jahanam lalu diselar dengannya dahi dan rusuk mereka di belakang mereka seraya dikatakan kepada mereka inilah harta yang kamu simpan selama ini buat dirimu, maka rasailah balasan apa yang kamu simpan dulu"
(At-Taubah:34-35)

Ayat diatas menerangkan tentang seksaan yang diturunkan kepada orang-orang yang menyimpan harta dan tidak menafkahnnya kepada jalan Allah, iaitu menunaikan zakat. Ia membawa maksud bahawa zakat harta itu wajib hukumnya.

Begitu juga dengan hadis Nabi SAW. Riwayat daripada muslim yang bermaksud: " Tidak ada seorang yang mempunyai emas dan perak yang tidak menunaikan zakatnya, melainkan pada hari kiamat dijadikan hartanya itu beberapa keping api neraka. Setelah dipanaskan digosokkan ke lambung dahi dan belakangnya. Setiap kali ia sejuk, dipanaskan semula pada satu hari yang lamanya 50 ribu tahun sehingga Allah menyelesaikan segala perkara yang berkaitan dengan hambaNya"

(HR Sahih Muslim)

Syarat Zakat Emas

Kewajipan ke atas zakat emas berdasarkan syarat-syarat tertentu. Antara syarat-syarat wajib zakat emas ialah :(Ibrahim, 2009)

- a) Islam - Zakat diwajibkan keatas umat Islam sahaja.Ia tidak diwajibkan keatas orang kafir atas dasar kewajipan yang dituntut didunia.
- b) Cukup nisab - Harta itu mestilah mencapai atau melebihi nisab bagi harta tersebut yang ditetapkan berdasarkan hukum syarak atau fatwa setempat.
- c) Cukup haul- Harta tersebut hendaklah berada dalam milikan sempurna pemilik selama tempoh satu tahun hijrah.
- d) Milik yang sempurna - Harta tersebut mestilah milik sempurna pemilik. Pemilik mempunyai kuasa penuh keatas pengurusan harta tersebut.
- e) Merdeka - Pemilik mestilah seorang yang bebas dan berkuasa dalam menguruskan harta tersebut mengikut kehendaknya. Pemilik harta bukan seorang hamba, muflis atau tertahan dari menguruskan hartanya

Keadaan Zakat Emas:

Zakat emas dikira dalam dua keadaan (Paizin, 2014). Pertama:Zakat emas yang disimpan (tidak dipakai). Emas yang disimpan dan dipakai wajib dizakatkan sekiranya cukup syarat. Emas yang disimpan bermaksud emas yang tidak digunakan atau tidak dipakai walaupun sekali dalam tempoh setahun. Nisab zakat emas yang disimpan (tidak dipakai) ialah 85gram. Ulama sepakat

berpendapat bahawa apabila cukup 20 misqal emas itu maka, wajib dikenakan zakat. Kadar zakat emas ialah satu perempat puluh atau dua setengah peratus ($1/40$ atau 2.5%) daripada nilai emas semasa sekiranya kadar yang dimiliki itu sama atau melebihi nisabnya. Harga zakat emas yang dikenakan adalah mengikut ketulenan emas. Sebelum seseorang ingin membayar zakat, dia mestilah memberitahu ketulenan emas tersebut sama ada 999,916,875 atau 750. Pegawai zakat akan mengira berdasarkan ketulenan emas tersebut. Setiap ketulenan emas mempunyai nilai per gram yang berbeza untuk dizakatkan.

Kedua: Zakat emas yang dipakai (sebagai perhiasan). Emas yang dipakai (sebagai perhiasan) sekali-sekala atau secara berterusan dalam tempoh setahun tidak wajib dikeluarkan zakat ke atasnya. Walau bagaimanapun, jika ia melebihi 'uruf maka wajib dikeluarkan zakat dengan kadar 2.5 % atas nilai emas yang dipakai. Nilai yang diambil kira adalah nilai semasa sahaja dan tidak termasuk batu permata atau seumpamanya.

Zakat emas perhiasan wanita akan dikenakan berdasarkan nilai uruf. Uruf bererti cara dan corak pemakaian wanita tempatan. Zakat emas perhiasan ini tertakluk pada lembaga zakat negeri masing-masing. Contohnya zakat emas di Terengganu akan dikenakan sekiranya emas perhiasan mempunyai berat lebih dari 850 gram manakala di Kelantan emas yang dipakai tidak dikenakan zakat.

Zakat Emas Perhiasan

Bagi seorang wanita, diharuskan keatasnya membayar zakat emas perhiasan yang sudah tidak dipakai disebabkan ianya sudah lama atau sebab lain. Walaubagaimanapun setelah melihat pelbagai pandangan yang kuat (rajih), zakat tidak wajib keatas emas perhiasan wanita , namun ia diwajibkan keatasnya apabila dalam dua keadaan:(Qardhawi, 2000)

- 1) Perhiasan emas yang dibuat bukan untuk dipakai tetapi untuk disimpan dan dijadikan aset simpanan, maka wajib dikeluarkan zakat keatasnya kerana emas itu telah beralih dari perhiasan ke simpanan.
- 2) Perhiasan yang dimiliki berlebihan, dan melampaui kadar biasa yang dipakai oleh masyarakat setempat (uruf) .

Contoh Kiraan Zakat Emas Perhiasan Mengikut Negeri*Jadual: 1*

Bil	Negeri	Contoh Pengiraan Zakat Emas Perhiasan			
1	Perak	500 gram	=	Uruf Pemakaian Emas Perhiasan	
		900 - 500	=	Lebih daripada Uruf	= 400 gram
		400 gram	=	400 gram x RM 104.82	RM41,928.00
		Zakatnya	=	RM 41,928.00 X 2.5%	RM 104,820.00
2	Selangor	800 gram	=	Uruf Pemakaian Emas Perhiasan	
		1000 - 800	=	Lebih daripada Uruf	= 200 gram
		200 gram	=	200 gram x RM 104.82	RM 20,964.00
		Zakatnya	=	RM 20,964 X 2.5 %	RM 52,410
3	Negeri Sembilan	200 gram	=	Uruf Pemakaian Emas Perhiasan	
		300 - 200	=	Lebih daripada Uruf	= 100 gram
		100 gram	=	100 gram x RM 104.82	RM 10,482.00
		Zakatnya	=	RM 10,482 X 2.5 %	RM 262.05
4	Melaka	180 gram	=	Uruf Pemakaian Emas Perhiasan	
		500 - 180	=	Lebih daripada Uruf	= 320 gram
		320 gram	=	320 gram x RM 104.82	RM 33,542.4
		Zakatnya	=	RM 33,542.4X 2.5 %	RM 83,856.6
5	Pulau Pinang	165 gram	=	Uruf Pemakaian Emas Perhiasan	
		300 - 165	=	Lebih daripada Uruf	= 135 gram
		135 gram	=	135 gram x RM 104.82	RM 14,1507.7
		Zakatnya	=	RM 14,1507.7X 2.5 %	RM 35,376.75

Sumber laman web pusat - pusat zakat

Penguatkuasaan Undang-Undang dan Peraturan Zakat

Di Malaysia, Perlembagaan Persekutuan telah menyenaraikan bahawa hal berkaitan agama Islam iaitu zakat adalah tertakluk dibawah bidang kuasa negeri-negeri. Negeri-negeri telah

memperuntukkan perkara berkaitan urusan kutipan dan agihan melalui Fatwa, Enakmen atau Akta bagi mengawalselia serta menguatkuasakan hal ehwal zakat di setiap negeri.

Fatwa menurut definisi umum ialah suatu penerangan mengenai hukum Syara' kepada masalah yang mempunyai nas atau perbincangan didalam kitab fiqah secara tidak mengikat. Manakala definisi khusus pula ialah keputusan fatwa yang telah dikeluarkan oleh Jabatan Mufti dan telah diwartakan oleh kerajaan negeri bagi proses penguatkuasaan undang-undang. Mufti adalah individu yang bertanggungjawab besar dalam menangani permasalahan umat Islam. Institusi fatwa juga merupakan salah satu sumber hukum yang diterima pakai dalam sistem perundangan Islam. Manakala Akta, Enakmen dan Ordinan Pentadbiran Undang-undang Islam Negeri-negeri menyatakan bahawa, sesuatu kenyataan yang dibuat oleh Mufti tidak boleh dikatakan sebagai fatwa melainkan ia telah dikeluarkan melalui prosedur yang telah ditetapkan di dalam enakmen dan seterusnya disiarkan dan diwartakan. Bidang kuasa pentadbiran undang-undang Islam terletak di bawah negeri-negeri, maka penguatkuasaan fatwa adalah dibawah bidang kuasa negeri.

Di samping itu, tidak ada mana-mana negeri boleh dipaksa untuk menerima fatwa yang dibuat oleh Majlis Fatwa Kebangsaan. Contohnya keputusan: Mesyuarat membuat keputusan: peringatan Mesyuarat Jawatankuasa Fatwa yang bersidang pada 23 Rabiul Akhir 1427 bersamaan 21 Mei 2006 butiran 3.4 dipinda dan adalah seperti berikut: Mesyuarat bersetuju bahawa perhiasan emas wanita (الحلى) tidak dikenakan zakat selagimana ia tidak melebihi kadar uruf bagi wanita-wanita Islam yang dianggarkan seberat 850 gram atau nilai harga semasa yang dikeluarkan oleh Bank Negara Malaysia. Status Penwartaan: Tidak Diwartakan. Seterusnya fatwa tentang kadar uruf emas perhiasan di Negeri Selangor Jawatankuasa Fatwa Negeri Selangor pada tahun 2005, telah menetapkan bahawa Kadar uruf emas perhiasan di negeri Selangor adalah pada timbangan 800grm. Justeru itu kewajipan terhadap zakat emas perhiasan adalah diputuskan oleh setiap negeri masing-masing. (Al-Bakri, 2008)

Enakmen Pentadbiran Negeri-Negeri Di Malaysia (Perak, Selangor, Pulau Pinang, Negeri Sembilan dan Melaka

Jadual 2

Bil	Negeri	Enakmen
1	Negeri Sembilan	Enakmen 10 Tahun 2003 Enakmen Pentadbiran Agama Islam (Negeri Sembilan) 2003 Bahagian Vi - Peruntukan Kewangan Zakat Dan Fitrah Seksyen 86. Kuasa memungut zakat dan fitrah Seksyen 87. Kuasa membuat peraturan-peraturan

2	Melaka	<p>Enakmen 7 Tahun 2002 Enakmen Pentadbiran Agama Islam (Negeri Melaka) 2002 Bahagian Vi - Kewangan Zakat Dan Fitrah Seksyen 74. Kuasa memungut zakat dan fitrah. Seksyen 75. Kuasa membuat peraturan-peraturan.</p>
3	Selangor	<p>Enakmen 1 Tahun 2003 Enakmen Pentadbiran Agama Islam (Negeri Selangor) 2003 Bahagian Vi - Kewangan Zakat Dan Fitrah. Seksyen 86. Kuasa Majlis memungut zakat dan fitrah. Seksyen 87. Kuasa membuat peraturan-peraturan.</p>
4	Perak	<p>Enakmen 4 Tahun 2004 Enakmen Pentadbiran Agama Islam (Perak) 2004 Bahagian Vi - Kewangan Zakat Dan Fitrah Seksyen 75. Kuasa memungut zakat dan fitrah. Seksyen 76. Kuasa membuat peraturan-peraturan.</p>
5	Pulau Pinang	<p>Enakmen 4 Tahun 2004 Enakmen Pentadbiran Agama Islam (Negeri Pulau Pinang) 2004 Bahagian Vi – Kewangan Baitulmal Dan Tatacara Kewangan Majlis Seksyen 86. Kuasa Majlis memungut zakat dan fitrah Seksyen 87 Kuasa membuat peraturan-peraturan</p>

Jumlah pembayar zakat emas perhiasan bagi lima negeri dapat dilihat dalam jadual 3 :

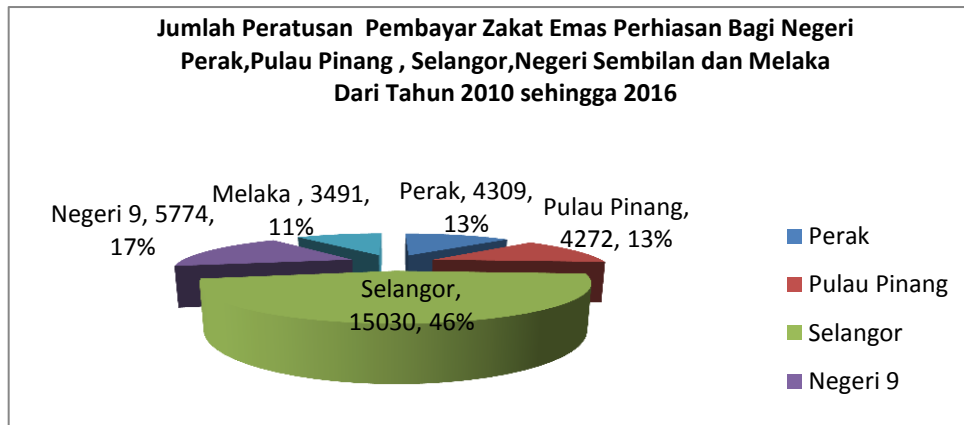
Tahun/Negeri	Tahun 2010 sehingga Tahun 2016							Jumlah
	2010	2011	2012	2013	2014	2015	2016	
Perak Uruf (500 gram)	543	569	604	632	651	692	618	4309
Pulau Pinang Uruf (165gram)	506	538	690	760	839	874	913	4272
Selangor Uruf(800 gram)	1167	1463	2112	2537	2612	2539	2600	15030
Negeri 9 Uruf(200 gram)	419	581	739	914	967	1054	1100	5774

Melaka	319	228	282	288	864	1018	780	3491
Uruf (180 gram)								

Sumber: Borang Kaji Selidik Kepada Pusat-Pusat Zakat Di Malaysia

Jadual di atas, merupakan hasil daripada maklum balas soal kaji selidik yang telah diedarkan kepada pusat-pusat zakat di 13 buah negeri di Malaysia, namun hanya 5 buah negeri sahaja yang dapat dikumpulkan dalam kajian ini. Antaranya ialah, Perak, Pulau Pinang, Selangor, Negeri Sembilan dan juga Melaka. Jadual diatas menunjukkan jumlah keseluruhan pembayar zakat emas perhiasan daripada 5 buah pusat zakat mengikut negeri masing-masing daripada tahun 2010 sehingga tahun 2016. Selain itu jadual diatas juga menunjukkan pengambilan serta penetapan uruf zakat emas perhiasan yang berbeza – berbeza mengikut negeri, iaitu Perak (500 gram), Pulau Pinang (165 gram), Selangor (800 gram), Negeri Sembilan (200 gram) dan Melaka (180 gram) .Daripada jadual tersebut juga jelas menunjukkan kutipan zakat emas perhiasan dapat dilaksanakan dan secara tidak langsung dapat menyumbang kepada peningkatan ekonomi Islam di Malaysia, walaupun tiada penetapan uruf yang sama di setiap negeri. Dengan adanya jumlah maklumat berkaitan pembayar zakat emas perhiasan dikelima-lima buah negeri ini, dapat memberikan gambaran sejauh mana tahap kesedaran masyarakat Melayu Islam dalam melaksanakan zakat emas perhiasan di negeri masing-masing.

Jadual: 4



Jadual 4, di atas menunjukkan peratusan pembayar zakat emas perhiasan mengikut jumlah keseluruhan dalam tempoh 7 tahun, mengikut negeri masing-masing. Daripada carta di atas dapat dilihat bahawa Selangor merupakan peratusan tertinggi melaksanakan pembayaran zakat emas perhiasan iaitu sebanyak 46% (15030) berbanding dengan negeri-negeri lain. Kutipan kedua tertinggi pula diikuti Negeri Sembilan dengan peratusan sebanyak 17% (5774), manakala peratusan terendah bagi pembayar zakat emas perhiasan adalah negeri Melaka dengan peratusannya sebanyak 11% (3491). Walaupun, penetapan uruf di Selangor merupakan paling tinggi berbanding dengan Pulau Pinang, Melaka, Negeri Sembilan dan Perak iaitu sebanyak

800 gram, namun kadar pembayar zakat emas perhiasan adalah paling tinggi. Sebaliknya Melaka pula merupakan negeri yang mempunyai peratusan terendah bagi pembayaran zakat emas perhiasan, walaupun kadar penetapan uruf lebih rendah berbanding dengan empat negeri lain di atas. Ini memberikan gambaran umum bahawa ia tidak dapat menjaminkan sejauhmana tahap kesedaran masyarakat bagi melaksanakan pembayaran zakat emas perhiasan. Dalam perkataan lain bahawa penetapan uruf zakat emas perhiasan mengikut negeri masing-masing sama ada uruf tersebut tinggi mahupun rendah, ia tidak menjaminkan sejauhmana tahap kesedaran masyarakat Islam terhadap pembayaran zakat emas perhiasan tersebut.

Jadual 5

Descriptive Statistics

	N	Minimum	Maximum	Mean
Perak	7	543.00	692.00	615.5714
Pulau Pinang	7	506.00	913.00	731.4286
Selangor	7	1167.00	2612.00	2147.1429
Negeri Sembilan	7	419.00	1100.00	824.8571
Melaka	7	228.00	1018.00	539.8571
Valid N (listwise)	7			

Sumber hasil kaji selidik dari pusat-pusat zakat

Jadual 5, adalah hasil maklum balas kaji selidik berkaitan dengan jumlah pembayar kutipan zakat emas perhiasan di lima buah negeri . Terdapat lima buah negeri yang terlibat dalam kajian ini , iaitu Perak, Selangor, Pulau Pinang , Melaka dan Negeri Sembilan , yang mana kesemua negeri ini tidak sama akan pemakaian uruf zakat emas perhiasan. Perbezaan penetapan uruf zakat emas perhiasan di negeri-negeri ini, mempengaruhi pembayaran zakat emas perhiasan dalam kalangan masyarakat Islam terutamanya golongan wanita.

Hasil kajian ini menunjukkan bahawa Perak merupakan paling minimum pembayar zakat adalah sebanyak 543.00 dan maksimum pembayar zakat emas perhiasan sebanyak 692.00. Seterusnya bagi negeri Pulau Pinang pula, minimum pembayar zakat adalah sebanyak 513.00 dan maximum adalah sebanyak 913.00 pembayar zakat emas perhiasan. Negeri Selangor pula pembayar minimum adalah sebanyak, 1167.00 dan maksimum adalah sebanyak 2612.00. Seterusnya bagi Negeri Sembilan pula minimum pembayar zakat emas perhiasan adalah sebanyak 419.00 dan maksimum sebanyak 1100.00. Bagi negeri Melaka pula, pembayar zakat emas perhiasan minimum sebanyak 228.00 dan maksimum sebanyak 1018.00. Data jumlah keseluruhan menunjukkan bahawa kedudukan paling rendah di antara kelima-lima negeri bagi minimum

adalah negeri Melaka iaitu sebanyak 228.00. Manakala kedudukan tertinggi bagi jumlah pembayar zakat emas perhiasan maximum adalah negeri Selangor iaitu sebanyak 2612.00.

Implikasi Dasar

Kajian ini menimbulkan beberapa implikasi penting iaitu pertamanya, keberangkalian peningkatan kepada kesedaran membayar zakat emas perhiasan adalah bergantung kepada penetapan uruf zakat emas di setiap negeri. Penetapan uruf zakat emas perhiasan dapat mempengaruhi pembayaran zakat emas perhiasan. Ini menunjukkan kesamarataan pemakaian uruf zakat emas perhiasan sangat diperlukan bagi meningkatkan kutipan zakat emas perhiasan. Selain itu, pihak institusi zakat perlu meningkatkan kefahaman masyarakat Islam di Malaysia melalui pelbagai cara, seperti sesi penerangan, program atau ceramah, aktiviti kempen termasuklah menggunakan saluran media sosial untuk meningkatkan kefahaman dan kesedaran terhadap masyarakat Islam terutamanya golongan wanita.

KESIMPULAN

Peningkatan kesedaran pembayar zakat emas perhiasan adalah penting di kalangan masyarakat Islam terutamanya golongan wanita. Pihak-pihak yang bertanggungjawab perlulah mengambil langkah-langkah yang lebih pro-aktif bagi meningkatkan kesedaran terhadap pembayaran zakat emas perhiasan di setiap negeri masing-masing. Masyarakat pula mestilah lebih cakna dengan pemakaian serta penetapan zakat emas perhiasan di bawah negeri masing-masing. Hasil kajian ini memberi gambaran bahawa kempen-kempen dan segala aktiviti penerangan dan dakwah berkaitan zakat emas perhiasan ini berjaya dilaksanakan dengan baik. Ini dapat dibuktikan dengan statistik pembayar zakat emas perhiasan yang tahu akan kewajipan zakat emas perhiasan, namun perlu ditambah baik lagi bagi meningkatkan kesedaran membayar zakat emas perhiasan yang berterusan. Selain itu, penetapan uruf zakat emas yang sama juga sangat penting dan mempengaruhi akan pembayar zakat emas perhiasan di Malaysia.

PENGHARGAAN

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Soal Kaji Selidik (FRGS) Terhadap Pusat-Pusat Zakat Negeri Di Malaysia.

**EZ026:
DETERMINANTS OF SUBJECTIVE POVERTY AMONG ASNAF POOR
AND NEEDY**

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Abstract

Standard national and international poverty lines is determined based on experts' definition, and referred to as "objective indicators of poverty". Nevertheless, most surveys acknowledge that these indicators are not exhaustive and, they do not necessarily yield a complete picture of the live experience of being poor. To address this, "subjective poverty indicators" based on individuals' assessment of their own poverty are also frequently included. This study's intention is to show to what extent "subjective poverty" is associated with respondent/household socioeconomic characteristics and social capital in order to unveil the primary risk factors of family poverty status. The focus will be on the associations between the household's subjective poverty proxy (the ability to make ends meet) and two sets of variables, respectively, the respondent/household socioeconomic characteristics and the individual/community social capital endowments. In the context of zakat institution, the current poverty measurement utilized objective measures such as PLI (poverty line income) and haddul kifayah. This study is conducted based on the concerns motivated by situations whereby applicants or individuals felt they were poor and deserved to receive zakat, but nonetheless, their applications were rejected due to objective indicators, which indicated that, they were non- poor. The empirical analysis was yielded from 507 respondents consisted of new or re-apply zakat applications categorized as asnaf poor and needy in Melaka. Data collected were then analyzed using the regression analysis. The findings showed that household socio-economy characteristics and individual/community social capital contributed to the prediction of subjective poverty status of households.

Keywords: Subjective Poverty, Socioeconomic, Social Capital, Regression Analysis, Poor and Needy.

INTRODUCTION

Poor people have their own understanding and interpretation of their social reality. This is often varied from other people's perspectives and that of the jargons sometimes used by academicians, politicians and consultants whose knowledge of poverty, often came from books, television, documentaries, newspapers and questionnaire interviews with the poor (Davids, Maphunye and Theron, 2005:37).

In fact, economists argued that the current poverty evaluations which use monetary indicators or objective approach were not able to reflect the nature of poverty (Nair, 2010). Recently,

economists added the subjective poverty approach to better understand the poor. Subjective data offered to expand the information set traditionally for assessing welfare and measuring poverty (Ravallion, 2012).

In Islam, *Zakat* is not only a religious duty; but it is also a socioeconomic commitment, proclaimed by Surah *At-Tawbah*, verse 103 which is *zakat* helps to bridge the economic imbalances or gaps between the rich and the poor in society. *Zakat* institutions are responsible to ensure that the *zakat* fund is distributed rightfully to proper and rightful *zakat* recipients. Studies by Abd Halim, Shawal, Ahmad & Kamil (2010) and Mohamad Saladin, Arifin & Mohd Fauzi (2010) mentioned about the ineffectiveness which took place in the identifications and selections of *zakat* recipients. Their study prompted for the necessity to find the rightful and proper *zakat* recipients, and that officer from the *zakat* institutions were encouraged to do fieldwork in order to search for *asnaf* (Abd Halim et.al, 2010). For example, Lembaga Zakat Selangor (LZS) was the first Baitulmal that took up new courage to form “Skwad Jejak Kemiskinan” (SJK) which employs their people to search for eligible *asnaf*, especially in urban areas within the Selangor districts. In fact, in 2011, a total of 533 new applications were found in Petaling Jaya districts. This figure showed that, using this strategy, there were those who were eligible but excluded from *zakat* funds out there, who needed to be out-reached.

In addition, there are potential *asnaf* who felt they are poor, and yet their applications were rejected by *zakat* institutions. These issues gave concerns on why individuals felt they deserve to receive *zakat* but, unfortunately the poverty measurements suggested that they were not poor. Hence, is it possible that with the current poverty measurements, these applicants are considered as non-poor.

The possible solution to avoid these situations whereby individuals are wrongly defined as poor or non-poor is to combine both objective and subjective indicators (Callan, Nolan & Whellan, 1993). Therefore, the main goal of this paper is to show to what extent subjective poverty is associated with respondent/household socioeconomic characteristics and social capital in order to unveil the primary risk factors of family poverty status.

LITERATURE REVIEW

Subjective Poverty

Subjective poverty means that individuals assess their poverty status by themselves, subjectively. People would simply be categorized as poor when they consider themselves to be poor (Niemietz, 2011).

According to Guagnano, Santarelli, Santini (2013), subjective poverty is the poor (respondents) own assessment of their own household economic well-being. Their study, conducted in Europe, stressed that subjective poverty is associated with at least three aspects: 1) the household

economic conditions, 2) the degree of family and social distress and 3) the level of community social capital endowment.

Researchers such as Goedhart, Halberstadt, Kapteyn & Van Praag (1977); Van Praag, Goedhart & Kapteyn (1980); Van Praag and Ferrer-i-Carbonell (2005) agreed that the aspects of poverty were not exclusively on objective measures, which was the level of income but also depended on people's perceptions and feelings on their well-being. This means that the poor own assessments towards poverty, are important to help better understand towards their needs.

Household Socioeconomic

Several empirical studies have shown how and to what extent in Europe self-perceived poverty (subjective poverty) is associated with household size and type, with available household resources (Van Praag & Van der Sar (1988); Ravaillon & Lokshin (2002); and Castilla (2010), with individual and household socioeconomic characteristics (i.e. gender, age, employment status, education, tenure status, the residence area).

Characteristics of the household and individual which form the fundamental of poverty analysis are divided into demographic, economic and social categories (World Bank, 2005). Demographic characteristics encompass household size and composition, dependency ratio and gender of the household head. Household compositions are observed in terms of the age and gender of its members, while dependency ratio is calculated as the ratio of the number of family members not in the labour force to those in the labour force in the household.

Social Capital Endowment

From the economic perspectives, social capital is 'social' because it generates externalities arising from social interaction (Collier, 1998). A strong correlation is found between household economic well-being and a range of factors such as housing quality, environmental/neighborhood conditions, and rates of crime and vandalism. Household well-being generally increases in line with high levels of social capital (Santini & Pascale, 2012).

Johannes (2009) implied three indicators for social capital, comprised of network membership, decision making index and network support or solidarity. The study also employed alternative procedures to consistently estimate the impact of social capital on household per capita expenditure. Results showed that, membership in associations and the indicator for decision making index were positively correlated with household per capita expenditure (i.e. poverty reducing)

Santini & Pascale (2012) encouraged further research to seek and identify which characteristics of individual/household socio-economic conditions and of community/household social capital endowment, exerted more influence on household poverty. In Malaysia's context, the study on

subjective poverty is still lacking and dearth. Thus, this study’s intention is to show to what extent subjective poverty is associated with respondent/household socioeconomic characteristics and social capital in order to uncover the primary risk factors of family poverty status.

DATA AND METHODOLOGY

For this study, the researchers used descriptive research as to study about the social phenomenon or behaviors under investigation, and to describe characteristics and social relationships of a population. The events can be either negative or positive in nature. In terms of variables, the dependent variables act as effect element, while the independent variables are cause element. The population of interest for this study is the *zakat* applicants for monthly food aid categorized as *asnaf* poor and needy. The *zakat* applicants consisted of those new and re-apply applicants. The survey was conducted from March to April, 2016. The total population comprised of 507 *zakat* applicants from Melaka districts.

Regression analysis, adapted from a study by Guagnano, Santarelli, Santini (2013), was used to assess the measure that the dependent variable could be explained by the set of independent variables. The regression analysis identified the associations between the household subjective poverty proxy (ability to make ends meet) and two sets of variables, respectively, the respondent/household socioeconomic characteristics and the individual/community social capital endowment.

Figure 1, below depicted the relationship between the independent and dependent variable. The dependent variable responded to the independent variables. The dependent variable (DV) for this study was the household subjective poverty proxy (ability to make ends meet). Meanwhile, the independent variables (IV) would influence the dependent variable.

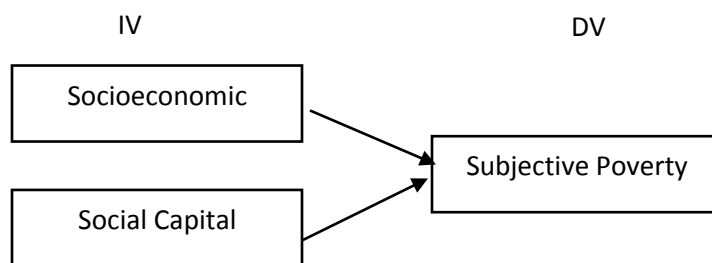


Figure 1: Theoretical Framework
 Source: Guagnano, Santarelli, Santini (2013)

The independent variables consisted of:

1. The respondent/household socioeconomic characteristics are : age, gender, marital status, education, employment status, low work intensity status, branch of activity, risk of poverty and social exclusion, general health, house/flat size, tenure status, dwelling type,

reasons for changing dwelling, household type, equivalized disposable income, poverty and deprivation indicator, financial burden of housing cost, debts, family/children allowances, social exclusion, housing allowances, cash and alimonies received.

2. The household/community social capital endowment. In particular, combining the elementary social capital indicators:
 - i. Social behavior (SB), related to those socioeconomic characteristics that facilitate/hinder the development of social and economic cooperative behavior;
 - ii. Social relationships (SR), related to potential and actual degree of social relationships;
 - iii. Territorial and environmental context (TC), related to those context characteristics which are significant determinants of social capital formation

The probability sampling through disproportional stratified sampling approach was applied. The researchers used this approach which involved a procedure in which the number of sample subjects chosen from various strata was not directly proportionate to the number of elements in the respective strata. All questions in each part used Likert-scale for obtaining the responses except for Section 1, whereby items used nominal and ratio measurement. Reliability Test, Descriptive Statistics, R Square, One-Way Anova and Regression Analysis were employed to get results.

ANALYSIS AND FINDINGS

In this section, the researchers would discuss the findings of the data that have been analyzed using the Statistical Package for Social Science (SPSS) and the results of statistically analysis are presented as follows:

Reliability Analysis

Cronbach's alpha coefficient was utilized in the present study along with composite reliability values to examine the inter-item consistency of the measurement items. The Cronbach's alpha values should be higher than 0.6 (Loewenthal, 2004). With respect to Cronbach's Alpha value, George and Mallery (2003) pointed out that the reliability which is higher than 0.9 is regarded as excellent, higher than 0.7 is good, higher than 0.6 is acceptable, higher than 0.6 is poor and lower than 0.5 is unacceptable. It was evident that all reliability values were higher than the recommended value of 0.6. Hence, construct reliability was confirmed. The result of all reliability analysis is shown in Table 2.

Table 2 shows, socio-economy variable were greater than 0.7, which is good for scale reliability, as accordance to George and Mallery (2003). Meanwhile, social capital variable, above 0.6 was acceptable. Overall, it means that the respondents answered the questions without bias, were consistent and stable, as Cronbach's Alpha for all variables was higher than recommended value of 0.6.

Table 1: Results of Reliability Analysis

Variable of Items	Number of Items	Cronbach Alpha	Items Deleted
Socio-economy	14	0.809	0
Social Capital	14	0.635	4

Descriptive Statistic (Frequency Distribution of Respondents Background)

A Frequency Analysis shows the frequency of occurrence of each score value of our research data. The objective is to obtain a count of number of responses associated with different values of the variable. This analysis is appropriate and suitable to analyze the questions in Section 1 (Respondent Background). The results of frequency analysis are shown in a Table 2. This table shows the frequencies of 7 items in the respondents' background of the total survey group among the *asnaf* poor and needy.

Table 2: Frequency Analysis of Respondents' Background

Items	Frequency	Percentage (%)	
Marital status	Single	0	0
	Married	349	68.8
	Divorced	158	31.2
Education level	Unschooling	86	17
	Primary school	54	10.7
	Secondary school	79	15.6
	SRP/PMR	67	13.2
	SPM	167	32.9
	STPM/Diploma	53	10.5
	Degree	1	0.2
Health condition	Good condition	58	11.4
	Health	55	10.8
	Moderate	96	18.9
	Not well	152	30.8
	Critical illnesses	142	28.1
Household income	< RM 999	422	83.2
	RM 1000 – RM 2000	74	14.6
	RM 2001 – RM 3000	6	1.2
	RM 3001 – RM 4000	1	0.2
	>RM 4001	4	0.8
No. of child	None	84	16.6
	1 – 3	193	38
	4 – 6	186	36.7
	7 - 10	44	8.7
No. of child school	None	203	40.1
	1 – 3	201	39.7
	4 – 6	93	18.7
	7 - 10	10	1.9
Physical disability	Yes	29	5.7

No	477	94.3
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Majority of the respondents were married (68.8%). Most of respondents about 167 with 32.9% finished their studies at SPM level. Besides, majority of respondents 'health condition were not well (30.8%) and have critical illnesses (28.1%) such as heart attack, high blood pressure, diabetes and so on. Most of respondents' household income were below RM 1000 (83.2%).

Based on the results, majority of the respondents have 1 to 6 children with 74.7 %. Meanwhile, number of respondents with 1 to 3 under schooling children is 39.7%. Approximately 94.3%, which was 477 of the respondents, have no physical disability.

Descriptive Statistic (Measure of Central Tendency and Variability)

Descriptive statistic is used to explore the data collected; it is particularly useful to make some general observations about the data collected. It would also give more information about the distribution of each variable. As to further discussion, Table 3 and 4, show the mean of all variables for this study. For household socio-economy characteristics, the greatest mean is 3.735 which indicated that most of the respondents agreed with the statement that they needed to have higher education level to get better jobs. According to Table 4, the highest mean of individual/community social capital endowment 3.369, for social relationship, which means that they must fulfil all basic needs including handphone, television, computer, internet access, and build a strong relationship with the society in order to survive in today's environment.

Table 3: Mean of Household Socio-economy Characteristics

Items	Mean
Age	3.587
Education level	3.735
Occupation	3.704
Household income	3.608
Health condition	2.986
Financial sources	2.787
Support from children	2.676
Support from family	2.964
Liability	2.841

Table 4: Mean of Individual/Community Social Capital Endowment

Items	Mean
Social behavior	3.176
Social relationship	3.369
Specific territorial and environmental characteristics	2.849

One-way ANOVA Analysis

The test statistics F-ratio is 22.333 is greater than the critical value 1.75 . Hence, we reject the null hypothesis and concluded that there is significant effect of social economy and social capital on household income.

Table 5: Analysis of One-way ANOVA

ANOVA ^a						
	Model	Sum of Squares	df	Mean Square	F	Sig.
1	Regression	49.257	2	24.629	22.333	.000 ^b
	Residual	555.796	504	1.103		
	Total	605.053	506			

a. Dependent Variable: Q25

b. Predictors: (Constant), Sociol capital, Socio-economy

Regression Analysis

Predictive power of the structural model is assessed by the values of the endogenous constructs. Cohen (1988) described values as substantial (0.26), moderate (0.13) and weak (0.02). However, when an endogenous latent variable relies on several exogenous latent variables, they should display a substantial level because values which show a lower result could cast doubts regarding the theoretical underpinnings and exhibit that the model is incapable to explain endogenous latent variables (Henseler, Ringle & Sinkovics, 2009). Assessment results displayed in Table 6, shows that the value of R² with 0.46; this means that variables (household socio-economy, individual/community social capital) explain 46% of the variance in household income which are significant as indicated by the F-value.

An examination of the T-values indicated that household socio-economy and individual/community social capital contributed to the prediction of household income. Of these two variables, household socio-economy provided the largest and strongest unique contribution (beta = .412). Meanwhile the beta value for individual/community social capital was slightly less (.0.281) indicating that it made less of a contribution.

Table 6: Summary of Regression Result (Dependent Variable: Household Income)

R square = 0.46		F = 22.333	
Variables	Standard Coefficients (Beta)	t	Sig.
Mean Socio-economy	0.412	6.078	0.000
Mean Social Capital	0.281	3.066	0.000

CONCLUSIONS

This paper aims to show to what extent subjective poverty is associated with respondent/household socioeconomic characteristics and social capital in order to unveil the primary risk factors of family poverty status. The results of this study concur Guagnano,

Santarelli, Santini, 2013, that showed self-perceived poverty (subjective poverty) in European countries associated with at least three aspects: the household socioeconomic conditions; the degree of family and social distress; the level of social capital endowment. The results of this study showed that Subjective Poverty among *zakat* applicants in Melaka is associated with respondent/household socioeconomic characteristics and social capital endowment. As a consequence, to create better solutions towards helping the *asnaf* poor and needy, poverty reduction policies should enhance household economic well-being and alleviate poverty not only through traditional income support measures, but also facilitating the development of desirable forms of social capital which could strengthen mutual trust and foster model behavior. It is important to recognize determinants of subjective poverty as guidelines for policy makers and *zakat* institutions in planning a more effective *zakat* distribution methods and development programs for the *asnaf*. In fact, subjective poverty aspects complement the uncertainties of absolute and relative poverty measures. These aspects are possible solutions in order to avoid situations whereby individuals are wrongly defined as poor or non-poor, which is to combine both, objective and subjective indicators (Callan, Nolan & Whellan, 1993) in determining the rightful *zakat asnaf* poor and needy recipients.

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EZ027:
**THE CONCEPT OF ZAKAT AND DEVELOPMENT: A CASE OF
MADRASAH EDUCATION IN BANGLADESH**

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Abstract

The payment of Zakat by the owners of wealth is one of the five pillars of Islam. It is acceptable in Islamic law to distribute Zakat to the eight categories listed when and where it is considered to be most needed. One of the top priorities of today is the education of young Muslims to preserve and develop their Islamic identity and self-awareness. This paper studies how Zakat contributes to developing madrasah (Islamic school) education and how it is a valuable way to help Islamic education in Bangladesh. It addresses the following questions: 1) how do madrasah manage their finance, income, and expenditures? 2) what type of the madrasah education system in Bangladesh? 3) are madrasah students eligible for food-for-education, textbook, and scholarship programmes? This paper will also study the potential effects of Zakat implementation within the context of contemporary society in developing madrasah education. Finally, it will offer suggestions and recommendations for future development.

Keywords: Zakat, Development, Madrasah Education.

INTRODUCTION

Zakat is an obligatory contribution of a Muslim to be spent on specified activities as listed in the Qur'an. Islam has clearly stated that the poor and destitute have their shares in the wealth of the rich. The existence of the system of Zakat and Sadaqah (charity) is to ensure that wealth will be equitably distributed in the Islamic economy and that the wealth should not be in the hands of a few greedy individuals. Islam guarantees the provision of basic needs; i.e. food, clothing, shelter, education, and healthcare to all. Many developing nations, including all the Muslim countries, since none of them has achieved a developed nation status, have been pushing and formulating development strategies to achieve sustainable economic development and improve their standard of living. One of the challenging tasks is how to plan an effective education strategy to establish and provide human capital according to the need of the nation. In this regard, the Muslim developing nations should focus on education in the primary, secondary, and tertiary education in science and technology to improve their capacity in research and development.

Zakat is one of the pillars of faith in Islam that emphasises socioeconomic development. Any discussion on Zakat in the context of worship cannot be disconnected from the socioeconomic

factor, especially in aiding the underprivileged based on the *Maslahat* (public interest) concept (Qardhawi, 1987). *Zakat* carries the meaning of producing a certain amount from a specific wealth for the benefit of those who are entitled to receive it as stipulated by Allah. The primary purpose of *Zakat* is to redistribute the wealth of the society among the poor (M.N. Siddiqui, 1978). *Zakat* is not purely welfare-oriented that relies on the contribution of the giver, but an obligation that must be carried out to qualified recipients. Therefore, it is pertinent that the management of *Zakat* is made efficient to ensure that the rights of the recipients and the society, especially for education in madrasah in Bangladesh. The paper begins with an introductory remark about the term *Zakat* with its development and education. This study will investigate how madrasah authorities manage their finance in particular from *Zakat* money. It discusses whether *Zakat* expenditure and education have a significant impact on economic activities in Bangladesh.

AIM AND OBJECTIVE OF THE STUDY

Zakat is a very important issue all over the world for development and successful democracy. This research examines the relationship between *Zakat* and development. It also shows the perception of Muslim scholars in *Zakat* money as to whether it can be used for educational purpose and how *Zakat* can be used in an organised way for human development.

METHODOLOGY

The analytical method is a form of qualitative research in which documents are interpreted by the researcher to provide the real explanation of the topic. Analyzing documents incorporate the themes, contents, and other fundamental issues through reading, skimming, and interpretation. Therefore, this study has been developed by reviewing current books, journals, reports, and publications. Various methodologies have been used, most importantly, library works, analysis of data and its compilation which relate to the madrasah education system of Bangladesh. This study also adopts a descriptive method that depends on contemporary literature, databases and papers presented at various conferences and seminars. At the same time, this study will deal with practical issues of madrasah education in Bangladesh using empirical method. The following figure 1 indicates the research method. (Developed by authors)

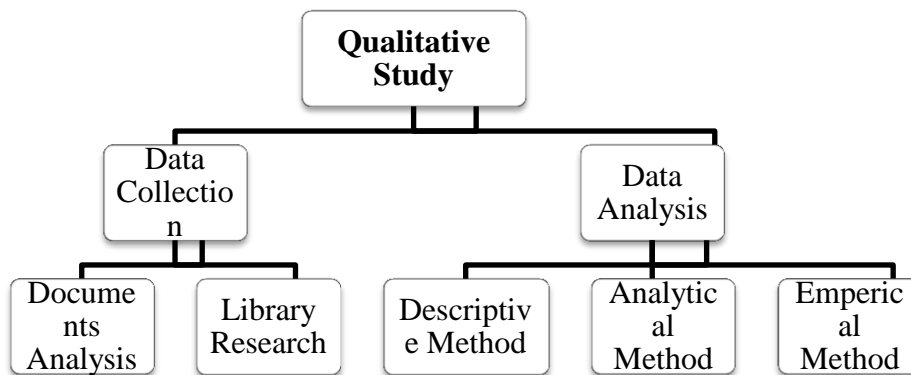


Figure 1: Research Methodology

SCOPE OF THE STUDY

The research component includes the definition of *Zakat*, normative frameworks, and the education system in Bangladesh. It discusses the education and development policy in Bangladesh from primary, secondary, higher secondary and higher degree in madrasah level.

ZAKAT AND DEVELOPMENT IN ISLAM

Development is an important issue in Islam. Bangladesh as a small country having a large population makes development an important issue requiring proper action. To make it more effective it should be included in the formal, informal and non-formal education system in the country. According to Kahf (1999) as quoted by Bakar and Rashid, (2010), the United Nations General Assembly recognised that sustainable development is an urgent social and ecological need. Education is an indispensable element for achieving sustainable development leading to the declaration of the 10-year period beginning 2005 as the Decade of Education for Sustainable Development (DESD). Sustainable development is part of peace education. In this regard, *Zakat* helps to achieve sustainable human development because the main objective of *Zakat* is the achievement of socioeconomic justice. *Zakat* funds might be used in development projects, educational services, and health care services as long as the beneficiaries of such projects fulfil the criteria to be recipients of *Zakat* (Hassan, 2010). *Zakat* has been proven as a unique mechanism of wealth distribution. Bakar and Rashid (2010) states that if Muslims truthfully applied the system of *Zakat* as ordained by Allah and His Messenger, the splendid objectives of *Zakat* were fulfilled. In line with that, *Zakat* serves as a unique mechanism of compulsory transfer of income and wealth for bridging the gap between the rich and the poor in the society (Bakar & Rahman, 2007). In other words, *Zakat* as a financial system will integrate to bridge the rich-poor gap and reduce social problems in the Muslim and may contribute to economic activities to achieve sustainable development. In short, according to Zaim (1989) *Zakat* also has a multiplier effect on the economy.

THE REAL CONCEPT OF ZAKAT

Zakat is one of the five pillars of Islam, which has been made obligatory by Allah to Muslims to carry out. According to the basic principles of Islam, the *Zakat* institution has to be established first within the Muslim society in a well-organised way (Shawal, 2009; p. 1). In another definition, *Zakat* is a portion of a man's wealth which is designed for the poor (Bakar & Rahman, 2007). In addition, *Zakat* is an obligation in respect of funds paid for a specified type of purpose and specified categories. It is a specified amount prescribed by Allah the Almighty for those who are entitled to *Zakat* as specified in the Quran. The word *Zakat* is also used to indicate the amount paid from the funds that are subjected to *Zakat* (AAOIFI, 2010). The obligation to pay *Zakat* is linked to the order to perform prayer as stated in the Holy Qur'an.

A strong emphasis is placed to abide by such obligations among Muslims. Prayer is an act of worship expressing a Muslim's gratitude for the bodily blessings bellowed by Allah, while *Zakat*

is an act of worship expressing a Muslim's gratitude for Allah's financial gifts (Awang & Mokhtar, 2012). There is no doubt that *Zakat* is essential as a social welfare levy imposed on the Muslim society's wealthier members and more prosperous businesses and thus helps to close the gap between the poor and the rich (Abdul Rahman & Awang, 2003). *Zakat* requires the financially able to contribute a sum of money in order to support specific groups of people, according to eight categories (Ghani & Said, 2011). The practice and management of *Zakat* differ between countries, although in early Islamic states, *Zakat* funds were collected and managed by the state, *Zakat* management has gone through historical challenges after the extinction of early Muslim states (Hassan, 2010).

THE PHILOSOPHY OF ZAKAT

Prophet Muhammad (peace be upon him) has considered poverty a serious matter to eradicate the poverty. His stand on poverty could be seen when he reminded his companions that *Zakat* must be disbursed to assist the poor. A similar stand was held by Imām Abū Hanifah who declared that the wealth of *Zakat* must be used to protect the welfare of the poor (al Qardhawi 1987). In relation to this, Khaf (1999) argues that *Zakat* is an instrument to eradicate poverty among the members of the Muslim society. To obtain this objective, the *Zakat* fund must be utilised to develop the economy of the Muslims so that the wealth of *Zakat* could be regarded as productive assets to achieve this means. However, *Zakat* distribution aims to alter the lives of the poverty-stricken by making them rich. For this purpose, *Zakat* is not necessarily being given to all categories if there are those who need more *Zakat*. With regard to this, Muhamad Abdul Mun'im (1997) maintains that the obligatory nature *Zakat* should become a catalyst to aid the Muslims in four aspects through the goal of *Zakat* distribution to resolve the poverty issues, to establish social justice, to develop a society based on love, mutual solidarity, brotherhood and to purge from the poor feelings of hatred and animosity that they might have for the rich. In this context, M. Shabri (1998) also argues that *Zakat* has its strength as it unites the Muslims, builds better relations between them and makes the Muslims work together. *Zakat* also functions as a welfare instrument to overcome economic issues or as a means to stabilise the economy of the Muslims.

VIEWS OF SCHOLARS ON ZAKAT FOR EDUCATION

The views expressed by the founders of three scholars of jurisprudence, namely Shafi, Malik, and Ahmed bin Hanbal are noteworthy. "According to Malik and Ahmed bin Hanbal, the amount paid in *Zakat* must be enough for one-year requirement. Imam Shafi treats this in a life term perspective and maintains that the poor should be given *Zakat* enough for their lifelong requirements of a normal life span" (Hassan, M. K., 2006). A Fatwa issued by the International Shari'ah Board on *Zakat* (ISBOZ) explains that *Zakat* funds might be used in undertaking development projects, educational services, and health care services as long as the beneficiaries of such projects fulfil the criteria to be recipients of *Zakat* (Kahf, Monzer, 2006). According to Ibn Taymiyyah (in his fatwa 28; 274) *Fee-Sabeelillah* means (spending) to fund the *Mujahideen*

who are not given enough from *Bait-al-Maal* to carry out *Jihad*. In his manual '*Fiqh-al-Zakat*' Sheikh Yusuf Al-Qaradawi says that he does not favour expanding the term "*fee-Sabeelillah*" to include many items of expenditure. He does, however, accept that *Jihad* is not specifically limited to the physical act of fighting in defence of the *Ummah*. It includes, he says, "saying a word of truth to an oppressive ruler". It is not allowed to use *Zakat* under the heading of *fee-Sabeelillah* to fund buildings, bridges, hospitals or mosques. It is allowed to pay for people calling others to Islam (*da'ye*) and those teaching the religion of Islam directly. In a more extended sense, it can also refer to the production and distribution of Islamic books and materials to spread the message of Islam, although some caution is called for in this latter respect.

Another heading "*Lil-Fuqara*" means the poor; i.e. those with no income or no means of support. Someone in such a position may not have the resources to educate his or her child in an Islamic way, being unable to pay school fees. Such a person may be given *Zakat*. Contemporary scholars such as Sheikh Ibn Gibrien and Sheikh Ibn Qaoud say that it is allowed to give *Zakat* to those Muslims who do not have sufficient earnings to cover their children's education needs, or to enter them into Muslim schools in non-Muslim societies where the only alternative would be to enter the children into Christian or secular schools. Sheikh Ibn Qaoud believes that it is necessary to give the *Zakat* direct to the recipient who then has to hand it to the school, whereas Sheikh Ibn Gibrien feels it is permissible to pay the *Zakat* direct to the school in payment of the fees as long as the parents or guardians of children concerned are aware that the fees have been paid in part or in full out of *Zakat* funds. Another heading *Lil-Masakeen* which means *Zakat* may be payable in respect of children's education is that of *Al-Masakeen* (the needy). That is, if someone has a job, a house and necessities, but is unable to afford the expense of sending his/her children to a Muslim school.

MADRASAH EDUCATION IN BANGLADESH

Madrasah education is one of the important trends in education and human development in Bangladesh. The following figure 2 indicates types of madrasah education in Bangladesh. (Developed by authors)

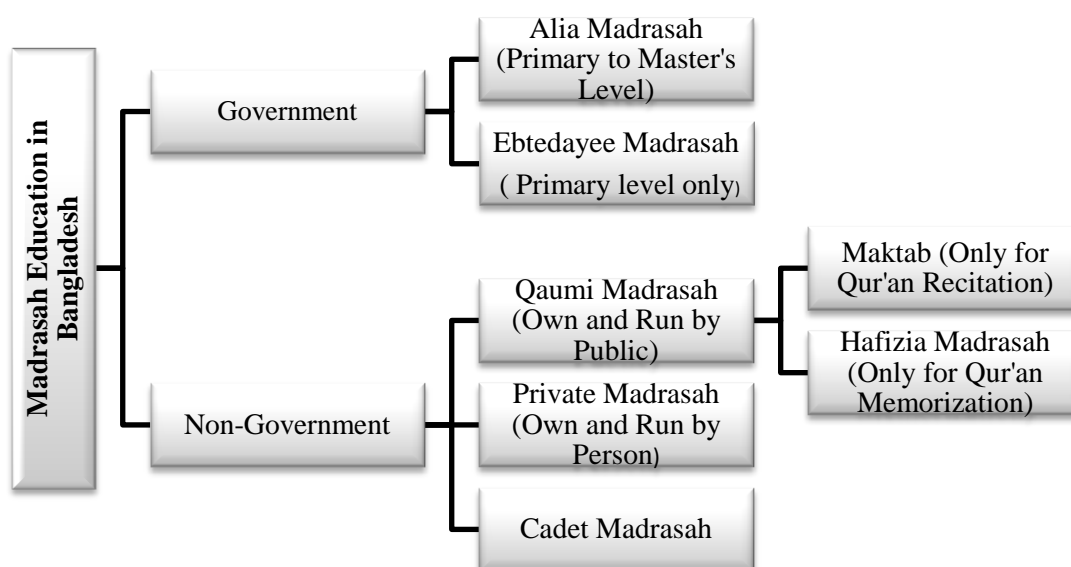


Figure 2: Types of Madrasah Education in Bangladesh

Primarily, there are two types of madrasah in Bangladesh, i.e. *Añliya* and *Qaumi*. *Añliya* madrasah are state supported madrasah with a modified *Dars-e-Nizami* curriculum with the inclusion of general education courses. *Añliya* madrasah are also known as mainstream madrasah. On the other hand, the *Qaumi* madrasah operate outside state support and recognition, with donations and charities. As the degree of *Qaumi* madrasah is not recognized by the state, the scope of entry into general education and job markets is very limited. Apart from these two types, we may identify some categories of pre-*Ebtedayee* or feeder type madrasah, the graduates of which may enter either *Añliya* or *Qaumi* stream. These include *Maktabs* (mosque-based or independent informal neighborhood religious institutions), *Noorani* madrasah (another pre-primary or feeder madrasah) and *Hafizia* and *Furqania* madrasah. Then we have a substantial corpus of *Ebtedayee* (primary) madrasah mostly attached to *Dakhil* (junior secondary) *Alim* (Intermediate) *Fazil* (Degree) *Kamil* (Master) madrasah. But there are scores of independent *Ebtedayee* madrasah as well. Any reference to *Ebtedayee* madrasah would signify *Añliya* category but we must mention that *Qaumi* stream also has its version of *Ebtedayee* madrasah. The other is called as Cadet madrasah, which mingles all subjects of conventional college education with the usual Islamic sciences, using English as the medium of instruction for general subjects and Arabic for Islamic religious subjects. The quality of teaching in these two madrasah is better than that of public or private sector colleges. These two excellent attempts have initiated from the private sector without financial and logistical support from the government (Hossain, 2007).

BACKGROUND AND HISTORICAL DEVELOPMENT OF MADRASAH EDUCATION

Bangladesh is the one of the largest populated countries in the Muslim world. The establishment of madrasah education in Bangladesh went back to the ascendancy of the Delhi sultanate in the 13th century. However, during the British era, Governor Warren Hasting established the first *Añliyah* madrasah, initially known as the Calcutta Madrasah in 1781. In addition, in the late 1970s and early 1980s the government introduced financial incentives to madrasah to modernize, if the madrasah would register and introduce modern courses alongside religious subjects. Drawing upon administrative data, Asadullah and Chaudhury (2008) shows that the impact of financial incentives offered by the government is not significant. Therefore, a proper collection and distribution of *Zakat* money is very essential to help needy madrasah students in Bangladesh. The table 1 below shows the number of institution in both government and private sector.

Table 1: Profile of Madrasah Education in Bangladesh

Serial	Name and type of Madrasahs	Total Number of Madrasahs
1	Government Funded (<i>Añliya</i>) Madrasahs	6,906
2	Teachers in <i>Añliya</i> Madrasahs	100,732
3	Students in <i>Añliya</i> Madrasahs	18,78,300
4	<i>Qaumi</i> Madrasahs	6,500
5	Teachers in <i>Qaumi</i> Madrasahs	130,000
6	Students in <i>Qaumi</i> Madrasahs	14,62,500
7	Total Number of Madrasahs (<i>Qaumi</i> + <i>Añliya</i>)	13,406
8	Total Number of Students (<i>Qaumi</i> + <i>Añliya</i>)	3,340,800

Source; Mumtaz Ahmad, "Madrasah Education in Pakistan and Bangladesh", Asia Pacific Center for Security Studies, 2005.

In Bangladesh, there are a large number of students in the country living in poverty along with many wealthy and rich people. It is obvious that a large gap between the rich and poor in the society. Every year the rich-poor gap is widening, posing a threat to social coherence (Haque, 2006). However, *Zakat* helps to provide basic human rights like food, clothing, shelter, education, and medical care. Muslims believe that if all wealthy and rich Muslims start paying their obligatory charity properly (not partially, not individually) then poverty, illiteracy and unemployment will be reduced to a great extent from the country. The *Zakat* based socioeconomic programme should be implemented on the basis of Islamic framework. A state policy has been made that also includes absolute trust and faith in Almighty Allah as the basis of all actions, and He ordered Muslims to pay *Zakat*. If Muslims do not pay *Zakat*, it goes against the Muslim Law. However, many have not properly taught about paying *Zakat*, especially in madrasah education in Bangladesh. Therefore, this study discusses the issues of *Zakat* and development to contribute in education sector.

ZAKAT FOR EDUCATION AND ITS APPLICATION IN BANGLADESH

Zakat can play a significant role in Muslim socioeconomic development, if it is used properly. Hence most Muslims do not pay *Zakat*, the number of poor and needy in the Muslim world

increases every day. *Zakat* is an obligation of Muslims to give a specific amount of their wealth with certain conditions and requirements to beneficiaries called *al-Mustahiqqin*. There are eight categories of people and services for whom and which it is permissible to pay *Zakat*. The Quran says:

“Alms are for the poor and the needy, and those employed to administer the (funds); for those whose hearts have been (recently) reconciled (to Truth); For those in bondage and in debt; in the cause of Allah; and for the wayfarer: (Thus is it) ordained by Allah, and Allah is full of knowledge and wisdom.” (Tawbah, 9:60)

A valuable way to help the cause of Islamic education, particularly in non-Muslim countries and in critical circumstances, is to pay *Zakat Fee-sabeelillah* (in the way of Allah) or *Lil-Fuqara* (for the poor). Such use of *Zakat* is approved by the major schools of Islamic thought. So the parents who cannot afford school fees to educate their children, they will be identified by the Muslim schools or other educational institutions the children attend or hope to attend if the fees can be paid. The *Zakat* is given to them and is used to pay their fees and, if required, other necessities of their education. Teachers and propagators of Islam are also entitled to be paid from such a special *Zakat* fund. It is acceptable in Islamic Law to distribute *Zakat* to the eight categories listed above when and where it is considered to be most needed. One of the main priorities of today is the education of young Muslims, in order to preserve and develop their Islamic identity and self-awareness. Islamic scholars consider it as a fundamental duty for parents to ensure that their children receive a sound Islamic education. Allah the Almighty has said in the Qur'an:

“Protect yourselves and your families from the fire...” (Surah Al-Tahrim 66:6)

The guidelines should be used by schools, madrasah and other educational institutions concerning the use of *Zakat* to meet their expenses. Essentially, there are three general headings under which *Zakat* may be payable for the advancement of Islamic education. The following figure 3 indicates the categories of *Zakat* recipients. (Developed by Authors)

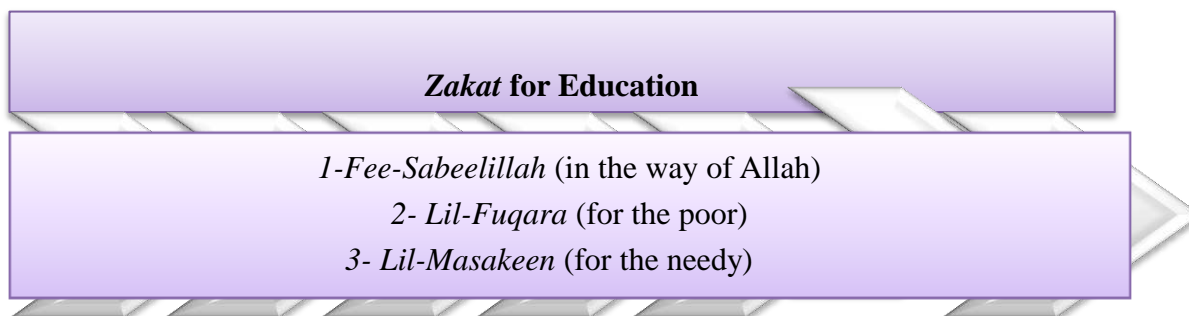


Figure 3: Categories of Zakat Recipients for Education

ZAKAT INSTITUTIONS IN BANGLADESH: A CASE OF CZM

Bangladesh has a dual system of *Zakat* management where the payment of *Zakat* is voluntary. Matters pertaining to *Zakat* are governed by the *Zakat* Fund Ordinance, 1982. There is no effective or structured method for *Zakat* distribution in Bangladesh. Too often, rich people buy charitable items for distribution via relatives, local government representatives (union council chairman or members) or mosque imams and head teachers at local madrasah (Islamic school). Some also distribute clothes or food in orphanages out of their *Zakat* money. A large amount of money is collected and there is a more possibility to collect more of *Zakat* collection every year in our country. According to Bureau of Islamic Economics, *Zakat* collection in 2010 was about Tk. 110 billion or 1.4 billion USD, which was equivalent to 1.4 percent of GDP (Asif Ibrahim, 2012). A study conducted by CZM found that Bangladesh can collect approximately 25,000-30,000 crore Taka (USD2.9 to 3.00 Billion) in each year. If it is collected through proper channels using proper methods. Another study has shown that the currently there are 60 million families in Bangladesh who are living in extreme poverty. With this 3 billion USD more than USD 500 can be invested to these 60 million families each and their extreme poverty will be eradicated within a year (The Financial Express, 13 Jun, 2014, Dhaka). In the private sector in Bangladesh, there are a number of volunteer organizations set up to collect and distribute *Zakat* amongst the people properly. Among the *Zakat* Institutions, Centre for *Zakat* Management (CZM) which is a non-government organization.

A STUDY OF CENTRE FOR ZAKAT MANAGEMENT (CZM)

Center for *Zakat* Management officially started its Journey on 14th September of 2008. CZM is an organization which collects and distributes *Zakat* in a systematic way. The structure of CZM in the figure 4 below. (CZM website: <http://czm-bd.org>.)

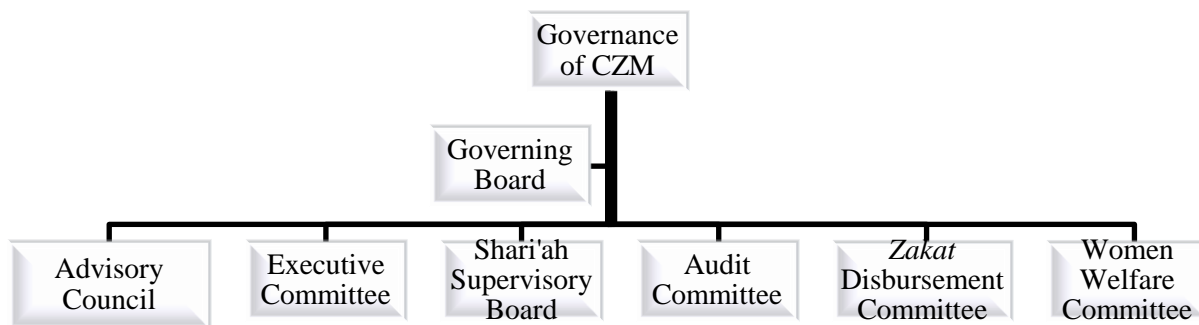


Figure 4: Governing Structure of CZM

The organization has a selection committee, which basically looks up the people who are in need of *Zakat*. This committee arranges the proper steps through which people may receive this *Zakat* aid. In Bangladesh, CZM collects more amount of *Zakat* and distributes it within a systematic

and professional way. The table 2 shows the activities of CZM. (CZM website: <http://czm-bd.org>)

Table 2: Programs & Activities of CZM

SI	Name of the Programs	Objectives	Activities
1	Jeebika – Livelihood & Human Development Program.	Ensuring sustainable socio-economic development of the hardcore poor.	It provides services like healthcare, safe water & sanitation facilities etc.
2	Mudareeb – Micro Enterprise Development Program	The overall goal of <i>Mudareeb</i> is to reduce poverty through the creation and development of micro-enterprises	The group is provided with small investment fund for scaling up of their existing businesses.
3	Genius – Scholarship Program for Undergraduate Students	Support the undergraduate meritorious students to their smooth academic study and career building process.	Providing monthly stipends during first two years in the undergraduate level, conducting different career building courses and counseling sessions.
4	Ferdousi – Primary Healthcare Program	Providing healthcare services & awareness building for distressed women and children	To set up pre-primary education center for each 25-30 distressed children of the slum areas of capital city Dhaka and rural areas.
5	Gulbagicha – Pre-primary Education & Nutrition Program	To improve the quality of lives of the children through providing education, food and health services to bring emancipation from an unpleasant environment.	To set up pre-primary education center for each 25-30 distressed children of the slum areas of capital city Dhaka and rural areas. They are provided books, education materials and dresses free of cost.
6	Insaniat – Emergency Humanitarian Assistance Program	To extend financial support to those people who are affected by different types of disasters.	Supporting hospitalization of patient for emergency medical treatment in specialized hospital and by consultant doctors
7	Da'wah – Advocacy and Awareness Building Program	The main objective of this program is to awareness building and propagation of <i>zakat</i> payment as religious duty of a Muslim.	Various events including individual, corporate meeting, seminar, symposium, workshop etc.
8	Naipunna Bikash – Vocational Training for Unemployed Youth	The program aims to provide skill development and vocational training to the unemployed youth.	The program is being implemented through three vocational training centers with the facilities.

The above table portrays that CZM plays a vital role in socio-economic development in different projects of Bangladesh through *Zakat* money. Its provide scholarship for undergraduate students namely 'Genius Scholarship' to support their smooth academic study and career building process. In addition, CZM conducts different career building courses and counseling sessions with a view to motivate them for social service, they are involved in CZM's livelihood & human development projects.

CONCLUSION AND FINAL REMARKS

In conclusion, it is clear that *Zakat* as a benchmark could estimate the economic growth and contribute to economic development in terms of education. Although the results of this paper are theoretical, analytical and empirical examination, but still more research need to be conducted for future development. This paper has examined that madrasah education is an essential element for the development of moral and ethical human beings. It is one of the main priorities of today's education of young Muslims in order to preserve and develop their Islamic identity and self-awareness. It is a social enterprise engaged in the mobilisation and proper distribution of wealth. In the Qura'nic view, *Zakat* is a way to redistribute the wealth, thus increasing the flow of cash in the economy with a particular interest in the poor, especially in the education of their children. In Bangladesh, Islamic education has spread due to the significant support of the common people. As a result, the leaders or social aristocrats were bound to broaden the scope of Muslim religious education. *Zakat* (charity), education and development are very important for the country. Because, education will help to bring intercultural solidarity, political tolerance, and religious harmony, successful democracy, understanding of human rights and responsibilities as well as inner peace from the personal level to the state level. It will also create opportunities for self-employment as Bangladesh is a developing country where resources are limited. Therefore, sustainable development of madrasah education is very important in Bangladesh.

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**EZ028:
INTEGRATING MICROFINANCE IN CORPORATE ZAKAT
RESPONSIBILITY MODEL**

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Abstract

Social justice is applicable for Islamic banks in terms of corporate social responsibilities, zakat, charity or benevolent loan. In fact, Islamic Financial Institutions (IFIs) are expected to pay business zakat as part of their compulsory obligation towards religion of Islam. There has been extensive practice of corporate social responsibility among Islamic financial institutions in Malaysia by using zakat fund. Thus, the purpose of this study is to propose the corporate zakat funding for Corporate Zakat Responsibility (CSR) to be channeled for microfinancing. The model is termed as integrating microfinance in 'Corporate Zakat Responsibility Model' and it has an essential role to maintain the image of IFIs as Islamic organizations.

Keywords: Corporate zakat responsibility, zakat, microfinance, Islamic Financial Institutions (IFIs), Asnaf

INTRODUCTION

Islam upholds social justice in Muslim community by redistributing the wealth from rich to poor people. Islamic Financial Institutions (IFIs) operating under Islamic law are expected to support the social justice. IFIs practiced social justice in terms of corporate social responsibility (CSR), *zakat*, charity, waqf, and benevolent loan. Among all those mentioned, *zakat* is religious obligation applicable on Muslims while others are voluntary acts. However, there are different opinions as to whether IFIs should pay corporate *zakat* or not. Although there is no confirmation that the corporates must pay *zakat* stated either in Quran or Hadith, there is a sort of consensus that Islamic banks must pay corporate *zakat* (Abdul Ghafar, Achmad & Muhammad Ali Jinnah, 2013). On the other hand, many countries view that CSR plays major roles in enriching the image of IFIs. Thus, CSR is preferable measure of social justice and has been practiced widely in the global world of Islamic finance rather than *zakat*.

Zakat is also viewed as tax for some IFIs. They prefer to contribute their abundance money for the purpose of CSR as compared to *zakat*. Hence, there have been extensive practice among IFIs

to conduct CSR projects and activities by using *zakat* fund such as Bahrain Islamic Bank, Arab Banking Corporations Islamic Bank and Bank Islam Berhad Malaysia (Kamla & Rammal, 2013). Apart from CSR, a remarkable growing body of literatures have suggested an innovative way in helping the poor and needy, namely microfinancing. Generally, microfinance has gained a universal consensus whereby it helps in alleviating poverty and improving economic well-being of the society by fulfilling self-employment, forming of new firms and improving the gap of income inequality (Bakhtiari, 2006; Khandker, 2005; Littlefield, Morduch & Syed Hashemi, 2003).

However, the lacking part of it, is the ability of the IFIs in uplifting the socioeconomic conditions of the *zakat* recipients via *zakat* fund. The payment of *zakat* is vital for people who qualify as *zakat* recipients (*asnaf*) since it helps them to survive. However, microfinancing has a greater impact as it become a catalyst in changing the lives of the *zakat* recipients and turning them into *zakat* payers later. Thus, the aim of this study is to propose an innovative dimension of microfinance through Corporate *Zakat* Responsibility Model (CZRM).

REVIEW OF PREVIOUS STUDIES

Corporate *Zakat*

Zakat is the third pillar of Islam after *shahadah* and performing *solat*. From the linguistic perspective, *zakat* means to cleanse or to purify the dirt. It also terms as growth, praise and increase. Theologically, it means to purify oneself in terms of his property and spiritual by performing *zakat* (Qaradawi, 2011). In practice, *zakat* means giving out specific wealth from those who are qualified to eight types of *zakat* recipients. There are two types of *zakat* prevalent in Quran and Hadith, namely *zakat* on wealth and *zakat* fitrah. *Zakat* on wealth can be divided into several categories; namely *zakat* on income, *zakat* on business, *zakat* on crops, *zakat* on gold, *zakat* on share, *zakat* on savings, *zakat* on silver, *zakat* on livestock and *zakat* on Employees Provident Fund (EPF). So, the IFIs are responsible to pay corporate *zakat* which can be calculated based on two approaches.

Method 1: Working Capital (Syar'iyah)

$$\text{Zakat} = [\text{Current Asset} - \text{Current Liability} \pm \text{Adjustment}] * \text{\% Muslim Share Ownership} \times 2.5\%$$

Note. Must exceed the current nisab

The working capital method is calculated based on the current assets and deducts current liabilities and has allowance for necessary adjustments. Adjustments are made by adding or deducting pre-specified items. This method is suitable for the companies that have current market price for their assets and liabilities such as limited, private limited, cooperative, business, industry and others.

Method 2: Growth Capital (Urfiyah)

$Zakat = [\text{Owner's Equity} + \text{long Term Liability} - \text{Fixed Asset} - \text{Half Fixed Asset} +/- \text{Adjustment}] * x \% \text{ Muslim Share}$

Ownership x 2.5%

Note. Must exceed the current nisab

The growth capital method is calculated based on owner's equity and other financing sources and suitable for financial institutions and Islamic banks where there is classification of current asset and current liability ("Pusat Pungutan *Zakat* - MAIWP", 2016)

Facts and figures about IFIs

The development, expansion and acceptance of IFIs around the world are strongly related to the prohibition of *riba'* and the needs for an alternative system toward conventional banking system. Since the IFIs are viewed as ethical banking institutions that run their operations in-line with the Islamic principles, it is expected that they view *zakat* as an obligation. Based on annual report 2014 of 16 Islamic banks listed in Bank Negara Malaysia, more than RM1 billion corporate *zakat* funds have been distributed by themselves not through *zakat* institutions. Seven out of sixteen Islamic banks listed under Bank Negara Malaysia has reported that apart of CSR project has been funded by *zakat* fund (Abd Samad and Said, 2016).

Zakat fund can be used for microfinancing

The concept of microfinance has been introduced since 1970s pioneered by Grameen Bank in Bangladesh with the main purpose to provide financing to the small entrepreneurs due to lack of collateral in order to increase their income and wealth. The microfinance scheme has proven to be one of the effective tool in eradicating absolute poverty, improving the economics and wellbeing for the poor and also creating various job opportunities mostly in agricultural sector. The term microfinance refers to "the provision of financial services to low income clients including self-employed, low income entrepreneurs in both urban and rural areas" (Ledgerwood, 1999). The provision of financial services includes a wide range of services such as credit, insurance, savings, deposits and payment services to poor and low income households whose are not qualified to receive these services under conventional banking because of insufficient collateral and business credit qualification (Johnson & Rogaly, 1997; Robinson, 2001; Littlefield, Murdugh & Hashemi, 2003).

The integration of the microfinance concept under Islamic banking system is seem to be related with the purpose of having Islamic banking as a whole. According to Dusuki (2008), Islamic banking system is not just concerned with refraining from charging interest for every transaction, but it is the system that aims at making a positive contribution to the fulfilment of the socio-economic wellbeing as prescribed in *Maqasid syariah* (the objectives of shari'ah). Therefore,

Islamic microfinance model has been accepted as the issue of financing to the poor is not unfamiliar to the Islamic finance system. Among the common Islamic finance products and instruments that could addressing the needs and demand for the poor entrepreneur in microfinance scheme are participatory profit and loss sharing mode such as *mudharabah* and *musharakah*, cost plus sale like *murabahah*, voluntary charitable contract like *tabarru'*, pawning contract known as ar-rahn and the most popular is financing without collateral or known as benevolence loan (*qard al hassan*).

Previous studies confirmed that *zakat* fund can be given as microfinancing to the poor or needy. This issue has been debated and discussed in the First Seminar on the Management of *Zakat* in Modern Society, 1985 (Yusof, 1973). Based on the major *qiyas*, it is practically true to prevent the poor and needy from taking conventional loans that have the element of *riba'*. Moreover, Lembaga *Zakat* Selangor (LZS) practiced *Zakat* Micro Finance (ZMF) to eradicate poverty. The microfinancing based on the interest-free loans must be conducted in accordance to *Syariah* laws and requirements (Patmawati and Ruziah, 2014). Therefore, extensive studies have been conducted to show the successful of microfinancing through *zakat* fund in uplifting socio-economics of *zakat* recipients (Ahmad, Ab Rahman and Wahid, 2011; Hamdan, Othman and Wan Hussin, 2012; Ibrahim and Ghazali, 2014).

Comparative Analysis on Microfinancing in Malaysia

LZS has started their microfinancing scheme whereby the *zakat* funds are distributed to the *zakat* recipients in the form of working capital and equipment. It is called as *Zakat* Micro Finance (ZMF), intended to tackle the problem of poverty by educating the *zakat* recipients to initiate their own business. The contract is based on the concept of *qardh al-hassan* whereby each recipient will be given a basic course of business including financial management and motivation prior to their business startup.

Apart from LZS, other institutions such as Amanah Ikhtiar Malaysia (AIM), Yayasan Usaha Maju (YUM) and Economic Fund for National Entrepreneurs Group (TEKUN) have given microfinancing opportunities in the forms of loan or financing as well as financial services. All of these institutions provide interest-free loan but different in terms of their management fees (AIM 10%; YUM 10-18%; TEKUN 4%) and compulsory savings (AIM 2%; YUM 2%; TEKUN 5%). In terms of credit repayment rates, AIM has the highest rate (99%) followed by YUM (90.72%) and TEKUN (85%). One of the success factors for the AIM is their training modules and monitoring activities to all of their credit recipients (Fatimah Salwa, Mohamad Azahari & Joni Tamkin, 2013). AIM's capabilities in effective risk management helps them in avoiding their recipients from defaulting their microfinancing. Each recipient is grouped together into few groups whereby the group members will play peer-pressure roles in motivating each other to facilitate rapid repayment. In the case of credit default, other recipients within the same group will help in raising funds to help the defaulters (Norma and Jarita, 2010).

PROBLEM STATEMENT

Problem encounters by IFIs

Some of the IFIs regarded *zakat* as a burden of obligation. They prefer to utilize the *zakat* fund by organizing CSR projects and activities. The main problem by using *zakat* fund for CSR programme is limited to eight categories of *zakat* recipients only that could lead to unequitable distribution of *zakat* since the amount contributed by IFIs is so huge. The second problem is the time constraint and limited staff capacity to identify the qualified *zakat* recipient. So, the model is expected to address the constraints faced by IFIs.

***Zakat* recipients' major problem**

Apart from that, it can be considered as a general practice among *zakat* institutions in Malaysia while most of the *zakat* payments were given to the *zakat* receivers in the form of cash. It will then lead to a problem of *zakat* dependency among *zakat* recipients since they are not able to improve their well-being. Hence, the model of microfinancing from *zakat* fund is proposed to solve these problems. It is expected that *zakat* recipients can use this microfinancing scheme to open up new business venture and improve their socioeconomic conditions. At the end, this scheme can also assist them in transforming themselves from being *zakat* receivers to *zakat* payers in the future.

Gap identified based on comparative analysis on microfinance program

Based on the current microfinancing scenarios in Malaysia as mentioned above, AIM has contribute successful factors in terms of risk sharing to repay the loan can be an exemplary model for other institutions. Secondly, majority of the microfinancing model aims at helping the poor to exit from the life of poverty and hardships and finally become successful entrepreneurs. Thus, it is our interest to combine the roles of *zakat* and microfinancing in uplifting the socioeconomic conditions of the final year students or graduated students to become the owner of company and employer who can provide job opportunities to others.

The innovation in this work is threefold:

1. The integration of the IFIs with the university as a trustee might help in developing the integrated Islamic microfinance into CZR model.
2. The risk of managing the *zakat* fund is totally transferred to university because the university is responsible to handle the *zakat* fund management. Meanwhile, IFIs is responsible to make sure there are positive impacts from this program which also credited to their institution's image.
3. To our knowledge no microfinance institutions provide financing for students. Therefore, the proposed model itself is significant to uplift the living standard of poor by giving the option to become an employer rather than an employee.

INTEGRATING MICROFINANCE IN CORPORATE ZAKAT RESPONSIBILITY MODEL

Corporate *Zakat* Responsibility (CZR) is practiced widely by IFIs in Malaysia. In practice, there are two mechanisms of conducting CZR activities. Some of the banks apply *zakat* refund policy before distribute the *zakat* to *zakat* recipients while others distribute the *zakat* privately to the *zakat* recipients without going through *zakat* institutions. *Zakat* refund policy refers to a practice whereby the *zakat* institution refund third eighth of *zakat* paid to the original corporate or institution's payer as an agent (*wakeel*) to distribute the *zakat* directly to *zakat* recipients (Abd Samad, 2013). At least, three selected categories are eligible under this policy which are; poor, needy, those who serve in the cause of Allah (*jihad*) and/or the new converts (*mualaf*). The process flow of CZR is shown in Figure 1.

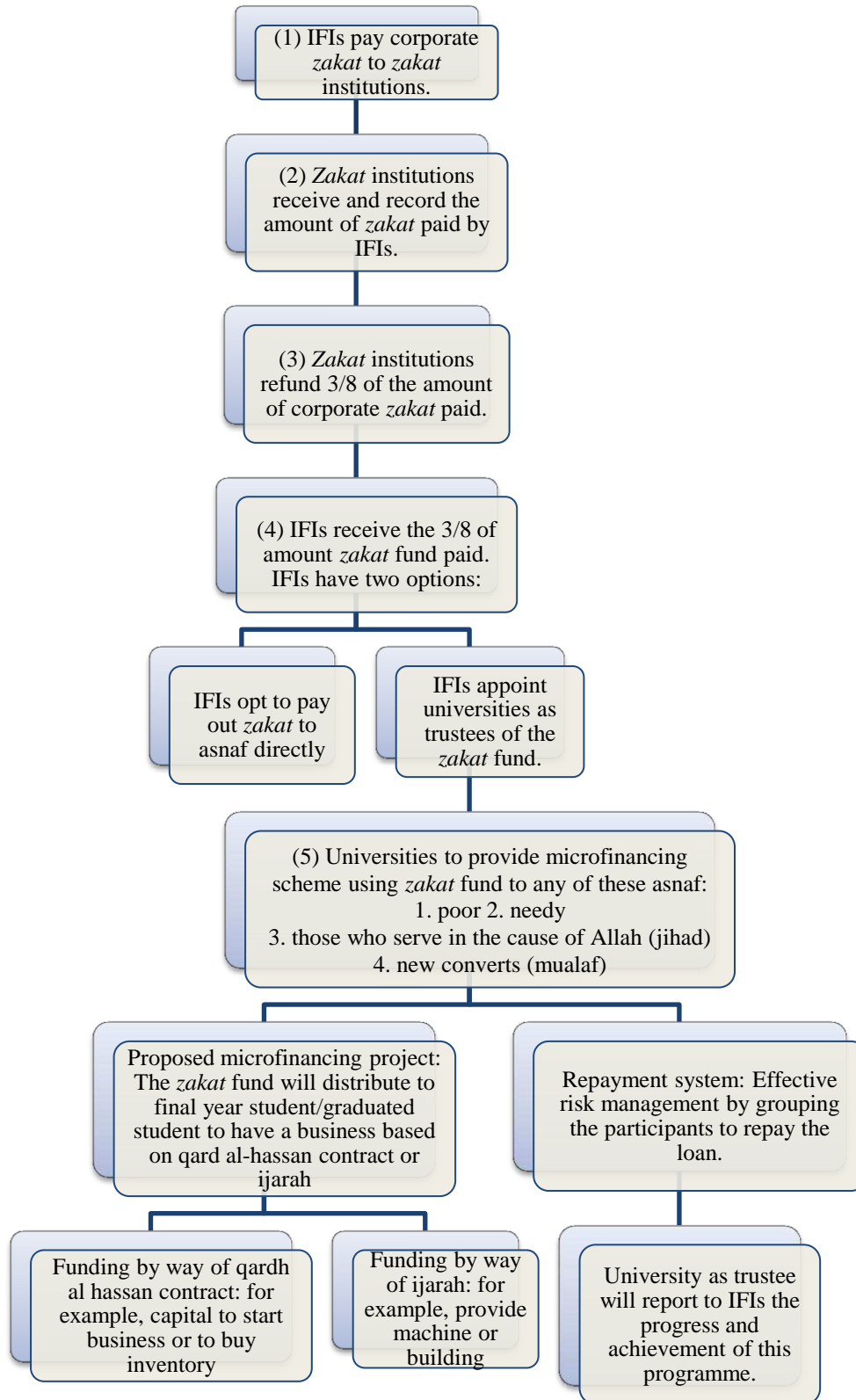


Figure 1: Proposed process flow of Integrating Microfinance into Corporate Zakat Responsibility (CZR)

DISCUSSION

The idea of proposed model in Figure 1 (step 1 to step 4) is basically refer to *Zakat* Refund Program (ZRP). Pusat Pungutan *Zakat* Majelis Agama Islam wilayah Persekutuan (PPZ MAIWP) has introduced ZRP, an incentive to attract more *zakat* payers among the big corporations in Kuala Lumpur to dive in experiencing both as *zakat* payers and *zakat* distributors. This idea of ZRP came across due to issues arising from misunderstanding among the public claimed the *Zakat* institutions did not played good job in distributing the *zakat* fund to the right *zakat* recipients. In fact, ZRP has been practiced over a decade by *zakat* institutions in other states not only in Wilayah Persekutuan.

The ZRP works by refunding three eighth or 37.5 percent of the *zakat* paid to the *zakat* payers to be distributed to the miskin (poor), fakir (needy) and fisabilillah (those who serve for the cause of Allah) *zakat* recipients without interventions of *zakat* institutions. This opportunity offers *zakat* payers to experience the responsible of *zakat* distribution and freedom to choose their *zakat* recipients. The rationale to refund only three eighth is because MAIWP is allowed to distribute the *zakat* refund to at least three categories of *zakat* recipients mentioned before. The distribution of *zakat* refund is made based on the contract of wakalah. For example, IFI paid *zakat* amounting to RM100,000 and was eligible for *zakat* refund, 37.5 percent from the *zakat* payable is RM37,500. The IFI must distribute the fund to three out of four categories of *zakat* recipients; miskin (poor), fakir (needy), fisabilillah (those who serve in the cause of Allah) and muallaf (the new converts). The IFI is qualified to get refund if satisfied the six conditions below:

1. It is a company/organization that pays corporate *zakat* only,
2. Payments are made to the PPZ-MAIWP,
3. Payment is not made in the name of an individual¹⁰,
4. There is no minimum limit prescribing the *zakat* payment,
5. Refund will be granted to the company/organization that applies only,
6. Application should be made in the same year as the *zakat* payment.

The amount of *zakat* refunded to IFIs is really a huge amount. Refer to annual report 2014 of 16 Islamic banks listed under Bank Negara Malaysia, Islamic banks has distributed *zakat* to the eligible *zakat* recipients and institutions as part of Corporate Social Responsibilities and not as a form of business capital to productive *zakat* recipients. Hence, the study propose step 5 in Figure 1 for IFIs to enhance their *zakat* distributions to the University as a trustee to distribute the *zakat* fund as micro-financing for students who qualified as *zakat* recipients. Consequently, the model would enhance the socio economic of the students as roleplay of an entrepreneur and directly will augment economic society.

CONCLUSION AND RECOMMENDATION

This article proposes a model that integrates microfinancing with CSR program funded by corporate *zakat* among IFIs. However, there is a need for in-depth studies on the applicability of *zakat* as a mode of financing for the *zakat* recipients. Besides, experiences from institutions that have implemented microfinancing need to be examined since this model requires specialized skills in managing risks inherent in the proposed innovative structure of the contract. Proper guidelines and channels in *zakat* distribution will help IFIs to be successful in order to expand its outreach to the *zakat* recipients.

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**BS029:
OBJEKTIF SYARIAH DALAM PERBANKAN DAN KEWANGAN ISLAM:
TINJAUAN AWAL TERHADAP PENENTUAN KEUNTUNGAN**

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Abstrak

Objektif Syariah adalah satu garis panduan yang ditentukan oleh para ulama untuk mengatur perjalanan masyarakat dalam mengecapi keadilan dan kesejahteraan hidup. Ianya membicarakan penjagaan lima perkara iaitu agama, nyawa, aqal, keturunan dan harta. Objektif Syariah ini digunakan dalam semua aspek ekonomi dan sosial yang terkandung di dalamnya urusan Perbankan dan Kewangan Islam. Namun demikian, perjalanan Perbankan dan Kewangan Islam masakini masih dipertikaikan asasnya secara mikro dari sudut Objektif Syariah lebih-lebih lagi dalam membicarakan soal kebajikan sosial, keadilan dan ehsan. Kebanyakan Perbankan dan kewangan Islam menekankan keuntungan maksima dalam mencapai objektifnya sehingga ada yang mengatakan bahawa tiada beza di antara Kewangan Islam dengan konvensional, yang membezakan hanya penggunaan aqad kontrak sahaja. Oleh itu meneliti pemahaman di atas, kertas kerja ini bertujuan mengupas dan menilai objektif syariah terhadap perbankan dan kewangan Islam khususnya berkaitan dengan penentuan keuntungan dengan mengambil kira pandangan dan ulasan pemikir-pemikir ekonomi moden. Disamping itu juga sub objektif kertas kerja ini ialah untuk menyusun ke arah membina satu model objektif syariah yang mengkhususkan kepada Perbankan dan Kewangan Islam dengan mengambil kira perbincangan pemikiran ekonomi semasa berkaitan penentuan keuntungan.

PENDAHULUAN

Penentuan keuntungan dalam kewangan Islam berpandukan maqasid syariah (tujuan syariah) menjadi persoalan yang perlu disedari dan patut diterokai oleh masyarakat Islam hari ini. Ini kerana pertumbuhan penduduk muslim yang inginkan kepada produk kewangan dan perbankan Islam telah menunjukkan satu peningkatan yang drastik (Abdul-Majid, Saal et al. 2009) dan mendorong wujudnya pola permintaan orang ramai. Dikatakan juga, ciri-ciri kewangan Islam seperti tidak menerima riba, judi, bahan lucuh, arak dan perkara yang bertentangan dengan akhlak serta sosial (Abdul-Majid, Saal et al. 2009) telah menjadi tarikan serta minat yang mendalam daripada masyarakat pada hari ini. Rentetan daripada itu kewangan Islam yang telah memasuki fasa yang mencabar ini tidak boleh lari daripada menentukan kadar keuntungannya.

Disamping itu objektif Syariah adalah satu garis panduan yang telah ditentukan oleh para ulama bagi mengatur perjalanan masyarakat di dalam mengecapi keadilan dan kesejahteraan hidup. Ianya membicarakan tentang penjagaan lima perkara iaitu agama, nyawa, aqal, keturunan dan harta. Objektif Syariah ini digunakan dalam semua aspek termasuk ruang yang merangkumi ekonomi dan sosial. Perbankan dan kewangan Islam juga tidak terkecuali daripada menggunakannya di

mana secara ironinya ia menatijahkan kepada ekonomi dan kebajikan sosial (Dusuki. Asyraf Wajdi, 2008). Namun demikian, pengamalan Perbankan dan kewangan Islam hari ini kurang menunjukkan ke arah menjaga Objektif Syariah lebih-lebih lagi dalam membicarakan ekonomi dan kebajikn sosial serta keadilan dan ehsan. Kebanyakan mereka menggunakan kaedah konvensional umpamanya keuntungan paling maksima dalam mencapai objektifnya sehingga ada yang mengatakan bahawa tiada beza di antara perbankan kewangan Islam dengan Konvensional, hanya yang membezakan penggunaan aqad kontraknya sahaja (El-Gamal, 2006). Kertas kerja ini membincangkan beberapa teori harga dan untung berkaitan dengan definasi, konsep dan penentuannya. Seterusnya melihat sejauhmana hubungkaitnya dengan maqasid syariah serta pengamalannya dalam Perbankan dan kewangan Islam.

Pendefinisian

Harga

Dalam Kamus Dewan "Harga" didefinasikan sebagai nilai sesuatu barang yang ditukarkan dengan wang. Ini bermakna harga mestilah sesuatu barang yang berharga dan dinilai dengan wang. Kar E. Case dan Ray C. Fair mendefinisikan harga sebagai; "*The amount paid for one Unit of a good. It reflects what society is willing to pay*"

Definasi di atas sama dengan pandangan yang dikemukakan oleh *Alfred W. Stonier* dan *Douglas C. Hague* (1964). Mereka mengatakan harga ialah "sesuatu benda di mana benda itu dapat ditukar dengan benda yang lain (Alfred W. Stonier & Douglas C. Huges, 1964). Pendapat lain mengenainya ialah sepertimana yang diberikan oleh *David D. Friedmen* (1986). Beliau mengatakan bagaimana harga ditentukan dengan fungsinya : "*The explanation of how relative prices are determined and how prices function to coordinate economic activity*".

Dari definasi dan pandangan di atas, harga dilihat serta diertikan dalam konteks yang terlalu umum. Ini adalah kerana terdapat barangan yang tidak dikira dengan nilai wang tetapi mempunyai nilai yang tinggi. Begitu juga terdapat barangan yang boleh ditukar dengan wang tetapi tidak mempunyai nilai yang tinggi bagi membeli atau mendapatkan barangan yang lain. Oleh itu pengertian di atas kurang berapa tepat dengan kehendak ekonomi dan perbankan, malah terlalu jauh untuk dikaitkan dengan teori harga itu sendiri kerana persoalan yang ditimbulkan ialah bagaimana pula dengan upah, sewa dan perkhidmatan yang lain yang kebiasaannya digunakan dalam amalan perbankan dan kewangan, adakah ia termasuk dengan pengertian harga atau adakah ia setakat menyokong dalam menerangkan pengertian harga. Untuk menjawab persoalan ini, pengertian harga diterangkan oleh sekumpulan penyelidik dari New York. Mereka mengatakan ;

"Harga boleh didefinasikan sebagai sejumlah wang atau satu nilai terhadap sesuatu pinjaman atau kontrak bagi satu unit barangan atau perkhidmatan yang ditawarkan antara kedua belah pihak iaitu penjual dan pembeli. Ini disimpulkan harga ialah hasil

bersih bagi setiap perkhidmatan atau discounts yang ditawarkan kepada pembeli."
(Edward S. Mason, C.M. et al, 1943)

Dengan ini pengertian di atas mengandungi perkara-perkara yang khusus dan lebih terperinci iaitu :

1. Upah, contohnya upah yang dibayar kepada pekerja atau buruh biasanya tidak ditentukan tarikh dan masa.
2. Gaji, contohnya nilai wang yang dibayar setiap bulan atau tahun kepada pekerja atau buruh.
3. Sewa, contohnya nilai wang yang dibayar setiap kadar sewa bulanan atau tahunan rumah.
(F.W.Paish, 1967)

Perbincangan di atas menunjukkan bahawa pengkhususan tidak semata-mata ditumpukan kepada barangan tetapi diaplikasikan kepada perkhidmatan, sama ada perkhidmatan biasa atau profesional. Maka bolehlah kita definisikan harga sebagai: "Satu jumlah yang bernilai, dibayar bagi sesuatu barangan dan perkhidmatan dalam bentuk upah, gaji dan sewa."

Melalui definisi ini maka pengkajian mengenai harga menjadi lebih penting terutama di dalam menangani masalah-masalah ekonomi sama ada ekonomi mikro atau makro dan begitu juga ekonomi kewangan dan perbankan.

Dalam menentukan harga, kebiasaannya firma terikat dengan beberapa pemikiran teori tertentu seperti meletakkan kebebasan dalam menentukan harga. Harga yang ditentukan adalah bergantung kepada teori permintaan dan penawaran dalam pasaran. Jika permintaan dalam sesuatu pasaran itu tinggi maka firma atau perbankan dan kewangan Islam akan menaikkan harga barangan dan perkhidmatan yang hendak ditawarkan. Manakala jika permintaan dalam pasaran tiada maka lebihan akan berlaku dan harga yang akan ditawarkan adalah rendah. Mereka yang berpandangan kepada kebebasan harga akan terus berpandangan bahawa harga yang turun naik dalam pasaran tadi akan menjadi sebebnya, menyebabkan berlakunya keseimbangan harga dalam pasaran. Keseimbangan ini menyebabkan harga tertentu dan kuantiti tertentu telah diterima dan diredhai oleh firma serta pengguna iaitu pembeli. Hal ini menatijahkan harga yang telah ditetapkan adalah sesuai dan sepadan dengan kehendak masing-masing. Cuma persoalan yang timbul adakah harga yang seimbang dan sepadan itu benar-benar dapat menyelesaikan masalah harga kepada mereka yang tidak mampu dan miskin. Perbankan dan kewangan Islam perlu menyedarinya, ini kerana instrumen dan produk yang diperkenalkan kepada pengguna ianya perlulah benar-benar dapat dirasai oleh semua pengguna dan menyeluruh.

Keadaan lain dalam menentukan harga ialah dengan berpaksikan kepada teori berpusat, bermakna harga yang hendak ditentukan mestilah merujuk kepada satu kuasa atau kerajaan yang

tertentu. Atau kita katakan sebagai ekonomi berpusat, tidak timbul siapa yang berhak untuk menentukan harga sama ada penjual atau pembeli. Jika kuasa pusat telah menentukan harga maka semua pihak sama ada penjual atau pengguna patut menerima dan melaksanakannya. Persoalan yang timbul dalam keadaan ini ialah berkaitan dengan kualiti dan kehendak pembeli. Ini akan menyebabkan kualiti yang ditawarkan oleh penjual tidak bagus kerana penjual sudah merasakan tidak perlu melaksanakan sesuatu kerana harga tidak berada dalam keadaan bebas. Semangat yang ada pada penjual menjadi luntur kerana mereka tidak boleh bersaing untuk menaikkan atau menurunkan harga bagi mengejar keuntungan. Begitu juga kepada kauntiti yang ditawarkan hanya bergantung kepada arahan pusat atau kerajaan. Selain itu kemungkinan semangat rakyat akan menjadi kurang kerana tiada persaingan dalam pasaran dan pekerjaan.

Untung

Dalam kamus dewan untung diertikan sebagai pendapatan atau perolehan sesuatu kegiatan melalui perniagaan atau perusahaan dengan di tolak modal dan segala perbelanjaannya. Dengan kata lain ia adalah lebih selepas perniagaan dan perusahaan (Teuku Iskandar, 1970). Manakala dalam ekonomi untung ialah hasil perniagaan dan perusahaan ditolak dengan modal yang digunakan pada perniagaan tersebut. Pengertian untung dalam ekonomi boleh dirujuk daripada professor M. Bronfenbrenner di mana beliau mengatakan untung adalah pulangan bersih selepas kita menggunakan modal implisit (Bronfenbrenner, Martin, 1971).

Perkembangan untung dalam ekonomi boleh dilihat melalui pemikir ekonomi seperti Adam Smith (1723 - 1790) yang menghasilkan karya agongnya '*Wealth of Nations*'. Beliau tidak banyak membicarakan untung di dalam bukunya malah lebih membicarakan konsep lebih implisit yang mana mirip kepada perbicaraan tentang untung. Menurutnya teori yang berkaitan lebih implisit adalah nilai tambah kepada hasilan pekerja.

Menentukan harga dan untung : Firma mempunyai objektifnya tersendiri, kebiasaanya dalam konvensional firma berperanan menentukan keuntungan mengenai perniagaan yang dijalankan dengan bermatlamatkan keuntungan yang paling maksima. Kaedah firma menentukan keuntungan adalah melalui dua keadaan, pendekatan dengan menggunakan jumlah keseluruhan (*total Approach*) dan pendekatan menggunakan sut dan kos sut (*Marginal Approach*). Formula yang digunakan ialah dengan jumlah hasil (*Total Revenue, TR*) di tolak dengan jumlah kos atau modal (*Total Cost, TC*). Cara mendapatkan jumlah hasil adalah dengan mendarabkan harga yang dijual pada masa tertentu kepada jumlah kuantiti pada jualan tertentu, (*Price X Quantity, P X Q*). Kemudian di tolak dengan modal, $TR - TC = \text{Untung}$.

Bagi mengkaji bagaimana firma menentukan keuntungan maka firma bergantung kepada kos atau modal yang dibelanjakan. Firma akan mempunyai keuntungan normal di mana jumlah hasil yang dijual adalah sama dengan jumlah kos atau modal. Bermakna firma tidak untung dan tidak rugi, ini dipanggil sebagai keuntungan normal (*zero economic profit*), seterusnya firma akan

mendapat keuntungan yang paling hebat atau untung positif (*positive economic profit*) jika jumlah hasil yang dijual adalah melebihi dengan jumlah modal atau kos dan terakhir firma akan mendapat keuntungan yang negatif (*negative economic profit*). Ketiga-tiga jenis untung ini kebiasaan berjalan dalam dunia perniagaan pada hari ini.

Dari sudut perspektif Islam, secara umumnya dalam menentukan untung para ulama mengambil kaedah dalam al-Quran Surah al-Baqarah ayat 16 yang bermaksud: *Mereka itulah orang-orang yang memberi kesesatan dengan petunjuk, maka tidak beruntunglah perniagaan mereka dan tidaklah mereka mendapat petunjuk* (al-Quran, 2:16). Ini bermaksud untung adalah lebihan atau pulangan terhadap modal yang di belanjakan. Ringkasnya kita boleh katakan bahawa para peniaga berhak menentu dan mendapatkan keuntungan dalam aktiviti perniagaannya. Untuk itu peringkat mikro para ulama melihat keuntungan dari dua aspek iaitu pertama aspek zakat dan kedua aspek mudarabah. Zakat bermakna tambahan atau berkembang, bermakna zakat yang dikenakan kepada umat Islam kerana sifatnya yang berkembang dan bertambah. Manakala yang kedua ialah mudarabah, iaitu keuntungan dari segi pertambahan terhadap modal itu sendiri dan juga pertambahan setelah di tolak dengan segala usaha perkhidmatan dan perbelanjaan dalam menjalankan mudarabah.

Selain itu para ulama juga menetapkan beberapa kadar keuntungan yang patut dikenakan oleh para penjual dengan menggunakan dua pendekatan: pertama ukuran yang tetap dan kedua ukuran berubah iaitu tidak tetap. Bagi ukuran tetap dengan meletakkan kadar keuntungan tertentu seperti 1/10, 1/5, 1/3, 1/6 dan 1/4 manakala tidak tetap memberikan penentuan itu berdasarkan kepada uruf. Sungguhpun begitu kadar keuntungan yang dikenakan masih lagi bergantung kepada keadaan tidak mencapai kepada tahap yang melampau atau zalim.

Objektif Syariah

Objektif syariah adalah kaedah yang digunakan para Ulama untuk mendapat kebaikan dalam masyarakat atau memperolehi *maslahah*. Dalam Bahasa Arab Ibn Munzir mengatakan *maslahah* ialah setiap perkara yang mengandungi manfaat sama ada melalui menghasilkan atau mendapatkan segala faedah-faedah tersebut atau menjauhkan dan menolak segala kemudaratan. (Ibn Munzir, t.t.) Dalam Kamus *Mu'jam Wasit*, (Ibrahim Mustafa; et al, t.t.) *maslahah* disebut sebagai kebaikan dan manfaat, Manakala *Lewis Ma'luf* dalam al-Munjd menyatakan *maslahah* sebagai perkara yang mendatangkan kebaikan iaitu perlakuan-perlakuan manusia yang boleh mendatangkan manfaat kepada diri dan bangsanya. (Lewis Ma'luf, 1992) Dari segi istilah Al-Razi mendefinisikan *maslahah* sebagai suatu manfaat yang menjadi objektif syarak untuk hambanya bagi menjaga agama, nyawa, akal, keturunan dan harta. (al-Razi, t.t.) Imam al-Ghazali (1993) mendefinisikan *maslahah* sebagai mendapatkan manfaat dan menolak kemudaratan bagi mencapai tujuan syarak dan kepentingan manusia. Penjagaan lima perkara di atas dikatakan juga sebagai menjaga *maslahah* dan setiap tindakan bagi mematuhi terhadap lima perkara tersebut di anggap sebagai *mafsadah* (kerusakan) (Al-Buti, 1982). Begitu juga al-Tufi mendefinisikan

masalah kepada dua aspek iaitu aspek ‘uruf dan syarak (Husayn Hamid Hasan, 1971). Dari segi syarak, *masalah* ialah sesuatu perkara yang menjurus kepada pensyariatan atau hukum syarak (Mustafa Zayd, t.t.). Daripada definasi-definasi yang diberikan secara umumnya *masalah* menjadi penting bagi mencapai objektif syariah, maqasid syariah. Secara ringkasnya lima perkara dalam maqasid syariah ialah:

1. Menjaga agama dan moral; Islam menjaga perkara *Daruriyyah* dengan cara mengadakan dan meniadakan. Contohnya untuk menghasilkan harta, Allah SWT telah mewujudkan alam dengan pelbagai isi kandungan, manakala untuk memeliharakannya Islam mengharamkan mencuri, riba, merosakkan harta, *Ihtikar*, monopoli di samping Islam juga mewajibkan hukuman potong tangan ke atas pencuri (Al-Zuhayli, 1996).
2. Menjaga nyawa; menjaga nyawa adalah amat penting dan setiap individu mesti menjaga dan memeliharakannya. Contohnya Allah SWT telah menjadikan manusia di dunia ini iaitu dengan mengadakannya manakala dari segi menjaganya maka hukuman Qisas diwajibkan dalam al-Quran.
3. Menjaga keturunan; Allah SWT telah mencipta manusia daripada lelaki dan perempuan, bagi menjaga keturunan menjadi baik dan tidak bercelaru maka Allah mewajibkan hukum perkahwinan dan melarang kepada maksiat dan perlakuan zina kerana ia boleh merosakkan institusi kekeluargaan.
4. Menjaga Aqal; Allah SWT telah menjadikan dan mengadakan aqal dan pemikiran manusia maka bagi menjaga aqal menjadi sempurna dan baik serta harmoni maka Islam melarang daripada merosakkan aqal. Umpamanya perkara yang boleh merosakkan aqal adalah diharamkan seperti pengharaman kepada arak, dadah dan seumpamanya.
5. Menjaga harta; dari sudut *daruriyyah*nya Allah SWT telah mengadakan harta di atas muka bumi ini seperti segala nikmat yang tersedia di dunia ini. Maka bagi menjaganya maka Islam melarang mencuri, riba, monopoli, melakukan kezaliman dengan menaikkan harga yang tinggi bagi mendapat keuntungan yang melampau.

Melihat kepentingan masalah dalam mencapai objektif syariah ulama menambah kepada dua pembahagian lagi iaitu *Hajiyyah* dan *Tahsiniyyah*. Ini bermakna pembahagian masalah itu menjadi 3 dengan sedia ada tadi iaitu *Daruriyyah* (Al-Syatibi, t.t.)

Hasil perbincangan di atas dapat dilihat bahawa objektif syariah (OS) yang sedia ada menggariskan kaedah yang menyeluruh dan tepat bagi menyelesaikan permasalahan ekonomi seperti kewangan dan perbankan Islam, terutama kepada persoalan harga dan untung. Cuma yang menjadi persoalan OS yang ada perlu diperluaskan dalam perbankan serta kewangan Islam secara tuntas. Kebanyakan perbankan dan kewangan Islam hanya memenuhi penjagaan yang minima sahaja, umpamanya pada nama iaitu dengan tertubuhnya perbankan Islam sebagai satu institusi perbankan dan kewangan Islam di Malaysia. Dari sudut penjagaan harta perbankan Islam telah memenuhi syarat yang dikehendaki di mana kebanyakan produk yang diperkenalkan

oleh bank Islam adalah tidak berlandas konvensional dan semuanya berpaksikan kepada syariah. Dari sudut penjagaan aqal, nyawa dan keturunan mungkin boleh diperkemas lagi terhadap produk-produk yang baru bakal diperkenalkan, serta aktiviti-aktiviti yang selaras OS dan perbankan, kewangan Islam. Berkaitan dengan penentuan harga dan keuntungan OS perlu diperkemas lagi dengan menambah kepada penjagaan alam sekitar serta keadilan dan *ihsan*.

KESIMPULAN

Hasil dari perbincangan di atas maka dapat disimpulkan betapa perlunya satu kajian bagi mendapatkan model penentuan keuntungan yang sesuai dan selari dengan perkembangan ekonomi semasa. Penemuan model ini akan dapat menyelesaikan beberapa permasalahan yang berlaku seperti kenaikan harga barangan, ketidaktelusan dan kezaliman kepada mereka yang miskin dan tidak mampu. Model yang dicadangkan mestilah berdasarkan kriteria-kriteria objektif syariah dan masalah.

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BS031:
AL RAHNU: ALTERNATIF SISTEM KEWANGAN ISLAM DALAM
MASYARAKAT MAJMUK

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Abstrak

Kewujudan Ar-Rahnu atau sistem pajak gadai Islam di Malaysia kian mendapat sambutan yang menggalakkan di kalangan rakyat Malaysia tidak kira Muslim mahupun non-Muslim. Sifatnya yang adil dan telus serta patuhi syariah dapat membantu mereka yang memerlukan wang dengan kadar yang segera. Ia juga merupakan salah satu instrumen pinjaman bagi golongan yang berpendapatan rendah di seluruh Malaysia tanpa mengira bangsa. Walau bagaimanapun, persoalan timbul apabila kebanyakan masyarakat Malaysia khususnya non-muslim mula beralih dari sistem pajak gadai konvensional yang diperkenalkan lebih dahulu kepada sistem Ar-Rahnu. Justeru, artikel ini bertujuan untuk mengkaji faktor kecenderungan serta sejauh mana kelebihan skim ini memenuhi keperluan masyarakat majmuk di Malaysia. Oleh itu, bagi membuktikan kajian penulis akan menggunakan pemerolehan data melalui dokumentasi dari penyelidikan lalu dan metode analisis perbandingan ke atas sistem pajak gadai konvensional dan sistem Ar-Rahnu. Hasil dapatan kajian mendapati dasar prosedur pinjaman yang mudah, telus dan adil adalah sangat mempengaruhi penerimaan masyarakat terhadap sistem kewangan Islam.

Kata kunci: Ar-Rahnu, pajak gadai konvensional, masyarakat majmuk.

PENDAHULUAN

Kewangan Islam dibentuk dalam arus dunia kewangan konvensional yang menekankan bahawa wang dapat melahirkan wang tanpa perlu menanggung risiko perniagaan seperti jual beli. Untuk menyusuri arus tersebut, para sarjana Islam berdepan dengan tugas antara mengekalkan keaslian kontrak-kontrak (akad-akad) yang wujud dalam kerangka ajaran Islam tanpa mengenyahkan keperluan kepada perubahan bersesuaian dengan zaman, atau menafsirkan kandungan kitab suci al-Quran dan al-Sunnah untuk berdepan dengan zaman yang sedang dilalui. Namun pentafsiran tersebut, ada kalanya tidak terkeluar daripada kerangka ajaran Islam, dan ada kalanya ia tersasar jauh daripada kerangka ajaran Islam. Oleh demikian, kertas kerja ini bertujuan untuk menilai kembali pelaksanaan sistem gadaian Islam yang sedang dilaksanakan di pusat-pusat gadaian Islam (skim Al-Rahnu) sebagai ganti kepada kedai-kedai pajak gadai konvensional. Perbincangan ditumpukan kepada pelaksanaan skim *Al-Rahnu*, aspek kebaikan dan kelemahannya daripada sudut perundangan Islam serta permasalahan gadaian menurut perspektif perundangan Islam.

Konsep Ar-Rahnu Menurut Perspektif Islam

Al-Rahnu adalah istilah yang diambil daripada kata terbitan bahasa Arab. *Al-Rahnu* berasal daripada kata perbuatan *rahana* yang bermakna menggadaikan. Perkataan ini membawa maksud kena gadai (atau digadaikan), sebagaimana kata terbitan *al-khalq* membawa makna kena jadi atau dijadikan (al-Faruz, Abadi 1997, 2: 1570). Skim Pajak Gadai Islam Ar- Rahnu ditubuhkan atas dasar fardhu kifayah dan bukan atas dasar keuntungan semata-mata oleh pelaksanaannya. Antara tujuan utamanya ialah untuk menghapuskan riba atau hasil bunga (faedah) dan *gharar* yang dikenakan oleh pengusaha kedai pajak gadai secara konvensional. Definisi *Al-Rahnu* menurut istilah undang-undang Islam ialah sebagaimana yang diperkatakan oleh para ulama Maliki iaitu: “Pemberian seseorang yang diizinkan berkontrak, sesuatu yang boleh dijual atau sesuatu yang mempunyai *gharar* (yang sedikit) sebagai sandaran (jaminan) ke atas sesuatu hak”.(Muhammad Ulaisy t.th.,5: 56-57; al-Dasuqi, t.th., 3: 231).

Sistem pajak gadai bertindak sebagai sistem kewangan tidak formal yang dikesan kemunculannya seawal 3000 tahun lalu di China. Institusi kewangan tertua ini turut dikesan dalam sejarah ketamadunan awal Yunani dan Rom (Bhatt dan Sinnakkannu, 2008). Sistem ini mula bertapak di Tanah Melayu pada awal kurun ke 15 melalui pedagang China Hakka yang datang berdagang ke Tanah Melayu pada zaman Kesultanan Melayu Melaka. Penggunaan sistem pajak gadai ini terus berkembang sehingga ke zaman pemerintahan Inggeris (Mohamad Shukri, Nur Azura & Mohamed Ishak, 2006).

Oleh kerana sistem pajak gadai ini diperkenalkan oleh kaum Cina, operasinya melibatkan penggunaan riba dan terdapat unsur *gharar*. Sebagai seorang Muslim, kita dilarang dari melibatkan diri dalam urusan seharian yang melibatkan riba. Evolusi kewangan Islam yang bermula pada era 60-an sedikit sebanyak membuka peluang kepada kewujudan sistem pajak gadai Islam, *ar- Rahnu*, alternatif kepada pajak gadai konvensional (Zunaidah, 2006; Azila, 2011). Bermula seawal tahun 1992, beberapa pihak swasta dan kerajaan mula mengambil langkah memperkenalkan sistem pajak gadai Islam masing-masing. Sehingga penghujung 2013, terdapat sebanyak 570 buah sistem pajak gadai Islam yang beroperasi seiring dengan 378 buah pajak gadai konvensional di seluruh Malaysia.(Mohamad Shukri, Nur Azura & Mohamed Ishak, 2006).

Ciri-Ciri Al-Rahnu Menurut Islam

Antara ciri al-Rahnu menurut Islam ialah:-

1. Bebas dari unsur-unsur riba, selari dengan kehendak dan hukum Islam;
2. Ianya berkonsepkan fardhu kifayah; iaitu membantu sesama umat yang memerlukan pertolongan;
3. Meletakkan tanggungjawab sosial ke atas peminjam dan pemberi pinjaman yang mana ianya hanya menggunakan konsep upah perniagaan yang dibenarkan oleh syarak;

4. Paduan yang syumul antara sifat-sifat komersil dan amal jariah; adil dan tidak membebankan peminjam;
5. Meningkatkan sikap amanah kepada pengusaha; menyimpan barang gadaian tersebut dengan baik;
6. Transaksi perniagaan yang lebih telus; bersandarkan kepada harga semasa barang gadaian (kebiasaannya barang gadaian ialah emas).

Rukun Al-Rahnu

1. Penggadai: orang yang menggadai/orang yang berhutang.
2. Penerima gadaian: pemegang gadaian/pemberi pinjaman.
3. Barang gadaian: barang yang berharga yang terletak di bawah simpanan penerima gadaian.
4. Tanggungan gadaian: jumlah yang terhutang.
5. Sighah/Perjanjian: perjanjian berkaitan pinjaman yang diberikan atau hutang dan gadaian.

Pajak Gadai Konvensional Di Malaysia

Keperluan kehidupan dewasa ini amat memberi tekanan kepada kewangan sebahagian masyarakat di Malaysia. Bagi sesetengah individu yang berpendapatan lumayan, perkara ini mungkin tidak terlalu merunsingkan, namun bukan semua manusia bernasib baik. Keperluan untuk meneruskan kelangsungan hidup memaksa golongan yang kurang berada melakukan apa sahaja yang terdaya bagi mencukupkan keperluan.

Bagi yang berupaya mungkin boleh melakukan kerja tambahan. Bagi sesetengah yang lain, pinjaman bank mungkin menjadi pilihan bagi mendapatkan sedikit lonjakan ekonomi bagi memperbaiki kehidupan mereka. Namun begitu, terdapat juga segelintir golongan yang dalam usaha memenuhi keperluan hidup terpaksa berurusan dengan institusi pajak gadai konvensional yang mengamalkan riba serta caj lain yang tinggi dan memudaratkan peminjam.

Pada 2 Januari 1973, Akta pemegang Pajak Gadai 1972 dan Peraturan-Peraturan Pemegang Pajak Gadai 1972 telah dikuatkuasakan di seluruh Malaysia termasuk Sarawak, Sabah dan Wilayah Persekutuan bagi menyelaraskan dan menyeragamkan pentadbiran pajak gadai di Malaysia serta menjamin industri pajak gadai yang sihat di samping melindungi kepentingan pengguna.

Lesen beroperasi sebagai Kedai Pajak Gadai adalah di bawah seliaan Kementerian Perumahan dan Kerajaan Tempatan (KPKT) yang sekarang dikenali sebagai Kementerian Kesejahteraan Bandar, Perumahan dan Kerajaan Tempatan. Perkembangan terkini lesen telah tidak dikeluarkan lagi dan pemilik-pemilik lesen sedia ada hanya dibenarkan untuk memperbaharui lesen sahaja. Atas alasan itu banyak didapati pemilik-pemilik kedai pajak gadai atau orang-orang persendirian yang beroperasi tanpa mempunyai lesen yang sah.

Akta mendefinisikan pemajak gadai sebagai seorang yang menyerahkan sesuatu barang untuk dipajak gadai kepada seseorang pemegang pajak gadai. Akta juga memperuntukkan bahawa golongan-golongan tertentu tidak boleh menjadi pemajak gadai. Ini termasuklah orang yang dalam keadaan mabuk dan golongan di bawah umur 16 tahun. Seorang kanak-kanak, misalnya tidak boleh diminta oleh ibu bapanya membawa barang tertentu untuk digadaikan. Sekatan yang dikenakan ke atas golongan ini adalah berasaskan prinsip am undang-undang bahawa orang ini tidak berkeupayaan untuk melibatkandiri dalam sebarang transaksi undang-undang.

Berikut adalah beberapa perkara yang perlu dilakukan oleh penggadai barang:

1. Barang dan butiran; pemajak gadai dikehendaki membawa barangan gadaian tersebut untuk mendapatkan pinjaman. Pemegang pajak gadai harus mencatatkan butir-butir transaksi pemajakgadaian dalam buku dan mengeluarkan surat pajak gadai.
2. Kadar caj faedah; menurut Akta Pajak Gadai 1972 faedah yang dibenarkan ialah 2% atau 24% setahun. Jikalau dicaj lebih daripada jumlah tersebut adalah merupakan satu kesalahan.
3. Tempoh gadaian; tempoh gadaian ialah selama enam bulan, tetapi gadaian juga boleh ditebus pada bila-bila masa. Sekiranya tidak dapat menebus gadaian sebelum tamat tempoh, pemajak gadai boleh memberitahu kepada pemegang pajak gadai untuk melanjutkan tempoh masa tidak kurang daripada tiga bulan. Setiap butir lanjutan hendaklah dibuat dalam buku pemegang pajak gadai dan juga dalam surat pajak gadai.

Sekiranya pemajak gadai gagal menebus sebelum tamat tempoh, barangan gadaian boleh dilupuskan. Pinjaman yang kurang daripada RM200.00 akan menjadi milik pemegang pajak gadai secara automatik. Sekiranya pinjaman melebihi RM200, ia hanya boleh dilupuskan melalui lelongan awam oleh pelelong berlesen. Pemegang pajak gadai juga boleh membuat tawaran untuk membeli barang gadaian tersebut.

Hak Sebagai Pemajak

Wang lebihan lelongan adalah hak mutlak pemajak gadai. Pemegang pajak gadai dikehendaki memberitahu pemajak gadai mengenai jualan itu melalui surat berdaftar dalam tempoh tujuh hari dari had lelongan dan menghantar penyata menunjukkan lebihan berkenaan. Jika pemajak gadai tidak menuntut lebihan berkenaan dalam tempoh empat (4) bulan, pemegang pajak gadai berkenaan dikehendaki membayar wang lebihan tersebut kepada akauntan negara (perbendaharaan) dalam masa 14 hari. Pemajak gadai masih boleh menuntut lebihan itu daripada perbendaharaan.

Walau bagaimanapun, realiti sebenar yang berlaku adalah, kebiasaannya wang lebihan lelongan selepas ditolak jumlah hutang tidak dikembalikan kepada pemajak gadai. Ini berlaku kerana

kejahilan pemajak gadai sendiri terhadap undang-undang dan hak mereka. Tindakan ini jelas merupakan satu bentuk penindasan kepada pengguna yang sangat memerlukan wang tersebut.

Apabila pemegang pajak gadai melakukan bentuk penindasan begini terhadap pengguna yang kurang arif tentang operasi pajak gadai, secara tidak langsung ia membuktikan kelemahan operasi Gadaian Konvensional.

Dalam tempoh empat bulan selepas pelelongan, pemegang pajak gadai hendaklah membenarkan pemegang surat pajak gadai itu memeriksa catatan mengenai jualan itu dalam buku pemegang pajak gadai. Akta Pemegang Pajak Gadai 1972 memperuntukkan salinan surat pajak gadai diberikan secara percuma dengan tidak berlengah. Walau bagaimanapun perkara yang biasa dipraktikkan oleh pemegang pajak gadai ialah membuat laporan polis dan seterusnya mendapatkan surat sumpah daripada Pesuruhjaya Sumpah. Pemegang pajak gadai mempunyai tanggungjawab untuk menjaga barang-barang gadaian itu dengan cermat dan bersungguh-sungguh sebagaimana menjaga harta bendanya sendiri. Pemegang pajak gadai hendaklah bertanggungjawab bagi kehilangan atau kerosakan barang gadaian.

Jikalau berlaku rompakan, kebakaran atau malapetaka ke atas kedai pajak gadai sehingga menyebabkan barang gadaian hilang atau rosak. Nilai gadaian itu hendaklah bagi maksud pampasan kepada pemajak gadai itu dikira sebagai satu perempat lebih daripada jumlah pinjaman. Pemegang pajak gadai hanya perlu membayar jumlah pinjaman dengan tambahan 25% lagi kepada pemajak gadai sebagai pampasan. Nilai pampasan tersebut adalah tidak memadai dan juga tidak adil tetapi inilah diperuntukkan dalam Akta Pajak Gadai 1972.

Ada pandangan yang mengatakan pemajak gadai adalah mudah terdedah kepada penipuan. Atas dasar itu beberapa panduan telah diberikan supaya pemajak gadai berhati-hati dan dapat mengenal pasti sekiranya penipuan berlaku:

1. Semak tarikh luput. Anda tidak boleh menuntut barang selepas tarikh luput, kecuali kedai pajak gadai bersetuju memanjangkan tempoh berkenaan.
2. Selepas tarikh luput, semua barangan yang digadai yang nilainya kurang daripada RM200 akan menjadi kepunyaan kedai pajak gadai berkenaan dan bukan kepunyaan anda lagi.
3. Semua barang yang tidak ditebus yang nilainya melebihi RM200 boleh dilelong oleh kedai pajak gadai. Anda berhak mendapatkan baki wang yang tinggal daripada jualan barang berkenaan selepas ditolak semua kos gadaian.
4. Pemegang pajak gadai perlu menghantar notis berdaftar kepada pemajak gadai mengenai tindakan untuk melelong barangan. Notis ini perlu diterima oleh pemajak gadai tujuh hari sebelum urusan lelongan.
5. Pemajak gadai dinasihatkan untuk memberi alamat semasa apabila memajak barangan atau memaklumkan sebarang pertukaran alamat secara bertulis kepada pemegang pajak

gadai. Ini adalah penting untuk memastikan notis-notis pemberitahuan lelongan yang dihantar oleh pemegang pajak gadai sampai kepada pemajak gadai.

6. Kedai pajak gadai adalah bertanggungjawab atas kehilangan atau kemusnahan akibat kecurian atau kebakaran.
7. Sentiasa mendapatkan resit setiap kali anda membuat pembayaran.
8. Jika kedai pajak gadai mengenakan kadar faedah yang terlalu tinggi (lebih 2% sebulan) ke atas sesuatu pinjaman, anda boleh membawa perkara ini kepada pejabat Ketua Setiausaha Kementerian Perumahan dan Kerajaan Tempatan.
9. Jika anda kehilangan resit/ tiket gadaian anda berhak mendapatkan salinannya secara percuma.
10. Jika anda merasa bahawa gadaian anda berkurang nilai atau jika kedai pajak gadai enggan menyerahkan gadaian anda, buatlah aduan kepada majistret. Majistret mempunyai kuasa untuk memerintah kedai pajak gadai untuk membayar ganti rugi yang munasabah.
11. Pastikan kedai pajak gadai yang anda berurusan mempunyai lesen yang sah.
12. Semak buku catatan kedai pajak gadai untuk memastikan bahawa kandungannya adalah sama dengan surat pajak gadai yang anda terima

Kelemahan Pajak Gadai Konvensional

Terdapat beberapa kelemahan yang dikenalpasti daripada amalan pajak gadai konvensional, antaranya:

1. Tiada undang-undang yang mewajibkan peniaga menunjukkan kadar faedah yang dikenakan di tempat terbuka dengan jelas atau menerangkan kepada penggadai yang buta huruf tentang hak mereka.
2. Tiada undang-undang yang menetapkan kawalan atau peraturan terhadap acara lelongan barang gadaian yang tidak ditebus. Malah tidak dinyatakan waktu dan tempat lelongan diadakan. Barang gadaian juga tidak dipamerkan.
3. Keadaan berat sebelah dan tidak adil berlaku kerana caj yang dikenakan adalah terlalu tinggi iaitu 2% sebulan atau 24% setahun. Keadaan ini sangat menekan penggadai yang kebiasannya memerlukan duit dalam keadaan yang sangat terdesak

Kelebihan Berbanding Pajak Gadai Konvensional

Semenjak Skim *Al-Rahnu* ini diperkenalkan, ternyata ianya lebih menjadi pilihan pengguna masa kini berbanding pajak gadai konvensional. Ini kerana sudah diketahui umum, *Al-Rahnu* adalah sebuah sistem atau skim pinjaman mikro kredit yang berlandaskan syariah dan patuh syariah. Ternyata juga *al-Rahnu* mempunyai banyak keistimewaannya dan kelebihan berbanding sistem pajak gadai konvensional.

Antara kelebihannya ialah, *al-Rahnu* tidak mengenakan sebarang kadar faedah. Seperti yang sering ditekankan dalam prinsip *al-Rahnu* ini bertujuan membantu golongan yang memerlukan

wang tunai dengan kadar segera tanpa dikenakan sebarang faedah. Selain itu juga, pinjaman tidak dikenakan sebarang faedah kerana ia merupakan riba dan riba adalah diharamkan sama sekali dalam Islam. Justeru, kontrak pinjaman dalam Islam bebas daripada unsur riba yang menindas peminjam dan bercanggah dengan dasar tolong-menolong antara golongan yang mampu dengan yang tidak mampu (Abdul Halim, 2001). Tumpuan *al-Rahnu* hanya mengambil keuntungan sewaan dan bukan daripada pinjaman wang tersebut dimana kita boleh lihat ia jauh lebih rendah kosnya berbanding faedah. (Asmadi Mohd Naim,2004).

Seterusnya, *al-Rahnu* juga menjanjikan nilai gadaian yang tidak akan merosot. Disebabkan etika kerjanya yang telus pihak *al-Rahnu* akan memastikan tiada sebarang penyelewengan atau kemerosotan nilai gadaian berlaku ketika barang ditebus semula. Disamping itu, *al-Rahnu* mengamalkan sistem timbangan yang dilihat bersama-sama peminjam untuk memastikan tiada berlaku sebarang kekeliruan. *Al-Rahnu* juga menetapkan bahawa hanya emas sahaja yang boleh digadaikan di bawah skim *al-Rahnu*. Dalam amalan *al-Rahnu* di Bank Rakyat contohnya, pihak bank mensyaratkan barang gadaian mestilah barangan emas yang dimiliki sendiri atau milik pasangan. Barang kemas yang digadai mestilah bermutu 18 karat ke atas. Batu-batu permata berharga yang menghiasi barang kemas tidak akan diambil kira (Muhammad Saiful Islami Mohd Taher,2010).

Selain daripada itu, tempoh bayar balik yang munasabah. *Al-Rahnu* sistem yang boleh bertolak ansur dengan peminjam mengenai tempoh membayar balik wang pinjaman yang telah dipinjam. Tempoh yang diberikan juga adalah munasabah dan boleh diterima pakai oleh semua pihak. Selain itu, jika penggadai tidak dapat menebus barang gadaian dalam tempoh yang ditetapkan, maka tempoh lanjutan juga akan diberikan kepada peminjam. Ada sesetengah institusi *Al-Rahnu* yang memberikan tempoh lanjutan sebanyak dua kali dan boleh mencecah tempoh sehingga setahun dengan tujuan untuk membantu penggadai yang terdiri daripada golongan yang benar-benar susah dan berpendapatan rendah.

Bagi penggadai yang tidak mampu untuk menebus barang gadaian dalam masa yang ditetapkan maka pihak bank akan melelong barang tersebut tetapi dibawah pengetahuan penggadai melalui notis yang akan diberikan. Melalui notis ini penggadai akan maklum tentang tempoh masa membayar balik yang diperuntukkan buat mereka telah tamat. Sekiranya selepas lelongan terdapat lebihan atau kekurangan harga jualan setelah ditolak jumlah pinjaman, upah simpan dan kos-kos lain, penggadai akan dimaklumkan untuk menjelaskan kekurangan atau mengambil lebihan tersebut (Muhammad Saiful Islami, 2006).

Dengan adanya ciri-ciri keistimewaan *al-Rahnu* ini, jelas menunjukkan mengapa skim ini lebih mendapat sambutan yang menggalakkan. Seterusnya *al-Rahnu* juga dapat menjadi alternatif yang lebih baik daripada pajak gadai konvensional.

Terdapat juga beberapa laporan media yang mengatakan skim *al-rahnu* ini bukan sahaja mendapat tempat di hati pelanggan Islam malahan turut menarik perhatian bagi pelanggan bukan Islam. Menurut Abibullah, Ketua Pegawai Eksekutif Kumpulan Yapeim, cawangan Ar Rahnu di Hutan Melintang, Perak dan Kapar, Selangor masing-masing mencatat jumlah pelanggan bukan Islam sebanyak 60 peratus (Akhbar Sinar, 28 Oktober 2016).

Selain itu juga, sistem perbankan Islam menawarkan perkhidmatan lebih menarik berbanding yang disediakan bank konvensional. Sebagai contoh, khidmat pajak gadai Islam *al-rahnu*, yang lebih selamat dan adil jika dibandingkan dengan sistem pajak gadai lain. Interpretasi dan penggunaan terma yang tepat dan betul bagi sesuatu produk atau perkhidmatan yang ditawarkan dalam sistem perbankan Islam juga merupakan elemen penting bagi menarik minat orang bukan Islam terhadap sistem itu. Dilaporkan juga, jumlah pelanggan bukan Islam berdaftar untuk skim ini adalah sebanyak 40 peratus dan berpotensi untuk meningkat lagi dari semasa ke semasa. (Utusan Online, 2012). Tambahan pula, skim Ar Rahnu ini bukan sahaja menarik minat masyarakat Islam bahkan golongan bukan Islam. Mereka tertarik kepada gadaian secara Islam memandangkan skim itu bertujuan memberi kemudahan pinjaman kepada pelanggannya tanpa mengenakan faedah dan menjamin kebajikan sosial penggadai. (Suriani Sulong, 2001). Kajian juga mendapati antara sebab golongan bukan Islam turut tertarik untuk menggunakan perkhidmatan gadaian Islam adalah kerana barang gadaian lebih terjamin keselamatannya dan kadar upah simpan yang dikenakan adalah tidak membebankan. (Rohani Ismail, 2002)

KESIMPULAN

Tuntasnya, Islam satu agama yang syumul telah menetapkan sistem yang lengkap dengan hukum-hukum muamalat yang boleh kita praktikkan dalam kehidupan seharian. Kita juga boleh lihat persoalan *al-rahnu* telah lama dibahaskan oleh para ulama' melalui kitab-kitab klasik yang telah diterbitkan. Walaupun hukum-hukum gadaian tersebut telah ditulis beberapa abad yang lalu, namun pelaksanaannya dilihat sangat relevan bahkan mencakupi keperluan yang dikehendaki oleh sistem gadaian Islam pada masa kini.

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ES033:
**FACTORS INFLUENCING EFFECTIVE IMPLEMENTATION OF SYARIAH
COMPLIANCE HALAL FOOD PRODUCT AMONG SMES FOOD
MANUFACTURERS**

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Abstract

Cases of food products with halal certification which are non Shariah compliance as reported by the mass media can lead to the negative perception among Muslim consumer on how halal food production process has been conducted at the food premises. Examining what are the factors that can lead to the effective implementation of Shariah compliance halal food product, this study investigates the influence of halal food supply chain, food safety system and knowledge towards assuring trust attributes of such product. To achieve this objective, primary field data was collected among 200 food manufacturers SMEs which were certified with JAKIM, halal certification. All the respondents are located in Selangor, Kuala Lumpur, Negeri Sembilan, Melaka and Johor Baharu. The findings of this study revealed that halal food supply chain can influence trust. Meanwhile, food safety system and knowledge have no relationship to trust.

Keywords: Halal food supply chain, food safety system, knowledge, trust.

INTRODUCTION

Scenarios of food product with halal certification which are non *syariah* compliance that has been reported by the mass media had a great impact on Muslim consumer curiosity towards status of halal food product they consumed. In reality, Muslim consumer faces difficulty in determining *syariah* compliance of certified halal food product sold in the market because it has trust attributes (Syed Marzuki, Hall & Ballantine, 2012). Trust attributes of halal certification refers to food product produced by food manufacturer must fulfil four criteria namely: (i) *syariah* compliance of transportation activities, (ii) *syariah* compliance of packaging process, (iii) *syariah* compliance of storage and (iv) *syariah* compliance of production process (Syed Marzuki et al., 2012). Nevertheless, only halal certification can provide these information to the consumer (Grunert 2005; Verbeke, 2005).

Currently, the implementation of halal standard among certified halal food manufacturer is related to *syariah* requirement where halal food certification refers to the examination of food process is follow *syariah* requirement (Mohd Yusoff, 2004). However, previous research has explains halal food supply chain (Tieman, 2012; Ab Talib & Mohd Johan, 2012; Omar & Jaafar, 2011; Che Man & Sazili, 2010), food safety system (Lokman, 2008; Norlia, 2008) and

knowledge (Mohd Yusoff, 2004) are three factors that can ensure *syariah* compliance of food product. Therefore, based on this scenario, this feasibility study aims to identify which factors can influence trust attributes of halal certification. Moreover, the specific objectives of this study can be summarized as follows:

- 1- To investigate whether halal food supply chain can influence trust attributes of halal certification
- 2- To investigate whether food safety system can influence trust attributes of halal certification
- 3- To investigate whether knowledge can influence trust attributes of halal certification

LITERATURE REVIEW

Discussion on previous study related to halal food supply chain and halal certification

In general, customer remain in doubt about the integrity of the implementation of *syariah* law at every level of halal food supply chain due to its credence quality attribute (Bonne & Verbeke, 2008). Moreover, it is very challenging to convince customer about the assurance of *syariah* compliance of halal food product because all the activities along the whole halal food supply chain process must be *syariah* compliance (Jaafar, Endut, Faisol & Omar, 2011). Thus, to ensure certified halal food product is in an accordance to *syariah*, Tieman, Van Der Vorst Jack and Ghazali (2012) emphasizes food manufacturer should monitor the implementation of *syariah* law in halal food supply chain process. Therefore based on the above explanation, halal food supply chain process is expected to have positive and significant effect on trust and the following hypotheses are proposed:

H1: Halal food supply chain has a relationship on trust attributes of halal certification

Discussion on previous study related to food safety system and halal certification

Food safety system in certified halal food product is also regarded as determinant factors that can assure trust attributes of halal certification. This is because food product with halal certification provides certain degree of assurance to the customer about zero tolerance quality system practices (Talib & Ali, 2009; Norlia, 2008; Riaz, 2007; Jafri, 2006; Jumaatun Azmi, 2005). According to Mohd Yusoff (2004), the implementation of good manufacturing practices (GMP) or good hygiene practices (GHP) in halal food production process can ensure food product will not cause harm to the health of consumer. This is true since research conducted by Fernando, Ng and Yusoff (2014) indicates that majority of the respondents believed GHP would improve food safety in their enterprises. Thus based on the above arguments, food safety system should be implemented by food manufacturer to assure trust attributes of halal certification. Accordingly, the following hypotheses are asserted:

H2: Food safety system has a relationship on trust attributes of halal certification

Discussion on previous study related to knowledge and halal certification

Knowledge of Muslim employee who is responsible to assure halal food production process is *syariah* compliance is considered has positive and significant effect towards trust attributes of halal certification. This is because only knowledgeable Muslim employee must be assigned to handle the entire halal food production process (Jaafar et al., 2011; Razalli, Yusoff & Mohd Roslan, 2013). To preserve further the importance of knowledge towards ensuring trust attributes of halal certification, authors such as Razali et al., (2013) pointed out that top management of halal business should empower knowledgeable Muslim employee in the organization to plan, act, design and control the implementation of halal control system. In addition, Ab. Talib and Mohd Johan (2012) stated food manufacturer should recruit and empower knowledgeable Muslim staff to monitor the whole halal food production process are *syariah* compliance. Hence, based on the above arguments about the importance of knowledge towards assuring trust attributes of halal certification, the following hypotheses are posited:

H3: Knowledge has a relationship on trust attributes of halal certification

RESEARCH METHODOLOGY

The purpose of this study is hypothesis testing as this research is intended to understand the relationship among variables that presented in the literature review. A cross sectional study was conducted using a simple random sampling drawn from a population of certified halal food manufacturer listed. This study employed a survey questionnaire as an instrument for data collection method. The questionnaire was sent out to 600 certified halal food manufacturer operating in the Southern peninsular of Malaysia to participate in this study. The analysis adopted in this study includes an initial Exploratory Factor Analysis (EFA) to uncover the underlying structure of the variables. Then, the model and hypotheses are tested by using SEM via path analysis. The statistical analysis software SPSS 16 (Statistical Package for Social Sciences) and WARP PLS version 5.0 were used for the statistical processing of the data in this study. The two step procedure approach is chosen for testing the hypothesized structural model. In the first step, assessing the measurement model is conducted, while in the second step assessing the structural model is examined.

DATA ANALYSIS AND RESULTS

Respondent profile

A total of 200 food SMEs with halal certification responded in this study, giving a response rate of 33.3%. For the type of industry, 78.5% of food manufacturer with halal certification were small and medium industry (SMEs) and 21.5% were small industry. For the distribution of scheme of halal certification, the majority of respondents (72%) had halal certification for food product only, followed by (19.5%) of respondents had halal certification for beverages product only and only 8.5% of respondents had halal certification for food and beverages. Furthermore,

halal committee (44%) and halal supervisor (29%) are majority respondents completed the survey instrument individually and independently.

EFA results

EFA is applied in order to extract the latent construct of factors that can influence effective implementation of halal certification attributes. Three latent factors (constructs) are established (Kaiser-Meyer-Olkin = 0.906, Bartlett's test of Sphericity = 1743.911, $p = 0.000$, eigen-value >1 , MSA > 0.5), explaining 85.068% of the total variance, and they are named after the items that are loaded on them as follows: "halal food supply chain", "food safety system" and "knowledge"

Measurement model

Table 1 summarizes the results of the measurement model. Factor loading, composite reliability (CR), and variance extracted were used to assess convergent validity (Fornell & Larcker, 1981). In this study, the factor loading for all items exceeded the recommended level of 0.6 (Chin, Gopal & Salisbury, 1997) and the CR ranging from 0.944 to 0.961 exceeded the recommended level of 0.7 (Gefen, Straub & Boudreau, 2000). The average variance extracted (AVE) were in the range of 0.835 to 0.882, exceeding the recommended level of 0.5 (Hair, Black, Babin & Anderson, 2010). Next, the discriminant validity was examined by comparing the correlation between constructs and square root of the variance extracted for a construct (Fornell & Larcker, 1981) and results showing that the correlations for each construct was less than the square root of the AVE indicating that the measure had adequate discriminant validity. Furthermore, results of the variance inflation factor (VIF) (see table 1) were in the range of 2.132 to 3.00, below the recommended level of 5 (Hair et al., 2010). It indicating that variables used in this paper are reliable.

Table 1: Results of measurement model

Construct	Type	N items	Factor loading	CR ^a	AVE ^b	(Corr) ^{2c}	VIF ^d
HFSC	Reflective	4	0.960, 0.955, 0.920, 0.873	0.961	0.861	0.928	3.00
FSS	Reflective	3	0.954, 0.932, 0.930	0.957	0.882	0.930	2.444
KN	Reflective	3	0.935, 0.939, 0.889	0.944	0.849	0.921	2.438
Trust	Reflective	4	0.878, 0.929, 0.937, 0.909	0.953	0.835	0.914	2.132

Note: HFSC= Halal food supply chain, FSS= Food safety system, KN= Knowledge

^aCR= value of CR must be > 0.70

^bAVE= value of AVE must be > 0.50

^cThe highest squared correlation between the factor of interest and the remaining factor

^dVIF= value of VIF must be < 10

°Cronbach's alpha= value of cronbach's alpha must be > 0.70

Structural model

Table 2 presented the halal food supply chain was found have a positive significant relationship on trust and represents a relatively small effect size ($\beta = 0.158$, $p < 0.001$, $f^2 = 0.095$). Thus, hypotheses H1 of this study was supported. Next, food safety system is found not to have a positive significant relationship on trust with small effect size ($\beta = 0.047$, $p = 0.211$, $f^2 = 0.023$). Therefore, hypotheses H2 is not supported. Table 2 also indicated that there was a no significant relationship between knowledge and trust with a small effect size ($\beta = 0.050$, $p = 0.197$, $f^2 = 0.020$). So hypotheses H3 in this study is also was not supported. Overall as shown in table 2, one hypotheses (H1) are supported and two hypotheses (H2 and H3) are rejected.

Table 2: Results of structural model parameter

Path	β	<i>p</i> – value	<i>f</i> ²	Hypotheses
HFSC → Trust	0.158	0.004	0.095	H1 _a :supported
FSS → Trust	0.047	0.211	0.023	H2 _a :not supported
KN→ Trust	0.050	0.197	0.020	H3 _a :not supported

Note:** denotes significant at $p < 0.01$, * denotes significant at $p < 0.05$

DISCUSSION

The present study offers empirical evidence regarding the contribution of what are the factors that can influence effective implementation of trust attributes of halal certification. Hypotheses testing revealed that only halal food supply chain make a significant contribution to the trust. These findings are consistent with many previous researchers such as Che Man, Bojei, Sazili and Abdullah (2007), Tieman et al., (2012), Ab Talib and Mohd Johan (2012), Omar and Jaafar (2011) as well as Jaafar and Endut (2011) which mentioned food manufacturer should ensure halal food supply chain process should follow halal food laws. Conversely, food safety system was found has no relationship to trust. Findings of this study against to the suggestion made by other researchers such as Lokman (2008), Norlia (2008) as well as Talib and Ali (2009) where they claimed that food safety system should be implemented for certified halal food product. Moreover, knowledge also was found has no significant relationship to trust attributes of halal certification. This findings is in line with the findings of Kafetzopoulos, Psomas and Kafetzopoulos Panagiotis (2013) where they found that employee attributes has weak and non-significant direct effect on food product quality. Thus, they recommended employees must be knowledgeable and willing to accept the changes in the organization if they want to improve quality of food product. A main conclusion can be drawn from this study is that there are three critical areas that should be considered by certified food manufacturer and policy makers to ensure *syariah* compliance halal food product.

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BZ036:
**ITEM DAN KADAR PENOLAKAN HAD KIFAYAH ZAKAT
PENDAPATAN DI NEGERI SABAH: SATU PERBANDINGAN DENGAN
PELEPASAN CUKAI PENDAPATAN**

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Abstrak

Zakat merupakan salah satu instrumen penting di dalam teori ekonomi Islam. Zakat berperanan besar sebagai jaminan sosial di dalam masyarakat Islam. Zakat pendapatan pula merupakan penyumbang terbesar dana zakat bagi kebanyakan pusat zakat negeri-negeri di Malaysia. Di Sabah, institusi yang bertanggungjawab dalam pengurusan zakat sama ada daripada aspek kutipan ataupun agihan adalah Pusat Zakat Sabah (PZS). Kertas kerja ini membincangkan item dan kadar penolakan had kifayah zakat pendapatan yang digunakan oleh PZS. Seterusnya perbandingan dilakukan dengan pelepasan cukai pendapatan yang ditetapkan oleh Lembaga Hasil Dalam Negeri (LHDN). Kajian kepustakaan digunakan di dalam kertas kerja ini di samping data sekunder yang diambil daripada PZS dan LHDN. Hasil kajian menunjukkan beberapa item dan kadar penolakan had kifayah zakat pendapatan yang digunakan oleh PZS mempunyai persamaan dengan pelepasan cukai yang ditetapkan oleh LHDN. Namun begitu, item penolakan zakat pendapatan PZS kelihatan agak ringkas. Oleh yang demikian, dicadangkan kepada PZS untuk membina satu model item dan kadar penolakan had kifayah yang lebih komprehensif dan benar-benar memberi gambaran sebenar kedudukan ekonomi umat Islam di Sabah.

Kata Kunci: Had Kifayah, Pusat Zakat Sabah, Zakat Pendapatan.

PENDAHULUAN

Zakat merupakan Rukun Islam ketiga yang wajib dilaksanakan oleh umat Islam yang memenuhi syarat-syaratnya. Zakat mempunyai peranan yang besar bagi mengurangkan jurang pendapatan di antara golongan kaya dan miskin. Oleh itu, setiap negeri di Malaysia menubuhkan pusat zakat masing-masing bagi mengutip zakat daripada golongan yang wajib membayar zakat dan seterusnya mengagihkan zakat kepada golongan asnaf iaitu golongan yang layak menerima zakat. Zakat pendapatan pula adalah penyumbang terbesar dana zakat bagi kebanyakan Pusat Zakat Negeri di Malaysia (Pusat Pungutan Zakat, 2016; Lembaga Zakat Selangor, 2016).

Had kifayah zakat pendapatan menjadi indikator untuk menentukan sama ada seseorang individu wajib mengeluarkan zakat ataupun tidak. Ia juga merupakan satu ukuran yang dinamik dan

fleksibel berdasarkan faktor semasa dan setempat (Al-Qaradhawi, 2001 ; Azman Ab Rahman *et al.*, 2016).

Had kifayah zakat pendapatan juga digunakan oleh kebanyakan pusat pengurusan zakat negeri-negeri di Malaysia bagi menentukan sama ada seseorang itu layak menerima bantuan zakat daripada kategori asnaf fakir atau miskin ataupun tidak. Jika layak, mereka akan menerima dan diberikan bantuan berdasarkan keperluan mereka seperti bantuan sara hidup bulanan, bantuan makanan bulanan, bantuan sewa rumah bulanan dan seumpamanya (Muhammad & Hasanah, 2016).

Kertas kerja ini membincangkan item dan kadar penolakan had kifayah zakat pendapatan yang digunapakai oleh Pusat Zakat Sabah (PZS). Seterusnya perbandingan dilakukan dengan pelepasan cukai pendapatan yang ditetapkan oleh Lembaga Hasil Dalam Negeri (LHDN).

Definisi Had Kifayah

Al-Kifayah dari segi bahasa berasal dari perkataan *kafaa*, *yakfi*, *kifayah* yang membawa maksud perkara yang menyebabkan kecukupan pada seseorang dan tidak memerlukan kepada yang lain atau apa yang cukup bagi manusia untuk hidup (Ibn Mandzur, t.th). Allah SWT menjelaskan mengenai kadar keperluan manusia kepada Nabi Adam AS dengan firmanNya yang bermaksud:-

Sesungguhnya telah dikurniakan berbagai nikmat bagimu, bahawa engkau tidak akan lapar dalam Syurga itu dan tidak akan bertelanjang. Dan sesungguhnya engkau juga tidak akan dahaga dalam Syurga itu, dan tidak akan merasa panas matahari”

(Taha:118-119)

Sabda Rasulullah SAW yang bermaksud:

Bukanlah miskin itu seorang yang mendatangi manusia, lalu diberikan kepadanya sesuap dua makanan dan sebutir dua buah kurma, tetapi miskin itu ialah seorang yang tidak memiliki sesuatu yang mengkayakannya dan dalam masa yang sama tidak melakukan sesuatu yang membuatkan orang bersedekah kepadanya, dan tidak juga dia bangun di hadapan orang dan meminta-minta daripada mereka

(HR Bukhari & Muslim)

Manakala perkataan *al-kifayah* dari sudut istilah fuqaha mempunyai pelbagai makna. Antaranya segala perbuatan penting yang dituntut oleh syarak untuk dilaksanakan tanpa melihat kepada individu yang melakukannya. Ini kerana perbuatan tersebut mempunyai kaitan dengan kepentingan umat. Perbuatan ini diistilahkan sebagai fardu kifayah. *Al-Kifayah* juga memberi maksud kelayakan seseorang untuk melaksanakan perbuatan penting yang berkaitan dengan

kepentingan umat seperti kepimpinan dan jawatan-jawatan khusus (Kementerian Wakaf dan Agama Kuwait, 1992).

Al-Kifayah dalam perbincangan kertas kerja ini bermaksud memenuhi keperluan asasi yang perlu ada bagi seseorang dan tanggungannya sama ada dari aspek makanan, pakaian, tempat tinggal dan lain-lain tanpa berlaku pembaziran ataupun kikir (Al-Nawawi, t.th). Berdasarkan definisi *al-kifayah* ini, maka had kifayah bermaksud kadar minimum bagi memenuhi keperluan asasi seseorang dan juga tanggungannya. Terdapat juga istilah lain yang digunakan oleh ulama untuk merujuk kepada had kifayah iaitu *al-hajah al-asliyyah* (keperluan asas) dan *had al-ghina* (tahap kekayaan) (Azman Ab Rahman *et al.*, 2016).

Manakala item had kifayah ini bukan sahaja terhad kepada makanan, minuman dan tempat tinggal sahaja, bahkan turut mencakupi pelbagai keperluan asasi yang lain seperti pelajaran dan perubatan (Al-Qaradhawi, 2001). Jumhur ulama menggunakan kaedah had kifayah dalam menentukan sama ada seseorang itu wajib membayar zakat pendapatan ataupun tidak. Had kifayah juga digunakan untuk menentukan sama ada seseorang itu layak menerima zakat ataupun tidak (Al-Qaradhawi, 2001).

Menurut Maslow (1943), keperluan asas seseorang yang mesti dipenuhi sebelum meneruskan kehidupan untuk keperluan masa hadapan. Oleh itu, seseorang mesti mencapai atau memenuhi keperluan asas pertama untuk terus hidup di mana keperluan yang paling asas seperti makanan, pakaian dan tempat tinggal sebelum beralih kepada memenuhi keperluan yang lebih tinggi. Oleh yang demikian, jika keperluan asas seseorang individu tidak dapat dipenuhi, ini menunjukkan bahawa hidupnya tidak berkualiti. Walau bagaimanapun, jika keperluan asas telah dipenuhi, seseorang itu akan beralih kepada keperluan yang lebih tinggi dan keperluan lain. Menurut Maslow, seseorang akan cuba untuk memenuhi keperluan dan cuba untuk mendapatkan keperluan tertinggi (kepuasan diri). Jika seseorang mencapai kepuasan diri, dia boleh dikatakan telah mendapat kualiti tertinggi kehidupan.

Definisi Zakat Pendapatan

Zakat pendapatan merupakan zakat bagi hasil atau ganjaran yang diperoleh daripada kerja atau khidmat profesional yang dilakukan oleh seseorang seperti gaji, upah, elaun, bayaran perkhidmatan, bayaran professional dan sebagainya. (Al-Qaradhawi, 2001; Mahmood Zuhdi, 2003). Dalam penulisan fiqah klasik, tiada perbincangan secara tepat dan serius dalam isu ini. Pada zaman ini, antara ulama yang paling kuat mencadangkan pengambilan zakat daripada pendapatan kerja dan khidmat professional ini ialah Al-Qaradhawi (2001). Secara umumnya, zakat jenis ini dikenali sebagai zakat *al-mal al-mustafad* (Al-Qaradhawi, 2001; Mahmood Zuhdi, 2003; Mujaini Tarimin, 2005).

Zakat ke atas pendapatan adalah wajib dikeluarkan menurut pandangan majoriti ulama kontemporari seperti Muhammad Abu Zahrah, Abdul Wahab Khallaf, Yusuf al-Qaradhawi dan Muhammad al-Ghazali. Majlis Fatwa Kebangsaan yang bersidang pada 22 Jun 1997 juga mengeluarkan ketetapan kewajipan ke atas pendapatan pengajian bagi yang layak mengeluarkan zakat (Mohd Faisol Ibrahim, 2015; Baharuddin Sayin, 2011). Dalil kewajipan zakat pendapatan antaranya firman Allah SWT yang bermaksud:

*Wahai orang-orang yang beriman! Belanjakanlah (pada jalan Allah)
sebahagian dari hasil usaha kamu yang baik-baik*

(Al-Baqarah:267)

Maka lafaz (ما كسبتم) yang bermaksud “apa-apa yang kamu usahakan” bersifat umum merangkumi semua jenis usaha sama ada perniagaan ataupun pekerjaan (Al-Qaradhawi, 2001). Selain itu juga kewajipan zakat pendapatan boleh disandarkan atas dasar prinsip *Maqasid Syariah*. Jika zakat diwajibkan terhadap golongan petani kecil, sudah pasti lebih utama diwajibkan zakat terhadap mereka yang menerima gaji dan upah yang besar.

Had Kifayah Zakat Pendapatan Di Negeri Sabah

Malaysia mempunyai 13 buah negeri dan 1 gabungan Wilayah Persekutuan yang memiliki pentadbiran zakatnya yang tersendiri. Setiap negeri mempunyai penilaian dan kaedah pengiraan had kifayah zakat pendapatan yang berbeza-beza Begitu juga, item dan kadar penolakan had kifayah zakat pendapatan juga mempunyai perbezaan antara negeri. Perbezaan ini berpunca daripada perbezaan ijtihad antara Jawatankuasa Fatwa Negeri-Negeri dalam menentukan item-item penolakan had kifayah zakat pendapatan. Sesetengah negeri pula menyandarkan sebahagian ataupun keseluruhan item penolakan dan kadarnya berdasarkan item pelepasan cukai yang digunapakai oleh Lembaga Hasil Dalam Negeri (LHDN) (Azman Ab Rahman *et al.*, 2016).

Secara umumnya pusat zakat negeri-negeri mengira zakat pendapatan dengan menjumlahkan hasil pendapatan yang diterima oleh seseorang daripada gaji, upah, komisyen, anugerah dan seumpamanya. Kemudian ditolak semua perbelanjaan keperluan asas dengan mengambil kira had minimum keperluan hidup untuk diri sendiri dan tanggungannya (had kifayah). Kemudian baki pendapatan dikenakan zakat dengan kadar 2.5% jika cukup nisab (Abdul Razak & Mohamad, 2015). Manakala di negeri Sabah, PZS di bawah Majlis Ugama Islam Sabah (MUIS) merupakan pihak yang bertanggungjawab mengutip dan mengagih zakat (Nor Alhana, A. M. *et al.*, 2016). Berikut taksiran zakat pendapatan yang diamalkan oleh PZS:

Jadual 1: Item dan kadar tolakan zakat pendapatan PZS

Bil	Item Tolakan	Kadar Tolakan (RM)
1	Diri Sendiri	9000.00
2	Isteri	3000.00
3	Anak	1000.00
4	Pemberian kepada ibu bapa	Tidak tetap

5	Caruman KWSP	Tidak tetap
6	Caruman kepada organisasi yang membayar zakat	Tidak tetap

Sumber: Pusat Zakat Sabah, 2016

Berdasarkan Jadual 1 di atas, PZS telah menetapkan kadar yang tetap bagi tiga item iaitu diri sendiri (RM9000.00), isteri (RM3000.00) dan anak (RM1000.00). Item isteri dan anak boleh digandakan berdasarkan bilangan sebenar isteri dan anak bagi pembayar zakat pendapatan. Manakala item berikutnya, penolakan adalah berdasarkan perbelanjaan sebenar yang dilakukan. Caruman kepada organisasi yang membayar zakat juga termasuk dalam item penolakan zakat pendapatan kerana zakat tidak dikenakan lebih daripada sekali atas satu-satu harta. Oleh itu, jika sebahagian daripada pendapatan/gaji tadi disimpan dalam institusi yang membayar zakat bagi pihak pendeposit seperti Lembaga Tabung Haji, maka jumlah simpanan di institusi tersebut dalam tahun itu hendaklah ditolak (JAWHAR, 2008).

Seterusnya pendapatan bersih seseorang jika melebihi kadar nisab, maka wajib membayar zakat pendapatan pada kadar 2.577% daripada pendapatan bersih selepas tolakan. Kadar 2.577% digunakan berbanding 2.5% kerana kiraan ini berdasarkan Kalendar Masehi. Jadual 2 berikut menunjukkan contoh pengiraan zakat pendapatan yang diamalkan oleh PZS.

Jadual 2: Contoh Pengiraan Zakat Pendapatan berasaskan amalan PZS

Bah	Perkara	Nilai (RM)
A	Pendapatan Dari Semua Sumber Seperti Gaji, Elaun, Bonus, Dividen Yang Diterima Dalam Setahun	60,000
B	Tolak Perbelanjaan Yang Dibenarkan Dalam Setahun	
	1. Diri	9,000
	2. Isteri	3,000
	3. Anak 5 orang x RM1,000	5,000
	4. Pemberian kepada ibu bapa (RM200 x 12 bulan)	2400
	5. Caruman KWSP setahun	3600
	6. Caruman ke organisasi yang membayar zakat	1200
	Jumlah Tolakan	24,200
C	Pendapatan Yang Layak Dizakat (A-B)	35,800
D	Zakat Yang Wajib Dibayar (Dengan Andaian C Lebih Daripada Kadar Nisab Semasa) $Rm35,800 \times 2.577\%$	922.57

Pelepasan Cukai Pendapatan Lhdn

Cukai pendapatan adalah cukai yang dikenakan oleh kerajaan ke atas pendapatan yang diterima di dalam Malaysia. Cukai pendapatan dikenakan ke atas individu dan bukan individu yang layak

dikenakan cukai. Cukai ini dikuatkuasakan dibawah Akta Cukai Pendapatan 1967. Lembaga Hasil Dalam Negeri Malaysia (LHDN) pula dilantik oleh kerajaan sebagai ejen untuk menguatkuasakan akta tersebut dan mengutip cukai bagi pihak kerajaan (LHDN, 2016). Terdapat pelbagai pelepasan cukai pendapatan yang diberikan oleh LHDN. Jadual 3 berikut menyenaraikan pelepasan cukai pendapatan bagi tahun 2015.

Jadual 3: Pelepasan Cukai Pendapatan tahun 2015

Bil	Jenis potongan individu	Amaun (RM)
1	Individu dan saudara tanggungan Pelepasan Khas RM2,000 diberi kepada pembayar cukai yang berpendapatan sehingga RM8,000 sebulan (Pendapatan Agregat sehingga RM96,000 setahun.)	RM9000
2	Perbelanjaan Perubatan Ibu Bapa	RM5000 (terhad)
3	Peralatan Sokongan Asas (untuk individu kurang upaya atau untuk isteri, anak atau ibubapa kurang upaya)	RM6000 (terhad)
4	Individu Kurang Upaya	RM6000
5	Yuran Pendidikan (Sendiri)	RM5000 (terhad)
6	Perbelanjaan perubatan penyakit yang sukar diubati (individu atau suami/isteri atau anak-anak)	RM6000 (terhad)
7	Pemeriksaan perubatan penuh	RM500 (terhad)
8	Pembelian buku, majalah, jurnal dan penerbitan	RM1000 (terhad)
9	Pembelian komputer peribadi untuk individu (sekali setiap 3 tahun)	RM3000 (terhad)
10	Tabungan bersih dalam skim SSPN	RM6000 (terhad)
11	Pembelian peralatan sukan untuk aktiviti sukan	RM300 (terhad)
12	Suami/Isteri/Bayaran alimoni kepada bekas isteri	RM3000 (terhad)
13	Suami/Isteri kurang upaya	RM3500
14	Anak di bawah umur 18 tahun	RM1000
15	Anak yang belum berkahwin dan berumur 18 tahun dan ke atas dan menerima pendidikan sepenuh masa (peringkat A-Level, sijil, matrikulasi, persediaan atau pra-ijazah)	RM1000
16	Anak yang belum berkahwin dan berumur 18 tahun dan ke atas tertakluk kepada syarat-syarat berikut: a. mengikuti kursus di peringkat diploma dan ke atas di institusi pengajian tinggi dalam Malaysia (tidak termasuk kursus matrikulasi/pa-ijazah). b. mengikuti kursus di peringkat ijazah dan ke atas di institusi pengajian tinggi luar Malaysia.	RM6000

	c. kursus dan institusi pengajian tinggi diiktiraf oleh pihak berkuasa Kerajaan yang berkaitan.	
17	Anak Kurang Upaya (OKU) Pelepasan tambahan sebanyak RM4,000 bagi anak kurang upaya berumur 18 tahun dan ke atas, belum berkahwin dan mengikuti diploma ke atas di dalam Malaysia @ peringkat ijazah ke atas di luar Malaysia dalam kursus dan di IPT yang diiktiraf oleh pihak berkuasa Kerajaan yang berkaitan.	RM6000
18	Insuran nyawa dan KWSP	RM6000 (terhad)
19	Skim Persaraan Swasta dan Anuiti Tertunda (Deferred Annuity)	RM3000 (terhad)
20	Insurans pendidikan dan perubatan	RM3000 (terhad)

Sumber: LHDN, 2016

Perbandingan Antara Had Kifayah Zakat Pendapatan Pzs Dengan Pelepasan Cukai Pendapatan LHDN

Secara umumnya, senarai pelepasan cukai pendapatan yang ditetapkan oleh LHDN adalah lebih komprehensif berbanding dengan item penolakan had kifayah zakat pendapatan yang ditetapkan oleh PZS. Item dan kadar penolakan had kifayah zakat pendapatan yang diamalkan oleh PZS mempunyai beberapa persamaan dengan senarai pelepasan cukai pendapatan LHDN. Contohnya item dan kadar bagi diri sendiri (RM9000.00), isteri (RM3000.00) dan anak (RM1000.00) adalah sama dengan senarai dan kadar pelepasan cukai pendapatan yang ditetapkan oleh LHDN.

Begitu juga tolakan KWSP juga wujud bagi pengiraan zakat pendapatan dan cukai pendapatan. Pemberian kepada ibu bapa juga merupakan salah satu item penolakan dalam pengiraan zakat pendapatan. Manakala bagi cukai pendapatan pula memberi pelepasan dalam bentuk perbelanjaan perubatan ibu bapa terhad kepada RM5000 setahun.

Caruman ke organisasi yang membayar zakat juga termasuk dalam item penolakan zakat pendapatan sedangkan item yang sama tidak wujud dalam pelepasan cukai pendapatan. Namun begitu menurut Akta Cukai Pendapatan 1967, Seksyen 6A (1) (3), individu yang mengeluarkan zakat akan diberikan rebat dalam cukai pendapatan. Contohnya jika cukai pendapatan seseorang pada suatu tahun adalah RM3000 dan dia telah membayar zakat sebanyak RM2000 pada tahun yang sama, maka dia hanya perlu membayar cukai pendapatan sebanyak RM1000.

Secara umumnya, item dan kadar had kifayah di negeri Sabah perlu kepada kajian dan penilaian semula untuk memastikannya benar-benar menggambarkan kedudukan sebenar ekonomi masyarakat di Sabah. Contohnya kadar had kifayah untuk diri sendiri, isteri dan anak tidak perlu terikat dengan kadar pelepasan cukai pendapatan LHDN. Di negeri Pahang kadar tolakan zakat pendapatan bagi item diri sendiri adalah RM14,400 setahun diikuti negeri Selangor sebanyak RM10,750 (Azman Ab Rahman *et al.*, 2016). Begitu juga item dan kadar had kifayah di negeri Sabah perlu lebih spesifik dan terperinci. Menurut Azman Ab Rahman *et al.* (2016), negeri

Selangor mempunyai kaedah taksiran paling unik kerana mengkategorikan jenis-jenis tolakan yang spesifik dan terperinci. Contohnya, tolakan kepada anak dibahagikan kepada empat kategori iaitu anak yang belajar di IPT, anak yang berumur 18 tahun ke atas dan tidak bekerja, anak berumur 7 hingga 17 tahun dan anak berumur 0 hingga 6 tahun. Setiap kategori ini diberi amaun tolakan yang tertentu.

KESIMPULAN

Dalam suasana iklim ekonomi yang sentiasa berubah, penentuan item dan kadar kifayah zakat pendapatan perlu disemak semula dari semasa ke semasa bagi memastikan kadar yang ditetapkan itu benar-benar mencerminkan realiti yang berlaku di dalam masyarakat dan mengelakkan seseorang daripada penganiayaan dengan dinafikan haknya. PZS sebagai pihak yang memikul amanah bagi urusan zakat di negeri Sabah harus mengambil langkah proaktif dengan bantuan daripada agensi kerajaan dan swasta bagi membina item had kifayah yang lebih komprehensif. Semoga dengan usaha begini dapat menambahkan lagi keyakinan umat Islam untuk membayar zakat pendapatan di PZS.

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EP037:
**FACTORS AFFECTING SELECTION OF ISLAMIC WEALTH
MANAGEMENT (IWM) SERVICES: MALAYSIAN PERSPECTIVE**

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Abstract

The growth of local as well as global wealth brings greater opportunity and need much understanding toward the necessity of wealth management. How well the people and society understand the concept of Islamic wealth management in Malaysia? Looking at the importance of well-managed wealth among Muslims, it becomes a big challenge to actually understand and implement this concept. The Islamic understanding of wealth comprises of four dimensions namely the distribution of wealth (inheritance), donation of wealth (zakah), plans for wealth accumulation and preservation as well as the correct attitude about wealth. However, a greater issue nowadays is Islamic wealth distribution which is to avoid the wealth remain frozen that are not well-distributed among family members (beneficiaries). Therefore, the purpose of this study is to determine factors affecting selection of Islamic wealth management (IWM) services from Malaysian perspective. Structure questionnaires will be used to determine the relationship between variables and the data collected will be analyzing using SPSS software.

Keywords: Islamic Wealth Management (IWM), Wealth Management (WM), Selection, Beneficiaries, Brand Image, Perceived Value, Service Quality

INTRODUCTION

The global Islamic fund and wealth management sector is on the rise and it is no longer a new thing in banking industry especially on Islamic financial planning. The demand is still growing rapidly ever since the emerging of this concept nearly four decades ago (Azreen Hamiza Abdul Aziz, 2015). Conventionally, wealth management (WM) can be defined as a professional service which is the combination of financial or investment advice, accounting, or tax services and legal or estate planning for one fee. In other words, wealth management is more than just investment advice, as it can encompass all parts of a person's financial life (Yu and Ting, 2008).

According to Farooq (2009), WM also involve integrated financial planning as well as portfolio management as part of the comprehensive advisory and management clients' wealth. High Net Worth Individuals (HNWIs), business owners whether big or small, and families can benefit from wealth management service by engaging qualified specialists to assist with integrated services, coordinating the role of those providing services related to banking, law, tax, investment management, estate etc. But, what is the essentially distinguishing about Islamic wealth management? The new emerging discipline of Islamic finance that is primarily focused on managing Shari'ah-compliance wealth using the structured Islamic principles (Farooq, 2009; AzreenHamiza Abdul Aziz, 2015).

The crucial aspect in the Islamic wealth management (IWM) is the distribution of the wealth or asset that belongs to the individual. Distribution of the wealth is closely related with the aspect of economic and Muslim society (Muhammad Ridhwan Ab. Aziz and Nurul Izzati Nordin, 2015; Muhammad Ridhwan Ab. Aziz et al., 2014). IWM concept is an important matter that must be looked into to ensure that the property is able to circulate actively in various sectors of life for the extensive and widespread used. A good property or WM can encourage property transactions in order to expand the scope of circulation of property and wealth that can be enjoyed by the community. In relation to the wealth distribution, the final stage of wealth management; it is always associated with the estate planning, business succession planning, charitable and *zakat* planning. There are plenty of mechanisms for this purpose such as *zakat*, *will*, *faraid*, *bequest*, *hibah* and *waqf*, *trust*, *sadaqah* (donations), *infaq* (gift to Islamic cause), *hadiyah* (present, gift) and *nazar* (vow) (Billah, n.d.a; Rasban, 2006; Suhaili Alma'amun, 2011).

Therefore, a systematic and orderly WM is envisioned to prevent the existence of difficulties which could weaken economic activity. Although the concept of property management is very important, unfortunately, there are still many people are unaware or have lack of interest in planning ahead distribution of property (Rusnadewi Abdul Rashid and NorHisyam Ahmad, 2013) and wealth. This property is turned into frozen assets due to the ignorance of deceased himself or his/her beneficiaries. The deceased might already have planned on how to distribute the wealth but the procedures are too complicated (Muhammad Ridhwan Ab. Aziz and Nurul Izzati Nordin, 2015). The beneficiaries are bother to claim their rights or possibly due to time and cost constraints. Moreover, the bureaucratic process which is quite difficult, or the process of distribution of assets becomes even more complicated in the case of overlapping inheritance issues, and in problems related to fraud and disputes among the heirs. The complication due to the frozen assets really left a significant effect towards how distribution of wealth should be and should be managed from the perspective of IWM that based on shari'ah compliance and principles.

The huge impact of frozen assets can be seen as a negative impact towards society, as data presented by MohdKhairy, SuhailiAl-ma'amun, (2013) and Fazira et al (2014) that illustrated the

value of unclaimed assets in the country is rising annually. Their findings show that in 2006, an estimated one million inheritance claims worth approximately RM38bil were still left frozen. The actual figure could be much higher, as it does not include unclaimed monies in various agencies and financial institutions. It grew to RM40bil in 2009, and up to RM42bil in 2011. Owing to the growth in property values and increasing inheritance not being claimed made by heirs and beneficiaries in demise estates, the figure jumped drastically to RM52bil in 2012. The Deputy Minister of Natural Resources and Environment was reported to have said that the latest value of unclaimed assets in the country stood at about RM60bil, (Muhammad Hisyam Mohamad, 2016).

On the other hand, Malaysia's private wealth management industry is relatively growing and becoming quite crucial especially Islamic Wealth Management industry. Today, private wealth management services are generally offered by the wealth services units of banking institutions and by financial planners and advisers. While wealth management clients gained access to diverse financial products and services across the wealth management value chain, the core offerings remain basic wealth management solutions (SuruhanjayaSekuriti, 2017). There is a need for the industry to develop and offer a more comprehensive package of wealth management services and solutions to meet the diverse needs of clients. For the Islamic wealth management segment, in particular, its offerings are currently heavily reliant on the Islamic fund management services. The industry's future therefore lies in the ability to develop and offer more sophisticated fund solutions and to complement this with other Islamic wealth management services including strategies for wealth preservation and distribution, the growth prospects for the Islamic fund and wealth management industry in Malaysia will be driven primarily by greater demand for *Syariah*-compliant products and services. This can be attributed to the rising affluence of the expanding global Muslim population, growing preferences among Muslims to invest in *Syariah* -compliant products and services, and the broadening of the appeal of products based on *Syariah* principles to non-Muslims. In meeting the growing preferences among Malaysian demand for shari'ah-compliant products, the Islamic wealth management industry in Malaysia recently on the rise and more players from banking sectors and private companies are coming into this industry. Amanah Raya Berhad (ARB) is well known as the established and the only public authorized agency that offers a range of comprehensive Islamic estate planning since 1995. Bank Rakyat, CIMB Bank and BIMB are among several banks that are heading towards grabbing the potential market. With respects to the private companies, most of the companies are agents of the ARB or agents of other major Wasiyyah writing providers namely 'As-Salihin Trustee Berhad and Wasiyyah Shoppe'. A few of them operate without appointing agents such as ZAR PerundingPusaka and AmanahHibah (SuhailiAlma'mun, 2010).

Suhaili Alma'amun (2010) mentioned that, Malaysian Muslims are still far behind in this matter in the aspects of knowledge and implementation. They seem rather to take for granted as the provision in terms of the legislation has been designed for them and their heirs, instead of

preparing themselves with the knowledge of the Islamic estate planning. Their ignorance finally leads to emergence of the estate administration and settlement problems. Therefore, this paper attempted to determine factors of affecting selection of Islamic Wealth Management (IWM) services from Malaysian perspective.

LITERATURE REVIEW

Islamic Wealth Management (IWM)

Low awareness and knowledge contributed to be the reason IWM or Islamic estate planning was not widely practice (Omar, 2009; Mohyin, 2004). Malaysian Muslim particularly Malay do not really want to write *wasiyyah* (Islamic will). They have misconception towards *wasiyyah* in which they think only *faraid* instrument applies in the wealth distribution process, hence they think whether leaving *wasiyyah* or not, it does not have any impact since at the end of the distribution process the estate or wealth will be allocate according to *faraid* rules to the heirs and beneficiaries (Omar, 2006).

Perception of Malaysian Muslims toward IWM also had an influential role in the issue of frozen assets (Muhammad Ridhwan Ab. Aziz and NurulIzzatiNordin, 2015), hence it should be reassessed thoroughly among Malaysian. The misconception and misunderstanding regarding this issue will probably bring huge problem of gradually increase in frozen or unclaimed assets/wealth in Malaysia. They feel estate orwealth planning is not too crucial as they feel that it is only for the wealthy and rich person (Hassan, 2005; Hassan and Yusof, 2006; Fatin, 2011). Therefore, it is crucial to determine factors that can affecting Malaysian Muslim to use Islamic Wealth Management Services in order to avoid disputes arise among heirs and beneficiaries on the issue of inheritance of property after the deceased died.

Brand Image

Brand image is defined as the impression of a brand's total personality in a consumer's mind (Marconi 2000). According to Aaker and Biehl (1993), brand image has four important components that aid in classifying the concept: personality and character, visual representation, hard attributes, and soft attributes. Personality and character encompass the adjectives and descriptions that are evoked from a brand, while visual representations entail the unique symbols that are associated with the brand. Hard attributes are the specific product features and benefits the product provides. Lastly, soft attributes include how a consumer personally connects to a brand in order to make it a part of their lifestyle.

Brand image influences consumers' purchasing behavior, especially when it is difficult to differentiate products or services on the basis of tangible features (Mudambi et al., 1997). A positive brand image can strengthen consumers' confidence in a company and build customers' loyalty. Many studies reveal in the real business practice, when customers feel that financial products are associated with potentially high perceived risk, the role of a positive brand can act

as a risk-reducing device in reassuring the consumers (de Chernatony and Dall'Olmo Riley, 1999; de Chernatony and Cottam, 2006). According to Hsieh and Li (2008), strong brand image does construct a superior brand message of a particular brand over the rivalry brand into a competitivemarket. Consequently, not only customer's behavior but also customer's purchasing decision will be affected and determined by brand image (Burmam et al., 2008).

A line of study results from behavioral finance state that media can improve firm's brand image, which induces investors to invest in the recommended stocks without caution (Filbecka et al., 2013). Besides, according to Yu and Ting (2011), a study at banks, higher level of professional image can strengthen customers' trust. Therefore, brand image can be built via media. Many WM providers invest huge money in the advertisement. Through the media broadcasting, their name becomes even bigger and professional image being window dressed. The present study investigates the concept of brand image further by assessing the relationship between brand image and Islamic Wealth Management providers.

Perceived Value

Value is considered as a subjective and personal concept toward the products, services and relationships (Parasuraman, Zeithaml and Berry, 1985). Customer perceived value is described as the perception of quality, mindset, benefits gained and the financial value of the products or services (Hasan, Kiong, & Ainuddin, 2014).The term perceived value defined by Zeithaml (1988) is "the consumer's overall assessment of the utility of a product (or service) based on perceptions of what is received and what is given". Within this definition, Zeithaml (1988) identified four diverse meaning of value: 1. Value is low price. 2. Value is whatever consumer want in a product. 3. Value is the quality consumer get for the price paid. 4. Value is what consumer gets for what they give.

As stated by Park, Bernard and Deborah (1986) that customer perceptions of value are influenced by their needs. Since there are many components of value that have been found or proposed in previous studies, thus viewing customer perceived value from this perspective (through the needs) will help to better understand about the value offered to the customer. The researcher and the marketing strategist therefore will be able to explore the component of value by referring to the needs or wants of the customers. In this study, the dimension of value can be categorized into three groups which are product-related value, social related value, and personal-related value. It is predicted that the customer is likely to be highly satisfied if these three types of dimensions of value are fulfilled (Aulia, Sukati, & Sulaiman, 2016).

Oliver and DeSarbo (1988) state that perceived value reflected the relation of the consumer's outcome or input to that of the firm's outcome or input in equity theory. The equity concept is related with customer perception and evaluation of what is right, fair and worth in price and value in obtaining the product or services (Bolton and Lemon, 1999). In another word, customer

perceived value is the result from a calculation of the rewards and expenses related with what the firm is offering. Customers feel fairly treated if the calculation of the outcome to input is equally measurable to what the firm is offering and receiving. Chang and Wildt (1994) indicate that customer perceived value is inter-related to purchase intention. Higher perceived value will lead to repurchasing intention towards the services and products offered which develops customer loyalty in the long run (Hasan, Kiong, & Ainuddin, 2014).

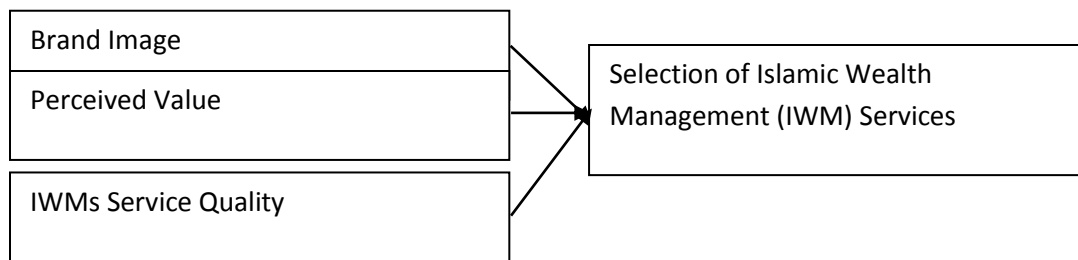
Customer perceived value is major factor influencing customer satisfaction document by Bolton & Drew, (1991); Parasuraman, et al., (1988). Many researchers show the importance of the perceived value by empirically showing the direct influence of perceived value with the consumer willingness to buy (Dodds& Monroe, 1985).

According to Rizwan Ali, Leifu, Muhammad YasirRafiq and Mudassar Hassan (2015), mentioned that, perceived value has been found to be most important factor for the customer satisfaction. However, the main focus of the management should be on all factors but perceived value is an important factor. It is critical for service firms especially for those who involve in IWM industry to establish benchmark and needs to monitor its performance among its customers in the same way that the firm monitors its management accounts.

Services Quality

Service quality is an overall evaluation which lead to people's positive and negative thoughts towards individuals, objects or events which can be determine through the five dimensions of service quality concept namely tangibility , assurance , responsiveness , reliability and empathy (Parasuraman, Zeithaml & Berry, 1985). In addition, Bolton & Drew (1991) indicate that service quality is related to satisfaction which emerges the differences in between expectation and performance.

A study by Chang & Yao (2015) indicate that the most important factors contribute to the selection of wealth management provider is Consultant Service Quality (CSQ). The study specify that service quality is the basic requirement looked by customers in choosing the wealth management provider especially in term of the ability of consultants to response on their queries and manage to provide appropriate recommendation, benefit offering as well as numbers of experience perceived by the consultants. In addition, customers who seek for Islamic Wealth Management services prefer professional's service directly to them and appreciate the long term relationships build before. The customers who want shari'ah-compliant services are both conservative and cautious and they prefer to keep a low public profile, as the displaying of wealth or the ruthless pursuit of returns is seen as non-Islamic. Therefore, responsiveness, reliability and empathy are very crucial to ensure their demand can be fulfilled (Wilson, 2016).



Independent Variables

Dependent Variable

Conceptual Frame Work (Source: Chang & Yao, 2015)

RESEARCH METHODOLOGY

The aim of this study is to describe the factors influencing Malaysian Muslim to select Islamic Wealth Management Services to manage the distribution of their wealth and properties. The methodology that will be used are quantitative method. This study will adopt a survey method by using a set of questionnaire that will be designed to describe the demographic profile of respondents and to ascertain the relationship between variables. The probability sampling method is cluster sampling in which the population will be Malaysian in Peninsular Malaysia that will be segregated into four regions North, South, West and East. The data collected will be analysed using Statistical Package for Social Science (SPSS) software to conduct reliability analysis, frequency and descriptive analysis, correlation, and regression.

CONCLUSION

This study is intended to describe the factors that will influence Malaysian to select IWM Services. Since Malaysia had just released the Islamic Fund and Wealth Management Blueprint in 2017, it is hope that the finding of this study will help the country to be a leading international centre for Islamic fund and wealth management.

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**EZ039:
DETERMINANTS OF ZAKAT COMPLIANCE BEHAVIOR TOWARD
ZAKAT INSTITUTIONS**

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Abstract

Zakat is one of the obligations for a Muslim that must be implemented which have positive impact on socio-economic development. In Indonesia, the level of Muslim compliance to pay zakat to zakat institutions is still unsatisfactory, it impacts the collection of zakat in Indonesia is not optimal. This study aims to propose research conceptual model regarding factors influencing zakat compliance behavior. This paper used literature review from relevant sources to analyze. This paper will discuss three factors that influence zakat compliance behavior specifically attitude, Islamic service quality and reputation. The next step, it is needed to conduct research to prove hypothesis which have been developed.

Keywords: Attitude, Islamic service quality, reputation, zakat compliance behavior.

INTRODUCTION

Zakat is one of the pillars in Islam which has an important role in reducing poverty. Moreover, zakat has an important role in reducing the gap between the riches and the poor (Beik, 2009). Zakat is not only religious obligation but also a social obligation. The importance of zakat in improving socio-economic development makes the government's intervention in zakat management is very much needed. The government's intervention in zakat management has been explained in Qur'an as Allah says:

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلَاتَكَ
سَكَنٌ لَهُمْ وَاللَّهُ سَمِيعٌ عَلِيمٌ ﴿١٠٣﴾

“Take alms of their wealth, wherewith thou mayst purify them and mayst make them grow, and pray for them. Lo! thy prayer is an assuagement for them. Allah is Hearer, Knower.” (Surah at-Taubah verse 103).

According to the might of Ibnu Katsir (2015), the meaning of “*Take alms of their wealth*” is government or state to collect *zakat* from muzaki. This means the existence of government’s role in *zakat* management would increase societies’ prospereous.

The Indonesia government has involved actively in managing *zakat* in Indonesia. The government establish the law of *zakat* in 2011 to give the *zakat* institutions a might to collect and distribute *zakat*. Among of them are Badan Amil *Zakat* Nasional (BAZNAS) which is in under government and Lembaga Amil *Zakat* Nasional (LAZNAS) which is in under Islamic community organization.

According to data from Ministry of Religion of Republic of Indonesia (2013) the Muslim population in Indonesia is 207 million people or 87.21% of Indonesian population. The large number of Muslim population in Indonesia will increase the collection of *zakat* in Indonesia if the most of them pay.

*Table 1: The Potential Collection of Zakat in Indonesia
Research Conducted by BAZNAS and FEM IPB 2011*

Analysis	Zakat Potential (trillion IDR)	Percentage of GDP
Zakat on Household	82,7	1,30%
Zakat on Private Industries	114,89	1,80%
Zakat of State Industries	2,4	0,04%
Zakat on Saving	17	0,27%
Total Zakat Nasional	217	3,40%

Source: Research by BAZNAS and FEM IPB (in Ministry of Religion, Republic of Indonesia, 2013)

The table above shows the gap between potential and realization of *zakat* in Indonesia. In 2015, the management of *zakat* collection in Indonesia by menas of *zakat* institutions is IDR 3.7 trillion (USD 275 million) or about 1.3% of the potential (*Realisasi Zakat di Indonesia Hanya 1,3 Persen dari Potensi*, 2016).

There are many challenges in *zakat* collection found by *zakat* institution. According to Huda, *et. al* (2014) there are three priority issues of *zakat* management in Indonesia which are regulation, management and payers. The issue of muzaki who pays *zakat* to *zakat* institution is serious matter to be resolved, especially for case in Indonesia where *zakat* collection is still unsatisfactory. That problem is problem of *zakat* compliance behavior in paying *zakat* to *zakat* institutions in still low level (Heikal, Khaddafi, & Falahuddin, 2014; Huda, Rini, Mardoni, & Putra, 2012; Muhammad, Al, & Saad, 2016; Mukhlis & Beik, 2013; Sapingi, Ahmad, & Mohamad, 2011; Zainal, Bakar, & Saad, 2016). The pie chart below shows the behavior of payers among civil servants (PNS) in Kota Bandung, Indonesia.

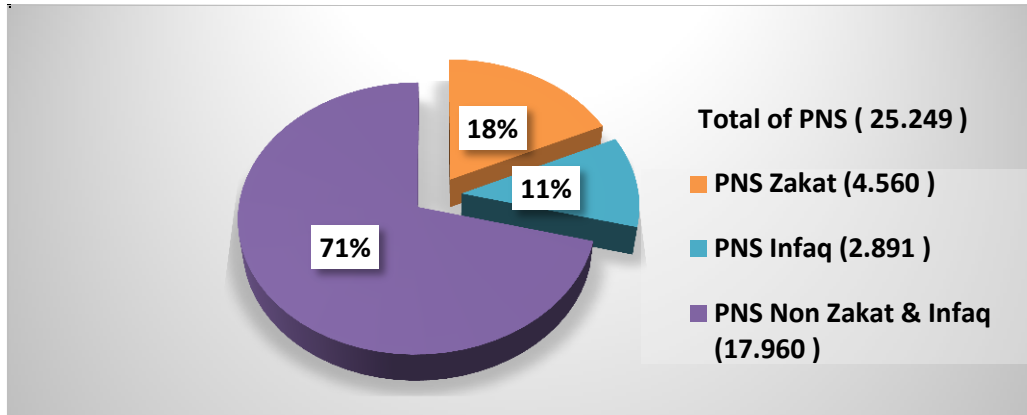


Figure 1: Recapitulation of Muzaki from Civil Servant in Kota Bandung Government.
 Source: Annual Report Baznas Kota Bandung (2015)

Badan Amil Zakat Nasional (BAZNAS) Kota Bandung is an established institution formed by the government in order to collect *zakat* on Income among civil servant in Kota Bandung. The BAZNAS' annual report in 2015 shows the total of civil servant (PNS) is 25.249 people, however only 18% or 4.560 people pay their *zakat* to BAZNAS Kota Bandung. In fact, the number of *zakat* payers who pay *zakat* to BAZNAS Kota Bandung decreased in 2 years. The graph below shows its declining in *zakat* payers

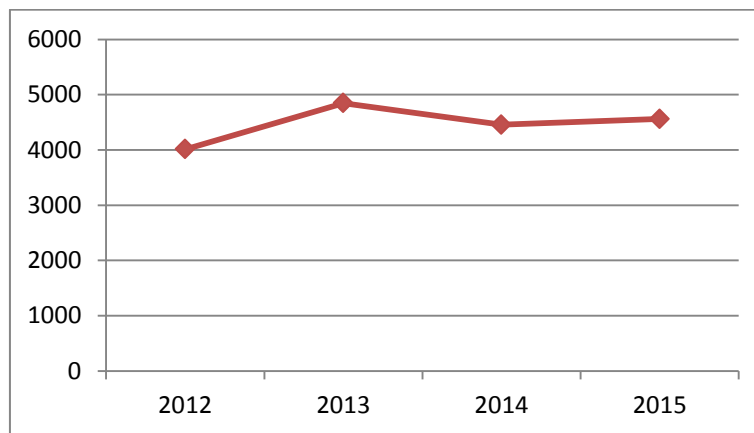


Figure 2: Total of Muzaki Kota Bandung 2013-2015
 Source: Annual Report BAZNAS Kota Bandung (2015)

LITERATURE REVIEW AND HYPOTHESIS DEVELOPMENT

In this section, will be discussed literature review about the position of *zakat* in Islam, *zakat* compliance behavior and factors influencing *zakat* compliance behavior among Muslim and proposing hypothesis.

The Position of Zakat In Islam

Islam is a religion that perfectly guides every aspect of people in life. Moreover, Islam has a goal to preserve people by protecting religion (*ad-Diin*), soul (*an-Nafs*), intelligence (*al-'Aql*), ancestry (*an-Nasb*), wealth (*al-Maal*) called by *maqashid syariah*.

Zakat is one of the elements to realize the values of *maqashid syariah*, because the position of *zakat* is very important for human needs. According to Ibnu Qudamah Al-Maqdisi *Zakat* is mandatory rights in property, while according to Dr. Yusuf Al-Qardhawi *Zakat* is specific part of the property which are required by Allah to distribute for mustahik. *Dalil* or argumentation that instruct *zakat* is very many and is one of sure thing (*qath'i*), in the Qur'an has been mentioned the command for *zakat* specifically or together with *salat* (Uqaily, 2013).

The benefit of *zakat* are as follow (Aziz, 2009):

- a. Strengthening the sense of love and affection between rich and poor.
- b. Cleaning and purifying the soul from gluttony and greed as explained by Qur'an surah At-Taubah [9]: 103.

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا

"Take alms of their wealth, wherewith thou mayst purify them and mayst make them grow"

- c. Accustoming Muslims to the perpetration of caring, generosity, friendliness and empathy for those in need.
- d. Increasing and bringing a blessing to someone's property, and Allah will replace it with something better. As explained by Qur'an Surah Saba [34]: 39.

وَمَا أَنْفَقْتُمْ مِّنْ شَيْءٍ فَهُوَ يُخْلِفُهُ وَهُوَ خَيْرُ الرَّازِقِينَ

"And whatsoever ye spend (for good) He replaceth it. And He is the Best of Providers".

In addition there is the authentic hadith, Narrated by As-Suyuti in Al-Jami 'As-Saghir. Validated by Al-Albani, Prophet Muhammad said:

"O Bani Adam, give charity (sadaqah) so We (Allah) will suffice you"

Several empirical evidences show that *zakat* has an influence in reducing poverty and increasing mustahik income (Beik, 2009; Beik & Arsyianti, 2016; Murniati & Beik, 2016). In fact, *zakat* has played very important role in human development efforts, both material and non-material. At the same time, Allah warns those who do not pay *zakat* with torture on the judgment day (Aziz, 2007), as explained in the Qur'an explained by Qur'an Surah At-Taubah [9]: 34-35.

وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يُنْفِقُونَهَا فِي سَبِيلِ
اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ يَوْمَ يُحْمَى عَلَيْهَا فِي نَارِ جَهَنَّمَ
فَتُكْوَى بِهَا جِبَاهُهُمْ وَجُنُوبُهُمْ وَظُهُورُهُمْ هَذَا مَا كَنَزْتُمْ
لَأَنْفُسِكُمْ فَذُوقُوا مَا كُنْتُمْ تَكْنِزُونَ

“They who hoard up gold and silver and spend it not in the way of Allah, unto them give tidings (O Muhammad) of a painful doom, On the day when it will (all) be heated in the fire of hell, and their foreheads and their flanks and their backs will be branded therewith (and it will be said unto them): Here is that which ye hoarded for yourselves. Now taste of what ye used to hoard.”

Thus, the problem of *zakat* compliance behavior in paying *zakat* to *zakat* institutions is very important problem to be resolved. If the compliance aspects of the Muslim community in paying *zakat* already well, besides will increase the *zakat*, also be saved from the punishment of Allah SWT. For that, the next section will be discussed on *zakat* compliance behavior and the factors that influence it.

Zakat Compliance Behavior

Zakat compliance behavior is less discussed when compared with studies on tax compliance behavior. Previous study has built model of *zakat* compliance behavior based on model in tax compliance behavior (Sanep, Md. Nor, & Daud, 2011). *Zakat* compliance behavior can be defined as as the behavior of individuals in paying *zakat* obligation to *zakat* institution based on predefined rules (Noor & Saad, 2016; Sanep et al., 2011).

Research on the behavior of *zakat* compliance is indispensable in order to improve the management of *zakat* in particular of *zakat* collection. Therefore, the purpose of this paper is to propose research model where *zakat* compliance behavior as dependent variable. In other words, it is to determine the behavior of Muslim individuals in paying *zakat* to *zakat* institution in accordance with the rules set.

The previous studies are lot of using Theory of Planned Behavior (TPB) to determine *zakat* compliance (Bidin, Othman, & Noor Azman, 2013; Heikal et al., 2014; Huda et al., 2012). However, this study does not use that theory. In next section, will be discussed regarding independent variable.

Attitude and Zakat Compliance Behavior

According to Ajzen (1991) that attitude can be defined as individual perception about good or bad against an action. So, attitude is referred to views than behavior, and the views will encourage individual behavior. Thus, attitude can be used as research basis to predict individual behavior regarding *zakat* compliance behavior.

Some previous studies have examined the relationship between attitude and *zakat* compliance behavior (Azman & Bidin, 2015; Bidin, Idris, & Shamsudin, 2009). The result shows that there is positive relationship and significant between attitude and *zakat* compliance behavior. In other way, this study will propose hypothesis development based on previous studies i.e. positive relationship between attitude and *zakat* compliance behavior

H₁ : Attitude has a significant impact positively toward *zakat* compliance behavior)

Islamic Service Quality And Zakat Compliance Behavior

Service quality is one of the important elements that must be considered by any institution or agency companies, because it will determine the success in achieving the objectives. According to Keith & Simmers (2013) who conducted research regarding service quality in hotel reveal that service quality will determine consumer to reuse and repurchase hotel service when consumer feel satisfied with service quality, and also it will create consumer loyalty. On the other hand, consumer will attempt to spread out the information to large societies. Thus, service quality factor can be identified as one of the factors that will determine muzaki to comply or not to *zakat* institutions.

There are some research regarding service quality in *zakat*, one of them is Rais (2013) who reveal that factors that determine *zakat* collection successfully in Pusat Pungutan Zakat (PPZ) Malaysia, one of them is to create good service quality in every service counter. Service quality which delivered by PPZ has helped in increasing *zakat* collection.

Study service quality in *zakat* institutions toward *zakat* compliance behavior is still less. Therefore, it is very important to identify the relationship between service quality and *zakat* compliance behavior. This study will attempt to investigate the variable of service quality with Islamic values, called by Islamic service quality. According to Gayatri, Hume, & Mort (2011) reveal that religion is one of the important factors in the presence of service quality among Muslims. Thus, this study will propose hypothesis development as a follow:

H₂ : Islamic service quality has a significant impact positively toward *zakat* compliance behavior

Reputation and Zakat Compliance Behavior

According to Richard & Zhang, (2012) reputation can be defined as individual estimation toward institution activities. Institution reputation can be obtained from other people or other relevant

sources (Zainal et al., 2016). Indirectly, reputation will determine consumer loyalty or not to an institution. This is line with research result conducted by Hasanah (2014) who reveal that reputation influence consumer loyalty. Study about reputation can be implemented in *zakat* institutions to determine muzaki loyalty, and it also impact to muzaki compliance to pay *zakat* to *zakat* institutions.

The previous study regarding relationship between reputation and *zakat* compliance behavior is still less. Accordingly, this study is very important to conduct to determine that relationship. Hypothesis will be propose based on research in loyalty, namely:

H₃ : Islamic service quality has a significant impact positively toward *zakat* compliance behavior

RESEARCH CONCEPTUAL MODEL

Based on hypothesis developments that have been proposed, then can be described as follow:

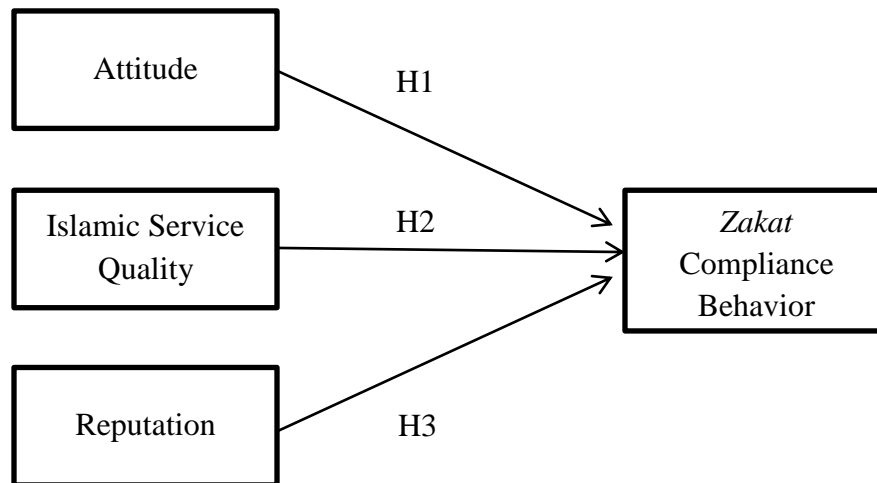


Figure 3. Research Conceptual Model of Zakat Compliance Behavior

In the model can be explained that *zakat* compliance behavior as dependent variable, and attitude, Islamic service quality, reputation as independent variable. Independent variables have positive influence simultaneously. It shows that if attitude, Islamic service quality and reputation perform well, then will increase *zakat* compliance behavior. The future research is needed to prove and answer the hypothesis.

CONCLUSION

This paper aims to propose a research conceptual model to analyze *zakat* compliance behavior, particularly in Indonesia. Based on literature review, presumable that attitude, Islamic service quality and reputation have postive impact toward *zakat* compliance behavior.

To answer hypothesis, it is important to conduct next research based on empirical study (research paper). The greater of *zakat* compliance behavior will help to increase *zakat* collection in Indonesia where recently in low receipt. Thus, this study will be foundation for government or stakeholders to create management of *zakat* optimally, so that *zakat* will be able to create societies prosperous.

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EW040:
**ADOPTION OF REINVESTMENT CONCEPT IN WAQF PROPERTY
MANAGEMENT PRACTICE: A CONCEPTUAL FRAMEWORK**

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Abstract

Muslim traditional perceptions merely interpret a waqf endowment as a mosque, cemetery, schools and etc. No matter what, they need to think out of the box and consider that waqf can relate to profitable assets which could address the prevailing needs of Muslims largely. To enhance the profitable assets, commercial development on waqf land should be encouraged as commercial development can generate continuous income if managed properly. According to Department of Awqaf, Zakat and Hajj (JAWHAR) as reported in (2015), waqf assets (land) in Malaysia has an estimated total value of RM4 billion. These waqf assets if managed properly would likely see a substantial increase in value. However, it is found that there are inefficiencies in waqf management practices that render waqf assets ineffective especially in terms of income generation. Several studies raised the issues of low rental income from the waqf assets which significantly affect the cash flow from such assets. Hence, the concept of reinvestment in waqf assets should be considered in waqf management practices. The practices of management of waqf assets which meet the needs of commercial waqf assets and is Sharia compliant could be the key to having financially sustainable commercial waqf assets. This paper presents a literature review on the concept of reinvestment and their needs in the management of real assets, and how this concept could accommodate the needs and wants in management of waqf commercial assets. Finally, by asserting the concept of reinvestment in maintaining the value of the building, it is hoped that this paper can substantiate a better understanding and digress early exposure to the needs and wants of reinvestment to the waqf institution that could strengthen the income generation as well.

Keywords; Profitable assets, Waqf assets, Continuous income, Reinvestment, Financial sustainability

INTRODUCTION

Nowadays, waqf assets are no longer regarded as a form of religious or welfare only however, their significance is really worthwhile if it could be commercialized in a profitable investment. It can be seen as a medium of social responsibility to a widened Muslim community. There are two forms of property that can be endowed; immovable such as land and buildings and movables such as cash and shares. However, according to *Al-Termidhi, Sunan al-Termadhi, al-Ahkam 'An*

Rasul Allah fi al-Waqf, (Hadith No. 12960), real estate or property (e.g. land and building) is seen as an ideal subject matter of waqf (Mohammad & Mar-Iman, 2006).

Accordingly, (Omar, Rahman, Mazlan, Bakar, & Kadir, 2013) stated that such assets to be endowed as waqf must be characterized as beneficial and has Islamic value. Thus, it was seen that commercial building is the best alternative to be implemented, since the revenue generated (rental or usufruct) could be the main income of waqf institution. Due to waqf philanthropy, its generated income should be channeled to both entity; the beneficiaries and for the building itself. Hence, the value of waqf assets must be kept as waqf, for the same purpose (Mohammad & Mar-Iman, 2006). Therefore, the first priority in the spending of waqf income should go to its upkeep and maintenance (Ghazaleh, 2011; Zarqa, 1994) so as to ensure the value of waqf assets is maintained and their income is distributed for needy.

As reported by Department of Awqaf, *Zakat* and *Hajj* (JAWHAR) in 2015, waqf assets (land) in Malaysia has an estimated total value of RM4 billion (Norinah, Rahman, Ahmad, & Mahdzan, 2015b). The most challenge here is how the State Islamic Religious Council (SIRC) as the sole trustee of waqf assets can ensure that waqf value is increased in tandem with prevailing needs of Muslims largely. Another issue to be addressed by SIRC is that waqf assets found to be ill-managed (Ahmed & Khan, 1998; Dahlia & Haslindar, 2013; Hassan & Shahid, 2010; Rashid, 2011; Sanep & Muhamed, 2011). Several contributions to inefficiency of waqf management and maintenance have been identified as insufficient funds for maintaining and management (Abdullah, 2010; Chowdhury, Ghazali, & Ibrahim, 2011), lack of qualified manpower (Dahlia & Haslindar, 2013; Md, Iftekhhar, Muhammad, & Yaso, 2012), delay in registration process (Mohamad, Kader, Zubaidah, & Ali, 2012) and lack of available information (Ismail, Salim, & Hanafiah, 2015). These identified issues are contributing to the low rental accumulation substantially (Aminah & Mohammad, 2011; Majid & Said, 2014; Ngah, 1992; Rani, Ismail, & Ismail, 2010; Siti et al., 2016).

The research conducted by (Siti et al., 2016) reported that nearly 100% of the tenants failed to pay the rent on time. As a result of their study, three factors affecting the rental arrears at Acheen Street Mosque in Penang were summarized; (i) tenant takes it for granted because it is a waqf property, (ii) inadequate staff in *Majlis Agama Islam Pulau Pinang* (MAIPP) for monitoring purposes, and (iii) SIRC did not impose tough measures against arrears.

Then, (Ismail et al., 2015) concluded that failure to rent out the waqf assets based on rental value and unsystematically manage the rental collection might subsequently contributed to financial problems. Furthermore, (Aminah & Mohammad, 2015) found that the revenue collection of many waqf institutions in several states are low. This was supported by the Auditor General Report 2014, series 3 which reported that few SRICs significantly deal with issues of rental arrears accumulation. Such SIRC's named include *Majlis Agama Islam Kedah* (MAIK) about RM1,050,000, *Majlis Agama Islam Pulau Pinang* (MAIPP) about RM4,560,000 and *Majlis*

Agama Islam Melaka (MAIM) about RM420,083. Besides, there are another two SRICs resulting from the increasing of rental arrears such as Majlis Agama Islam Dan Adat Melayu Terengganu (MAIDAM) and Majlis Agama Islam Selangor (MAIS); however, the total of increment is not mentioned.

Evidently, a great deal of interest has been shown by researchers in the past and at present indicates that this problem is ongoing. However, there has been no single empirical study examining this issue with regards to sustaining and enhancing the value through sound principles of property management. Under these circumstances, the concept of reinvestment could be adopted in waqf assets.

OVERVIEW OF REINVESTMENT CONCEPT

The concept of reinvestment

As referred to British Dictionary and Cambridge Dictionary, reinvestment can be defined as the “act or practice that put back money or profit that gain from a previous investment into another investment”. Thus, reinvestment may increase the value of a security as stated by Financial Dictionary. Other than that, reinvestment could offer potential profitable returns, as interest, income or in terms of appreciation in value (Thesaurus.com). However, (Preiser, 2015) referred the term of reinvestment as a “maintenance” or “ongoing operational investment” such as repainting, roofing or etc. Since the real estate including building is a physical entity, they tend to wear out over time. Thus, it should be maintained regularly so as to ensure the physical life is preserved.

Hence, in line with the reinvestment concept, (Johnson, Davis, & Shapiro, 2005) agreed that considerable sums of money or sinking fund are needed to be spent regularly to maintain, insure and let the property. While, (Mansfield & Pinder, 2008) referred the reinvestment as the allocation of disproportionate expenditure for maintenance and management of building in order to retain its investment value. Moreover, (Hudson, 2011) claimed that to keep the investor or property owner in perpetual operation, such capital shall reserve for maintenance. Then, (Amaratunga & Baldry, 1999) categorized this terminology into three elements which are; capital outlay, periodically maintenance expenses, and intermitted capital expenditure to sustain the building. Other than that, sometimes it can be called as capital renewal which is the capital investment in the ongoing process that ensures that building will function at the level commensurate in tandem with the building investment objectives (Preiser, 2015).

Although it has no clear definition for reinvestment specifically in real estate, but it can be assumed that the above literature does reflect what it's mean by reinvestment. Hence, reinvestment can be described as the action in which considerable sums of money from the investment is allocated for the purpose of maintaining the existing building through regular maintenance or repair for value sustenance.

For better understanding, maintenance and repair are different, but it could be interrelated. (LLP, 2012) classified maintenance as an action to avoid deterioration of the building through preventative and corrective measures, while the repair is a remove damage from the premises. Therefore, reinvestment factors can be included sinking fund, ongoing operating expenditure or continual investment. They believe it should be treated with compassion in a cash flow statement. Thus, it can be classified that the reinvestment concept could be essential tools for investment in real estate.

The need for reinvestment in the management of real assets

There are few reasons listed on the significance of reinvestments needed in the building. Firstly, as stated by (Ameyaw & Fuzhan, 2014) that the failure of providing available continuous capital expenditure for maintenance could reduce efficiency and utility of building. (Mansfield & Pinder, 2008) also perceived that capital expenditure is essential to slow physical deterioration. Thus, to ensure business continuity, future capital expenditure is must always be available when the building becomes dilapidated or obsolete (Ameyaw & Fuzhan, 2014).

Secondly, building requires reinvestment to maintain their value and usefulness to the institution (Preiser, 2015). If maintenance or regular reinvestment is deferred, then the cost of returning the assets to useful life may exceed the asset value. Thus, it may be more economical for the waqf institution to redevelop rather than to reinvest in the old one.

The third one is, according to (Ameyaw & Fuzhan, 2014), strong financial management is essential to preserve the physical well-being of the building and to ensure long lasting building economic life. According to (Derbes, 1987), the economic life of building is defined as the period of which improvements to real property contribute to property value. Hence, a well-maintained building can increased the economic life of the building. Physical management is also important in accomplishing the management objective. Therefore, financial and physical management must work together in tandem to achieve optimization of property investment (Ameyaw & Fuzhan, 2014).

Furthermore, the building is a real asset and can suffer to the physical deterioration and obsolescence (Baum, 2009). Physical deterioration relates to the age and wearing out of the building all over the time. While obsolescence merely refers to the condition of no longer able to function in the way that it was originally intended. While it does happen, the future cash flows will be affected either in the form of reduced rents or capital expenditure since a restoration is needed to reduce their effects. Therefore, as the rate of the rental value of an asset is on the decline, that's called as depreciation (Law, 2004). Regardless of current maintenance expenses, the building is still subject to depreciation (Porter & Norton, 2012). Under these circumstances, the reinvestment approach must be adopted since depreciation can be relieved, the returns will be maximized and thereby net income growth will be improved indirectly (Baum, 2009).

To sum up, the regular expenditure of a small amount of reinvestment is much better for a building instead of large capital injected for redevelopment. In other words, this concept could be strongly suggested for preserving and maintaining the value of building since it's seen as 'prevention is better than cure'. It is the key to provide a conducive environment to building owner, tenants, occupants, guests and maintenance teams instead of providing a wealth contribution to beneficiaries.

THE NEED OF REINVESTMENT CONCEPT IN COMMERCIAL WAQF ASSET

Since the commercial waqf assets (CWA) could be a profitable product of investment (Aminah & Mohammad, 2015; Osman, Mat, Ahmad, & Othman, 2015; Sadeq, 2002), lack of basic maintenance of waqf assets could hinder the potential commercial to be expanded (Ahmed & Khan, 1998). Hence, to be a financial sustainability, preservation, and maintenance of waqf assets is needed to achieve these standards. By estimating the physical building can be well over 60 years (DUNN, 2010), hence, a waqf assets are no exception to preserve their physical life as well.

Over the years, the requisition of repairs of waqf assets has been expressed literally by researchers. As such, according to (Ahmad, 1938; al-Sharbini, 1958) specified that the income from waqf assets must be firstly attended with expenses for continual repairs. Then, (Al-Marghinani's, 1936) advocated that the repairs must first be made by the right person from time to time. This could be implied that such of qualified and professional manager should go through all over the process. Therefore, whether the *waqif* has been stipulated in waqf deed or not on what the expenses from the income should be spent, the highest priority is for maintenance (Ghazaleh, 2011; Othman, 1982). Hence, as such requisition of repairs has clearly clarified that maintenance should come first before the philosophy.

It is to be understood, however, the maintenance of the subject of waqf assets means "preservation" of the physical of building as what the original state of waqf and does not include the improvement (Othman, 1982). He further defined that only if the building or a material of the waqf becomes damages or useless should be paid for maintenance. However, (Ghazaleh, 2011) referred the maintenance as a "restoration project" which merely prevents the waqf assets become deteriorate and decayed. However, if maintenance plan is neglected after the restoration project, it will lead the deterioration of the structures once again. Since the maintenance expenses totally depend on the income from the waqf itself, thus it only could cover the preservation state as it originally had, not beyond the ability of waqf assets. However, literally, it is found that lack of funds for maintaining the revenue-generating waqf including of operational costs (Abdullah, 2010; Chowdhury et al., 2011). Under these circumstances, as the incomes of waqf are solely depended on the waqf assets investment, the first thing to which attention should be paid is the availability of funding.

(Ghazaleh, 2011) also raised an issue of further funding for the maintenance and operation management. He claimed that though the sources of fundings are always available for the preliminary stage; such as through government or public contribution, however, the availability of further funding is needed to be addressed. It means that the restoration of waqf asset must be given an attention beginning from when the asset starts operating. He (Ghazaleh, 2011) further implied that if further funding is not available for maintenance, hence investment in the initial restoration project is not really worthwhile. Critically, it does imply that waqf is not financially sustainable yet.

Thus, one of the suggested ideas is through reinvestment which is really important and should be implemented accordingly. Reinvestment can be seen as the solution for how waqf assets could strengthen the income generated through maintaining and preserving the physical asset thus allowing the waqf institution to be financially sustainable. Since reinvestment shall be managed and allocate by financial management, waqf needs on the scope of property management based on a researcher's findings need to be considered as well. It has been tabulated in Table 1 as follows;

Table 1: The Scope of Property Management based on Waqf Needs

Scope of Management	Researchers	Recommendation
Financial Management	(Mohsin, 2012)	For private or public land; the suggested revenue generated shall distribute to; (i)70% to the beneficiaries, (ii) 10% to the trustee for managing the fund and (iii) 20% to be added to the accumulated fund as Self-Finance Device (SFD).
	(Norinah, Ahmad, & Mahdzan, 2015)	In Sabanci Foundation in Turki, the income from the waqf properties has been distributed accordingly, (i) 67% of it, to finance charity programs as specified in the waqf deed, (ii) 28% of the income is to be reinvested to increase the capital amount, and (iii) 5% is used to cover the management and administration expenses of the foundation, as well as allocation for reserves.
Maintenance Management	(Bakhoun, 2014)	Focusing on the regular maintenance and repair of the waqf asset and the cost of building operations being the highest priority.
Tenancy Management	(IPF, 2015)	Active management either through refurbishment or redevelopment, the renegotiation of leases or new lettings etc. may stimulate property to increase its value and investment returns.
	(Ismail et al., 2015)	<ul style="list-style-type: none"> i. Rental of waqf land should be increased in tandem with the current rental value. ii. More staff should be hired to collect rental more efficiently. iii. Records system of waqf land and tenants must be up to date.

Administrative Management	(Osman et al., 2015)	Tenancy management should be well managed including of leasing and renting existing land and buildings, internal and external expertise, selecting and upgrading potential lots.
	(Mohamad et al., 2012)	<ul style="list-style-type: none"> i. Registration of all waqf land or other landed properties must be conducted efficiently. ii. The procedure of recording waqf land in land office must be improved.
	(Ismail et al., 2015)	Database of registered land must be managed systematically and efficiently.
	(Bakhoun, 2014)	Making an inventory of all waqf asset owned by the institution that would include various information such as the typology, date of construction, state of conservation, etc.
	(Rashid, 2011)	Survey of waqf properties by preparing listings of awqaf to know details of the number, valuations, incomes, objects, expenditures, etc. of every waqf property to devise an effective administrative policy.
	(Mohammad, Iman, Hamid, & Omar, 2005)	Reorganize the management style of waqf organization and the enactment of law for the environment conducive.

Source: Adopted from Researchers's Findings

In summary, the above table revealed that researchers stressed out on the few scopes of waqf management mostly in the relation to the contributors of inefficiency in waqf management and maintenance. However, to resolve the inefficiency in waqf management practices, a full property management spectrum need to be considered as well. The Malaysian Property Management Standards (MPMS) highlighted of eight (8) roles of property management including; (i) building management, (ii) maintenance management, (iii) financial management, (iv) administrative management, (v) insurance management, (vi) health, safety and emergency, (vii) tenancy/ lease management and (viii) facilities management.

Specifically, to CWA, the sources of finances merely focus on the waqf rental (usufruct) rather than capital gain, since waqf cannot be sold and used as collateral (Mohammad & Mar-Iman, 2006). What this could mean is that waqf assets are being protected from third party (Sabran, 2002). However, it might increase in rental by adopting the best practices of property management. Hence, to achieve high rental value, the building must be well-functioned (Hin Li, 1997). It can only be achieved once an allocation by the financial management is expended regularly. Moreover, according to (Oyedokun, Oletubo, & Adewusi, 2014), tenant's satisfaction is key to achieving maximization of real property investment returns. This is because the tenants are the main consumer of the commercial buildings, their role in property market affect greatly the contribution to property investment. Their contribution is reflected in rental growth, vacancy rate, lease execution, lease breaks, landlord-tenant disagreements and building reputation (RICS, 2005).

Since the tenants are players to be tackled by the property manager, there is a need for quality service delivery (Dean & Lee, 1998) and good maintenance (Appel-Meulenbroek, 2008; Baharum, Nawawi, & Saat, 2009). Both of the factors could determine tenant’s satisfaction. (Oyedokun et al., 2014) advocated that, a good property management should focus on the needs of the tenants also rather than the physical building alone. From the foregoing, it is crucial to emphasize that financial management, maintenance management and tenancy management are the main scope of management which directly relate to reinvestment concept. Thus, by referring connectivity to each other, the scope of property management of waqf assets could divide into two parts based on their significance in waqf management practices which illustrated in Figure 1.

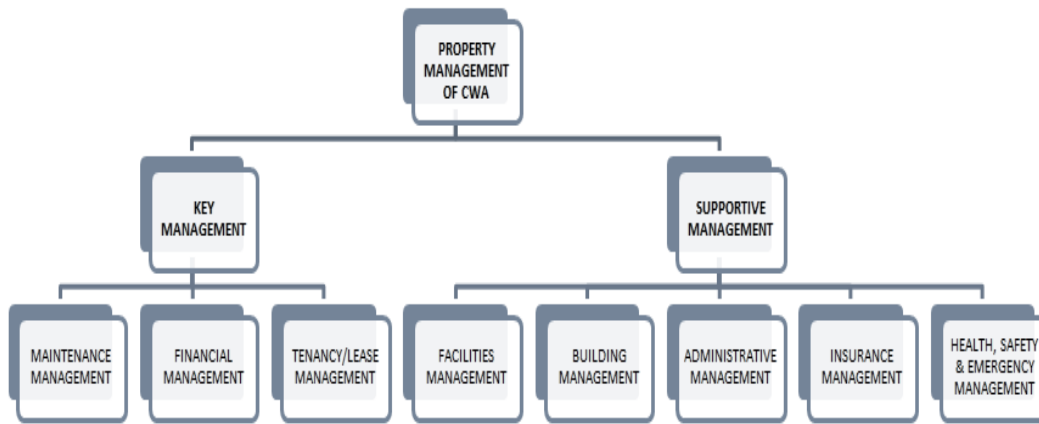


Figure 1: Property Management of CWA

Source: Adopted from Malaysian Property Management Standards-MPMS(2nd Edition 2016)

DISCUSSION OF CONCEPTUAL FRAMEWORK

In accordance to (Maxwell et al., 2013; Miles, Huberman, & Saldana, 2014), the conceptual framework is a study of presumed relationships among key factors or constructs that justified from previous research. It can be in the form of written or visual presentation that significantly explains the main things to be studied including the key factors, concepts, or variables (Miles & Huberman, 1994). However, (Marshall & Rossman, 2011) constituted conceptual framework into three primary elements including; (i) contributing to knowledge, (ii) intellectual traditions that guide the study and (iii) identification of gaps.

The diagrammatic conceptual framework developed for the study is shown in Figure 2 below;

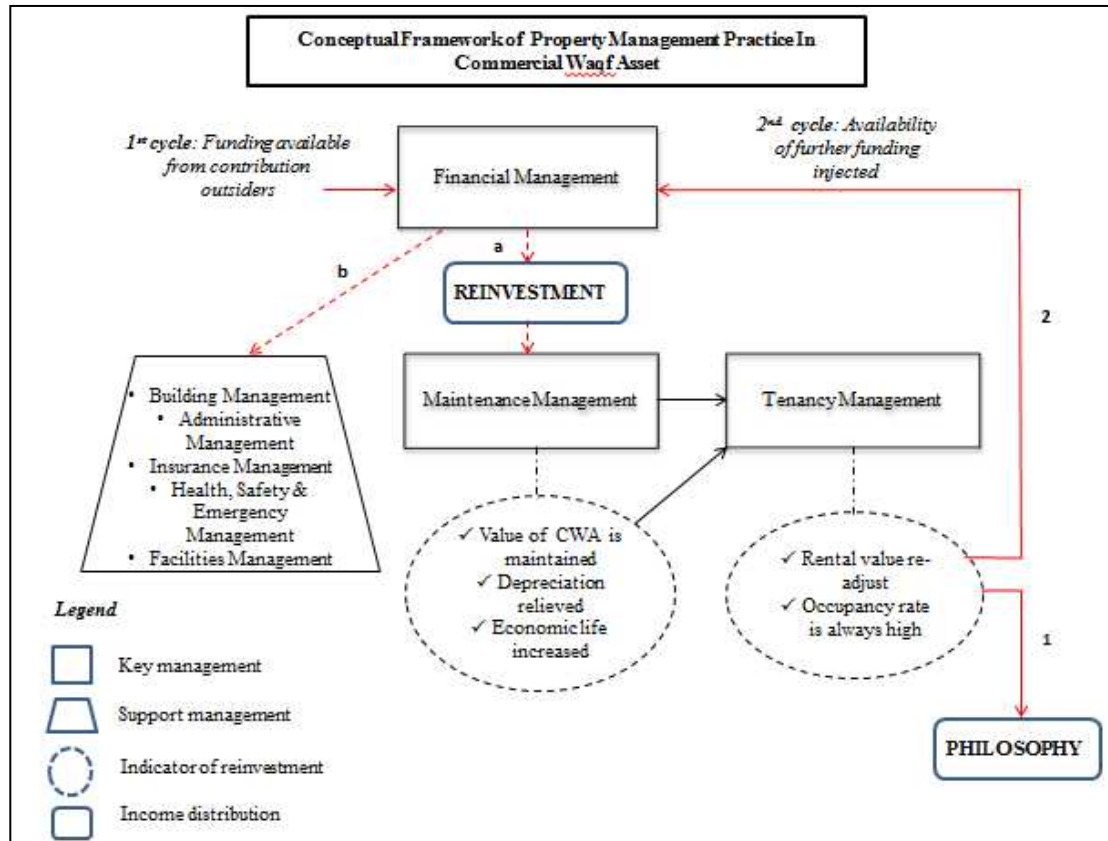


Figure 2: Conceptual Framework for Property Management in Commercial Waqf Asset
 Source: Developed by Authors (2016) based on (Ameyaw & Fuzhan, 2014), (Baum, 2009), (Ghazaleh, 2011), (Preiser, 2015) indicators

This conceptual framework specifically illustrates on how the reinvestment concept plays their role in sustaining and maintaining the waqf value of the building and thus allowing the waqf institution to be financially sustainable. Basically, it's involved two cycle distribution of funding for waqf management. For the first cycle, assuming that the funding is available from any sources either government grant or public donation. Here, the allocation for reinvestment is issued by financial management for (a) general maintenance and management of the waqf asset, and (b) supportive management. Then, the successful in maintenance management could be measured by such indicators; (i) value of CWA is maintained, (ii) depreciation is relieved, and (iii) economic life increased (Ameyaw & Fuzhan, 2014; Baum, 2009; Preiser, 2015). Therefore, the rental income collected in tenancy management also will be increase caused by the rental value could be re-adjusted and the occupancy rate is always high.

Under these circumstances, it could provide the availability for income to be distributed to the philosophy and the remaining for reinvestment more effectively. While doing so, the funding for the second cycle is always available caused by the income has been strengthened in the first

cycle. Ultimately, this conceptual framework has proven on how reinvestment could be used effectively to suffice the need and wants of waqf management practices. As a result, this study will allow the waqf institution to be financially sustainable and hence not require financial support from other sources.

CONCLUSION

This paper has revealed that reinvestment can be seen as the solution for how waqf assets could strengthen the income generated through maintaining and preserving the physical asset. By referring a full property management spectrum, this paper presented a conceptual framework of property management practice in CWA. Basically, these conceptual frameworks provide a basic idea on how the waqf institution to be financially sustainable through the availability of further funding. As a result, the objective of waqf philosophy could be attained successfully without disregard to the perpetual nature of waqf assets that shall preserve and maintain their value by considering the extension of the asset's economic life. It is the key to provide a conducive environment to building owner, tenants, occupants, guests and maintenance teams instead of providing a wealth contribution to beneficiaries. Finally, this terminology has complied with the *Syariah* principle without compromising the needs of tenant's choice, selection of waqf manager and contribution to waqf philanthropy as well.

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EZ042:
**EFFECTIVENESS OF SHARIA SMEs ASSISTANCE BY GOVERNMENT,
ZAKAT INSTITUTION AND ACADEMICS IN BANDUNG, INDONESIA.**

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Abstract

The majority of Indonesian people working in the micro enterprise sector. This sector in the last five years has been contributing significantly to the economic growth of Indonesia. However, the problem in the micro enterprise is that in Indonesia this sector still has to face several problems, such as: funding, limited access of marketing, low differentiation of product, lack of motivation and conventional technology. In the Islamic world view, micro enterprises that run in Indonesia have not run Islamic principles yet, such as: there is riba in capital sources, material production has not been halal and thayyiban, and lack of business ethic. Therefore, Bank of Indonesia in West Java region launched the Sharia SME Assistance Program by Practitioners and Academics (PUSPA) involving several universities and Misykat DPU DT as zakat institution. This research method is using descriptive quantitative approach to describe PUSPA program and its impact on micro enterprises as measured by several indicators. This research uses inferential parametric statistics, which is to find a significant difference before and after the micro enterprises get the assistance. The sample of this study used 18 micro enterprises, which is a society that empowered by zakat institution and have gained mentoring by students of Indonesia University of Education. The results of this study indicate that there are a significant improvement of micro enterprises based on the business development and the application of sharia principles. In conclusion, PUSPA program is effective to develop micro enterprises as the foundation of economic in Indonesia.

Keyword: Assistance, micro enterprises, PUSPA.

INTRODUCTION

Micro, Small and Medium Enterprises (SMEs) have an important role in the economy of Indonesia. SMEs have a huge portion which is 56.54 million units or 99.99% from the total of businesses in Indonesia (Bank Indonesia, 2015). Micro, Small and Medium Enterprises has been able to prove its existence in the economy of Indonesia. When the storm monetary crisis hit Indonesia in 1998, small and medium enterprises are relatively able to survive than large firms (Seran, 2016). Because the majority of small enterprises are not too dependent on large capital or external debt in foreign currency. So, when there are fluctuations in the exchange rate, the companies that are potentially affected by the crisis is the large-scale enterprises because their

business activities are often dealing with foreign currencies (Sarwono & Rijanto, 2015).

The majority of Indonesian people working in the micro business sector, this sector in the last five years contributed significantly to economic growth in Indonesia (Deny, 2014). The following data is micro business entrepreneurs in Indonesia:

Table 1: The Number of National Business Communities 2013 in Indonesia

Year	Type of Business (Unit)			
	Micro Enterprise	Small Enterprise	Medium Enterprise	Large Enterprise
2008	50,847,771	552,124	39,717	4,650
2009	52,176,795	546,675	41,133	4,677
2010	53,207,500	573,601	42,631	4,838
2011	54,559,696	602,195	44,280	4,952
2012	55,856,176	629,418	48,997	4,986
2013	57,189,393	654,222	52,106	5,066

Source: Kementerian Koperasi dan Usaha Kecil Menengah (2015)

Based on the data, the number of entrepreneurs in Indonesia is dominated by micro enterprises and the comparison is very much at all between the number of micro enterprises with small enterprises, medium enterprises and large enterprises. Then, in every year has increased number of micro businesses or other businesses. Therefore, micro enterprise is affecting economic growth in Indonesia and also micro enterprise are very interested in the community, they are used to working in order to generate revenue.

However, micro enterprise sector that is growing in Indonesia still faced with several problems, such as: funding, limited access of marketing, low differentiation of product, lack of motivation, conventional technology, poor financial management and does not have a business license (Supriyanto, 2006). According Rifa'i (2013) there are two problem of micro and small enterprise which are internal factors and external factors. Internal factors include lack of capital and funding, quality of Human Resources (HR), limited business networks and the ability to penetrate the market, mentality of entrepreneurs Micro, Small and Medium Enterprises (SMEs) and lack of transparency. Then the external factors is limited facilities and infrastructure, extortion, the implications of free trade, short durability products, limited market access and limited information.

Besides that, in the Islamic world view, micro enterprises run in Indonesia has not run Islamic principles, such as: *riba* in capital sources, material production has not been *halal* and *thayyiban*, and lack of business ethic. As in the words of Allah, Al-Baqarah [2]: 168 which means: “*O mankind, eat from whatever is on earth [that is] lawful and good and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy*”. That we are required to eat *halal* and *thayyiban*,

therefore when we did venture to produce a product which will be used by the public shall observe to *halal* and *thayyiban*, so it does not harm publics.

Besides that, *riba* is forbidden by Allah SWT, many verses in Al-Qur'an that explain the danger of *riba* that is Ali-Imran [3]: 130, which means “*O you who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful*”. Al-Baqarah [2] : 275 “*...But Allah has permitted trade and has forbidden interest...*”. Allah has permitted trade and has forbidden *riba* when we want to get good luck then leave *riba*, as in doing business or seeking sustenance we have to leave *riba* in order to get good luck and blessings of Allah SWT.

Based on these problems that the vision of one of the divisions of CIES Bandung in Bank of Indonesia West Java province is being research center, information, communication and education of Islamic economic excellence and leading in Indonesia in 2020. Therefore, Bank of Indonesia West Java province launched the SMEs *syariah* Assistance Program by Practitioners and Academics (PUSPA) involving several universities and Misykat DPU DT as *zakat* institution. This research is to show that there is a significant improvement of micro enterprises based on the business development and the application of the principles of *syariah*. So PUSPA considered as an effective program to develop micro enterprises as the foundation of economic in Indonesia.

LITERATUR REVIEW

Definition of SME

According to BPS (2015) Small Industries is an industrial company with a number of their employees between 5-19 peoples, while the Micro Industries is an industrial company of their employees between 1-4 peoples, both shortened to Small and Micro Industries (IKM). Manufacturing is an economic activity that conduct to alter basic goods mechanically, chemically, and by hand into finished or semi-finished product. Included in this activity is a service industry and assembling, while the industry is a service industry activities that serve the needs of others. In this activity the raw material provided by the other party while the processor is only doing its processing, usually people working on this kind of activity will be rewarded with a sum of money or goods as a favor, for an example rice milling company conducting grinding rice or paddy farmers with a particular remuneration.

The Characteristic of SME

The Characteristics of micro, small and medium enterprises according to the Ministry of Cooperatives and Small Medium Enterprises of the Republic of Indonesia (Puspayoga, 2015), as follows:

1. Micro Enterprise: Annual sales not more than Rp. 300 million with assets not more Rp. 50 million.

2. Small Enterprise: Annual sales Rp. 300 million – Rp. 2,5 billion with assets Rp. 50 million – Rp. 500 million.
3. Medium Enterprise: Annual sales Rp. 2,5 billion – Rp. 50 billion with assets Rp. 500 million – Rp. 10 billion.
4. Large Enterprise: Annual sales more than Rp. 50 billion with assets more than Rp. 10 billion.

The Role of SME For Economic Development

According to Bank of Indonesia (2015) terms of the number of businesses and employment, SMEs can be seen as the backbone of the economy in the member countries of ASEAN. In addition, strong, dynamic and efficient SMEs will encourage sustainable economic development for Indonesia, the role of SMEs is a major pillar of the economy. It is possible considering the micro enterprise entities include both formal and informal sectors with *barrier to entry and exit* still low characteristics. This entities with micro enterprises scale is also a strategic role as a safety net of the people in facing crisis and economic turbulence (Aminati, 2009). Therefore, micro enterprises are essential for economic growth of a country.

Development strategy for micro, small and medium enterprises is one of the most appropriate strategy to be implemented in Indonesia at this time. According Tedjasuksmana, (2014) the role of SMEs in the Indonesian economy can be seen from:

1. The position as a major player in economic activity in various sectors;
2. Provider of the largest employment;
3. Important player in the development of local economic activities and community empowerment;
4. Creator of new markets and sources of innovation;
5. Contributor in maintaining the balance of payments through export activities of society so as to reduce poverty and others.

Islamic Business Ethic

Rasulullah (SAW) gives many clues about business ethics according to Riva, Nuruddin, & Arfa, (2012, pp. 39-44) the following descriptions: First, essential principle in business is honesty. Second, awareness of the social significance of business activity. Third, did not commit perjury. Fourth, welcoming. Fifth, must not pretend to bid high prices for other people interested in buying at that price. Sixth, should not demonize other people's business so that people buy to him. Seven, did *ikhhtikar*. Eighth, clear measurment and weight. Ninth, business does not interfere with the activities of worship to Allah SWT. Tenth, pay employees wages before the sweat dried. Eleven, not monopolize. Twelfth, not allowed to do business in conditions of disadvantage that can be harmful and damaging individual and social life. Thirteenth, sell pure and halal goods. Fourteenth, done voluntarily, without coercion, Fifteenth, pay off debt quickly. Sixteenth, giving a grace period if the debtor has not been able to pay.

Legal Fundament

Al-Baqarah [2]: 168 which mean: “*O mankind, eat from whatever is on earth [that is] lawful and good and do not follow the footsteps of Satan. Indeed, he is to you a clear enemy*”. That we are required to eat *halal* and *thayyiban*, therefore when we did venture to produce a product which will be used by the public shall observe to *halal* and *thayyiban*, so it does not harm publics.

Besides that, *riba* is forbidden by Allah SWT, many verses in Al-Qur’an that explain the danger of *riba* that is Ali-Imran [3]: 130, which means “*O you who have believed, do not consume usury, doubled and multiplied, but fear Allah that you may be successful*”. Al-Baqarah [2] : 275 “*...But Allah has permitted trade and has forbidden interest...*”. Allah has permitted trade and has forbidden *riba* when we want to get good luck then leave *riba*, as in doing business or seeking sustenance we have to leave *riba* in order to get good luck and blessings of Allah SWT.

Then in addition verses of the Quran there are *hadists* regarding the production which means: "The Prophet Muhammad said: prohibit income from the dogs, blood, tattooist, and tattooed, eating and paying *riba*, and pictures maker". So that the prophet have forbid income from dogs, blood and others, then eating and paying *riba* means that business forbidden to use and pay with a system that uses *riba*.

Assistance Program

PUSPA program is a program that has been done to empower SMEs in Bandung area, these are the process of the program:

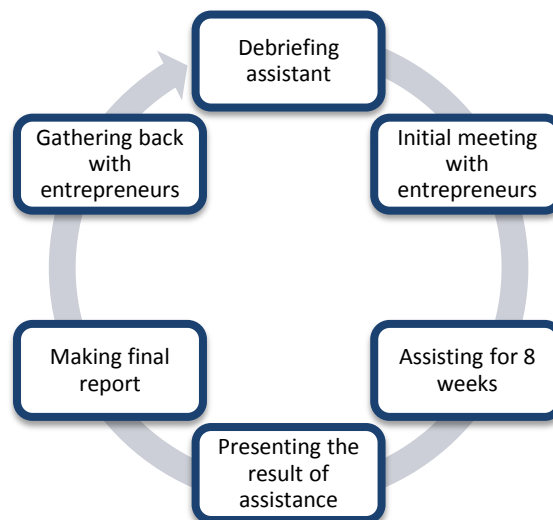


Figure 1. The Process of PUSPA Program

Misykat DPU DT

Misykat is a program to empower the productive economic community of DPU Daarut *Tauhiid* Bandung. Misykat is an acronym for Islamic Microfinance based on Community. Where this

Misykat funds from *zakat* institution DPU DT to roll the funds for productive things. Then Misykat DPU DT cooperate with Bank of Indonesia to provide information about businesses under the auspices of Misykat DPU DT to follow PUSPA program.

The Success Indicators Of Assistance

Success ratings of business assistance based on performance dimension as proposed by John B. Miner (1988) and indicators of measurement are set after consultation with the PUSPA program organizer as follows;

1. Human Resources (HR): (1) Clarity job, (2) Addition of employees, (3) Increasing skills and (4) Time allocation.
2. Production: (1) Choosing a good and proper production materials, (2) Determine the quality, (3) Setting production targets and (4) Choosing the right equipment and technology.
3. Financial Administration: (1) Have a transaction records, (2) Grouping of transaction records, (3) Have an income statement and (4) Have financial planning for a year ahead.
4. Marketing: (1) Have a permanent business location, (2) The promotion of business, (3) Expanding relations and cooperation and (4) Conduct market surveys.
5. Motivation and Business Plan: (1) Confident and honest, (2) Dare to take risks, (3) future oriented and (4) Good human relationship.
6. *Syariah* compliance: (1) Create an Islamic Bank account, (2) Knowing the type and transaction law in Islam, (3) Applying Islamic business ethics in business activities, and (4) Using materials *halalan* and *thayyiban*. (Rivai, Nuruddin, & Arfa, 2012)

Sixth observed variables over each having four indicators were assessed and measured by the range of values as follows: (1) Very good: 3-4 indicators, (2) Good: 2 indicators (3). Enough: 1 indicator and (4). Less: 0 indicator. Therefore, this study is a summative evaluation research, which was conducted after the program of activities completed. Summative evaluation is also to determine the extent of the program has a value of the benefit given to respondents.

METHODOLOGY

This research method is using descriptive quantitative approach to describe PUSPA program and its impact on micro enterprises as measured by several indicators. Based on the problems, the method used in this research is descriptive method with quantitative approach. Descriptive research is research that is intended to describe a situation or event that occurred. The main objective of descriptive research is to provide an accurate picture of the data, describe a process, mechanism, or relationships between events (Suryani & Hendryadi, 2015, p. 109). Quantitative research method is research that use data analysis in the form of numerical or numbers. The objective of quantitative research is to develop and use mathematical models, theories or hypotheses related to phenomena investigated by researchers (Suryani & Hendryadi, 2015, p. 109).

This research use inferential parametric statistics, which is to find a significant difference before and after the micro enterprises get the assistance. Different estimation methods two average population: paired observations according to Algifari (2013, p. 49) that is two different estimates of the average for the samples in pairs, each sample has a pair of data. To analyze the data is used a statistical tool called a statistical estimate of the average two different pairs. The difference of population data value marked a symbol d . Thus, d shows the difference etween the two average population parameter with the sample pairs.

The sample used in this research is a purposive sample or samples aimed subjective. Choosing "aims sample" is done because it is possible that researchers have understood the required information can be obtained from a specific target group that is able to provide the desired information because they have such information, and they fulfill the criteria set by the researchers. The sample is 18 micro businesses community which is powered by a *zakat* institution and has received assistance by students of Indonesia University of Education.

RESULT

The results of this study used two methods with inferential parametric statistics and quantitative descriptive.

SMEs Revenues Before And After Assistance

The following will be discussed are revenues of SMEs before and after the assistance, the data can be visualized as follows:

Table 2: The Revenues of SMEs Before and After Assistance (with Rupiah)

No.	SMEs Owner	SMEs Type	X ₁ (Before)	X ₂ (After)	Growth
1	Mrs. Ela & Mr. Sukri	Broiler	32.400.000	35.640.000	10%
2	Mrs. Yoyo	Hijab	15.120.000	19.656.000	30%
3	Mrs. 'Ai & Mr. Abdul Haris	Mustopa Potato Crackers	450.000	830.000	84.4%
4	Mrs. Yeni	Chicken 'Penyet'	9.750.000	10.725.000	10%
5	Mrs. Yuningsih	Taylor	1.350.000	1.965.600	45.6%
6	Mrs. Kokom	Cake	10.000.000	11.000.000	10%
7	Mrs. Rustiani & Mr. Dedi	'Surabi' Cake	3.000.000	3.600.000	20%
8	Mrs. Enung	Taylor	3.000.000	3.750.000	25%
9	Mr. Chandra Widya	'Risoles' Cake	5.400.000	5.508.000	2%
10	Mrs. Erni	Taylor	375.000	375.000	0%
11	Mrs. Imas	'Risoles' Cake	400.000	1.200.000	200%

	Masitoh				
12	Mrs. Yati Winrayati	Cake	4.500.000	4.995.000	11%
13	Mrs. Maryani	Cheese Stick Cake	600.000	955.000	59.2%
14	Mrs. Ismiyati	Muslim Fashion	960.000	1.152.000	20%
15	Mrs. Diah	Cathering	1.800.000	10.185.000	465.8%
16	Mrs. Euis	'Kerupuk' Crackers	24.000.000	24.840.000	3.5%
17	Mrs. Neneng	Chicken Noodle	500.000	830.000	66%
18	Mrs. Yani	Warung Jajanan	6.000.000	13.500.000	125%

The result of using inferential parametric statistics can be seen as follows:

Table 3: t-Test: Paired Two Sample for Means

	<i>Variable 1</i>	<i>Variable 2</i>
Mean	6644722	8372589
Variance	8,03E+13	9,56E+13
Observations	18	18
Pearson Correlation	0,967157	
Hypothesized Mean Difference	0	
Df	17	
t Stat	-2,89291	
P(T<=t) one-tail	0,005057	
t Critical one-tail	1,739607	
P(T<=t) two-tail	0,010113	
t Critical two-tail	2,109816	

Interpretation :

1. The average of revenues before getting assistance Rp. 6.644.722, after getting assistance Rp. 8.372.589. So there is an increased descriptively Rp 1.727.867.
2. 18 sample observations with degree of freedom $18-1 = 17$.
3. Pearson correlation is 0,967157 so it can be said that it has a very close relation.
4. t-stat -2,89291.
5. Hypothesis using 2-tailed hypothesis with t-table 1,740. So, t-stat is larger than t-table $2,89291 > 1,740$. Minus sign is absolutized, it's becoming plus. So, the results refused H_0 .
6. P value 0,005057 is smaller than $\alpha = 5\%$, so the desicion is to refuse H_0 .

It can be concluded there is a significant difference between before and after mentoring. If viewed from the disparity in revenue before and after, there is a very big progress, little progress and no progress. Factors that cause these problems are, the owners are not able to follow

direction of the assistant, there is no capital support is so it's difficult to developing, marketing methods are still so bad that is not increasing revenues, there are no changes to better production, there is no additional of capital, and still lack of motivation. So, with these problems there are still no significant change with the SMEs in revenues.

Results After Assistance Based On Indicators

The next discussion is before and after changes using the quantitative descriptive method, with the indicators are human resources, production, financial administration, promotion, motivation & business plan and *syariah* compliance. The following is the result of 18 micro enterprises assistance.

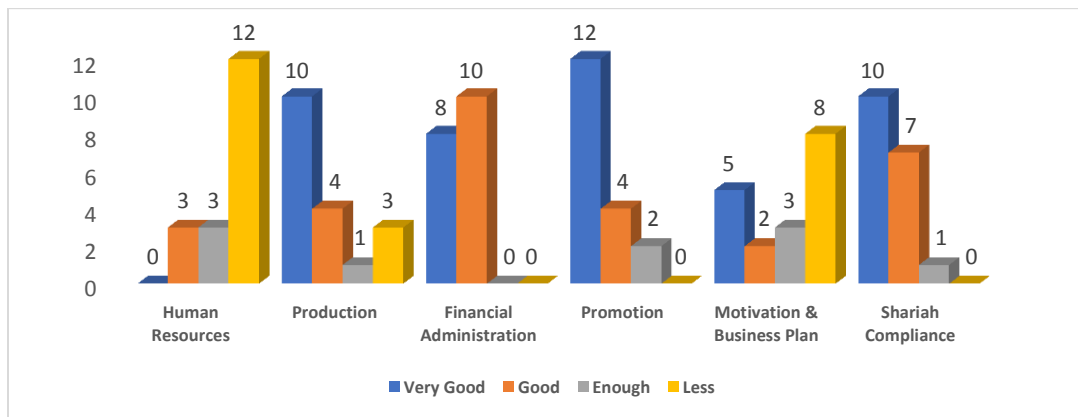


Figure 2: The Result of Assistance

Human Resource

The success rate of SMEs in managing the business, depending on how to manage and care for the human resources it employs. According to Patrick M. Wright (2003) that good human resources will have a very significant influence on the business activities. Here are assessment result of PUSPA program on human resource.

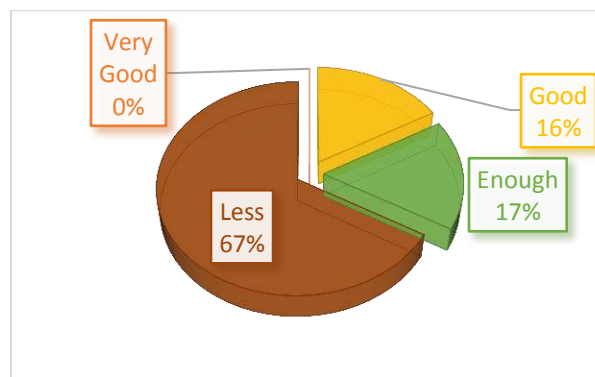


Figure 3: Percentage of Human resource

From the 18 SMEs sampled respondents for human resources the results can be obtained are 0% very good ratings, 17% good ratings, 17% enough ratings, and 66% less ratings. From the results

of the above shows that the overall process of assistance to SMEs in the field of HR less bring about positive change. This is because SMEs have a low revenue to allocate for hiring employees, and are usually owned and managed by one person.

Production

From the results of research and observation of indicators of production, the production is the most important thing in a business. Definition of production in the economic activities related to business creation and increase the usefulness or utility of goods and services (Fuad, 2006).

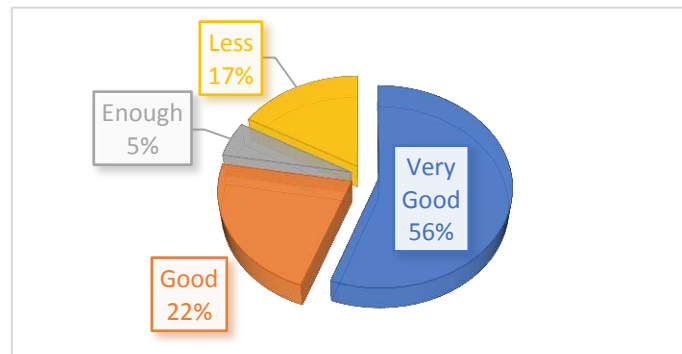


Figure 4: Percentage of Production

In the chart above we can see that on production runs with effective assistance, the results can be obtained are 55,5% very good ratings, 22,2% good ratings, 5,6% enough ratings, and 16,7% less ratings. Factors that causing the persistence of the businesses that are still lacking in changes in production is the owner did not follow the advice of the assistant, then capital to improve production, beside that the owner have lack of motivation so it's make no changes.

Financial Administration

Financial administration is a very necessary thing in a business. Financial administration is also very important as the elixir that assists in the formation of new businesses, and allows businesses to take advantage of opportunities to grow, employ local workers and in turn support other businesses and local, state and federal government through the remittance of income taxes (Duff, 2014).

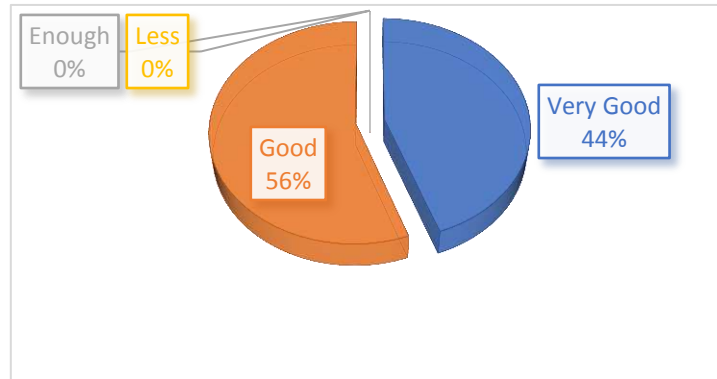


Figure 5: Percentage of Financial Administration

In the chart above we can see that on production sector runs with effectively, the results can be obtained are 44% very good ratings, 56% good ratings, 0% enough ratings, and 0% less ratings. The SMEs owner has been aware of the importance of its financial administration so that they are able to separate financial statements of the business with personal financial statements. Although the financial report is still very simple and still use handwriting, but at least was able to separate financial statements.

Marketing

Marketing is the heart of a business, and the function is contributing to the financial performance, customer relationship performance, and new product performance of the firm beyond the contribution of an organizationwide market orientation (Moorman,1999).

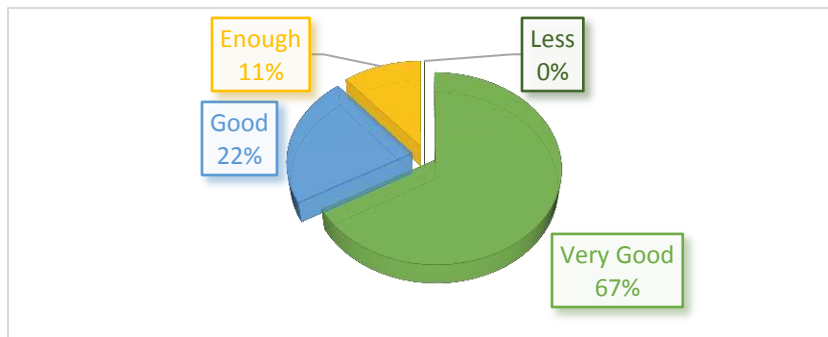


Figure 6: Percentage of Marketing

Based on the table, from 18 SMEs there are 12 or as much as 66.67% of SMEs that are changing with very good category. This category is marked by a change of a permanent business location, promotion of the business, efforts to expand cooperation and conduct market surveys. This is because the owners are listen to the direction and advice from the assistance. Meanwhile, there is no SMEs are unchanged.

Motivation and Business Plan

Motivation is a factor that will have a significant effect on the soul of a business activity, and motivation needed to build a business to keep it sustainable and growing (Zaki, 2006). Here are the result of PUSPA program on motivation and business plan.

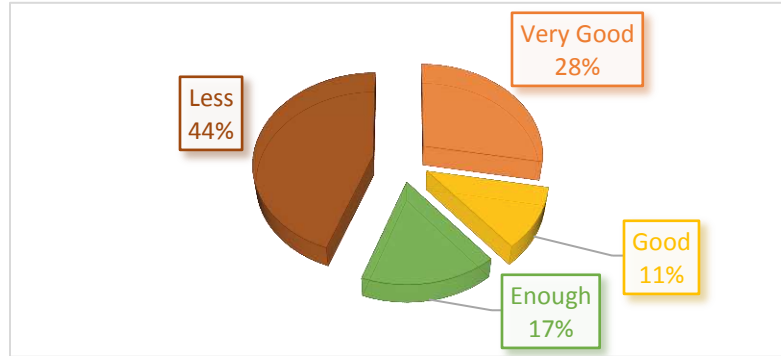


Figure 7: Percentage of Motivation and Business Plan

In the chart above we can see that as much as 28% are changes with very good category. It is marked by a change in attitude of SMEs as confident and honest, willing to take the risk, future oriented and good human relationships. Meanwhile, as many as 44.44% or 8 SMEs which constitute the less category has not changed in terms of motivation and business plan. It happens because the assistance is not optimal and the SMEs it self are not accepting the suggestion for the assistant.

Syariah Compliance

It is a differentiator from business assistance, which generally only provide assistance and doesn't apply *syariah* elements. *Syariah* compliance will affect their business activities and decision making, data can be seen as follows:

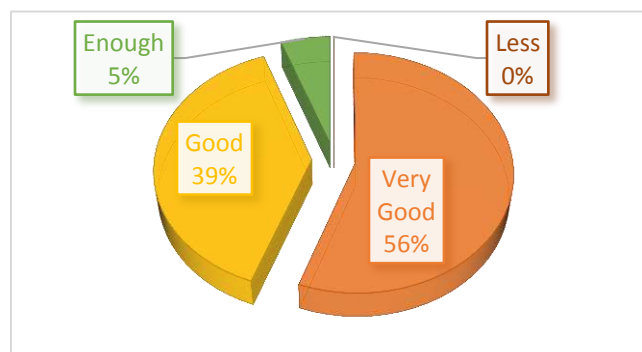


Figure 8: Percentage of Syariah Compliance

Based on the table, from 18 SMEs there are 10 or as much as 56% of SMEs that are changing with very good category. This category is marked by create an Islamic Bank account, knowing the type and transaction law in Islam, applying Islamic business ethics in business activities, and using materials halalan and thayyiban. This is because the owners are listen to the direction and advice from the assistance.

CONCLUSION

The results of this study indicate that there is a significant improvement of the micro enterprises based on development and application of the principles of *syariah*. Based on the revenue indicators there is significant differences between before and after getting assistance. If viewed from the disparity in revenue, there is a big progress before and after assistance. Then, there is no significant change in human resource and motivation & business plan indicators. Whereas production, financial administration, marketing and *syariah* compliance indicators has a significant change. In conclusion, PUSPA program is effective to develop micro enterprises as the foundation of economic in Indonesia.

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ES044:
**THE ROLE OF MISYKAT (ISLAMIC MICROFINANCE COMMUNITY
BASED) AGAINST MUSTAHIK PROSPERITY THROUGH BUSINESS
AND SPIRITUAL ACCOMPANIMENT HOUSEWIFE**

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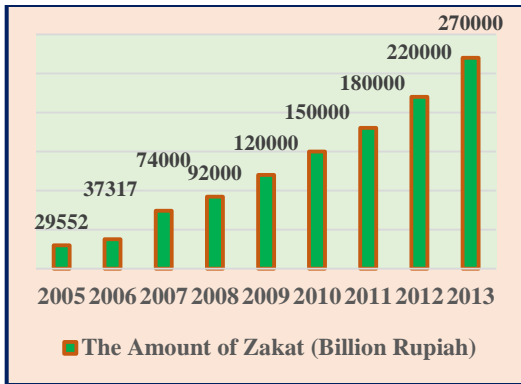
Abstract

The productive utilization of zakat is considered to be powerful instruments in improving the welfare of mustahik. However, obstacles often faced was mentoring effort and spiritual mechanisms relative still hard done by institutions of zakat. This paper will expose how MISYKAT as one part of the zakat plays an active role in empowering the community in doing business and spiritual accompaniment. The method of this research is done by the quantitative descriptive approach with based on several indicators. The number of members of MISYKAT used as the sample is 20 people. The technique of data collection was done via interviews (depth interview) to the members of MISYKAT and MISYKAT as well as sysop doing the study documentation. The results of this study illustrate that the pre in the aspect of material, a member of the MISYKAT is still relatively low, whereas in the spiritual aspect is already good enough. The implication of this research is necessary grand design business and spiritual accompaniment which is integrated by involving many parties through a network of partnerships.

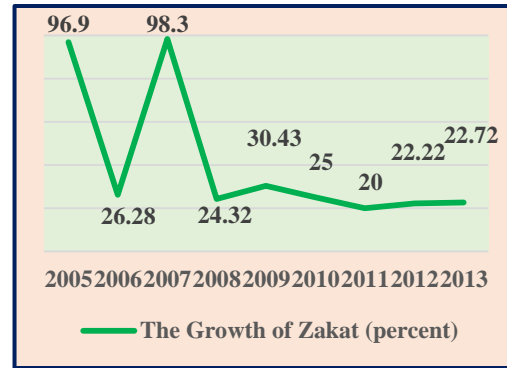
Keywords: MISYKAT, Mentoring, and Welfare

INTRODUCTION

Indonesian national *zakat* collection continues to experience increased nominally. However, its growth has decreased. The percentage growth of the national *zakat* collection from 2005 to 2013 experiencing fluctuations in each year. The growth of *zakat* in the year 2007 reached 98.30 percent and growth next year ranged between 20 to 30 percent. This can be seen in Graph 1 and Graph 2.



Graph 1. National Zakat Collection



Graph 2. The Growth of National Zakat

Source : BAZNAS (2014) in Beik (2015)

The problem is not only on the issue of *zakat* fund raising which is still less than optimal. But also the related utilization of *zakat* which is considered less effective in improving the welfare of *mustahik*. Several institutions of the national charity are considered less creative in utilizing *zakat*. The activities are most easily performed is funnelling funds in cash the *zakat mustahik*. However, this concept is considered less build up self-reliance and causing them to become be very dependent upon the aid of *zakat*.

Zakat which is distributed through the program is the productive utilization of *zakat*-based economic development in the form of the granting of business capital to *mustahik* for the economic effort is directed to productive that will improve the well-being of *mustahik* (a decision of the Minister of religious affairs, 1999). In addition, according to Rusli (2013:59) stated that productive *zakat* is *zakat* which is given to *mustahik* as capital for running an economic activity and growing level of economic and potential productivity of *mustahik* through coaching and mentoring to foster self-reliance and improved the welfare of *mustahik*.

The challenges faced in distributing *zakat* productive is doing *mustahik* for the accompaniment to do micro enterprises. Based on previous studies (Wirawan, 2013; Aulie, 2010; Understand, Pailis, 2016 and 2016), that the main factor that causes the distribution of *zakat* productive effective in improving the welfare of the *mustahik* is an integrated programme of mentoring. Without business mentoring program, *mustahik* in general will be find it difficult to manage the productive *zakat* funds received to open or develop micro owned. In addition, the character, attitude and mentally of *mustahik* often become obstacles to develop the potential of the business. On the other hand, the institution of *zakat* is often difficult to have cadres companion who has the soul of a high calling to help the *mustahik* out of the poverty of the material and spiritual.

One of institute of National *Zakat* LAZNAS in Indonesia is Dompot Peduli Umat Daarut tauhid (DPU DT) as an institution formed by a society that has the task to assist in the collection, distribution, and utilization of *zakat*. One of the activities performed by the DPU DT Bandung

namely distributing funds through *zakat* productive economic empowerment that is transmitted in the form of venture capital with *qardhul hasan aqad*. DPU DT presents program *zakat* earning through MISYKAT (Islamic Microfinance community-based) in the form of productive economic empowerment. This MISYKAT program is managed in a systematic, intensive, and sustainability as well as the existence of the grant of business skills is also a spiritual and mental construction of the characters so that the *mustahik* can be independently and character (Mahri, URet.all, 2015).

The advantages of program utilization of *zakat* made by MISYKAT, this program is able to do business assistance as well as the spiritual mental accompaniment to *mustahik*. Through the mentoring program conducted once a week to the Group of *mustahik* whose members the majority of mothers of households, the companion MISYKAT around from one group to the other and from one region to the other. This research aims to determine how the role of MISYKAT in improving the welfare of the *mustahik* through the business and spiritual accompaniment.

LITERATURE REVIEW

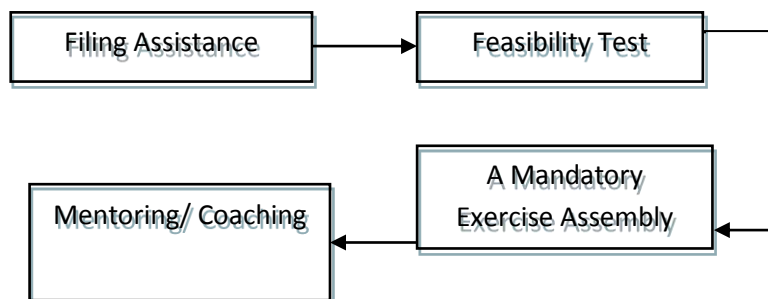
Misykat (Community Based Islamic Microfinance)

Dompot Peduli Ummat Daarut Tauhid (DPU DT) is the national institution of *amil zakat* and management of the trust funds (*zakat, infaq, sadaqah*, grants and endowments), then in 2003 DPU DT do program development in order to empowerment and realize economic independence of *mustahik*. The program aims to conduct service loan physically save by *syariah* and mentoring to productive business *mustahik* with the mechanism of the Group and named after the Islamic community based Microfinance or abbreviated MISYKAT.

In the year 2009-2011 DPU DT encourages self-reliance and the development of a better program, The DPU DT MISYKAT program makes as a separate legal entity, and is processed as a legal entity the primary effort all-round cooperative level of West Java province. In 2010 Misykat program turned into a Cooperative Misykat DPU DT engaged all-round in cooperative effort and started his business in the field of general trading, ATK, honey, as well as developing microfinance and economic accompaniment of household *mustahik*. However, the current focus of work Misykat DPU DT is a model of the micro-economic empowerment program of *mustahik*.

Misykat Program more emphasis on character changes, attitudes and patterns of life members with *ruhiyah* approach as well as the increased insight conducted systematically and continuously. The purpose of this Misykat program is empowering and making *mustahik* be more independent, forming a good and strong character, providing access to capital and delivering *mustahik* into *muzaki*. Efforts are continuing to do this one as well so that the poor off of the moneylenders scattered around the city of Bandung.

The program targets Misykat DPU DT is a citizen of Indonesia; Local natives; Muslim women (mothers); *Mustadh'afin* (people weakened); married; Still productive; Have business activities; Adjacent to the other members. In running the community empowerment program, Misykat DPU DT has workflows that can be seen in the following image.



*Picture: Workflow of Misykat Program By DPU DT
(Sources: Research Results, Data Processed)*

Any society that would ask the help of a capital to the Misykat DPU DT then must be members of the Misykat DPU DT in advance so that the next process becomes easier if the prospective recipient is already a member. The following is a requirement for becoming a member of Misykat:

1. Pass the eligibility Test selection. Starting from the survey area, following the activities of socialization, survey and interview prospective members
2. Fill out and submit the form
3. The copy of the Photo ID/Identity
4. Copy of family card
5. Follow and pass the selection Exercise Mandatory Assembly for 3 days in a row with duration of 1 hour each day.

In a test of worthiness, there are several stages performed there including the following assessment areas, Committee meeting, socializing, surveys and interviews of members, prospective members and Committee meeting announcements/notice of graduation. Whereas a mandatory practice in the selection of the Assembly there are some provisions which are all participants must be present on time, when there is a late up over 15 minutes then the practice is delayed or repeated from the first day.

Then all participants must follow the Practice Mandatory Assembly for 3 days in a row .If there is one who is not present, then stated do not pass or there is an agreement to restart from the beginning (first day). All participants must follow the process of exercise in earnest. If all the requirements of the prospective recipient of the form already supplied and passes through several stages of selection which is already in the set, then there is an announcement of whether the

filing of such assistance received or not. If the submission is accepted, then the aid recipient would receive capital assistance and follow the mentoring provided by Misykat DPU DT.

Business and Spiritual Mentoring

The form of accompaniment provided by Misykat DPU DT is a meeting held once every week, meeting location is determined by the members based on the results of the deliberations, the meeting participants were members of a group that has gone through the process of Feasibility Test and Exercise Mandatory Assembly, the Assembly meeting is a meeting of several groups in a sitting position, with the activities of the group in accordance with their respective groups, and all the members of the Group attended a weekly mandatory group meetings, the absence of members of the group must be accompanied with clear reason and acceptable.

In the process of mentoring activities, there are some activities that exist include recitals together. The members of the group learn reading The Quran or recite the Quran together as opens next mentoring, activity there is soldering given by officers of the Misykat DPU DT, the material given surrounding the Islamic belief and understanding of members, then the next activity is savings recapitulate settlement members or members of the savings that must be repaid from the grant they received and monitoring effort run by discussions between members of the group sessions with officers from the accompaniment Misykat DPU DT. At the moment of disbursement of venture capital, then does is doing the opening with recitations of the Quran and do direct disbursements to members based on the submission that they already do in advance.

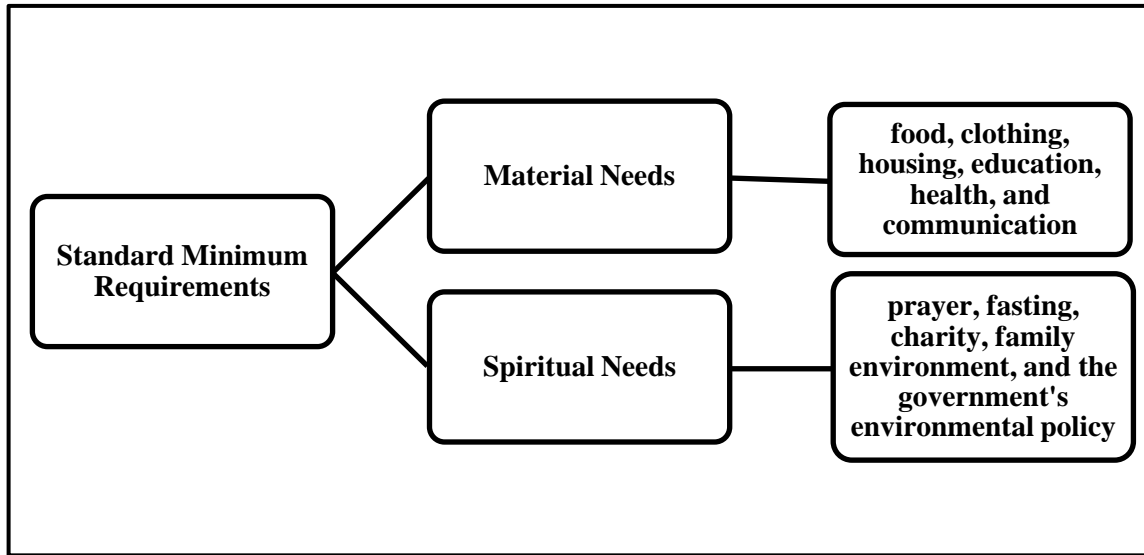
Mentoring work done to the *mustahik* in addition through discussions conducted every week, are also carried out at an unspecified time and usually MISYKAT cooperation with outsiders, just as academics from tertiary institutions as well as donors/sponsors who want to do community service to the community. For example, at the moment MISYKAT in cooperation with Bank Indonesia West Java region and several universities in Bandung with name PUSPA program (*Syariah* Business Mentoring by practitioners and academics).

RESEARCH METHODOLOGY

This research uses a descriptive quantitative approach, by explaining some variables based on indicators. Variables used is the empowerment program MISYKAT quality as measured by the amount of *zakat* funds received by *mustahik* and long help. In addition, the descriptive variables that will be used is *mustahik* welfare as measured by the fulfilment of the material and spiritual needs.

Data collection research was done through interviews (depth interview) to the housewife who became members of empowerment Misykat DPU-DT in Bandung, Indonesia. In addition, this databank is also obtained through interviews with the Executive Board documentation and proof of MISYKAT owned by MISYKAT. The number of samples that used as many as 20 people

with a purposive sampling technique. The type of data used for indicators of material well-being is data ratio, whereas the spiritual well-being indicators data are ordinal shaped by using a semantic scale (1-7) with the criteria that the score higher, meaning the value of the indicator of the better. Indicators of well-being used refer to the minimum needs standards used on the model CIBEST (Beik, 2015:49).



Picture: Minimum Requirements CIBEST Standard Model

The indicator on the modified model with other indicators, material needs to be modified by the standards of welfare of BKKBN (National family planning Coordination Board) and the spiritual needs of the modified from religious activities Mizanur Rahman (2010). Thus the welfare indicators and variables used in this study are:

Tabel 1: Mustahik Welfare Indicators

No.	Variable	Indicator
1	Material Welfare	Revenue
		Expenditure Food
		Non-Food Expenditures
2	Spiritual Welfare	Prayer
		Fasting
		Zakat, Infaq, dan Sadaqah
		Reading The Qur'an
		Spared from Riba

FINDING AND ANALYSIS

The Results of Research

Empirical studies based on the fact the field of productive utilization of *zakat* implications through the MISYKAT program gives some description of, among others, is the average amount of assistance provided (*zakat* productive) and long-time participation from program MISYKAT.

The end result of this study is an overview of how the condition of the members of the MISYKAT views of the ability to meet the needs of the material and spiritual needs.

Based on the research note that the duration of empowerment or participation of respondents on average MISYKAT programme or 60 percent of the respondents had attended the program MISYKAT 1-5 years. As for the amount of aid given by the MISYKAT that the average members receive assistance ranging from Rp. 1.000.000 – Rp. 1,500,000 as many as 14 people-- 70 percent. In addition, the Revolving Fund financing mechanism begins survey of economic factors, including the condition of the House, and the location of the House. The distribution of funds will be given once an active member in the intensive mentoring every week and the presence of venture capital application tailored to their ability. Financing a revolving fund is divided into several stages including phase I use *Qardul Hasan* contract, phase II onwards uses *Mudhorobah* contract (for results). If the question has not yet been able to pay for the results then it is recommended to *infaq* at Misykat. Proceeds from *Mudharabah* is Misykat Program's asset, not assets of the group. These funds may be used for importance and continuity of the operational program/independence.

Here's an overview of how the condition of the members of the MISYKAT views of the ability to meet the needs of the material and spiritual needs as an indicator of the level of well-being. Fulfilment of the material is based on several indicators including revenue, namely education, health, the basic needs of food and non-food (transportation, communications, and electric/water).

Revenue

The results showed the percentage of respondents who have an income of less than Rp. 1,000,000 there are two people that is Rp. 600,000 and Rp. 800,000, while the largest percentage at 65 percent on income of Rp. 1,000,000 - Rp. 2,000,000. Overall the average income of respondents Rp. 1,700,000.

Tabel 2: Respondents by Revenue

No	Revenue (Rupiah)	Respondent	Persentase
1	< 1.000.000	2 persons	10 %
2	1.000.000 – 2.000.000	13 persons	65 %
3	2.100.000 – 3.000.000	3 persons	15 %
4	3.100.000 – 4.000.000	2 persons	10 %
The Number of Respondents		20 persons	100 %

Source: research results, data processed

Basic Needs of Food and Non Food

The basic needs of food and non-food became one of the indicators of well-being as well as the basis in determining the poverty line. Spending in fulfilment of basic needs is influenced by the

amount of a person's income. Income limitations will cause obstructions in the fulfilment of various needs essence, so that lowers the level of prosperity of the family.

Tabel 3: Spending on food consumption/ month

No	Expenditure (Rupiah)	Respondent	Persentase
1	< 1.000.000	11 persons	55 %
2	1.000.000 – 1.500.000	8 persons	40 %
3	> 1.500.000	1 persons	5 %
The Number of Respondents		20 persons	100 %

Based on the related table above the level of food consumption expenditure results show that the majority of respondents to the magnitude of expenditure are under Rp. 1.000.000 of 55 percent. As for food consumption expenditures that respondents more than Rp. 1,500,000 there is only one person.

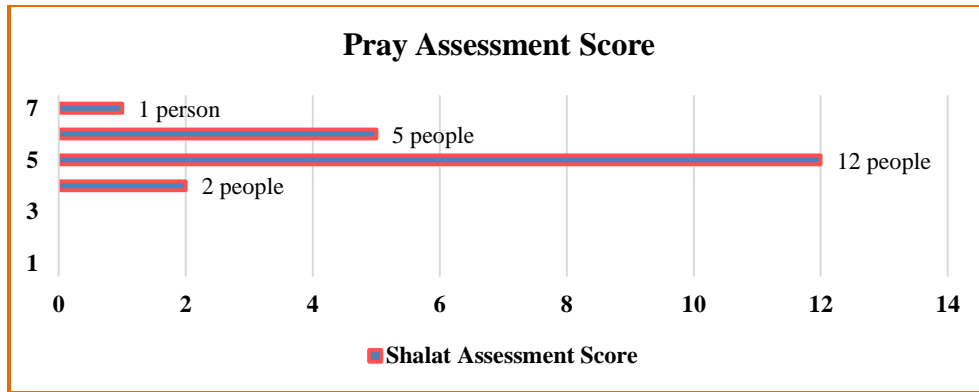
Tabel 4: Spending on Non Food/ month

No	Expenditure (Rupiah)	Respondent	Persentase
1	< 500.000	7 persons	35 %
2	500.000 – 1.000.000	11 persons	55 %
3	> 1.000.000	2 persons	10 %
The Number of Respondents		20 persons	100 %

Non-food consumption expenditure is based on expenditures for school fees, transportation, communications, financing, and payment of electricity/water. Based on table 4. the level of expenditure of the non-food consumption results show that the majority of respondents to the magnitude of expenditure is Rp. 500,000 – Rp. 1.000.000 of 55 percent. As for the respondents spending of non-food consumption of more than Rp. 1.000.000 there is only two people.

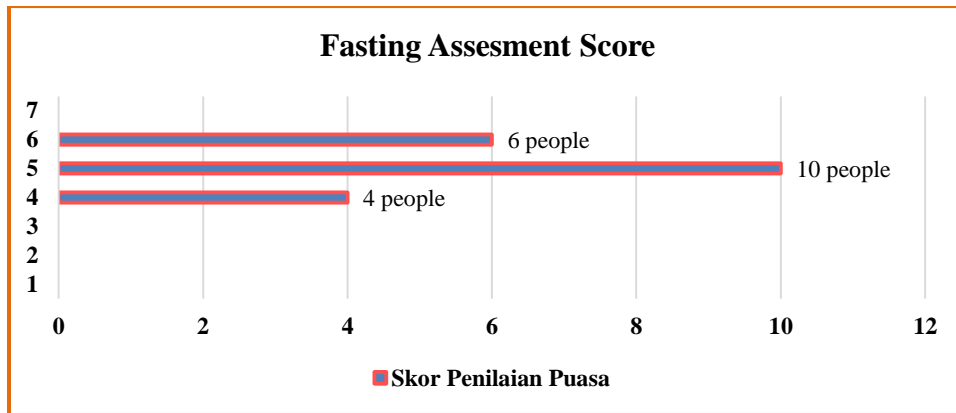
Spiritual Fulfillment

Well-being according to the perspective of Islam will be achieved when the fulfillment by both material and spiritual needs that will support the well-being of one's life is good in the world and in the hereafter. As for spiritual fulfillment is based on several indicators of which include the implementation of prayer, fasting, *Zakat*, *Infaq Sadaqah* as pillars of Islam that must be implemented. Besides other indicators such as reading Qur'an, and avoid usury is an obligation for Muslims as obedience to Allah SWT. Measurement of spiritual needs as the basis to calculate the spiritual poverty, if the score is less than 4 and include poor spiritually, as well as vice versa.



Graph 2: Pray Assesment Score

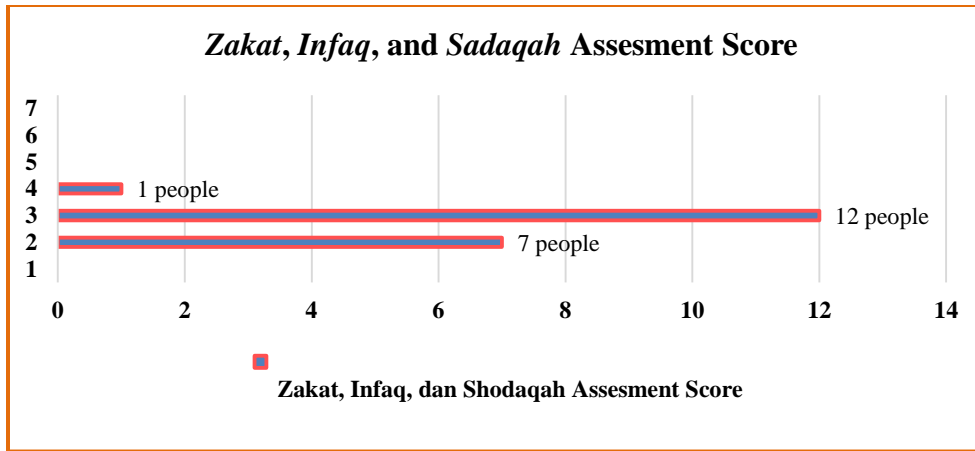
Based on the graph 2, related score assessment results show that the respondents pray the quality of implementation of the prayer as a whole been good is above score 4 of 90 percent. It is characterized by the presence of the care of the implementation of the prayer on time, the existence of the prayer in congregation with the family, and the *sunnah* prayers as prayer that complements the practice mandatory.



Graph 3: Fasting Assesment Score

Based on the graph 3, related score fasting assessment results show that the quality of respondent's implementation of fasting as a whole been good i.e. above the score of 4 amounted to 80 per cent. It is characterized by the presence of the care of the Ramadan, fasting *sunnah* and implementation such as fasting on Mondays and Thursdays as the practice that complements an obligatory fasting.

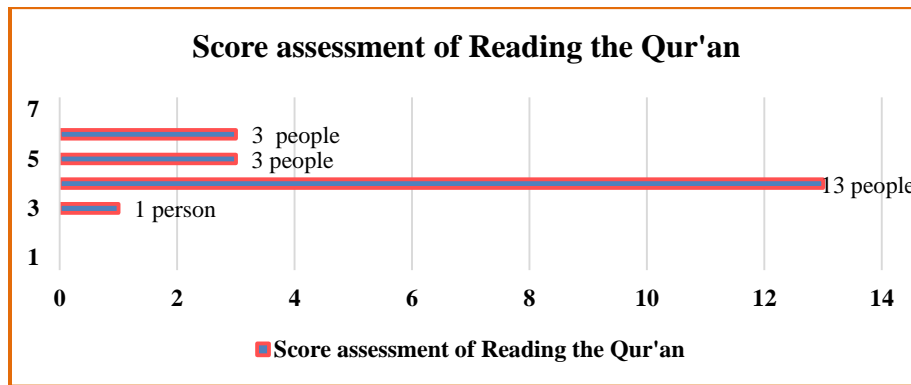
According to an Islamic perspective of consumption which is intended as a religious and social responsibility is removing some treasure that God has entrusted such as the *zakat*, alms, and *infaq*. This expenditure to meet the needs of the hereafter (final spending to Allah) because God will replace it with a pleated.



Graph 4: Zakat, Infaq, and Sadaqah Expenditure Assesment Score

Based on the graph of the associated score assessment expenditures ZIS respondents overall indicating that the results have not been good is amounting to 95 per cent were below the minimum score. It is characterized by his yet respondents do alms daily, still lack a sense of sharing to a fellow good brothers, neighbors, and others.

Keep interactions with the Qur'an can be used as an indicator of well-being. It is because the Qur'an is a guideline and as a hint of human life in his life so that the straightway of Allah SWT.

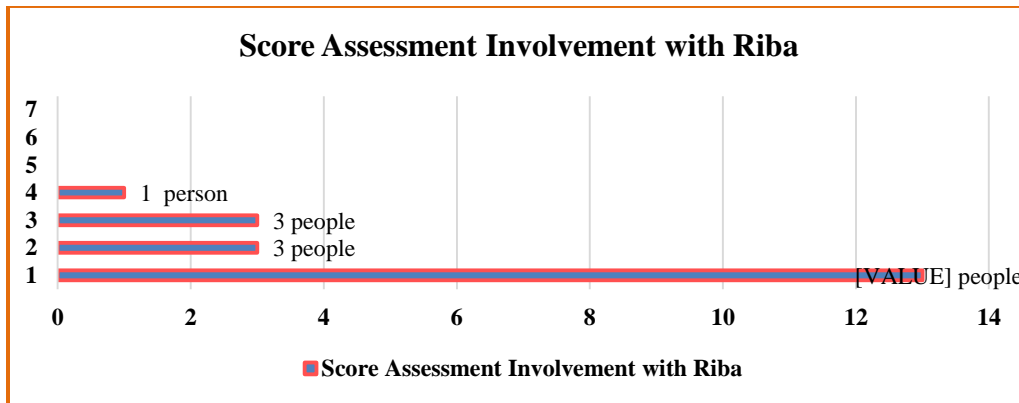


Graph 5: Score assessment of Reading the Qur'an

Based on the above graph related score assessment of reading the Quran, the results show that the quality of routine read the Quran in its entirety already good enough, it is above the score 3 of 95 percent. But there is still one of the respondents that the quality of reading Quran has not been good. It is characterized by the presence of interaction with the Qur'an every day, the quality of reading Quran, and read the translation of the Quran.

The prohibition of *riba* transactions can be used as one indicator of well-being because transactions *ribawi* is forbidden by Allah and his apostle. As in QS, (Al-Baqarah: 279)

mentioned that God and his Apostle will fight against those who keep picking up treasures of usury.



Graph 6: Score Assessment involvement with Riba

Based on the above graph related score involvement with usury results show that overall is already good enough, it is under score 4 of 95 percent. It is characterized by the absence of any sum of money deposited in the bank and never get conventional loans in may from a conventional bank.

Table 5: An Average Score of Spiritual Fulfillment Respondents

No	Score Spiritual Needs	Respondent	Persentase
1	< 4	2 persons	10 %
3	4 – 5	16 persons	80 %
4	5,1 – 6	2 persons	10 %
5	> 6	-	-
The Number of Respondents		20 persons	100 %

Based on the related table above an average score of spiritual fulfillment of the respondents as a whole been good i.e. amounting to 80 per cent have a score above the minimum. As for the others, there is still a score under at least as much as two people or by 10 percent, while the above scores five as much as two people or by 10 percent.

Analysis Discussion

Based on the research, respondents generally have a limited level of material well-being. When using standard poverty of the Central Bureau of Statistics Indonesia, they're not poor categories include but are prone to a poor life. Vulnerable living poor, meaning that in the event of an economic shock or increase in the prices of basic necessities, they are groups of people who very easily overwritten with poverty. However, if we use the standard Islamic Poverty Line (IPL), which is the approach of the *nisab* and *Had Al-Kifayah*, then the level of well-being of material from *mustahik* MISYKAT is far from the minimum standard.

Some of the things that caused some members of MISYKAT have a limited material welfare is zakat productive given by MISYKAT is still relatively small around 500,000 – 1,000,000.0-, so to do a business expansion of *mustahik* with these funds is relatively difficult. However, based on studies, the *zakat* fund despite the economically productive given to the *mustahik* has not been instrumental in improving the well-being of much significant materials, MISYKAT program be the best solution for the *mustahik* through the housewife who is empowered to maintain a stability condition of their economy with a routine save attitude familiarize implemented every single week. In addition, the housewife who became an agent of empowerment a poor family can be spared from the moneylenders or loan containing other *riba* will ensnare them into more severe levels of poverty.

The role of other economically MISYKAT for the *mustahik* is has given motivation to the housewives to engage actively in the activities of micro-enterprises, such as making food (dishes, pastries, and fried foods), open the stalls, and make other home products. Based on the results of research in the field, that most of them have husbands who are building laborers, peasants, whose incomes are limited and erratic. So the housewives involvement in mentoring effort MISYKAT, able to improve the empowerment of the housewives in maintaining inflexible pieces of economic families with increased skills in managing family finance and creativity as well as prolific in adding to the family's income.

Based on research that spiritual welfare indicators that are owned by members of the MISYKAT are on average 4-5, meaning it's been good enough in carrying out the activity of religiosity. This becomes very important because in principle it is clear that Islamic spiritual well-being is becoming key to survival in the world and the hereafter. Excellence programs MISYKAT program compared to the other existing *zakat* empowerment in Indonesia in General and in the city of Bandung, the spiritual mentoring program is particularly strong. The housewife from poor families gathered in the activities of mentoring once a week to read and study the Quran as well as get *tausiyah* which contains Islamic material. Such activities can provide *ghirah* (spirit) for the *mustahik* to remain patient, thankful and *istiqomah* in running the worship to Allah SWT.

The Spiritual accompaniment is generally aimed to shape the character of the perpetrators of the micro-enterprise integrating the values of Islamic Spirituality in his *muamalah* so it has a high commitment towards the fulfilment of obligations over *syariah* financing received. Specifically, the purpose of this spiritual accompaniment is fostering personal and entrepreneurial souls perpetrators of micro enterprises through a spiritual approach and develop entrepreneurial work attitude of micro-entrepreneurs through a psikoreligius approach (Bank Indonesia, 2016). As for the indicators of the success of spiritual accompaniment which is expected to be as follows: 1. The internalization of the attitude and behavior of participants that directly support business success; 2. Internalization of the attitude and behavior of participants who influenced the pattern of everyday life; 3. Internalization of the attitude and behavior of participants affect the

commitment in return of *Syariah* and micro financing 4. The increase in the quantity of ritual worship participants. The Framework of business and spiritual mentoring system that should be done by the institution of *Zakat* as indicated in Figure 1.



Figure 1. Mentoring and Training Framework
Source : Bank Indonesia (2016)

CONCLUSION

MISYKAT is one part of the *zakat* Agency plays an active role in doing business and spiritual accompaniment. However, it is, in fact increasing the welfare of its members felt not optimal. In the aspect of the material, part *mustahik* already out of poverty, although it is still categorized as vulnerable poor life. But, in the spiritual aspect of members (*mustahik*) MISYKAT've categorized quite well in running the service. Improve the welfare of the *mustahik* (the poor) material as well as spiritual aspects of in reality is not easy. Challenges faced include capital as well as in the aspect of mentoring. The form of mentoring that was given to the *mustahik* should be integrated include mentoring effort (technical and management) and spiritual. The Purpose is to make productive *zakat* can impact significantly to welfare *mustahik*. Therefore, the necessary partnership networks built by institutions with government charity, college, and other parties. Thus, the necessary movement congregation in combating poverty, since poverty reduction programs are still done a partial, then the results are less satisfying.

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EZ045:
**ZAKAT MANAGEMENT IN BADAN AMIL ZAKAT NASIONAL (BAZNAS)
BANDUNG CITY: AN ANALYSIS OF ACT NO. 23 YEAR 2011**

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Abstract

Zakat is one of the pillars of Islam which has socio-economic impacts to society. It is not only a religious obligation, but also a social obligation. In order to make it benefit (maslahah) the society, zakat needs to be managed in accordance with the regulation. In Indonesia, it is regulated with Act No. 38 Year 1999. However, over time, this regulation is not suitable with the needs of the zakat management in Indonesia and Indonesian government revised it into Act No. 23 Year 2011. This study aims to describe and analyze the implementation of zakat management by Badan Amil Zakat Nasional (BAZNAS) Bandung City based on Act No. 23 Year 2011. The method of analysis used in this study is description method and supported by a study of the relevant literature. The research found that based on several indicators, the Act of zakat management No. 23 Year 2011 has not been implemented in BAZNAS of Bandung city. The zakat management in BAZNAS Bandung has not been optimal and there are some discrepant aspects between the implementation and the regulation.

Keywords: Management, regulation, zakat

INTRODUCTION

Zakat is one of the pillars of Islam, which has socio-economic impacts in society since it can reduce the gap between the level of the rich and the poor. Besides functioning as a religious obligation, it also functions as a social obligation. The importance of zakat in improving the society's socio-economic condition required the government's regulation in its management. Government is an important stakeholder which determines a wide range of policies in a country. The role of government in zakat management has been described in Quran Surah At-Tawbah: 103.

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلَاتَكَ سَكَنٌ لَهُمْ
وَاللَّهُ سَمِيعٌ عَلِيمٌ ۙ ۱۰۳

Meaning : “Take alms out of their property, you would cleanse them and purify them thereby, and pray for them; surely your prayer is a relief to them; and Allah is Hearing, Knowing.” (QS. At-Tawbah : 103)

The verse explains that the government is obligated to collect *zakat* from the qualified Muslims. During the time of the Prophet Muhammad SWT, *zakat* management is part of the state finances that is made simple. On the other hand, with the development of the structure of the countries, areas, and economy rate, *zakat* management needs to be suited with the changing times. Development of the *zakat* management can be seen based on the rule of *tasharruf 'ala al-imam Al-ra'iyah bi al-manuth maslahah* (a policy which explains that the government are bound to benefit the people). Since the beginning of Islam, the *zakat* management has become a broad-based *maslahah ijihad* (Wibisono, 2015).

The active role of Indonesian government in *zakat* management is formulating rules as laws and government regulations that are related. It is evidenced by the existence of regulations about *zakat*, namely Act No. 23 Year 2011, PP No. 14 Year 2014, and Presidential Instruction No. 3 Year 2014. These regulations regulate that the *zakat* management in Indonesia is conducted by Indonesian official *zakat* institution, namely Badan Amil Zakat Nasional (BAZNAS) which has the functions of planning, executing, controlling, and reporting the activities of national *zakat* management (collection, distribution, and utilization of *zakat*). The success of *zakat* management according to Shonhaji (2016) should be supported by the existence of a professional management system and comprehensive government policy based on the interest of the *mustahik's* welfare.

The problem of *zakat* management in Indonesia is the gap between the potency and the realization of the *zakat* collection. In addition, there are also some problems of the *zakat* management which are categorized as a top priority. These priority issues are obtained from the results of a research conducted by Huda, et., al. (2014) of regulators, Organization Pengelola Zakat (OPZ), *muzaki* and *mustahik*. For the issue of regulator, the government must have a clear rule as a frame of reference in the *zakat* management. It is necessary for the development of the global *zakat*. One of them can be done through the international meetings to make *zakat* more optimal, such as Procuring International Zakat, the Expert Group Meeting, and others (Beik, 2012).

Table 1. The Potential of Zakat According to Provinces

No	Specification	Province	Potency of Zakat (IDR)
1	Province with the highest <i>zakat</i> potency	West Java	17, 67 trillion
		East Java	15, 49 trillion
		Central Java	13, 28 trillion
2	Province with the lowest <i>zakat</i> potency	Bali	126, 25 billion
		Papua	117, 44 billion
		West Papua	111, 68 billion

Source : Yudi (2015)

Based on the results of the research conducted by Yudi (2015), *zakat's* potency in Indonesia reached IDR. 286 trillion with an average growth of 23 percent. However, according to the data

of the OPZ (2015), the collected ZIS reached IDR 3.7 trillion, or less than 1.3 percent of its potential. Besides that, based on Table 1., West Java province has the highest potential zakat acceptance in Indonesia. However, based on the data of BAZNAS (2016), the realization of the zakat acceptance in West Java in 2016 is IDR 71.71 billion. Therefore, the problem of the low realization of *zakat* collection should encourage the making of proper policies related to its management in Indonesia.



Figure 1. Total of Civil Servants Pay ZIS
Source: Annual Report BAZNAS Kota Bandung (2015)

Another important thing that can be shown in Figure 1. is that the *zakat* collection conducted by BAZNAS of Bandung City majorly comes from the government employees in Bandung City. The number of employees who have not paid the obligated *zakat/infaq* has the largest percentage of 71 percent.

Thus, based on the background above, the writer attempts to conduct a study analysis of Organisasi Pengelola *Zakat* (OPZ) through the implementation of the internship in an institution of *zakat*. The observation aims to find out how the *zakat* management is conducted by BAZNAS Bandung City based on Act No. 23 Year 2011. The institution of *zakat* which becomes the research setting of this research is Badan Amil *Zakat* Nasional (BAZNAS) in Bandung City, located at Wastukencana Street 23, Bandung, Indonesia.

LITERATURE REVIEW

This section discusses the basic issues of *zakat* such as principles and dimensions of *zakat*. Then, management *zakat* based on Act No. 23 year 2011, and background of BAZNAS Bandung City are briefly reviewed.

Basic Issues Of *Zakat*

Zakat is a public islamic financial instrument that can be used as a financial instrument inclusive in Indonesia. It has several important roles i.e. reducing social disparities, improving the economy, reducing poverty, and becoming a source of funding for the welfare of the Muslims (BAZNAS, 2016). The Quran specifies the categories of people who are entitled to receive zakat

and according to the Quran Surah *At-Tawbah*: 60, there are eight categories of people who are entitled to receive *zakat* proceeds (Anis, 2016).

﴿إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَمِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ
وَالْغُرَمِينَ وَفِي سَبِيلِ اللَّهِ وَأَبْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ ٦٠﴾

Meaning : “Alms are only for the poor and the needy, and the officials (appointed) over them, and those whose hearts are made to incline (to truth) and the (ransoming of) captives and those in debts and in the way of Allah and the wayfarer; an ordinance from Allah; and Allah is knowing, Wise.” (QS. *At-Tawbah* : 60)

Moreover, *zakat* is one of the hallmarks of Islamic economic system and forms the implementation basis of the six principles of justice, which are beliefs, equitable distribution, productivity, reason, freedom, as well as ethics and fairness (Huda, 2012). The empirical facts indicate that *zakat* has lowered the level of poverty and improve the welfare and spiritual condition of the *mustahik* that can be seen from the increased revenue (Beik, 2009; Beik & Arsyianti, 2016; Murniati & Beik, 2016; Fahami, 2016 and Pailis, 2016). Therefore, *zakat* can serve as a financial instrument that is able to improve the quality of *mustahiks*’ life, both in terms of material as well as spiritual condition.

Beik (2011) stated that *zakat* has three principal dimensions: first, personal spiritual dimension of *zakat* is embodiment of faith to God Almighty, as well as purification of the soul as in QS. *At-Tawba*: 103. Second, social dimension, *zakat* oriented in an effort to create a harmonization of the society’s conditions and create solidarity as well as fraternity. Third, economy dimension, its main purpose is to improve people’s welfare. In other words, the primary needs of the *mustahik* can be met, while in the long run, the durability of their economies will be increased while stimulating economic growth.

Zakat Management Based On Act No. 23 Year 2011

Government has the responsibility of planning *zakat* management through rules to ensure that the management was done properly and professionally (Sari, et al., 2000). Act No. 23 Year 2011 serves as the basis of the implementation and *zakat* management in Indonesia which aims to "improve the effectiveness and efficiency of services in *zakat* management, and increase the benefits of *zakat* for the realization of community’s welfare and poverty reduction" (article 3). The regulation from the country in *zakat* management can give more power on the collection and distribution of *zakat* (Lisa, 2015).

Zakat management in Indonesia based on Act No. 23 Year 2011 provides changes to the national *zakat* management. BAZNAS carries out all aspects of regulatory functions as well as operation

functions. So, BAZNAS has the authority in other institutions of coordinating BAZNAS in the provinces, cities, and LAZ (Saidurrahman, 2013). The following is a summary of *zakat* management's principles.

Tabel 2. Main Points of Act No. 23 Year 2011 About Zakat Management

The Content of Act No. 23 Year 2011	
Principle	<i>Zakat</i> management is based on Islamic jurisprudence, amanah, expediency, justice, legal assurance, integration, and accountability (article 2).
Purpose	Effectiveness and efficiency of <i>zakat</i> management, as well as benefits of <i>zakat</i> for people's welfare and poverty reduction (article 3).
The Scope of the Fund to <i>Zakat</i>	<i>Zakat</i> is collected in the form of <i>zakat</i> on <i>fitriah</i> and <i>zakat</i> on business <i>rom muzaki</i> , both individuals or company (article 4).
National <i>Zakat</i> Manager Organization	The management <i>zakat</i> of the national done BAZNAS domiciled in the national capital, government agencies nonstructural independent and responsible to the President through the Minister of religion (article 5). BAZNAS is the only institution authorized to perform management of <i>zakat</i> nasional (article 6).
Regulator and Operator	BAZNAS organises the functions of planning, execution, control, as well as reporting and accountability of the activities of the national <i>zakat</i> management (collection, distribution, and utilization of <i>zakat</i>). BAZNAS report to the President through the Minister of religious affairs and Representatives of at least 1 year (article 7).
Regulatory and Institutional Operator	BAZNAS consists of 11 komisoner, 8 people elements of society and government elements 3 persons (article 8), job periods of 5 years and may be reappointed for one term (article 9), appointed and dismissed by the President upon the proposal of the Minister of religion (article 10), meets the requirements of, among others, Muslim, is not a member of a political party, and have competence in the field of management of <i>zakat</i> (article 11) in carrying out its duties, and assisted by the Secretariat (article 14).
Operator Supporter	For the implementation of the management of <i>zakat</i> on local level, formed BAZNAS BAZNAS province and kabupaten/kota by Minister of religious affairs over the proposal of Governor/Regent/ Mayor and after obtaining BAZNAS consideration (article 15). BAZNAS, BAZNAS province and BAZNAS district/municipality can establish UPZ in government agencies, BUMN, BUMS, private enterprise, representative RI outside the country, districts and subdistricts/ villages (article 16).
Operator of a Community	To assist in the implementation of BAZNAS management of <i>zakat</i> , the public can form a LAZ (article 17).
Registration and Licensing of Operator of Community	The formation of the LAZ compulsory Religious Ministers received permission, which permission is granted when the fewest qualified: registered as Islamic organizations, a legal body, the recommendations of BAZNAS, has the same Board of Trustees, has administrative, technical ability, and finance, nonprofit, has a program to harness the <i>zakat</i> , and prepared in the same and financial audited periodically (article 18). LAZ is obligated to report on a regular basis the implementation of the management of the charity has been audited to BAZNAS (article 19).
Tax Incentives	<i>Zakat</i> is paid to BAZNAS/LAZ deducted from PKP (article 22).
Distribution and Utilization of Funds	<i>Zakat</i> which is distributed in accordance of legislation (article 25) and on a scale of priorities with attention to the principles of equity, justice, and region

	(article 26). <i>Zakat</i> can be harnessed for productive efforts in <i>mustahik</i> basic needs have been met (article 27).
Special Fundraisers	In addition to the <i>zakat</i> , BAZNAS or LAZ also received <i>infaq</i> /alms and other religious Social Fund recorded separately (article 28).
Reporting to the Supervisory Authority and Self Regulation	BAZNAS regency/city is obliged to submit a report to the BAZNAS province, BAZNAS province and submit a report to BAZNAS LAZ, BAZNAS delivered a report to the Minister of religious affairs and publish it in print or electronic media (article 29).
Financing	BAZNAS financed state budget and amil (article 30). BAZNAS province and regency/city financed amil, and budget regional (article 31). LAZ financed amil rights (article 32).
Administrative Sanctions	BAZNAS or LAZ neglecting imposed administrative sanctions in the form of a written warning, suspension of activities, and or revocation (article 36).
Criminal Provisions	Those who distribute <i>zakat</i> the Islamic jurisprudence is not appropriate, a maximum of 5 and prison are convicted or a fine of 500 million rupiah (article 39). Those who are convicted of misusing funds will be a maximum of 5 years imprisonment or the fines 500 million (article 40). Parties who manage <i>zakat</i> authorities officials are convicted without a permit a maximum of one year and fines or 50 million (IDR) (article 41)
Transitional Provisions	The LAZ has confirmed the compulsory adjusting at least 5 years (article 43).

A research by Aziz (2014) mentions that there are some notes for this *zakat* act as presented by some activists of *zakat* which has been established. Articles that are considered crucial in managing this *zakat* Act No. 23 Year 2011 among other things:

1. Article 5 paragraph (1). To implement the management of *zakat*, the government formed the BAZNAS.
2. Article 7 paragraph (1). In carrying out the tasks referred to in article 6, BAZNAS organises functions: (a) planning the collection, distribution, and utilization of *zakat*; (b) the implementation of the collection, distribution, and utilization of *zakat*; (c) controlling the collection, distribution, and utilization of *zakat*; and (d) reporting and accountability for the implementation of the management of *zakat*.
3. Article 17. To assist BAZNAS in the implementation of the collection, distribution, and utilization of *zakat*, the public can form the LAZ.
4. Article 38. Any person prohibited from intentionally acts as amil *zakat* performs the collection, distribution, or utilization of *zakat* without permission of an authorized officer. This article was later abolished by the Constitutional Court Verdict Number 86/PUU-X/2012 on 31 October 2013.
5. Article 41. Any person who intentionally and unlawfully violated the conditions as referred to in article 38 are convicted by criminal confinement of not longer than 1 (one) year and/or criminal fines at most 50,000,000 (IDR), the article is then removed by a ruling of the Constitutional Court the number 86/PUU-X/2012 on 31 October 2013.

Background Of Baznas In Bandung City

BAZNAS Bandung City is the official government agency that is independent of the level of the city and is responsible to the mayor. BAZNAS of Bandung City is responsible to plan, execute, control, and report on the activities of *zakat* management in regards to the collection, distribution, and utilization of *zakat* in the city. BAZNAS Bandung City's vision is "Trustworthy, Transparent, and Professional."

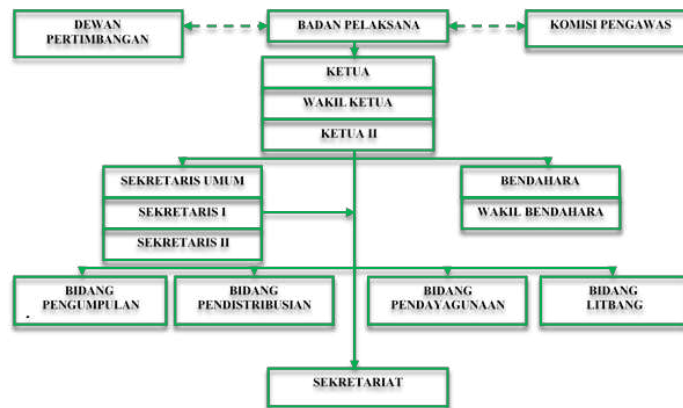


Figure 2. Organizational Structure of BAZNAS Bandung 2016-2021

In general, the organizational structure of BAZNAS Bandung City consists of the implementing Agency, the Advisory Council, and the Commission is the supervisor. As for the implementing Agency is composed of the Chair, Vice Chair, Treasurer, Secretary, and has four fields in the management Field i.e. *Zakat* collection, Distribution, Utilization, and the field of research and development.



Figure 3. Program of Zakat BAZNAS Bandung

BAZNAS Bandung City distributes *zakat* through a variety of programs aimed at the welfare of *mustahik*. The first program, Bandung Smart, is intended for students who have difficulties in terms of the cost of education. Second, Bandung Takwa, is intended for teachers and *dakwah* establishment. Third, Bandung Healthy, is to help poor people of the health care costs if they have health problems. Fourth, Bandung Cares, is for the poor people who need help as in the case of natural disasters. Fifth, Bandung Prosperous, aims to assist and develop *mustahik's* productive business. The main objective of this program is to change *mustahik* to become *muzaki*.

RESEARCH METHODOLOGY

The method used in this study is descriptive research with qualitative approach. Descriptive method is a method which produces descriptive data in the form of written texts of the observed people and behaviors. It is supported by an in-depth study of the relevant literature in the form of data and statistical analysis to understand its reality (Maleong, 2004). Qualitative-approach based research is conducted by describing, explaining, and relating the observed variables to make a more complex analysis of a phenomenon which is difficult to analyze with quantitative approach (Abdullah, 2014).

The data are collected through interviews, observations, and a literature review of the evidences, records, or historic reports which are archived (documented data), both published and unpublished.

The data are analyzed with the following steps:

1. Data collection of information which is related to the *zakat* management in BAZNAS Bandung.
2. Data classification, which is a process of classifying the data based on the research question and aims of this study.
3. Data analysis with qualitative approach. To make it scientifically plausible, the analysis is conducted with several steps which include presenting the data (sceptic), observing the relevant problems (analytic), and objectively analyzing the data to think logically (critic) (Narbuko, Acyadi, 2004).
4. Conclusion of the research findings. In this step, the analyzed data are concluded and interpreted to achieve a solution.

FINDINGS AND ANALYSIS

The government of Indonesia first issued a law on the management of *zakat* in Act No. 38 Year 1999. However, the law is no longer suitable to people's needs and current situation. The existence of Act No. 23 Year 2011 about *zakat* management is the active role of the government in developing regulations related to *zakat* which is more complex if it is reviewed from several aspects. Furthermore, the regulation of law No. 23 Year 2011 provides institutional strengthening against BAZNAS as the non structural government agency in national *zakat* management. Development of *zakat* regulation is expected to improve the performance of *zakat* management in Indonesia in improving the welfare of Indonesian people.



Figure 4. Process of Changing The Name BAZNAS

Based on the results of field observations, BAZNAS Bandung City underwent a change of name. This institution was originally named Badan Amil Zakat Sadaqah and Infaq (BAZIS) city of Bandung which was founded in 1981 by the local government of Bandung. However, since the enactment of Act No. 38 Year 1999 regarding *zakat* management, BAZIS Bandung's name changed to BAZ Bandung in 2001-2005. Over time, after the enactment of Act No. 23 Year 2011, Bandung BAZ's name changed to BAZNAS Bandung City. Thus, the name change this agency indicates the implementation of one of the contents of Act No. 23 Year 2011 on article 15 paragraph 1 that in the framework of the implementation of *zakat* management in the level of the city, BAZNAS city is formed.

As for the scope of work, BAZNAS Bandung is in the area of Bandung in the Masjid Al-Ukhuwah 3rd floor Jalan Wastukencana No. 23. This is in accordance with article 15 paragraph 5, that BAZNAS city performs the duties and functions of the BAZNAS in the respective city. BAZNAS Bandung is formed by Minister of religious affairs over the Mayor's proposal after getting the consideration of BAZNAS. Meanwhile, the newly formed governance time and confirmed on the basis of the decision of the Mayor of Bandung number: 45.12/Kep. 645-part Kes. Mas/2016 About appointment of the leadership Badan Amil Zakat Nasional (BAZNAS) Bandung period 2016-2021. The subsequent formation of the BAZNAS Bandung in accordance with article 15 paragraph 3 that BAZNAS City formed by the Minister or the designated official over the Mayor proposal after consideration BAZNAS.

The results of other analyses in process service to muzakki already give evidence of the pay *zakat* as a deduction on taxable income. This is in accordance with article 23 which is the obligation of the agency in providing evidence of the pay *zakat* to every *muzakki*. If this is not done it will be charged an administrative sanction in the form of a written warning, suspension, or revocation. Meanwhile the distribution of *zakat* fund based on Islamic jurisprudence, the scale of priority, and pay attention to some principles of distribution of *zakat*. Channeling *zakat* channelled through a variety of programs aimed at the welfare of the *mustahik* in accordance with the needs of the consumer in the form of *mustahik* or productive like business capital.

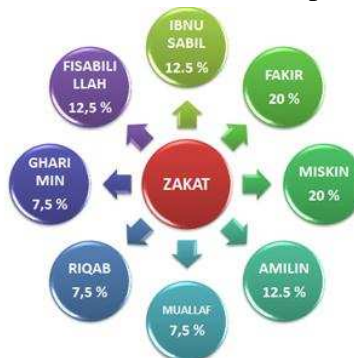


Figure 5. Collection by BAZNAS Bandung

Beside that, in terms of reporting the management *zakat* by BAZNAS Bandung has done periodically to BAZNAS of West Java province. This is in accordance with article 29 of the reporting, but if this is not done, then it will get administrative sanctions in article 36. While based on the results that the operational BAZNAS Bandung is financed from the budget regional expenditures (APBD) and *amil* is written in article 31. As for the form of supervision and coaching through the facilities, educational, and socialization as a government endorsement of Bandung through political will "Come Pay *Zakat*". Here are some things the results of analysis of the observations related management *zakat* in BAZNAS Bandung City based on Act No. 23 Year 2011:

Table 3. Analysis of The Management of Zakat Based on Act No. 23 Year 2011

Aspect	Facts in the field	Suitability of the with Act No. 23 year 2011
1. Changes of the name institution	BAZNAS Bandung City.	Suitable, because the rules change BAZDA became BAZNAS Bandung (article 15 paragraph 1).
2. Scope of work	The Area of Bandung.	Suitable, BAZNAS Bandung is located in the Masjid Al-Ukhuwah 3rd floor Jalan Wastukencana No. 23 Bandung (article 15 paragraph 5).
3. Establishment of the Agency	BAZNAS Bandung formed by Minister of religious affairs over the Mayor's proposal after consideration BAZNAS Center.	Suitable, the newly formed stewardship and confirmed on the basis of the decision of the Mayor of Bandung number: 45.12/Kep. 645-part Kes. Mas/2016 About appointment of Chairman BAZNAS Bandung Period 2016-2021 (article 15 paragraph 2 and 3).
4. Formation UPZ	BAZNAS Bandung have formed UPZ in government agencies.	Suitable, but the formation of the UPZ does not exist in BUMN, BUMS, university and other places (article 16).
5. Report on the management zakat of LAZ	BAZNAS Bandung have not received related reports collection, distribution, and utilization of <i>zakat</i> periodically.	Is not suitable. Because in law obliged to report the management of LAZ <i>zakat</i> in any Regency/City to BAZNAS Regency/City (article 19).
6. Zakat as deduction on taxes	BAZNAS Bandung print a proof of payment of <i>zakat</i> to muzaki to reduce the amount of tax to be paid.	Suitable, the existence of evidence of pay <i>zakat</i> as a tax deduction (article 23).
7. Distribution of zakat	BAZNAS Bandung to distribute <i>zakat</i> based on priority, namely to <i>mustahik</i> poor, poor, <i>amil</i> , <i>fisabilillah</i> , and <i>Ibn sabil</i> .	Suitable, distribution adapted to the situation and condition (article 25 and 26).
8. Zakat produktive	BAZNAS Bandung has a program through the <i>zakat</i> productive for utilization of <i>zakat</i> .	Suitable, the existence of a program Bandung Prosperous to develop business <i>mustahik</i> (article 27).

9. Report to the BAZNAS Province	BAZNAS Bandung always provide report periodic	Suitable, (article 29).
10. Sources of Financing institution	BAZNAS get the source of financing of the budget budget regional expenditures (APBD) and amil.	Suitable, (article 31).
11. Construction and Supervision	BAZNAS Bandung had the support of the government of the city of Bandung through political will "Come Pay <i>Zakat</i> ".	Suitable, however still need to be optimized (article 34)
12. Role of the Community	Does not involve the community	Is not suitable. (article 35)
13. Administrative Sanctions	There has not been any sanctions are imposed.	Is not suitable. (article 36)

Based on the above exposure, there are a few things that become important note for UPZ conducted by BAZNAS Bandung City yet far reaching all institutions. BAZNAS has yet to reach out to the institutions that have a great opportunity to gather funds such as educational institutions such as universities, BUMN, BUMD, BUMS and other places. If the UPZ has already extended then collecting the zakat will progressively increase. In addition BAZNAS Bandung City should inform the LAZ are there in the city of Bandung, the associated management of zakat. It is very important to know the potential for collecting the *zakat* and for policy making in the foreseeable future.

As for the role of the community in developing BAZNAS Bandung is still lacking because the community has not been able to keep an eye on performance and provide referrals to BAZNAS. Then, BAZNAS Bandung needs to socialize its existence to society, because during the existence of the less known BAZNAS Bandung community. Meanwhile for administrative sanctions need to be imposed by the BAZNAS to any party who commits a violation of especially LAZ are not sanctioned against're reporting its performance where according to Act No. 23 Year 2011 for the LAZ who did not provide reports regularly to BAZNAS Regency/City can be dismissed and operational. Sanctions need to be imposed to bring about the professionalism of institutions of *zakat*.

After conducting interviews and observation in BAZNAS Bandung about the management of *zakat* results show not optimal implement Act No. 23 Year 2011. It is based on the fact that still there are things that have not been implemented optimally.

CONCLUSION

Based on some things that have not been implemented, including performance reports LAZ, administrative sanctions, and community participation, BAZNAS Bandung is not optimal in implementing the Act of No. 23 Year 2011. Indonesian government needs to supervise and

ensure that this *zakat* regulation can improve the effectiveness and efficiency of *zakat* management to improve the society's welfare. Furthermore, this *zakat* management regulation can provide legal assurance for all stakeholders based on sharia principles. If *zakat* is well managed and in accordance with Act No. 23 Year 2011, its implications will improve public's trust towards the government institutions as the national authorities that manage *zakat*.

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BW046:
PERLAKSANAAN WAKAF KORPORAT DARI PERSPEKTIF MAQASID SYARIAH: SATU ANALISIS

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Abstrak

Wakaf merupakan medium pembangunan ekonomi bagi umat Islam. Kepelbagaian jenis wakaf yang terdapat di Malaysia telah menjadi pemangkin ekonomi dalam mengembangkan aset wakaf mengikut pertumbuhan sosio-ekonomi dan pembangunan semasa. Penglibatan dari syarikat atau entiti korporat yang bekerjasama dengan Majlis Agama Islam Negeri (MAIN) dalam membangunkan tanah wakaf yang terbiar telah dijalankan menerusi instrumen wakaf korporat. Wakaf korporat merupakan satu inovasi besar kepada sistem wakaf yang mana tujuan utamanya adalah untuk memperbaharui peranan perniagaan dan organisasi korporat untuk terlibat sama dalam berwakaf. Oleh itu, kajian ini akan menganalisa penglibatan wakaf korporat dari sudut maqasid syariah. Metodologi kajian ini merupakan kajian kualitatif berdasarkan analisa dokumen yang berkaitan dengan kajian. Dapatan kajian menunjukkan instrumen wakaf korporat mampu untuk memenuhi kehendak objektif syariah serta memelihara kepentingan masyarakat sejagat.

Kata Kunci: Wakaf Korporat, Maqasid syariah, Sosio-ekonomi

PENGENALAN

Wakaf merupakan salah satu bentuk sedekah yang mempunyai manfaat yang besar terhadap kehidupan individu Muslim. Ia merupakan salah satu cara ibadah atau cara menghampiri diri kepada Allah SWT menerusi harta kekayaan Walaupun hukum berwakaf adalah sunat, namun ganjaran pahalanya amat besar jika dibandingkan dengan jenis sedekah yang lain. Menurut Osman Sabran (2002), Rasulullah SAW adalah orang yang pertama memperkenalkan amalan sedekah wakaf selepas perang Uhud pada tahun ke-3 hijrah. Diriwayatkan bahawa Ibn Saad telah meriwayatkan sebuah hadis daripada Muhammad bin Kaab bermaksud:

“Sedekah wakaf yang pertama dalam Islam ialah harta wakaf yang diberikan oleh Rasulullah SAW selepas Mukhairiq syahid dalam peperangan Uhud di mana Mukhairiq dia telah berwasiat: Jika aku mendapat agihan ghanimah maka ia untuk Rasulullah SAW. Maka Rasulullah SAW mengambil harta tersebut dan mewakafkannya.”

Di Malaysia, institusi wakaf semakin hari semakin berkembang. Banyak tanah-tanah kosong yang diwakafkan kepada Majlis Agama Islam Negeri (MAIN). Namun, terdapat beberapa cabaran yang dihadapi sehingga menyebabkan kesukaran kepada pihak yang terlibat dalam

usaha membangunkan tanah wakaf di Malaysia. Salah satu cabaran yang dihadapi di dalam pembangunan tanah wakaf ini adalah kekurangan dana dan modal telah mendorong pembentukan instrument wakaf korporat di Malaysia. Oleh yang demikian, pendekatan melalui instrumen wakaf menjadi alternatif lain dalam usaha menyelesaikan masalah tersebut. Kerjasama daripada syarikat-syarikat korporat ini sedikit sebanyak memberi impak yang besar kepada ekonomi negara khususnya dalam membantu masyarakat di negara ini.

Undang-undang Islam adalah satu sistem yang menyeluruh dimana memelihara hubungan antara manusia dengan Penciptanya. Setiap undang-undang yang dicipta oleh Allah mempunyai matlamat mereka sendiri dipelihara bertujuan untuk memberi manfaat kepada manusia. Maqasid al-Syariah terdiri daripada faedah, kebajikan mahupun kelebihan yang mana Allah telah turunkan melalui syari'at-Nya. Maqasid al-Shari'ah boleh dikelaskan kepada tiga kategori iaitu; Asas (*daruriyyat*), Keperluan (*hajiyyat*) dan Kelengkapan (*Tahsiniyyat*). Memahami Maqasid Syariah adalah penting dalam menentukan pelaksanaan wakaf. Oleh itu, artikel ini bertujuan untuk meneroka hubungan antara Maqasid Syariah dan wakaf korporat.

TERMINOLOGI WAKAF DAN MAQASID SYARIAH

Konsep wakaf

Wakaf berasal daripada perkataan arab iaitu *waqafa* yang membawa maksud berhenti atau *al-habs* iaitu menahan semata-mata atau *al-man'* iaitu menegah (Ibn Manzur, 1990; Al-Nawawi, 2005; Al-Sarakhsi, 1986; Mustafa al-Khin et al., 2009; Ahmad Hidayat Buang et al., 2007). Manakala waqaf dari sudut syarak ialah ia merupakan suatu bentuk pemberian hadiah berkonsepkan *'ain* atau aset tersebut kekal sekiranya digunakan dan manfaat yang diperolehi daripada aset tersebut disalurkan kepada penerima manfaat berdasarkan syarat-syarat yang telah ditetapkan oleh pewakaf (Asharaf Mohd Ramli & Abdullaah Jalil, 2012). Menurut mazhab Syafie, wakaf didefinisikan sebagai menahan sejumlah harta yang bermanfaat yang telah diserahkan oleh seseorang untuk dimanfaatkan kepada orang lain dengan tujuan untuk mendekati diri kepada Allah SWT (Mustafa al-Khin et al., 2009; Al-Nawawi, 2005). Status pemilikan harta pewakaf akan terputus lalu menjadi hak milik Allah SWT untuk selama-lamanya dan pemilikan manfaat akan diberikan kepada orang ramai yang berkelayakan untuk menerimanya (Abd Shakor Borham, 2011).

Terdapat beberapa dalil pensyariaan wakaf di dalam al-Quran dan as-Sunnah. Antaranya dalam al-Quran Allah SWT berfirman yang bermaksud,

“Jika kamu menampakkan sedekah-sedekahmu, maka itu baik. Dan jika kamu menyembunyikannya dan memberikannya kepada orang-orang fakir, maka itu lebih baik bagimu dan Allah akan menghapus sebahagian kesalahan-kesalahanmu. Dan Allah maha teliti apa yang kamu kerjakan.

(al-Baqarah :271)

Seterusnya, firman Allah SWT bermaksud:

“Yang menginfakkan hartanya (di jalan Allah) untuk membersihkan (dirinya), dan tidak ada seorang pun memberikan nikmat padanya yang harus dibalasnya, tetapi (dia memberikan itu semata-mata) kerana mencari keredhaan Tuhannya yang maha tinggi. Dan nescaya kelak dia akan mendapat kesenangan (yang sempurna).”
(al-Lail: 18-21)

Begitu juga firmanNya, bermaksud:

“Kamu tidak akan memperoleh kebajikan, sebelum kamu menginfakkan sebahagian harta yang kamu cintai. Dan apa pun yang kamu infakkan, tentang hal itu, sungguh Allah maha mengetahui.”
(Ali-Imran: 92)

Manakala Dalil al-Sunah, sebagaimana yang dinyatakan di dalam Kitab Sahih Bukhari dan Muslim (Muhammad b. Ismail Al-Bukhary, 2002):

Umar R.A telah mendapat sebidang tanah di Khaibar lalu dia datang kepada Nabi SAW untuk minta pandangan tentang tanah itu, maka katanya yang bermaksud:

“Wahai Rasulullah sesungguhnya aku mendapat sebidang tanah di Khaibar, di mana aku tidak mendapat harta yang lebih berharga bagiku selain daripadanya, (walhal aku bercita-cita untuk mendampingkan diri kepada Allah Azzawajalla) apakah yang hendak engkau perintahkan kepadaku dengannya?”

Maka sabda Rasulullah SAW kepadanya yang bermaksud:

“Jika engkau mahu, tahanlah (bekukan) tanah itu, dan sedekahkan manfaatnya.”

Hadith Uthman R.A (Muhammad Bin Isa, 1975) bermaksud:

Sesungguhnya Nabi SAW sampai di Madinah, dalam keadaan di Madinah tidak ada air yang boleh diminum melainkan air Perigi Raumah. Lalu baginda bersabda: “Siapakah yang mahu membeli perigi Raumah, lalu dia mewakafkannya sehingga dia meletakkan timbanya di telaga itu bersama timba-timba orang Islam, dengan ganjaran yang lebih baik baginya daripada perigi itu di dalam syurga?” lalu aku (Saidina Uthman R.A) pun membelinya dengan harta milikku sendiri sepenuhnya.

Wakaf terbahagi kepada dua iaitu wakaf *khayri* (kebajikan) dan wakaf *zurri* (wakaf ahli keluarga dan keturunan). Terdapat dua tujuan wakaf iaitu wakaf umum atau am dan wakaf khas manakala aset wakaf juga terbahagi kepada dua iaitu aset wakaf alih (*waqf al-manqul*) dan aset wakaf tak alih (*waqf al-‘aqar*) (Asharaf Mohd Ramli, Suhaila Abdul Hamid, & Abdullaah Jalil, 2015).

Konsep Maqasid

Maqasid dari sudut bahasa adalah jamak dari perkataan maqsad iaitu *qasad yaqsud qasada wa maqsadan*. *Al-Qasd* mempunyai pelbagai maksud dari sudut bahasa (Ibn Manzur, 1414H). Antaranya ialah bercita-cita (*al-i'tizam*), pegangan (*al-i'timad*), bersengaja (*al-amm*), meminta sesuatu dan mendatangkannya. Ia juga membawa maksud jalan yang benar atau lurus (*istiqamat al-tariq*). *Al-Qasd* juga merupakan sebahagian dari jalan lurus yang tiada penyelewengan dari kebenaran. Manakala *al-Shari'ah* pula berasal dari perkataan *shara'a* yang bererti memperkenalkan, mengadakan dan menetapkan (Ibn Manzur, 1414H). *Al-Shari'ah* dari sudut bahasa bermaksud jalan menuju sumber air yang diminum oleh manusia. Selain itu, ia juga adalah sesuatu yang diwujudkan oleh Allah daripada urusan agama dan diperintahkan untuk melakukannya.

Definisi maqasid syariah telah dihuraikan secara terperinci oleh ulama *mutaqaddim* dan kontemporari. Imam al-Ghazali berpendapat maqasid syariah adalah matlamat syarak terhadap manusia iaitu penjagaan agama, diri, akal, keturunan dan harta (Al-Ghazali, 1993). Al-Amidi juga berpandangan ia adalah matlamat dari pensyariaan hukum sama ada untuk mencapai kemaslahatan atau menolak kemudaratan atau kedua-duanya sekali (Al-Amidi, 2003). Selain itu, 'Allal al-Fasi turut mendefinisikan maqasid syariah sebagai matlamat dan rahsia-rahsia yang telah ditentukan oleh syarak terhadap semua hukum-hakam ('Allal al-Fasi, 1993). Manakala al-Raysuni menyatakan bahawa ia merupakan matlamat yang ditentukan oleh syarak untuk merealisasikan kemaslahatan manusia (Ahmad al-Raysuni, 2010).

Beberapa sarjana mutakhir turut memberi pandangan mengenai maqasid syariah. Jasser Auda menyatakan ia adalah objektif di sebalik hukum Islam dan terdapat hubungan yang rapat antaranya dengan masalah. Menurut beliau, masalah itu perlu memenuhi tujuan syarak dan sesuatu maqasid syariah tidak sah sehingga ia memenuhi masalah atau menjauhi mafsadah (Nora'nan Bahari, 2015). Selain itu, Mahmood Zuhdi turut berpendapat bahawa maqasid syariah adalah objektif syariah Islam dalam menentukan dasar dan pelan tindakan Islam sebagai panduan hidup manusia dalam mencari kebahagiaan di dunia dan di akhirat (Mahmood Zuhdi Haji Abd Majid, 2015).

METODOLOGI

Kajian menggunakan kaedah kualitatif dimana penelitian literature dilakukan menerusi kajian kepustakaan untuk meninjau pelaksanaan wakaf korporat mengikut perspektif maqasid syariah. Pengkaji merujuk buku-buku ilmiah, makalah, jurnal, dokumen-dokumen berautoriti, koleksi kertas kerja persidangan dan seminar, laporan penyelidikan, data statistik, laporan-laporan rasmi yang berkaitan serta penulisan-penulisan kontemporari berkaitan wakaf bagi membantu penyelidikan kajian ini. Di samping itu, rujukan dibuat terhadap bahan-bahan semasa yang terdapat dalam perpustakaan sama ada secara manual mahupun secara dalam talian dalam tajuk yang berkaitan.

Konsep Dan Teori Wakaf Korporat

Dalam konteks Malaysia, institusi wakaf merupakan salah satu institusi yang mula berkembang selaras dengan kemajuan dan keperluan semasa. Selain penumpuan terhadap pembangunan tanah, institusi ini telah mula mengambil langkah dengan memperkenalkan beberapa kaedah pembangunan wakaf yang bersifat kontemporari seperti wakaf tunai, wakaf sukuk, saham wakaf, wakaf saham dan lain-lain (Md. Nurdin Ngadimon, 2006). Menurut Magda (2013), wakaf korporat didefinisikan sebagai suatu aspek pengurusan harta-harta wakaf yang berbentuk harta alih seperti wang tunai, saham syarikat dan dividen saham yang diurus tadbir secara penuh oleh entiti korporat atau secara kerjasama di antara syarikat korporat dan pihak berkuasa wakaf.

Di dalam wakaf korporat, terdapat beberapa elemen penting yang perlu dititikberatkan seperti aset wakaf perlu berbentuk harta alih, pemegang amanah wakaf yang terdiri daripada syarikat korporat (dikenali sebagai *mutawalli*) dan penerima manfaat wakaf (Asharaf Mohd Ramli dan Abdullaah Jalil, 2012). Pelaksanaan wakaf korporat telah diperkenalkan oleh Johor Corporation Berhad (JCorp) dan dipercayai ia pertama kali dilaksanakan oleh sebuah entiti bisnes korporat di dunia (Majalah Milenia Muslim, 2006). Wakaf korporat JCorp telah diuruskan oleh anak syarikatnya yang merupakan sebuah syarikat berhad dengan jaminan JCorp sendiri iaitu Waqaf An-Nur Corporation Berhad (WANCorp). WANCorp berperanan sebagai '*Mauquf Alaihi*' ke atas semua saham-saham dan bentuk sekuriti yang lain bagi syarikat JCorp disamping menguruskan aset dan saham-saham syarikat kumpulan JCorp yang telah diwakafkan (Khairil Faizal Khairi et al., 2015).

Penglibatan Syarikat Dan Agensi Korporat Dalam Wakaf Korporat

Terdapat beberapa cara bagi menyelesaikan permasalahan pembangunan untuk tanah wakaf di Malaysia. Salah satu solusi yang dapat diaplikasikan ialah melakukan usahasama antara Majlis Agama Islam Negeri (MAIN) dengan syarikat atau agensi korporat. Antara contoh-contoh projek usaha sama yang telah dijalankan adalah seperti Menara Imarah Al-Waqf Ahmad Dajwee Dadabhoy (Anan bin C.Mohd,2015), Taman Korporat (Awqaf Galak Pemilikan Aset Hartanah Islam,2016), Taman Warisan Impian Setee Aisah,Pulau Pinang (Anan bin C.Mohd, 2015), dan juga Wakaf Selangor Muamalat (Hasliza binti Talib, Nazneen binti Ismail,Nurzatil Ismah binti Azizan,2014).

Perlaksanaan Wakaf Korporat Dari Perspektif Maqasid Syariah

Hubungan antara maqasid syariah dan wakaf korporat akan dibincangkan berdasarkan lima perkara asas yang wujud di dalam konsep masalah iaitu penjagaan agama, diri/nyawa, akal, keturunan dan harta (Abdullah Jalil, 2006). Huraian bagi kelima-lima aspek ini adalah seperti berikut:

Penjagaan Agama

Amalan wakaf adalah suatu amalan yang mulia berbentuk ibadat yang bertujuan untuk mendekatkan diri kepada Allah SWT. Selain itu, ia merupakan usaha individu Muslim sebagai

hamba di muka bumi untuk mengejar kepentingan dunia dan akhirat. Hasil berwakaf dapat digunakan untuk membantu golongan yang kurang berkemampuan dalam menjalani kehidupan seharian mereka. Dari sudut ukhrawi pula, Allah SWT telah menjanjikan pahala yang berganda bagi mereka yang bersedekah (berwakaf). Seperti firman Allah SWT bermaksud:

“Siapakah orangnya yang (mahu) memberikan pinjaman kepada Allah sebagai pinjaman yang baik (yang ikhlas) supaya Allah melipatgandakan balasannya dengan berganda-ganda banyaknya? dan (ingatlah), Allah jualah yang menyempit dan yang meluaskan (pemberian rezeki) dan kepada Nyalah kamu semua dikembalikan.”

(al-Baqarah :245)

Penjagaan Diri/Nyawa

Islam menggalakkan umatnya untuk saling bantu membantu antara satu sama lain. Allah SWT memerintahkan hambaNya untuk saling bekerjasama dalam perkara yang baik dan tidak membantu dalam perkara yang menyalahi undang-undang. Ini adalah berdasarkan firman Allah SWT yang bermaksud:

“Dan tolong menolonglah kamu dalam mengerjakan kebajikan dan takwa dan janganlah kamu tolong-menolong dalam berbuat dosa dan pelanggaran Allah SWT. Dan bertakwalah kamu kepada Allah SWT, sesungguhnya Allah SWT amat berat seksaannya”.

(Al-Maidah: 2)

Elemen kerjasama dan tolong menolong adalah salah satu objektif di dalam wakaf. Ia adalah kerana amalan wakaf dapat membantu rakyat miskin dengan menyediakan kemudahan kepada mereka. Sebagai contoh, klinik Waqaf An-Nur yang merupakan salah satu inisiatif KPJ adalah menjalankan tanggungjawab korporat mereka melalui perkhidmatan pemeriksaan dan rawatan kesihatan kepada masyarakat yang kurang berkemampuan (Laporan Tahunan Jcorp, 2015). Pihak MAIN juga menerima bahagian wakaf untuk menampung kos atau pengurusan di institusi itu. Oleh itu, melalui hasil yang diperolehi daripada instrumen wakaf korporat, jelas terbukti ia boleh membantu orang-orang miskin atau yang memerlukan untuk mengurangkan beban mereka.

Penjagaan Akal

Wakaf diertikan sebagai menahan harta yang dimilikinya dan diberikan manfaat yang diperolehi untuk tujuan kebajikan dan kepentingan agama serta umat Islam. Apabila kita berwakaf, hasil manfaat yang diperolehi itu akan digunakan untuk membantu menambahkan lagi pusat pendidikan di sesebuah tempat. Selain itu, pemberian biasiswa kepada golongan yang kurang berkemampuan untuk melanjutkan pelajaran turut dapat dilaksanakan supaya mereka juga boleh meneruskan pembelajaran sama ada di dalam atau luar negeri seterusnya menjadi insan yang berilmu dan berbakti kepada agama dan negara.

Penjagaan Keturunan

Dari perspektif ekonomi, wakaf boleh dianggap sebagai suatu mekanisma tabungan pelaburan yang mana dana yang diwakafkan akan dialihkan daripada penggunaan kepada pelaburan dalam aset produktif yang dapat memberikan hasil yang bertentangan. Di bawah konsep wakaf korporat, tanah wakaf yang terbiar akan dibangunkan oleh MAIN melalui konsep usahasama dengan beberapa syarikat korporat dalam beberapa projek yang akan memberi manfaat kepada masyarakat. Hasil yang diperolehi boleh digunakan untuk mencapai objektif sosial dan kemanusiaan seperti membina hospital, rumah anak yatim, universiti dan lain-lain (Trade Arabia News Service, 2015). Konsep amal yang diterapkan di dalam aktiviti wakaf ini adalah penting terhadap keadilan sosial kerana ia merupakan nilai suci dalam Islam dan menjadi tonggak utama kepada individu Muslim.

Penjagaan Harta

Harta adalah pemberian Allah SWT. Islam menuntut umatnya untuk berkongsi rezeki yang dikurniakan oleh Allah SWT sesama manusia. Melalui konsep wakaf, harta seseorang individu itu dapat dikongsi harta yang kita perolehi agar ianya dapat juga dinikmati oleh golongan yang tidak bernasib baik seperti firman Allah SWT yang bermaksud:

“supaya harta itu tidak hanya beredar di antara orang-orang kaya dari kalangan kamu.”

(Al-Hasyr: 7)

Sifat berkongsi rezeki ini akan menjadikan seseorang individu itu sentiasa bersyukur dengan nikmat yang Allah limpahkan kepadanya disamping dapat membantu golongan yang memerlukan.

KESIMPULAN

Dalam usaha untuk mengekalkan sumbangan wakaf secara berterusan, amalan wakaf korporat ini perlu berkembang di kalangan masyarakat kerana pembangunan harta wakaf mempunyai matlamat tersendiri yang memberikan faedah kepada mereka. Selain itu, ia dapat memberi impak yang besar terhadap sosio ekonomi umat Islam. Hasil manfaat wakaf yang diperolehi daripada konsep wakaf korporat yang melibatkan kerjasama syarikat-syarikat GLC ini, dapat membantu golongan miskin dan kurang berkemampuan disamping menyelesaikan masalah tanah-tanah terbiar yang terdapat di Malaysia. Oleh itu, pelaksanaan wakaf korporat ini selari dengan matlamat syariah yang mementingkan kebajikan masyarakat terutamanya mereka yang memerlukan bantuan.

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**EZ047:
INDIVIDUAL DETERMINANTS OF ZAKAT COMPLIANCE INTENTION
ON SAVING**

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Abstract

This study examines the effects of attitude, subjective norm, knowledge and trust on zakat compliance intention on saving. An increasing number of people are reported to save their money in saving, fixed deposit and current saving accounts. The collection of zakat on saving is the fourth highest collection reported by Lembaga Zakat Selangor after zakat on employment income, zakat on trade and zakat on property. Thus, this study is driven to examine zakat compliance intention on saving among employees of Lembaga Hasil Dalam Negeri Malaysia (LHDNM) via using theory of planned behavior. A total of 205 questionnaires were returned and used to measure the four independent variables which are attitude, subjective norms, and knowledge and trust towards the intention to comply with zakat on saving. By using multiple regressions, the results indicated that attitude, subjective norm, knowledge and trust were found to significantly influence intention to comply with zakat on saving. Generally, theory of planned behavior can be used to explain zakat compliance intention behavior on saving. Implications and recommendations for practice and future work, and limitations of the study are also discussed.

Keywords: *Attitude, subjective norm, knowledge, trust, intention, zakah on saving*

INTRODUCTION

Zakat is one of the pillars which consist of five in Islam beside testimony of faith, prayer, fasting and pilgrimage to Mecca. It is also known as almsgiving. *Zakat* is not just any form of voluntary charity, alms giving, tax or contribution and nor is it simply an expression of sympathy or generosity. *Zakat* is all of these combined and much more, for it also includes Allah - consciousness as well as spiritual, ethical and moral and social objectives. *Zakat* also is an ordinance from Allah Himself and it is not the payment method such as voluntary contribution or other party obligation. *Zakat* is necessary in process to reform and restructure both financial and spiritual. *Zakat* also can avoid unhappiness and sadness and self-indulgence to stabilize the Islamic economy which one of the principal to stability and prosperity.

Literally, *zakat* means purification. Technically, it means the amount of money or kind taken from specific types of wealth when they reach a specific amount at a specific time which must be spent on specific categories in specific ways” (Nur Barizah & Hafiz Majdi, 2010). *Zakat* on individual (*zakat fitrah*) is compulsory for all Muslims in the month of Ramadhan but *zakat* on wealth is only imposed on individuals when the nisab and haul requirement have been fulfilled. A few categories such as crops and agricultures, business, natural resources, gold and silver may pay *zakat* on wealth. Not only *zakat* on wealth, *zakat* should also be imposed on other categories of wealth such as savings account, Employee Provident Fund (EPF), bonds and any other equivalent. This point was agreed by Contemporary Muslim jurists as long as it fulfill the requirement needed (Farah Mastura, 2011).

Zakat institutions have introduced various ways to help *zakat* payers to fulfill their obligations to Allah such as internet banking, schedule for *zakat* deduction, moveable counter, post office, by bank draft, and so on. Thus, *zakat* collection for every state in Malaysia indicated increasing from year to year. For example, Lembaga Zakat Selangor (LZS) which is *zakat* authority for collection and distribution under Majlis Agama Islam Selangor (MAIS) in three subsequent years of 2012, 2013 and 2014 were reported increasing as shown in Table 1. *Zakat* on saving is also reported to be on the rise with the minimum rate of increasing as follows: RM 30,479,991.00 in 2012, RM 33,957,712.00 in 2013 and RM 34,056,383.00 in 2014.

Table 1: *Zakat* Collection by Lembaga Zakat Selangor (LZS) for the year 2012 to 2014

Types of <i>Zakat</i>	2014(RM)	2013(RM)	2012(RM)
Income	350,144,739.00	308,984,578.00	260,788,288.00
Trade	108,015,979.00	92,713,771.00	84,925,124.00
Wealth	44,273,298.00	39,155,226.00	35,991,556.00
Saving	34,056,383.00	33,957,712.00	30,479,991.00
Share	10,785,562.00	9,714,550.00	7,783,423.00
EPF	9,112,087.00	7,927,337.00	7,759,884.00
Crops	2,703,196.00	2,877,304.00	2,594,192.00
Gold	2,433,929.00	2,358,429.00	2,078,616.00
Silver	135,337.00	55,565.00	43,828.00
Animal	30,941.00	19,442.00	30,252.00
Fitrah	20,564,439.00	19,541,361.00	18,849,873.00
Total	582,255,890.00	517,305,275.00	451,325,027.00

Source: Lembaga Zakat Selangor (2014), *Laporan pengurusan zakat Selangor 2013*

Zakat on saving is the fourth highest collection reported by LZS. The figure shows that it plays an important role in helping the country reduce the gap of income among the rich and the poor, and reduce the poverty reported in the country. Even though the *zakat* collection has increase, but previous studies prove that the Muslims’ compliance in paying *zakat* is still low in Malaysia. For example, *zakat* on saving in Kedah (Farah Mastura, 2011, Nurul Farida, 2014). In Wilayah Persekutuan, *zakat* compliance also becomes a crucial issue when it was found that low compliance behavior among the Muslims on paying *zakat*.

Approximately only 4.2% of Muslims fulfilled their obligations to pay *zakat* in Wilayah Persekutuan (Mohd Ali, Hairunnizam, & Nor Ghani, 2004). These empirical evidences show the existing gap between the estimated collection of *zakat* institutions and the actual level of compliance behavior in Malaysia. Nur Barizah and Hafiz Majdi (2010) conclude that, only 33% of eligible tax payers in IIUM who pay *zakat*, and this clearly shows that the level of tax compliance is still low and actions need to be done by the *zakat* authorities in the process of *zakat* collection. Therefore, further study should be done especially in the context of *zakat* on saving because most of the research only focused on *zakat* on employment income (e.g. Kamil, 2002; Zainol, Kamil & Faridahwati, 2009; Nur Barizah & Hafiz Majdi, 2010). Therefore, this study attempts to investigate the factors that influence *zakat* compliance intention on saving among employees at Lembaga Hasil Dalam Negeri Malaysia (LHDNM).

REVIEW OF RELATED LITERATURE

***Zakat* compliance and Hypotheses Development**

Several studies have been conducted on *zakat* compliance in Malaysia. For instance, Zainol & Kamil (2009) used theory of planned behavior (TPB) to investigate *zakat* compliance on employment income. In a different study, Zainol, Kamil and Faridahwati (2009) used TRA to predict compliance intention on *zakat* on employment income. Recently, a model of compliance and avoidance has been built to examine *zakat* compliance behavior by combining economic, sociology, and psychology theories (Sanep & Zulkifli, 2010). They tried to find the best theory to examine compliance behavior of *zakat* payers to persuade them on pay *zakat*. *Zakat* compliance becomes a crucial issue when it was found that low compliance behavior among the Muslims on paying *zakat*. Approximately only 4.2% of Muslims fulfilled their obligations to pay *zakat* in Wilayah Persekutuan (Mohd Ali et al., 2004). Kamil (2002) and Kamil, Chek, Engku Ismail (1997) also obtained the same result in the northern region. Only 35% of the Muslims in each state pay *zakat* on employment income reported in Kedah and Perlis. Although there is an increase in the collection of *zakat* every year, previous studies have shown that the complying to pay *zakat* is still low.

According to Mohd Hassan (1998), some individuals assume payment of tax is equivalent to the payment of *zakat*. However, the fact is that the actions of both obligators are clearly very different because the tax instrument acts as one of the elements in improving the country's economy. Teh Suhaila, Aza Shahnaz, & Noraini (2015) in their studies show that, understanding the younger generation in complying *zakat* and convenience factor influence may also affect the level of compliance among youth on the payment of *zakat* employment. Thus, the understanding with respect to the *zakat* should be given priority which gives a good impression to the level of compliance and payment of *zakat*. Education about *zakat* may be needed in helping Muslims to get benefits from *zakat* system other than the factors of social, religious and economic factors, which are self-centered.

Theory of planned behavior

TPB was developed to extend Theory of Reasoned Action (TRA) (Ajzen & Fishbein, 1980). Researchers found that the little theory was insufficient and had several limitations (Godin & Kok, 1996). The limitation identified in this theory is with regard to when people face difficulties and have little power or no control in performing the behavior. Because of this, (Ajzen, 1991) developed theory of planned behavior to include another variable in the original theory which is perceived behavioral control. As highlighted in the TRA, the key point of TPB is intention. Intention acts as a motivational factor in influencing people is behavior. It expresses how people are eager to do something and how much of an effort they put in executing the behavior (Ajzen, 1991). Thus, attitudes and subjective norm in the TRA will affect individual is intention to perform the behavior. However, this theory only can work if the behavior is under volitional control and required opportunities and resources one available such as money, time, skills, and education. Hence the elements of perceived behavioral control in the TPB complement the originated theory. Therefore, there are three independent variables in this theory which are attitudes, subjective norms, and perceived behavioral control.

Many researchers found that attitudes are a significant predictor of behavioral intention. In the context of *zakat* and taxation. In the context of *zakat*, Zainol and Kamil. (2007) and Zainol, Kamil, and Faridahwati, (2009) revealed a significant and positive relationship between attitudes toward *zakat* on employment income and behavioral intention of giving *zakat* on employment income. Farah Mastura and Zainol (2015) found that attitude to significantly influence *zakat* compliance behavior on saving in Kedah state in Malaysia. In the taxation field, Bobek, Robin and John (2007) and Hanno and Violette (1996) reported that attitudes have a significant relationship to tax compliance intention. Zainol and Faridahwati (2013) conclude their research on good and service tax (GST) that attitude is significantly related to behavior intention. The relationship between attitude and behavioral intention has attracted substantial numbers of scholars in various fields such as leisure choice, psychology and hospitality management (Ajzen & Driver, 1992; Cheng, Lam & Hsu, 2005; Poulter, Chapman, Bibby, Clarke & Crundall, 2008).

The second major determinant to intention in the theory is subjective norms, which refer to the person's view of the social pressures in performing or opposing to the behavior (Ajzen, 1991). It is a belief in another form which is normative belief. It refers to the belief towards an important individual in life such as parents, siblings, peer, spouse, teachers, and any other people who are close to the individual. Many studies also have found a significant effect of subjective norms on behavioral intention. For example, in *zakat* environment Zainol et al. (2009) and Zainol and Kamil (2007) found that subjective norms have positively related to intention to pay *zakat* on employment income. Farah Mastura and Zainol (2015) also found that subjective norms are significantly influence *zakat* compliance behavior on saving in Kedah state in Malaysia. Same goes to Zainol and Faridahwati (2013), they found that subjective norms have a positive

relationship with behavioral intention. Zainol, Zolkafli, and Shalihen (2011) have derived a same conclusion, where subjective norm relates positively with local sales tax compliance intention.

An individual with strong intention to pay *zakat* might not execute the behavior if he or she has no power to control over the influencing factors. (Ajzen, 1991) found an absolute power to control the internal and external factors in TPB. Perceived behavior control is a major factor that influences individual behavior and it acts directly with intention in performing the behavior. Many studies have decomposed the perceived behavioral control into several dimension (Fang & Shih, (2004); Ingram, Cope, Harju, & Wuench, 2000; Zainol, 2008). For example in *zakat* environment, Zainol (2008) reported that perceived behavioral control was multidimensional. For the purposes of this study, PBC was decomposed into trust and knowledge variable.

Previous literature suggested that knowledge is a pre-requisite to perform a compliance behavior (Koufaris, 2002; Sutinen & Kuperan, 1999). Researcher such as Fallan (1999), Hungerford and York (1990) and Mohd. Rizal and Ahmad Fariq (2011) reported that the tax system level of knowledge influenced tax compliance behavior. Wan Mazlan (2015) also found that level of knowledge significant with the tax compliance among importer in Malaysia. There are also other *zakat* studies found a significant relationship between religious knowledge and *zakat* on employment income (Kamil, Ayoib, Zainol, Shaipah, Afza & Haslinda, 2006; Mohd. Ali, Hairunnizam & Nor Ghani, 2004; Zainol, 2008). Various marketing strategies being adopted due to unprecedented upsurge in *zakat* organisations. Among the strategies are giving of promotional gifts and heavy investment in technology to gain the loyalty of the *zakat* payers. These practices are prevalent in countries like Malaysia and Singapore. The application of marketing strategies without further understanding on relevant factors has engendered trust in *zakat* institution. It may constitute a share waste of *zakat* payers' money. Significant number of researchers reveals that trust has positive relationship with commitment and intention (Morgan & Hunt, 1994; Anderson & Weitz, 1989). Similarly, some researchers argued that the increase in both interdependence and trust is a main factor that increases member's commitment (Kumar et al., 1995; Ganesan, 1994; Anderson & Weitz 1989).

Research framework as shown in Figure 1 is based on the Ajzen's TPB which consist of attitude, subjective norm and knowledge and trust. In this study, elements of perceived behavioral was decomposed into the knowledge and trust.

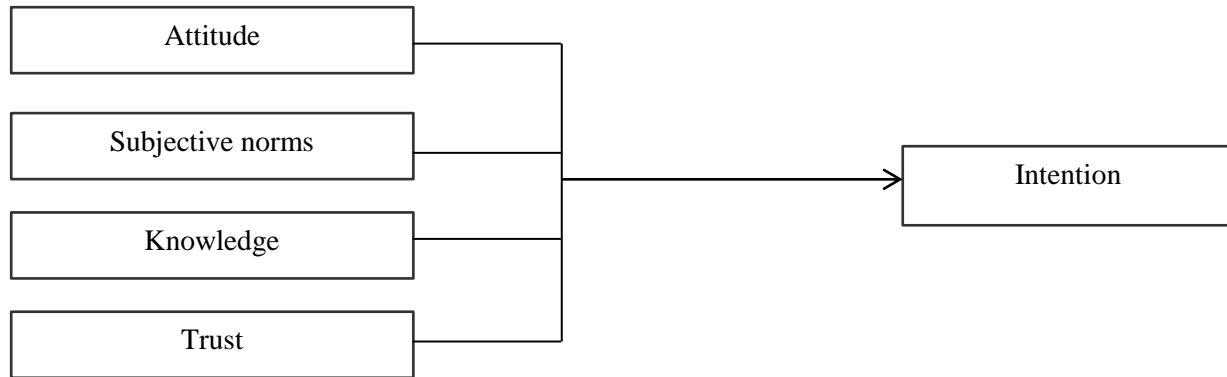


Figure 1: Research Framework

The following hypotheses are proposed:

- H1: Attitude is positively related to behavioral intention to comply with *zakat* on saving.
- H2: Subjective norms are positively related to behavioral intention to comply with *zakat* on saving.
- H3: Knowledge is positively related to *zakat* compliance intention on saving.
- H4: Trust is positively related to *zakat* compliance intention on saving

METHODOLOGY

Unit present of analysis in the present study was an individual Muslim working in Inland Revenue Board of Malaysia (LHDNM) in Selangor branches, Malaysia. Under the Selangor State Director's Office of LHDNM, there are four branches involved which are Shah Alam Branch, Klang Branch, Petaling Jaya Branch and Shah Alam Investigation Branch. This study used a self-administered questionnaire to collect the data. The online questionnaire was send through email directly to the respondents which is Muslim employee of LHDNM in Selangor. The online questionnaire or survey form was created using free Google Form free application. Simple random sampling was used after the list of Muslim employees obtained from human resource department of LHDNM. The measurement of attitude, subjective norms and intention variables were adapted from Zainol (2008) meanwhile knowledge and trust were adapted from Siswantoro and Nurhayati (2012). All questions were asked used five-point Likert scale ranging from '1' "strongly disagree" to '5' "strongly agree".

Descriptive Analysis

A total of 600 questionnaires were distributed to the employees of all branches. However, only 212 questionnaires were returned and 205 were useable. As shown in Table 2, the respondents consist of 205 respondents with portion in percentage are 42.9% male and 57.1% female. Most of them were technical staff (86.6%) which related with the core business of organization and in the range of 31-40 years old (61.4%). The core business and activities of organization is tax

assessment. Generally, their monthly income is around RM 6,501.00 and above (66.8%) and they had a bachelor qualification (77.6%). Only 47.3% did not have a saving RM 10,000.00 a year and the rest 52.7% have it. It means that, majority of them fulfill the requirement of paying *zakat* on saving. Out of 205 respondents, only 55 respondents had not paid *zakat* on saving in previous year. 73.2% from the respondents alert and know about the *zakat* on saving because they paid this *zakat* for the previous year.

Table 2: Respondent Profile (N=205)

Items	Frequency	Percentage (%)
Sex		
Male	88	42.9
Female	117	57.1
Age		
20-30 years	34	16.6
31-40 years	126	61.4
41 years and above	45	22.0
Current position hold		
Technical	175	86.6
Non-technical	30	13.4
Academic qualification		
Doctorate	0	0.0
Masters	46	22.4
Bachelor	159	77.6
Income		
RM 3,500.00 – RM 5,000.00	41	20.0
RM 5,001.00 – RM 6,500.00	27	13.2
RM 6,501.00 – RM 8,000.00	64	31.2
RM 8,001.00 – RM 9,500.00	22	10.7
RM 9,501.00 and above	51	24.9
Have previously paid <i>zakat</i> on saving?		
Yes		
No	150	73.2
	55	26.8

Reliability and Validity Test

The result of reliability test was performed for the five variables reliability is measured by using Cronbach's alpha (Nunnally, 1978). The result is good if the value is more than .70. In this study, the results for all the five variables are between of 0.797 and 0.977. This study also used the principle component (PCA) with varimax rotation on the all variables. Kaiser-Meyer Olkin (KMO) and Barlett Test of Sphericity (BTOS) was used as a measurement scale. KMO and BTOS is applied to investigate sample of sufficiency and to know the suitability of factor analysis respectively (Hair, Anderson, Tatham & Black, 1998). As a result, KMO for all variable lies between 0.675 and 0.905, therefore factor analysis is suitable to be conducted. Besides that, BTOS is applied to test correlation matrix and it can ensure whether the factors model can be used or not based on the result. Every significant variable was exactly look at the factor loading

of each item in the variable. The results show that all the factor loadings are in the range of 0.736 and 0.946.

Multiple Regression Analysis

Multiple regression analysis shows 54% of the variance in *zakat* compliance intention on saving was explained by the constructs of attitude, subjective norms, knowledge and trust as shown in Table 3. The results also show a significant relationship between attitude and intention to comply with *zakat* on saving ($t = 5.299$, $p = 0.000$). There are relationship between subjective norms and intention to comply with *zakat* on saving was also found ($t = 2.028$, $p = 0.044$). Perceived behavioral which focus on knowledge and trust shows a significant relationship with intention to comply with *zakat* on saving. The result for the knowledge is ($t = 2.150$, $p = 0.033$). So, H3 is accepted in the study. For the trust, the result showed that ($t = 3.524$, $p = 0.001$). H4 also accepted in this study. Furthermore, the value of Beta for attitude is the highest (0.476) meaning that attitude is the most important factor that influences intention to comply with *zakat* on saving. Based on the result, the hypothesis H1, H2, H3 and H4 were supported.

Table 3: Regression of Attitude, Subjective Norms, Knowledge, Trust against Zakat Compliance Intention

	Unstandardized Coefficients		Standardized Coefficients		
	B	Std. Error	Beta	t	Sig
Constant	0.223	0.268	0.421	0.832	0.406
Attitude	0.476	0.090	0.156	5.299	0.000*
Subjective norms	0.149	0.073	0.139	2.028	0.044**
Knowledge	0.126	0.059	0.196	2.150	0.033**
Trust	0.187	0.053		3.524	0.001*

Note: ** $p < 0.05$, * $p < 0.01$

Adjusted R Square = .544, F- statistic = 61.867, Sig at .000

DISCUSSION

The present study has attempted to investigate the influence of attitude, subjective norms, knowledge and trust on behavioral intention to comply with *zakat* on saving. To achieve the research objective, theory of TPB was used as a basis to explain *zakat* on saving. Based on the findings, the research objective outlined has been answered. The findings point out that the TPB is able to explain 54% *zakat* compliance intention on saving. The findings revealed seem to be consistent with those reported in previous studies in *zakat* and various fields (Farah Mastura & Zainol, 2015; Bobek, 1997; Hanno & Violette, 1996; Zainol et al.2009). Because of the significant effects attitude, subjective norms, knowledge and trust have on behavioral intention to contribute to *zakat* on saving. The findings have important implications on *zakat* collection exercise carried out by *zakat* authorities. This study suggests that TPB model is capable to clarify the factors that influence *zakat* compliance intention on saving among Muslim employees of Lembaga Hasil Dalam Negeri Malaysia at Selangor state.

All these significant variable should be addressed by *zakat* authorities. Because the payment of *zakat* is the voluntary, the positive reception of the community to the *zakat* authorities is important. *Zakat* authorities should improve the image, reputation and credibility especially in carrying out their transparency in process to perform the responsibility on collection and distribution of *zakat* to the society. Other than that, authorities also need to carry out more efforts to increase promotional activities and special explanation to the public regarding the obligation of *zakat* payment for *zakat* on saving. Other than that, *zakat* authorities must do the promotion through mass media. The media also play an important role in exposing and give information about the *zakat* collection centre. Various types of promotional activities can be done through the mass media such as distribute a scheduled press release to the media to report the programs and activities, conduct the press conference session for special activities which involved many peoples, special interview on the television and radio programs through major channel, special columns and interviews in Islamic magazines that highlight the issues of *zakat* on saving, and also get the media coverage at the site of *zakat* contribution activities and programs.

Zakat authorities should be aware that members of the public not refuse orders to pay *zakat* to *zakat* authority. What are important is the policy makers or authorities need to develop a sound strategy from time to time to encourage individuals to have a strong intention to pay *zakat* to the *zakat* collection center. Among the approaches that could be taken to provide continuous exposure and knowledge regarding the *zakat* on saving to all individuals. The organization of seminars, lectures, workshops and others will increase the level of knowledge among individuals and makes them feel more confident and able to at least calculate and self-assessed the amount of *zakat* on saving. In addition, the *zakat* authorities also need to improve communication between *zakat* payer and all the authorized collections center. Communication either through direct interaction, media socials, or advertisement which expected to help increasing awareness and individuals' intention to pay *zakat* to the *zakat* collection center.

This study concentrated only in the state of Selangor and variables that is based on the TPB with additional variables of knowledge and trust. There are other variables that not being tested in previous study. For instance, *zakat* system, legal and enforcement variables. Besides, other limitations also regarding with the sample and population. Because most of the respondents were technical staff in LHDNM and because only half of the questionnaires were returned, the result of the survey do not reflect the actual population represented. Due to this factor, it is suggested that future studies on *zakat* compliance intention on saving made on larger populations where the population consists of all individuals Muslim in Malaysia.

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**BP050:
INSTRUMEN KEDERMAWANAN ERA PEMERINTAHAN BANU MARIN
DI MAGHRIBI**

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Abstrak

Pencapaian tamadun dalam Kerajaan Banu Marin di Fas, telah menyaksikan perkembangan yang berlaku secara konsisten dan maju. Kerajaan Islam yang pernah bertapak sekitar tahun 1215M hingga 1465M di wilayah al-Maghrib, telah diperintah oleh 26 orang sultan yang mempunyai sejarah kecemerlangan dan kehebatan yang tersendiri. Antara sumbangan terbesar adalah dalam aspek pembangunan ekonomi dan kemeriahan gerakan ketenteraan yang dilakukan oleh pemerintah kerajaan tersebut. Sejarawan Islam dan Barat berpandangan bahawa pemerintah memainkan peranan yang penting dalam memastikan jatuh bangun sesebuah kerajaan. Elemen dan nilai-nilai Islam sangat dititikberatkan oleh pemerintah Kerajaan Banu Marin dalam usaha untuk mengukuhkan kerajaan tersebut. Kertas kerja ini akan mengengahkan usaha yang dilakukan oleh pemerintah kerajaan tersebut dalam mewujudkan budaya kedermawanan dikalangan masyarakat al-Maghrib, sekaligus menjadi model kepada seluruh pemerintahan Islam lain dalam melahirkan masyarakat yang mengamalkan dan membudayakan konsep filantropi Islam. Kajian perpustakaan digunakan sebagai metode pengumpulan data. Hasil kajian mendapati, penekanan konsep filantropi Islam dalam amalan pemerintahan mampu mewujudkan sebuah negara yang maju dan berkembang pesat dalam seluruh aspek, seperti yang dilakukan oleh pemerinah Kerajaan Banu Marin di Fas, al-Maghrib.

Kata kunci: Kedermawanan, Banu Marin, tamadun, al-Maghrib

PENDAHULUAN

Kerajaan Banu Marin atau dikenali sebagai *the Marinids* dalam bahasa Inggeris dan *al-Dawlah al-Mariniyyah* dalam bahasa Arab, merupakan antara kerajaan Islam yang muncul di Maghribi selepas keruntuhan Kerajaan al-Muwahhidun. Maghribi pada ketika itu terbahagi kepada tiga kawasan, iaitu Maghribi al-Adna, Maghribi al-Awsat dan juga Maghribi al-Aqsa. Banu Marin merupakan sebuah kerajaan yang berkuasa dan terletak di wilayah Maghribi al-Aqsa. Kerajaan Banu Marin telah menempuh pelbagai cabaran terutamanya ketika mengecapi era permulaan dan pematapan serta ketika melalui era kemerosotan dan kejatuhan. Namun, kerajaan yang bermula pada 1215 hingga 1465M itu pernah mengecapi tempoh kegemilangannya yang tersendiri ketika berada di bawah pemerintahan sultannya yang teragung, Sultan Abu al-Hasan ‘Ali pada tahun

1331 sehingga 1351M. Pelbagai aspek kejayaan berjaya dicapai pada zaman ini merangkumi aspek politik, sosial, ekonomi, ketenteraan dan kesenian.

Kekuasaan Banu Marin meluas di kawasan Maghribi dan al-Andalus. Banu Marin telah menjalin hubungan diplomatik dengan beberapa buah kerajaan untuk mengukuhkan kedudukannya. Kegemilangan kerajaan ini diteruskan dengan perkembangan dan pencapaian dalam beberapa aspek kehidupan masyarakatnya seperti pengurusan pentadbiran, perkembangan pendidikan dan kesusasteraan, kerancangan aktiviti ekonomi dan pengekal budaya masyarakat yang utuh. Tidak dinafikan, penerapan aspek kedermawanan ditunjukkan oleh pemerintah ketika menjadikan kerajaan tersebut mahsyur dalam pelbagai sudut. Faktor pemerintah merupakan faktor penting kerana pemerintah yang mencorakkan aliran perkembangan sekaligus kejayaan kepada sesebuah tamadun. Sebagai contoh, Sulan Abu al-Hasan ‘Ali al-Marini telah menjadi ikutan rakyat bawahan sekaligus menjadi role model dalam Kerajaan Banu Marin kerana sikap kedermawanan yang ditunjukkan.

Era Pemerintahan

Era kegemilangan dan kecemerlangan Kerajaan Banu Marin bermula apabila pasukan tentera mereka berjaya menumbangkan Kerajaan al-Muwahhidun di Marrakesh pada tahun 1269M sekaligus berjaya mengambil alih kekuasaan di wilayah Maghribi dimana sebelum ini dipegang oleh Kerajaan al-Muwahhidun. Selain itu perpindahan pusat pertadbiran dari Marrakesh ke selatan wilayah Fas di utara Maghribi telah melenyapkan pengaruh al-Muwahhidun. Kejayaan tersebut menjadikan Banu Marin sebagai pewaris al-Muwahhidun, walaupun terpaksa menghadapi persaingan dan kuasa di Maghribi daripada dua buah kerajaan Barbar yang lain, iaitu Banu Zayyan dan Banu Hafs.

Namun begitu, kebanyakan sejarawan dan penulis seperti Ibn Batuttah dan Ibn Khaldun menyifatkan Kerajaan Banu Marin mencapai kegemilangannya semasa pemerintahan Sultan Abu al-Hasan ‘Ali (1331-1351M). Sumber-sumber yang membincangkan sejarah Maghribi dan Kerajaan Banu Marin menyatakan bahawa Abu al-Hasan ‘Ali merupakan sultan Banu Marin yang teragung (Julien 1970: 188). Perkara ini dinilai berdasarkan pencapaian hebat yang dilakukan oleh Abu al-Hasan dalam pelbagai aspek seperti politik, ekonomi, sosial, kesenian, dan juga ketenteraan. Abu al-Hasan turut menjalinkan hubungan diplomatik dengan wilayah-wilayah luar Maghribi seperti al-Andalus semata-mata untuk mengukuhkan kedudukan dan kekuasaan Banu Marin. Abu al-Hasan banyak melakukan aktiviti ketenteraan sehingga menjadikan pasukan tentera Banu Marin di bawah kepimpinannya begitu kuat dan sukar ditandingi. Beliau bersama-sama pasukan tentera Banu Marin telah menakluk beberapa wilayah seperti Tilimsan pada 1337M dan Tunis pada tahun 1347M (Shatzmiller 1991, 4:572). Selain itu, Banu Marin berjaya meluaskan pengaruh ke seluruh Maghribi dengan meletakkan kekuasaan Banu Zayyan dan Banu Hafs di bawah naungannya. Hal ini berterusan apabila kepimpinan Banu

Marin diambil alih oleh Sultan Abu 'Inan Faris setelah kematian Abu al-Hasan, iaitu ayah kepada Abu 'Inan, pada tahun 1351 sehingga tahun 1358M.

Kerajaan Banu Marin mula mengalami kemerosotan setelah kematian Sultan Abu 'Inan Faris (Julien 1970: 194). Bagaimanapun, Kerajaan Banu Marin hanya mampu bertahan dalam tempoh 100 tahun sehingga kejatuhannya pada tahun 1465M. Pelbagai konflik dalaman dan luaran yang telah berlaku, antaranya ialah seperti pertikaian dan perselisihan dalam pentadbiran, perebutan jawatan, campur tangan daripada kuasa luar dan ancaman luaran terutamanya dari puak tentera Kristian Castile dan Portugis yang menjadi faktor kemerosotan Banu Marin (Mohamad Zulfazdlee & Ezad Azraai 2009: 78).

Akhirnya, kekuasaan Banu Marin lenyap daripada bumi Maghribi dan pemerintahannya digantikan dengan Kerajaan Banu Wattas (Julien 1970: 216). Namun demikian, Kerajaan Banu Marin tetap dikenang sebagai antara kerajaan Islam yang hebat di Maghribi. Sumbangannya dalam perkembangan tamadun Islam turut menjadi maklumat penting dalam karya-karya sejarah dan tamadun Islam. Malah, wilayah Maghribi ini juga pernah melahirkan ramai tokoh-tokoh ilmuwan Islam khususnya ketika era pemerintahan Banu Marin.

Elemen Kedermawanan Dalam Pemerintahan Kerajaan Banu Marin

Kerajaan Banu Marin secara umum telah banyak memberi sumbangan dalam meningkatkan aspek ketamadunan mereka sendiri. Hal ini secara tidak langsung turut membantu meningkatkan kegemilangan tamadun Islam di mata dunia sekali gus melumpuhkan pandangan beberapa orientalis yang terlalu taksud dengan kejayaan tamadun Barat. Dalam menerajui dan memimpin sesebuah kerajaan, bidang kuasa seorang pemerintah atau sultan tidak hanya tertumpu di dalam istana semata. Malah seorang sultan dan pemerintah mempunyai bidang kuasa yang sangat luas dan berat. Hanya pemerintah yang cekap, adil dan bijak sahaja yang dapat memimpin negara dengan baik, selain menjadikan syariat Islam sebagai perkara yang paling utama dalam setiap aspek. Kerajaan Banu Marin ketika era pemerintahan Sultannya yang terunggul, iaitu Sultan Abu al-Hasan 'Ali telah berjaya menjadi contoh tauladan yang sangat baik dalam masyarakat. Beliau telah menanam elemen kedermawanan dalam masyarakat dengan melakukan banyak perkara yang berbentuk kebajikan. Menurut Sultan Abu al-Hasan 'Ali, beliau percaya bahawa redha Allah SWT sangat penting dan melebihi segala kuasa yang ada di dunia. Amalan konsep filantropi Islam dalam Kerajaan Banu Marin ini telah dilakukan oleh pemerintah-pemerintah sebelumnya.

Infak dan Wakaf

Terdapat beberapa kemudahan di kota Fas seperti istana raja, pusat ilmu (*Jami' al-Kabir*) dan *Dar al-Darb*. Di istana diraja, terdapat pelbagai kemudahan dan kelengkapan yang disediakan oleh pemerintah. Kemudahan ini merangkumi kemudahan yang boleh dinikmati oleh semua golongan rakyat, termasuk rakyat biasa. Terdapat kawasan di dalam istana yang dijadikan

sebagai tempat berkumpul apabila terdapat majlis keramaian dan perayaan tahunan, majlis-majlis rasmi dan juga sebagai tempat untuk mempelajari ilmu-ilmu agama klasik seperti syair, tasawuf dan pelbagai jenis perbincangan dan persoalan mengenai ilmu fiqh. Sudah menjadi kebiasaan bagi para sultan dan pemerintah untuk memenuhi kawasan istana mereka dengan pelbagai jenis tanaman dan pokok, bertujuan untuk mencantikkan kawasan tersebut. Hasil tanaman seperti buah-buahan turut diwakafkan kepada rakyat biasa untuk dinikmati secara bersama.

Sebuah lagi kemudahan yang disediakan di Fas adalah *Dar al-Darb*. *Dar al-Darb* merupakan sebuah tempat untuk rakyat biasa yang ingin melibatkan diri dalam aktiviti ketenteraan. Di sini mereka diasuh untuk menjadi seorang tentera yang gagah dan berani serta belajar untuk bermain dengan senjata. Di *Dar al-Darb* ini juga bakat mereka dikenal pasti berserta kemahiran yang bersesuaian dalam aktiviti ketenteraan. Tidak dinafikan gerakan ketenteraan Banu Marin telah menjadi faktor utama kecemerlangan kerajaan tersebut. Sikap dermawan yang ditunjukkan oleh pemerintah-pemerintahnya telah berjaya mewujudkan masyarakat yang saling bekerjasama antara satu sama lain. Setiap tentera diberi saguhati yang berupa pakaian yang mahal seperti jubah dan penutup kepala dan fabrik berkualiti yang diimport khas daripada negara *Iskandariyyah*. Selain itu, golongan profesional ini juga menerima seekor kuda beserta dengan alatan kelengkapan menunggang kuda dan beberapa jenis alatan bersenjata seperti busur dan anak panah, lembing, tombak dan pedang. Mereka juga menikmati kadar bonus yang berbeza jika pasukan ketenteraan Banu Marin menang sewaktu menentang musuh kerajaan. Bonus yang diberi termasuk dengan harta rampasan perang atau ghanimah (al-Manuni 2000: 564).

Dengan sifat pemurah dan sentiasa mengambil berat kebajikan para tentera menyebabkan Sultan Abu al-Hasan ‘Ali sangat dihormati oleh masyarakat khususnya dikalangan ahli pasukan tentera Banu Marin. Beliau juga sangat mengambil berat berkenaan dengan permasalahan ahli pasukan tenteranya termasuk masalah yang berkaitan dengan kewangan dan kesihatan. Beliau juga tidak berkira untuk menginfakkan harta dan mengeluarkan perbelanjaan untuk membantu ahli pasukannya ketika berada dalam kesusahan selain turut memberi saguhati sebagai ganjaran setiap kali berlakunya ekspedisi ketenteraan. Dengan sikap yang sebegini, Sultan Abu al-Hasan ‘Ali terus dihormati dan disanjung oleh masyarakat yang dipimpinnya dan tidak mustahil beliau digelar sebagai sultan Kerajaan Banu Marin yang paling agung.

Dalam pada itu, Sultan Abu al-Hasan ‘Ali amat menitikberatkan soal pembelajaran ilmu agama seperti pengajian al-Qur’an, Hadith dan tauhid (al-Hariri 1987: 110). Sultan Abu al-Hasan ‘Ali telah mendirikan beberapa buah madrasah sebagai pusat penyebaran ilmu. Antara madrasah yang dibina pada zaman tersebut ialah Madrasat al-Misbahiyya, yang didirikan pada tahun 743H/1346M serta *Madrasat al-Eubbad* (Julien 1970: 201). Untuk mengekalkan kedudukan setiap madrasah supaya berada dalam keadaan yang baik dan teratur, Sultan Abu al-Hasan ‘Ali telah melantik dan mewujudkan beberapa jawatan dalam institusi madrasah. Beliau telah

mengupah dan menggaji orang awam dengan beberapa jawatan penting, seperti tenaga pengajar, penyeia, pengurus, pengawal keselamatan, dan pegawai tadbir madrasah, selain turut melantik imam dan muazzin di setiap madrasah. Setiap pekerja yang digaji menerima gaji yang setimpal dengan pekerjaan tersebut. Sultan Abu al-Hasan 'Ali juga telah mewakafkan banyak buku dan hasil karya para ilmuan di setiap madrasah. Tidak dinafikan bahawa pada zaman tersebut, aktiviti keilmuan sedang berkembang dengan sangat rancak dan pesat (Bloom 1998: 257).

Al-Saqayah merupakan satu sistem aliran air atau tempat mandi dan pancuran air. Masyarakat abad pertengahan amat mementingkan sistem saliran air yang mempunyai pelbagai fungsi. Antara fungsi *al-Saqayah* adalah seperti untuk mengambil wuduk, tempat minum dan saliran untuk tanaman dan ternakan (Ibn Marzuq 1987: 417). Sultan Abu al-Hasan 'Ali telah membina beberapa *al-Saqayah* di sekitar Maghribi, terutamanya di wilayah Fas. Terdapat satu tempat mandi yang diwakafkan oleh beliau, iaitu al-Suwaiqah Isma'il yang terletak di Tilimsan, dimana sistem saliran air tersebut bersambung bermula daripada Tilimsan sehingga ke Tunis untuk kegunaan dan kemudahan penduduk (Ibn Marzuq 1987: 417).

Ghanimah

Selain merupakan elemen kedermawanan dalam Islam, Ghanimah atau harta rampasan yang diperoleh ketika melakukan peperangan turut menyumbang kepada peningkatan ekonomi Kerajaan Banu Marin. Sultan Abu al-Hasan 'Ali banyak melakukan beberapa ekspedisi *futuhat* ke atas wilayah lain, dan kebanyakan daripada ekspedisi itu berakhir dengan kejayaan. Misalnya, beliau bersama tentera Banu Marin telah berjaya menawan Tilimsan pada 1337M dan Tunis pada 1347M (Shatzmiller 1991, 4:572). Harta yang diperoleh telah dijadikan sebagai satu sumber masyarakat Banu Marin. Harta ghanimah termasuk peralatan senjata seperti pedang, lembing, panah, perisai, dan baju besi. Rampasan seperti binatang ternakan turut dikira sebagai harta ghanimah.

Zakat dan Jizyah

Zakat merupakan rukun Islam ketiga yang wajib ke atas setiap muslim untuk melaksanakannya. Manakala jizyah adalah cukai yang dikenakan kepada golongan bukan Islam yang tinggal dalam negara pemerintahan Islam. Dalam pemerintahan Kerajaan Banu Marin, zakat dan jizyah merupakan sumber ekonomi yang sangat penting.

Pada zaman pemerintahan Sultan Abu Ya'qub Yusuf, rakyat dibenarkan membayar zakat fitrah secara bebas mengikut kadarnya. Pengagihan secara tepat dan terkawal turut dilakukan untuk memastikan sumber tersebut disalurkan ke saluran yang tepat (Zulfadzlee 2010: 95). Mereka yang terlibat dalam pengagihan zakat tersebut terdiri daripada para alim yang faqih dan adil.

Jizyah merupakan cukai wajib ke atas setiap ahli zimmah yang tinggal di bawah pemerintahan Kerajaan Banu Marin. Mereka membayar jizyah sebagai satu jaminan dan dijamin keamanan serta keselamatan selagi mereka tinggal dan patuh kepada undang-undang yang telah ditetapkan. Pemerintah Banu Marin menggunakan sumber ini untuk pembinaan dan pembaikan semula masjid-masjid, pembinaan hospital, rawatan pesakit, bantuan orang miskin dan pembayaran gaji. Kadar yang dikenakan keatas setiap individu adalah sebanyak dua dinar (Zulfadzlee 2010: 96, al-Hariri 1987: 281).

KESIMPULAN

Kemajuan dan kecemerlangan Kerajaan Banu Marin banyak didorong oleh usaha para pemerintahnya. Pemerintah sangat mengambil berat terhadap rakyat dan mengamalkan sikap kedermawanan dalam kehidupan harian agar ianya menjadi contoh tauladan yang baik kepada seluruh masyarakat Islam khususnya. Penerapan nilai Islam dalam diri merupakan aspek penting dalam diri sebagai pendorong kepada segala bentuk kebaikan. Sultan Abu al-Hasan ‘Ali, sultan teragung dalam Kerajaan Banu Marin, sangat menitikberatkan syariat Islam, selain menerapkan elemen tersebut dalam kerajaannya. Hal ini kerana menurut beliau, setiap perkara yang dilakukan hendaklah bersandarkan kepada Allah Yang Maha Kuasa untuk mendapat keberkatan hidup di dunia dan di akhirat. Pembudayaan nilai filantropi Islam ini telah berjaya menjadikan Kerajaan Banu Marin sebagai sebuah kerajaan yang unggul dan cemerlang dalam pembinaan tamadunya, selain menjadi *role model* kepada pemerintahan lain.

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BP051: SEKURITI MAKANAN MENURUT FILANTROFI ISLAM

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Abstrak

Sekuriti makanan merujuk kepada kewujudan bekalan makanan dan kemampuan untuk memperolehnya. Makanan adalah komponen terpenting untuk mencapai kesejahteraan hidup. Perbincangan mengenai makanan begitu meluas merangkumi soal sekuriti makanan, pembahagian makanan, ketelusan pengagihan dan sebagainya. Penekanan konsep filantropi Islam dilihat memainkan peranan penting dalam menstabilkan keperluan makanan manusia. Elemen kedermawanan merupakan satu strategi yang perlu dititikberatkan melalui mekanisme agihan makanan yang digariskan oleh Islam. Kedermawanan mewujudkan keseimbangan dan keharmonian antara penuntutan hak dan menjalankan kewajipan. Kertas kerja ini akan mengenengahkan strategi Islam dalam menekankan aspek kedermawanan bagi menjamin sekuriti makanan golongan miskin. Kajian perpustakaan digunakan sebagai metode pengumpulan data. Hasil kajian mendapati terdapat dua bentuk filantropi di kalangan umat Islam iaitu melalui pengagihan wajib (zakat, nafkah, fidyah & kifarati) dan pengagihan sunat (korban, aqiqah & sedekah)

Kata kunci: sekuriti makanan, filantropi, keharmonian, pengagihan

PENGENALAN

Makanan adalah keperluan asas setiap manusia. Tanpa makanan yang mencukupi manusia tidak dapat meneruskan kehidupannya dan boleh membawa kepada pelbagai masalah seperti penyakit, kematian dan sebagainya. Islam amat mengambil berat terhadap jiwa dan jasad manusia. Dengan itu Islam mewajibkan makan dan minum dengan kadar yang paling minima bagi menjamin seseorang itu terus hidup dan menghindarkan diri dari sebarang kemudaratan terhadap nyawa (Wahbah Zuhaili, 1989). Individu yang sihat akan mampu memahami dan melaksanakan suruhan dan tanggungjawab kepada Allah SWT. di muka bumi ini (Norkumala Awang, 2006).

Kekurangan makanan yang mendadak di sesuatu tempat akan mengakibatkan kelaparan dan kebuluran yang meluas. Manusia bukan sahaja mati dan menderita dalam jumlah yang besar tetapi ramai yang terpaksa melakukan perbuatan-perbuatan yang ekstrem oleh kerana diancam

mati kelaparan (Brown & Eckolm, 1974). Kemiskinan merupakan antara punca ketidakcukupan makanan selain dari masalah penyelewengan dalam ekonomi. Walaupun kadar kemiskinan di Malaysia dicatatkan berkurangan iaitu pada tahun 2009 kadar kemiskinan adalah 8.4% bagi bandar, 1.7 bagi Luar bandar dan pada tahun 2014 ia berkurangan kepada 1.6% bagi bandar dan 0.3 bagi luar bandar (Unit Perancang Ekonomi, (t.th), kos hidup yang sentiasa meningkat memerlukan perbelanjaan yang tinggi. Mereka yang miskin tidak dapat memenuhi keperluan makanan yang cukup dan berkhasiat. Justeru, filantropi Islam mempunyai strategi tersendiri dalam menangani dan membantu masalah kekurangan makanan. Kajian ini adalah kajian kualitatif yang berbentuk penerokaan dan deskriptif iaitu bagi menjelaskan secara ringkas konsep sekuriti makanan, filantropi dan dua bentuk filantropi yang berkaitan pengagihan makanan dalam Islam.

Definisi Makanan

Menurut kamus dewan, makanan bermaksud apa sahaja yang boleh dimakan seperti nasi, roti dan lain-lain lagi (Dewan Bahasa & Pustaka, 2002). Manakala menurut Sayyid Sabiq (1985), makanan ialah sesuatu yang boleh dimakan oleh manusia dengan tujuan untuk menjaga kesihatan, mendapatkan tenaga, kekuatan dan sebagainya. Makanan terdiri daripada dua sumber yang halal sama ada haiwan dan benda-benda yang tidak bernyawa seperti buah-buahan dan sayur-sayuran. Semua jenis makanan adalah halal kecuali yang mengandungi najis, memabukkan, memudaratkan dan merupakan hak orang lain. Kaedah syarak dalam menentukan makanan yang diharamkan dan diharamkan adalah dijelaskan daripada Firman Allah SWT. bermaksud:

"Katakanlah (Wahai Muhammad): "Tiadalah aku peroleh dalam wahyu yang diwahyukan kepadaku, sesuatu yang diharamkan bagi orang yang hendak memakannya, kecuali kalau makanan itu bangkai, atau darah yang mengalir atau daging babi - kerana sesungguhnya semua itu kotor - atau binatang yang disembelih atas nama selain Allah. Barangsiapa yang dalam keadaan terpaksa, sedang dia tidak menginginkannya dan tidak (pula) melampaui batas, maka sesungguhnya Tuhanmu Maha Pengampun lagi Maha Penyayang."

(al-An'am :145)

Filantropi Islam mendorong kepada kelangsungan dan keharmonian hidup manusia agar terus menjalankan tanggungjawab sebagai khalifah Allah SWT. di muka bumi. Islam sangat menekankan memelihara nyawa dan ia dijadikan salah satu tunjang *maqasid al-syari'ah*. Manusia perlu menanam nilai kedermawanan bagi memelihara nyawa dengan memastikan perolehan makanan yang mencukupi dikalangan masyarakat. Tujuan syariah untuk memelihara nyawa ini dilihat sebagai satu perkara yang penting supaya tidak berlaku perkara-perkara yang membawa kepada bahaya ke atas nyawa manusia (Shaikh Mohd Saifuddeen, 2006).

Definisi Sekuriti Makanan

Terma sekuriti makanan (*food security*) telah digunakan oleh ramai penulis sejak dari tahun 1960an lagi. Istilah tersebut telah berkembang pada peringkat global dan domestik disebabkan berlakunya krisis minyak dan makanan dunia yang berlaku sekitar 1972 hingga 1974. Kemudian, berlaku pula masalah kebuluran di Afrika pada tempoh 1984 hingga 1985 dan menyebabkan peningkatan jumlah manusia yang memerlukan bantuan makanan di negara-negara maju. Keadaan yang berlaku tersebut menyebabkan istilah sekuriti makanan berkembang dengan pesat sehingga menghasilkan pelbagai definisi yang berbeza (Hoddinot, 1999).

Konsep sekuriti makanan telah berubah dan berkembang dari masa ke masa untuk menggambarkan pelbagai isu makanan dan kerumitan peranan makanan dalam masyarakat. Definisi awal sekuriti makanan tertumpu kepada keupayaan negara dalam memastikan bekalan makanan yang mencukupi untuk penduduk dan penekanan adalah kepada akses makanan yang selamat. Makanan bukan sahaja memberi nutrien dan khasiat tetapi juga mempunyai simbolik, budaya, sosial dan politik tertentu. Selain itu, isu sekuriti makanan pada peringkat negara adalah yang berkaitan dengan penghasilan dan pengimportan makanan yang mencukupi dalam negara (Toronto Public Health, 2006).

Pada tahun 1983, Pertubuhan Makanan dan Pertanian Bangsa-bangsa Bersatu (FAO) mendefinisikan sekuriti makanan sebagai memastikan semua orang pada setiap masa mempunyai kemampuan fizikal dan ekonomi dalam mengakses kepada makanan asasi yang diperlukan (FAO, 1983). Seterusnya pada tahun 1986, kesan dari pengaruh Laporan Bank Dunia terhadap kemiskinan dan kebuluran, definisi sekuriti makanan berubah kepada akses semua orang pada setiap masa untuk makanan yang mencukupi bagi kehidupan yang aktif dan sihat (World Bank, 1986). Pada tahun 1996, Sidang Kemuncak Makanan Dunia mendefinisikan sekuriti makanan dengan lebih luas lagi iaitu sekuriti makanan individu, isi rumah, negara dan global dicapai oleh manusia setiap masa, mempunyai kemampuan fizikal dan ekonomi untuk makanan yang mencukupi, selamat dan berkhasiat bagi kehidupan yang aktif dan sihat (FAO, 1996).

Manakala definisi sekuriti makanan menurut Islam dibawa oleh Ahmad Subhi Ahmad Mustafa al-'Iyadi (1999), dalam Kitab *al-Amn al-Ghidha'i fi al-Islam*, dalam bahasa arab sekuriti makanan disebut *al-Amn al-Ghidha'i*. Dari segi bahasa "*al-Amn*" bermaksud keselamatan, sekuriti atau keamanan lawannya adalah ketakutan atau ketidakselamatan. Firman Allah SWT. yang bermaksud : "*Yang telah memberi makanan kepada mereka untuk menghilangkan lapar dan mengamankan mereka dari ketakutan*" (Surah Quraisy (106) : 4). "*Al-Ghidha'i*" pula bermaksud setiap apa yang dimakan atau diambil manusia daripada makanan dan minuman.

Sekuriti makanan menekankan keperluan menyimpan makanan khususnya bijirin seperti padi, gandum dan sebagainya bagi menghadapi sebarang bencana yang menyebabkan ketidakcukupan makanan dan kebuluran. Pada zaman sejarah awal Islam, Nabi Yusuf AS. telah melaksanakan

polisi persediaan menghadapi kemarau iaitu menyediakan simpanan makanan untuk tempoh selama tujuh tahun. Semasa Baginda menjadi Menteri Kewangan Mesir, seluruh negara yang berdekatan mengalami krisis sekuriti makanan yang teruk dan memaksa rakyat negara berdekatan datang ke Mesir untuk mendapatkan bekalan makanan. Firman Allah SWT. bermaksud:

“Yusuf berkata: "Supaya kamu bertanam tujuh tahun (lamanya) sebagaimana biasa; maka apa yang kamu tuai hendaklah kamu biarkan ia pada tangkai-tangkainya kecuali sedikit untuk kamu makan. Kemudian sesudah itu akan datang tujuh tahun yang amat sulit, yang menghabiskan apa yang kamu simpan untuk menghadapinya (tahun sulit), kecuali sedikit dari (bibit gandum) yang kamu simpan”

(Yusof : 47-48)

Pendekatan ini merupakan filantropi yang wajar diteladani kerana dapat membantu negara-negara jiran memperolehi makanan dalam keadaan terdesak. Peringatan itu juga boleh diambil pengajaran dalam memastikan sekuriti makanan dan kedaulatan sesebuah negara. Kisah Nabi Yusuf AS. tersebut telah menunjukkan kepentingan perancangan dan persiapan untuk menghadapi sebarang kemungkinan.

Konsep Filantropi Islam

Islam adalah agama yang amat menekankan manusia menginfakkan harta kekayaannya di jalan yang baik dan mencela tabiat kikir yang tidak mahu menghulurkan bantuan kepada orang lain. Oleh kerana itu umat Islam perlu bersikap murah hati, dermawan serta dianjurkan berlumba-lumba mengejar kebajikan dan menjadikannya sebagai kegiatan utama dalam kehidupan sehari-hari.

Secara etimologis, perkataan filantropi (philanthropy) berasal dari bahasa Yunani ‘philos’ yang bermaksud cinta dan ‘anthropos’ yang bermaksud manusia. Gabungan dari kedua perkataan tersebut membawa makna mencintai atau mengasihi manusia (Hurni Djamal, 2003). Menurut Kamus Dewan Edisi Keempat, filantropi bermaksud rasa kasih sayang terhadap manusia. Manakala maksud kedermawanan pula perihal dermawan, kemurahan (keikhlasan) hati, ketulusan (kebaikan) hati sesama manusia. Selain itu, maksud filantropi ialah perpindahan sumber secara sukarela untuk tujuan sedekah, sosial, dan kemasyarakatan (Safrin, 2015). Secara umumnya filantropi diertikan sebagai tindakan atau usaha untuk meningkatkan kesejahteraan manusia melalui berbagai bentuk bantuan dan sumbangan atau lebih dikenali sebagai kedermawanan sosial (Yulkardi, Wahyu Pramono, Agus Budiono & Yunarti, 2011). Terdapat dua bentuk filantropi, iaitu filantropi tradisional dan filantropi untuk keadilan sosial. Filantropi tradisional adalah pemberian untuk kepentingan sosial seperti pemberian oleh dermawan kepada golongan miskin untuk memenuhi keperluan makanan, tempat tinggal, pakaian dan lain-lain.

Manakala, filantropi tradisional lebih bersifat individual dan didorong oleh maksud untuk memelihara dan menaikkan status di mata masyarakat (Miftahul Huda, 2016).

Menjamin Sekuriti Makanan Melalui Filantropi Islam

Kemiskinan adalah punca utama sekuriti makanan manusia tidak terjamin. Satu keadaan dimana manusia berada pada tahap di bawah tahap minimum bagi meneruskan kehidupan. Sumber yang ada tidak mampu untuk memenuhi keperluan asas seperti makanan, pakaian dan tempat tinggal serta tidak mencukupi untuk survival secara sihat dan produktif (Irfan Ul Haq, 1996). Golongan yang ditimpa kemiskinan kerana ketidakupayaan untuk bekerja seperti golongan tua dan kanak-kanak adalah menjadi tanggungjawab kepada golongan kaya untuk membantu mereka memenuhi keperluan makanan. Melalui nilai dermawan yang dimiliki oleh mereka, sekuriti makanan masyarakat miskin akan dapat dijamin. Ini dinyatakan melalui firman Allah SWT. yang bermaksud:

“(Berinfaklah) kepada orang-orang fakir yang terikat (oleh jihad) di jalan Allah, mereka yang tidak dapat berusaha di bumi, orang yang tidak tahu menyangka mereka orang kaya kerana memelihara diri dari meminta-minta. Kamu kenal mereka dengan melihat sifat-sifatnya, mereka tidak meminta kepada orang secara mendesak. Dan apa sahaja harta yang baik, yang kamu nafkahkan (di jalan Allah), maka sesungguhnya Allah Maha Mengetahui.”

(al-Baqarah : 273)

Terdapat dua bentuk filantropi yang melibatkan pengagihan makanan di kalangan umat Islam iaitu filantropi yang bersifat wajib dan bentuk filantropi yang bersifat sunat. Ia merupakan mekanisme pengagihan yang sangat dituntut dalam Islam (Qardhawi, 1975):

Pengagihan Wajib

Antara mekanisme sekuriti makanan di bawah kaedah kedermawanan wajib ialah zakat, *kifarat* sumpah, fidyah dan nafkah. Mekanisme tersebut memerlukan campur tangan penguasa negara atau institusi tertentu di dalam sesebuah negara Islam untuk memastikan pengurusan pengagihan harta-harta tersebut dijalankan mengikut syariat yang telah ditetapkan (Yusuf Qardhawi, 1975).

i. Zakat

Zakat merupakan salah satu bentuk filantropi wajib yang dikenakan terhadap harta apabila cukup nisab dan haulnya. Zakat dikenakan kepada binatang ternakan, hasil tanaman seperti padi, wang (emas dan perak) dan barang perniagaan (Syarbini, 1998). Zakat diwajibkan ke atas golongan kaya untuk diberikan kepada golongan *asnaf* yang berhak yang terdiri dari lapan golongan, yakni orang-orang fakir, orang-orang miskin, *muallaf* (orang yang baru menganut agama Islam dan ingin dipujuk hatinya), hamba abdi, *gharim* (orang yang dibebani dengan hutang), *Ibnu sabil* (orang yang bermusafir bukan kerana tujuan maksiat), orang yang *jihad fisabilillah* (berjuang

pada jalan Allah) dan para amil (orang yang ditugaskan oleh penguasa atau pemerintah untuk menguruskan zakat)(Surah al-Taubah (9): 60).

Antara hikmah kewajipan zakat adalah dapat menyucikan diri dari dosa, membentuk kemurnian jiwa, mendidik akhlak mulia menjadi murah hati, memiliki rasa kemanusiaan, dan mengikis sifat bakhil (kikir), sehingga dapat merasakan ketenangan jiwa kerana melaksanakan tuntutan Allah SWT. dan tuntutan kewajiban masyarakat. Zakat memberikan jaminan sosial bagi masyarakat yang memerlukan kedermawanan secara kewangan atau barangan seperti makanan dan pakaian. Nilai kedermawanan yang dipupuk melalui pemberian zakat dapat mengurangkan penderitaan, kesusahan dan kekurangan yang dialami mereka yang kurang bernasib baik terutamanya berkenaan dengan makanan. Dengan bantuan zakat yang diberikan sekuriti makanan golongan tersebut akan terjamin. Sabda Rasulullah SAW bermaksud (No. Hadis 1395):

“... terangkanlah kepada mereka bahawa Allah mewajibkan ke atas mereka solat lima kali sehari semalam. Kalau mereka telah mentaatinya, ajarkanlah bahawa Allah memerintahkan kepada mereka supaya membayar zakat harta mereka dan diberikan kepada orang-orang miskin”

(HR Bukhari)

Al-Syawkani (1973) berpendapat bahawa kewajipan berzakat merupakan satu perkara yang sangat jelas dalam syariat Islam. Oleh sebab itu, orang yang mengingkari zakat pada asasnya adalah kafir. Bagi menegaskan kewajipan membayar zakat, Allah SWT. menjelaskan bahawa ia bukan semata-mata ibadat tetapi juga hak golongan tertentu dalam masyarakat, yang wajib ditunaikan oleh para pemilik harta bagi membentuk sifat pemurah pada diri mereka. Setiap golongan kaya yang dermawan merasa bertanggungjawab [untuk menunaikan hak orang-orang miskin dengan cara mengeluarkan zakat dari hartanya. Ini menunjukkan bahawa zakat merupakan mekanisme terpenting yang perlu dilaksanakan bagi mencerminkan filantropi Islam.

ii. Kifarat sumpah

Kifarat bermaksud perbuatan yang boleh menghapuskan dan menutupi sebahagian dosa sehingga tidak ada sebarang keraguan (Sayyid Sabiq, 1985). Firman Allah SWT. mengenai *kifarat* sumpah ialah :

“Allah tidak menghukum kamu disebabkan sumpah-sumpahmu yang tidak dimaksud (untuk bersumpah), tetapi Dia menghukum kamu disebabkan sumpah-sumpah yang kamu sengaja, maka kaffarat (melanggar) sumpah itu, ialah memberi makan sepuluh orang miskin, iaitu dari makanan yang biasa kamu berikan kepada keluargamu, atau memberi pakaian kepada mereka atau memerdekakan seorang budak. Barang siapa tidak sanggup melakukan yang demikian, maka kaffaratnya puasa selama tiga hari. Yang demikian itu adalah

kaffarat sumpah-sumpahmu bila kamu bersumpah (dan kamu langgar). Dan jagalah sumpahmu. Demikianlah Allah menerangkan kepadamu hukum-hukumNya agar kamu bersyukur (kepadaNya)”

(al-Maidah : 89)

Menurut ayat tersebut, barang siapa yang melanggar sumpah, wajib ke atasnya *kifarat*. Pada permulaannya dia boleh memilih antara tiga perkara iaitu yang pertama membebaskan seorang hamba mukmin. Kedua, memberi makan sehingga kenyang kepada sepuluh orang miskin iaitu makanan sederhana yang diberikan kepada keluarganya. Ketiga, memberi pakaian kepada sepuluh orang fakir miskin mengikut apa yang dinamakan pada adatnya adalah pakaian seperti kain sarung, baju, penutup kepala dan sebagainya.

Bagi pilihan memberi makan kepada orang miskin, al-Quran dan as-Sunnah tidak menyatakan kuantiti dan jenis makanan tersebut. Kadar ditentukan berdasarkan adat atau uruf tempat tersebut iaitu berdasarkan kebiasaan dalam memberi makan kepada keluarganya dan disyaratkan kepada sepuluh orang miskin (Sayyid Sabiq, 1985). Pemberian makanan kepada orang miskin merupakan satu bentuk kedermawanan dapat dibentuk melalui hukuman yang ditetapkan kerana pelanggaran kepada larangan Islam.

iii. Fidyah

Fidyah merupakan bayaran denda yang dikenakan kepada seseorang yang tidak dapat menggantikan puasanya di bulan Ramadhan pada sesuatu tahun sehinggalah tibanya bulan Ramadhan tahun berikutnya. Sebagaimana firman Allah SWT bermaksud:

“Dan wajib atas orang-orang yang tidak terdaya berpuasa (kerana tua dan sebagainya) membayar fidyah iaitu memberi makan orang miskin...”

(Al-Baqarah: 184)

Golongan yang wajib melaksanakan fidyah terdiri daripada yang pertama, wanita mengandung atau menyusui anaknya. Bagi wanita yang mengandung atau menyusui anaknya dibenarkan untuk meninggalkan puasa kerana bimbang akan kandungannya terjejas atau air susunya kering. Oleh itu, fidyah dikenakan pada tahun itu juga kepada mereka dan hendaklah diqadad sebelum melangkah Ramadhan akan datang. Kedua, orang tua yang lemah dan tidak mampu untuk berpuasa. Fuqaha berpendapat bahawa golongan ini boleh meninggalkan puasa dan perlu membayar fidyah (Ibnu Qudamah, t.t).

Ketiga, orang yang sakit dan tiada harapan untuk sembuh. Golongan ini boleh meninggalkan puasa dan tidak perlu untuk mengqadakkan puasa mereka tetapi perlu membayar fidyah. Keempat, orang yang meninggalkan puasa dengan sengaja atau uzur syar'i berkaitan haid, nifas, wiladah, musafir dan sakit yang ada harapan sembuh. Golongan ini wajib mengqadakkan

puasa dan jika tidak mengqadakkan puasa sehingga datang Ramadhan yang lain maka wajib mereka membayar fidyah.

Kadar fidyah adalah sebanyak satu *mud* dengan menggunakan *mud* Nabi SAW. atau satu cupak makanan asasi sehari. Di Malaysia, makanan asasi adalah beras. Bayaran fidyah dikira berdasarkan kadar harga beras sebanyak secupak. Kadar tersebut berubah mengikut harga yang ditetapkan pemerintah di sesuatu tempat. Beras hendaklah di beri kepada fakir dan miskin dan bukan berbentuk wang tunai, pakaian dan sebagainya. Satu cupak makanan asasi tempatan yang disedekahkan kepada fakir miskin mewakili satu hari yang tertinggal puasa Ramadhan padanya (Lembaga Zakat Selangor, t.t).Pemberian makanan dalam bentuk fidyah ini merupakan filantropi Islam untuk membantu golongan miskin memperolehi makanan. Ini akan dapat menjamin sekuriti makanan asasi mereka dalam tempoh tersebut.

iv. Nafkah

Nafkah bermaksud memenuhi keperluan makan, tempat tinggal, pakaian dan lain-lain. Ia merupakan kewajipan seorang suami terhadap isterinya (Sayyid Sabiq, 1985).Ada beberapa perkara yang disebutkan dalam al-Qur'an yang berkaitan dengan nafkah antara lain pernikahan, kewajipan ibu bapa kepada anak, kewajipan suami kepada isteri, dan selainnya. Sepertimana firman Allah SWT. bermaksud:

“Hendaklah orang yang mampu memberi nafkah menurut kemampuannya; dan sesiapa yang di sempitkan rezekinya, maka hendaklah ia memberi nafkah dari apa yang diberikan Allah kepadanya (sekadar yang mampu)..”

(al-Talaq: 7)

Syarat isteri yang berhak menerima nafkah adalah ikatan perkahwinan yang sah dan taat pada suami. Jika syarat tersebut tidak dipenuhi maka dia tidak wajib diberi nafkah. Mazhab Syafi'i menetapkan jumlah nafkah bukan diukur dengan jumlah keperluan tetapi menurut mereka bahawa perkara ini mesti berdasarkan syarak. Suami wajib memberi nafkah mengikut kemampuannya. Jika suami berpendapatan sederhana, maka dia diwajibkan membayar nafkah sebanyak satu setengah *mud* kerana dia tidak dapat disamakan dengan orang kaya yang wajib memberi dua *mud*. Isteri juga berhak mendapat pakaian yang sesuai dengan kemampuan suami begitu juga dengan tempat tinggal (Sayyid Sabiq, 1985). Hikmah pemberian nafkah ini adalah untuk membentuk sifat bertanggungjawab dan dermawan kepada tanggungan.

Pengagihan Sunat

Sunat menurut istilah syarak adalah sesuatu perkara yang mendatangkan pahala apabila dilaksanakan dan sekiranya ditinggalkan, ia tidak pula mendatangkan dosa. Namun, oleh kerana perlaksanaannya memberikan manfaat,umat Islam dianjurkan untuk mengerjakannya. Terdapat

beberapa mekanisme pengurusan sekuriti makanan di bawah kaedah kedermawanan sunat. Mekanisme-mekanisme tersebut adalah:

i. Korban

Korban ialah penyembelihan binatang korban yang dilakukan pada Hari Raya Aidil Adha dan hari-hari Tasyrik. Dari sudut fiqh, ia bermaksud menyembelih binatang tertentu dengan niat beribadah dan mendekati diri kepada Allah SWT. pada masa-masa tertentu (Sayyid Sabiq, 1985). Islam menggalakkan masyarakat berkorban sebagai tanda bersyukur dengan nikmat yang Allah SWT. berikan. Ia dijelaskan dalam firman Allah SWT. bermaksud :

“Oleh itu kerjakanlah sembahyang kerana Tuhanmu semata-mata dan sembelihlah korban sebagai bersyukur.”

(al-Kawthar: 2)

Ibadah penyembelihan binatang korban adalah *sunnat muakkad* bagi yang mampu melaksanakannya. Allah SWT mensyariatkan korban untuk mengingati kisah Nabi Ibrahim AS dan menyemai sifat kedermawanan dengan memberikan makanan dalam bentuk daging korban kepada umat Islam terutamanya golongan yang kurang berkemampuan pada Hari Raya Aidil Adha. Selain itu, setelah menyembelih korban, dagingnya dibahagi-bahagikan untuk keluarga dan kepada golongan fakir miskin sebagai bantuan pada hari raya dan disunatkan untuk memakan sepertiga dan menyedekahkan sebanyak dua pertiga kepada kaum Muslimin (Syarbini, 1998).

Binatang yang dikorbankan adalah terdiri daripada jenis unta, lembu atau kerbau, kambing yang berumur dua tahun, jika kambing biri-biri pula telah berumur satu tahun atau telah gugur giginya sesudah enam bulan meskipun belum cukup satu tahun. Binatang itu disyaratkan tidak cacat, tidak buta sebelah atau kedua-duanya, kakinya tidak pincang, tidak terlalu kurus, tidak terpotong lidahnya, tidak mengandung atau baru melahirkan anak, tidak berpenyakit atau berkulid. Binatang yang hendak disembelih itu mestilah sihat (Sayyid Sabiq, 1985). Islam memberikan panduan bagi mereka yang berkorban kerana perbuatan tersebut merupakan satu bentuk filantropi yang mengharapkan balasan pahala di sisi Allah SWT. Nilai pemberian kasih sayang melalui ibadah korban akan dapat menjamin sekuriti makanan kepada golongan fakir dan miskin.

ii. Aqiqah

Aqiqah juga merupakan satu bentuk filantropi Islam. Binatang tertentu akan disembelih sebagai tanda kesyukuran kelahiran anak. Hukum bagi aqiqah adalah *sunnat muakkad*, sangat dituntut dalam Islam. Perlaksanaan akikah untuk anak lelaki adalah dengan menyembelih dua ekor kambing, manakala bagi anak perempuan adalah satu ekor sahaja. Penyembelihan binatang t

ersebut kebiasaannya dilaksanakan pada hari ketujuh, keempat belas atau kedua puluh satu selepas kelahiran (Sayyid Sabiq, 1985). Sabda Rasulullah SAW yang bermaksud:

"Setiap anak yang lahir itu terpelihara dengan aqiqahnya yang disembelih untuknya pada hari ketujuh (daripada hari kelahirannya), dicukur dan diberi nama."

(HR Abu Dawud, at-Tarmidhi & Ibn Majah)

Aqiqah melambangkan kegembiraan dan kesyukuran kedua ibu bapa atas nikmat Allah SWT. terhadap kurniaan anak (Syarbini, 1998). Tanda kesyukuran dapat dizahirkan melalui akikah bersama nilai kedermawanan. Aqiqah disyaratkan seperti apa yang menjadi syarat korban iaitu binatang tersebut adalah kambing dan seluruh binatang ternak. Pelaksana aqiqah disunatkan untuk memakan, menghadiahkan dan menyedekahkan daging tersebut. Daging aqiqah digalakkan untuk dimasak terlebih dahulu dan barulah diberikan kepada golongan fakir miskin. Kaedah ini akan dapat membantu golongan fakir miskin yang memerlukan makanan yang berzat dan berprotein daripada daging di samping sekuriti makanan mereka terjamin.

iii. Sedekah

Sedekah adalah amalan filantropisunnah yang digalakkan dalam Islam. Ia dilakukan untuk mengharapkan pahala dari Allah SWT. Sadaqah juga mendapat perhatian di dalam al-Quran fungsinya sebagai instrumen membebaskan dan membangun kesejahteraan umat. Terdapat banyak ayat al-Quran menyebut tentang anjuran bersedekah, pemberian, infak dan derma di jalan Allah SWT. Di antara ayat di dalam al-Quran yang menyarankan perlaksanaan sedekah adalah:

"Adapun nikmat Tuhanmu hendaklah engkau agihkan"

(al-Duha: 11)

"Berimanlah kepada Allah dan RasulNya dan belanjakanlah sebahagian dari harta yang Allah berikan kamu menguasainya. Maka orang-orang yang beriman di antara kamu dan yang membelanjakan hartanya itu memperoleh pahala yang besar"

(al-Hadid: 7)

Amalan sedekah boleh dilakukan dalam bentuk harta, barang atau makanan kepada sesiapa terutamanya mereka yang memerlukan. Ia merupakan amalan yang paling banyak dilaksanakan oleh Rasulullah SAW dan para sahabat baginda. Pernah di dalam satu peristiwa Rasulullah SAW memberi sedekah kepada setiap yang memerlukan wang sehingga habis keseluruhan wang yang diterimanya.

Sebaik-baik sedekah adalah diambil daripada lebih keperluannya dan tanggungannya dan berdosa jika seseorang itu bersedekah dengan mengurangkan nafkah tanggungannya. Sunat bersedekah dengan disertai dengan rasa ikhlas dan gembira kerana akan mendapat pahala yang banyak kerana ia merupakan satu ibadah (Syarbini, 1998). Pemberian sedekah merupakan pemberian sesuatu dengan kasih sayang sebagai tanda belas kasihan orang-orang yang berkemampuan kepada golongan yang susah. Pemberian ini sebenarnya boleh menjadi lambang perpaduan dan ikatan hati antara berbagai lapisan masyarakat. Dengan itu, apabila masyarakat mengamalkan pengorbanan harta melalui amalan sedekah, kemakmuran akan terbina dan permasalahan kemiskinan seperti kekurangan makanan dengan sendirinya akan selesai .

Dari dua kaedah pengagihan yang telah dijelaskan, terlihat bahawa pengurusan kemiskinan secara Islam lebih banyak meletakkan kunci penyelesaian persoalan kemiskinan di tangan golongan kaya. Sifat kedermawanan dapat dipupuk kepada golongan kaya melalui pelaksanaan tanggungjawab yang ditetapkan. Tanpa kerjasama daripada golongan yang kaya ini, amat sulit untuk menguruskan persoalan kemiskinan sepertimana yang digariskan oleh Islam.

Mewujudkan Keadilan dalam Pengagihan

Objektif pengagihan adalah memastikan kekayaan tidak hanya berlegar dan tertumpu dalam kalangan golongan tertentu sebaliknya ia perlu berlegar di dalam masyarakat (Afzalur Rahman, 1995). Firman Allah SWT yang bermaksud :

“Apa saja harta rampasan (fay) yang diberikan Allah kepada RasulNya (dari harta benda) yang berasal dari penduduk kota-kota maka adalah untuk Allah, untuk Rasul, kaum kerabat, anak-anak yatim, orang-orang miskin dan orang-orang yang dalam perjalanan, supaya harta itu jangan beredar di antara orang-orang kaya saja di antara kamu. Apa yang diberikan Rasul kepadamu, maka terimalah. Dan apa yang dilarangnya bagimu, maka tinggalkanlah. Dan bertakwalah kepada Allah. Sesungguhnya Allah amat keras hukumannya.”

(al-Hasyr: 7)

Al-Quran berulang kali menekankan apa sahaja yang Allah SWT berikan kepada RasulNya sebagai *fay* iaitu sesuatu yang diperoleh tanpa kesusahan atau tenaga buruh, sesuatu yang berhak ke atas orang Islam tanpa melalui peperangan hendaklah dikongsi bersama saudara terdekat, anak yatim piatu dan golongan miskin. Bagi mencapai objektif ini, pengagihan kekayaan mesti dilakukan secara adil bertujuan mewujudkan suatu keseimbangan di kalangan kelompok masyarakat dan bagi memastikan setiap individu mencapai satu tahap kehidupan yang sepatutnya (Umar Chapra, 1979). Sifat dermawan adalah sifat yang harus ditanamkan dalam diri setiap umat Islam. Dermawan diertikan sebagai orang yang murah hati, orang yang suka atau selalu menderma. Kedermawanan merupakan salah satu cara yang dapat dilakukan untuk melatih seseorang dalam mengatur harta yang dimiliki dengan mengagihkan hartanya dan

memberikannya kepada orang yang memerlukan. Sifat dermawan yang dimiliki seseorang akan membantu mengurangkan jurang antara golongan kaya dan miskin. Perbuatan dermawan yang dilakukan tidak hanya memberikan sesuatu secara ikhlas tetapi juga dapat mengeratkan hubungan silaturrahim yang baik antara penderma dan penerimanya.

KESIMPULAN

Islam menganggap kekayaan sebagai pemberian atau rezeki tanpa batas daripada Allah SWT. Sesungguhnya, Allah SWT. merupakan pemilik sebenar dan mutlak segala pemberian dan memberikan keberkatan terhadap sesiapa yang mendapatkan kekayaan itu melalui cara yang halal dan membelanjakannya mengikut ajaran Islam. Islam menghormati hak individu terhadap pemilikan, sementara pada masa yang sama menggesa sesiapa yang memiliki kekayaan supaya memenuhi tanggungjawab sosial mereka. Tuntasnya, pada zaman era masa kini terdapat golongan yang tidak mampu kerana kos sara hidup yang tinggi untuk memenuhi keperluan hidup mereka. Jadi, strategi filantropi Islam dalam pengagihan wajib dan sunat sangat penting dalam pembangunan ekonomi ummah masa kini. Seperti yang sedia maklum, dalam Islam juga tidak dibenarkan sebarang penumpuan harta atau pembekuan harta pada sesuatu individu sahaja. Jadi dengan adanya agihan- agihan seperti ini, segala perkara itu dapat dielakkan. Di sini kita dapat saksikan hikmahnya penentuan hukum terhadap pengagihan wajib dan sunat terhadap sesuatu agihan itu iaitu dapat melahirkan umat yang bersifat kedermawanan pada semua tanpa mengira waktu dan tempat.

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EW053:
**MACRO MODEL OF CASH WAQF FOR FUNDING HIGHER
EDUCATION IN MALAYSIA: A SURVEY AMONG PRACTITIONERS**

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Abstract

Public funding is the main sources of fund for financing Malaysian higher education sector. The government allocates around six per cent of annual budget for funding the development and operational expenditure of public universities, and student assistance schemes. Currently, there are indications that public funding of higher education may not be sustainable due to high operational expenditures of maintaining public higher learning institutions and rising rates of enrolments. There is therefore a need for developing an alternative model for funding this sector. The present study applies content analysis method to identify higher education funding challenges in Malaysia and developing a macro model of cash waqf fund that involves the collaboration between Federal and State government's agencies in managing the sources and uses of waqf fund. This study also applies the focus group interview to get views and opinions from waqf practitioners on the implementation of this model. The findings are expected to provide some insights on the extent to which waqf fund can be mobilized for the benefit of higher education in Malaysia. The study concludes with policy recommendations and suggestions for future research.

Keywords: Higher education funding, macro model of cash waqf.

INTRODUCTION

Public funding is the main sources of fund for financing Malaysian higher education sector. The government allocates around six per cent of annual budget for funding the development and operational expenditure of public universities, and student assistance schemes. However, public funding for higher education has been facing sustainability issue of financing an increase cost of student-loan scheme and the operational expenditure of public universities. These two challenges have been accentuated with the high rate of student loan defaults, an increase of enrolments rate and the rising cost of maintaining operational expenditure of public universities that may include teaching and learning as well as research activities.

Based on the above-mentioned background, this paper provides an overview of higher education funding in Malaysia and the prospect of structuring Ulul Albab Cash Waqf Fund (UACWF) as an alternative to the existing funding model. This paper is divided into five sections starting with

an introduction. Higher education in Malaysia is discussed in section two. The third section provides the structure of higher education funding in Malaysia. This is followed in the fourth section by examining the issues related to the sustainability of public funding of higher education in Malaysia. Then, the fifth section on the prospect of establishing UACWF from the opinions of waqf practitioners, and the final section concludes and elucidates the recommendations of the paper.

HIGHER EDUCATION IN MALAYSIA

Tertiary and higher education are used interchangeably to refer the highest education level. World Bank (2015) denotes both tertiary and higher education to all post-secondary education provide in the universities, colleges, technical training institutes, community colleges, nursing schools, research laboratories, centres of excellence and distance-learning centres. According to UNESCO's International Standard Classification of Education (ISCED), tertiary education is the programmes with a qualification level 5 to level 8 comprise Diploma, Advanced Diploma, Postgraduate Diploma, Professional Certificate, Bachelors, Masters, and PhD programmes (UIS, 2013). This standard applies worldwide, for example, OECD's thirty member countries classify primary, secondary and tertiary education levels according to ISCED (OECD, 2014). In Malaysia, higher education refers to ISCED level 3 and above that covers tertiary education programs and non-tertiary education programs such STPM, Matriculation, Foundation, Pre-Diploma, Pre-University, and Post-Secondary non-tertiary education programs (MOE, 2015).

Tertiary education is the pillar for sustaining economic growth and the engine for human capital development. The advancement of the developed countries, for instance, USA and UK are accredited to the achievement and advancement of their higher learning institutions (Aik Hoe Lim and Saner, 2011; Chapman, 2011; Whiteley, 2012). Universities in those countries produce graduates with the high level of knowledge and expertise in broad areas including information and communication technology (ICT), management, medical and engineering that inspires the attainment of their superior economic status. In Malaysia, tertiary education has been developed to teach and supply well-trained human capitals to support economic growth of the nation. Higher learning institutions produce graduates with high degree of expertise and knowledge that contributes to the economic transition from agriculture to industrial-based and knowledge-based economic system.

Table 1: Total Graduates from Public Higher Educational Institutions (PuHEIs) and Private Higher Educational Institutions (PrHEIs), 2007–2013

Higher Learning Institutions/Year		2007	2008	2009	2010	2011	2012	2013
Public Higher Learning Institutions	Public University	85,448	94,662	108,870	108,331	104,291	113,239	126,027
	Polytechnic	30,120	32,783	31,426	32,503	33,310	27,286	25,853

	Community Colleges	4,331	5,680	7,685	7,460	6,624	23,470	27,485
Private Higher Learning Institutions		83,431	78,561	97,333	80,605	54,397	107,239	94,528
KTAR/KUTAR		8,974	9,064	9,522	10,404	9,276	9,645	**
Total		212,304	220,710	250,836	239,303	207,898	280,928	273,893

Source: Ministry of Higher Education (2016)

As shown in Table 1, the number of the graduates from public and private higher learning institutions had increased significantly from 212,304 in 2007 to 273,893 students in 2013. Among higher learning institutions, the highest percentage of the graduates came from public universities produced with the graduation of more than 40 per cent of the graduates throughout the periods. Therefore, the development of tertiary education is vital for sustaining the growth of Malaysian economic. To ensure the sustainability of tertiary education sector, the government allocates a significant amount of public fund annually to support to its growth.

HIGHER EDUCATION FUNDING

The advancement of higher education relies on the financial contribution from the relevant stakeholders particularly the government, private entities and philanthropists (Barnabè, 2012; Estermann & Pruvot, 2011). Higher education funding system in most countries for the past four decades has gradually shifted into mix-oriented funding model with the participation of all key stakeholders such as the government, student/parent, private companies, and philanthropic organisations (Carpentier, 2012).

The implementation of mix-oriented funding model is imperative as the governments are having financial austerity in allocating public fund for higher education sector. This scenario occurs due to several factors such rising cost of providing higher education and a sudden increase of enrolments ((Johnstone & Marcucci, 2007; Salmi, 2013b; Woodhall, 2007). The introduction of mix-oriented funding model is influenced by cost sharing concept that proposes the participation of all stakeholders in funding higher education expenditure. Higher education funding based on mix-oriented model in Malaysia involves the participation of the four main parties, namely, the government, student/parent, private companies, and philanthropic organisations. The Malaysian Government is the main financier of higher education sector through the allocation of public fund for funding the operational and development expenditures for public higher learning institutions. Table 2 shows Federal Government Development Expenditure on Education and Training with special reference to the allocation for higher education.

Table 2: Federal Government Expenditure on Education and Training (in MYR million)

Malaysia Plan	Education Expenditure (a)	Higher Education Expenditure (b)	b/a (percentage)
5 th (1986-1990)	5,382	1,727	32.1
6 th (1991-1995)	6,982	3,029	43.5
7 th (1996-2000)	19,724	5,005	25.4
8 th (2001-2005)	37,922	13,404	35.3
9 th (2005-2010)	40,357	16,069	39.8

Sources: *Malaysia Plans (Various), Jabatan Perdana Menteri in (Guan, 2014).*

The development expenditure for higher education averaged about 34 per cent of the total educational development expenditure between 5th to 8th Malaysia Plan, reaching an all-time high of 43.5 per cent in the 6th Malaysian Plan and only to fall to 25 per cent in the 7th Malaysian Plan. This was largely because of the fiscal contraction triggered by the 1997 Asian financial crisis. In the 8th and 9th Malaysian Plans, the spending on developing the higher education sector was raised back to 35.3 per cent and 39.8 per cent respectively. In absolute terms, government development expenditure for higher education increased from RM1.7 billion in the 5th Malaysian Plan (1986-1990) to RM5.0 billion in the 7th Malaysian Plan (1996-2000) and RM16.1 billion in the 9th Malaysian Plan (2006-2010). In 1998, the higher educational budget took up 20 per cent of total educational expenditure; and between 2007 and 2010, it averaged about 37.7 per cent of total educational expenditure or 6.3 per cent of total public expenditure. In 2005 the government allocated about 2.7 per cent of its GDP towards funding higher education, and in 2010 the figure was 1.69 per cent of GDP.

The promulgation of Private Higher Education Institutions Act (PHEIA) 1996 authorizes private companies, Government Link Companies (GLCs) and non-profit organisations to operate private higher learning institutions (Jamshidi, Arasteh, NavehEbrahim, Zeinabadi, & Rasmussen, 2012; Wilkinson & Yussof, 2005). This initiative has divided the provision of tertiary education into two categories, namely, public universities fully funded by the government and private higher learning institutions funded by private entities. With only small numbers of private universities and colleges in the nineties, the number of these institutions increased substantially to 551 in 2014.

Table 3: Total Enrolments in Public Higher Educational Institutions and Private Higher Educational Institutions (2007–2013)

Higher Learning Institutions/Year	2007	2008	2009	2010	2011	2012	2013
Public Universities	382,997	419,334	437,420	462,780	508,256	521,793	560,359
Polytechnics	84,250	85,280	86,471	87,751	89,292	92,148	89,503
Community Colleges	14,438	17,082	17,279	18,200	6,319	22,380	21,468

Private Higher Learning Institutions	365,800	399,897	484,377	541,629	428, 973	454,616	484,963
KTAR/KUTAR	25,753	26,235	25,179	23,774	23,632	23,652	**
Total	873,238	947,828	1,050,726	1,134,134	1,056,472	1,114,589	1,156,293

Source: Ministry of Higher Education (2016)

As shown in Table 3, between 2007 and 2013 the total number of enrolments increased considerably from 873, 238 students to 1,156, 293 respectively. In 2010, private higher learning institutions recorded the highest rate of enrolments with 541,629 students that was slightly higher than the enrolments in public universities. After all, private companies and corporations play a vital role in financing part of the operational expenditure of private higher learning institutions in the country. Other part of financing obtains from tuition fees imposed to all students undertaking diploma, degree and post graduate programs. To ensure students are not having financial difficulty for paying tuition fee, the authorities in many countries establish student loan scheme. These two cost sharing instruments introduced to enable student or parent share part of higher education expenditure.

The establishment of student loan scheme is one of the strategies adopted by the Malaysian government for diversifying higher education funding base. The government enacted The National Higher Education Fund Corporation Act 1997 and established The National Higher Education Funding Council popularly known as PTPTN to manage and operate the loan scheme. The scheme is applicable to all students undertaking higher education programs offered in public and private higher learning institutions with the condition that Malaysian Quality System (MQA) validates the programs offered. Table 4 demonstrates the Total Number of Loans Approved by PTPTN between 2000 and 2009. The data shows that the number of students subscribed to the loan scheme increased every year with the high percentage of more than sixty per cent students from public higher learning borrowed the loan in 2009.

Table 4: Total Number of Loans Approved by PTPTN (2000-2009)

Year of Approval	Number of Students		
	Public Higher Education Institutions	Private Higher Education Institutions	Total
2000	79,416	8,965	88,372
2001	82,754	26,263	109,017
2002	85,016	18,919	103,935
2003	87,482	26,775	114,257
2004	89,218	30,994	120,212
2005	98,656	45,662	144,318
2006	103,067	46,404	149,471
2007	94,936	65,628	160,564
2008	100,280	56,573	156,853
2009	116,725	76,454	193,179
Total for the period	937,550	402,628	1,340,178

Source: PTPTN in (Tham, 2011).

Malaysian's student loan scheme falls under mortgage-based category that operates similar to house loan financing. The borrower obliges repaying back the loan plus an agreed interest and management fee at specific periods after graduation. This instrument has been implemented in more than seventy countries; nevertheless, the main drawback of the scheme is the high rate of defaulters due to deficiency of repayment system (Elistina, Masud, & Md Jusoh, 2006; R. Ismail, 2009; S. Ismail, Serguieva, & Singh, 2011; Rahman, 2009; Yunus, 2009) . In fact, PTPTN suffers from a high default rate with only forty per cent of the borrowers repay back the loan in 2009.

The above discussions highlight the transition of Malaysian higher education funding model that previously based on state-oriented funding model to mix-oriented funding model. The implementation of the new funding model is in line with the cost-sharing concept that upholds the view of involving all relevant stakeholders such as the government, private entities and philanthropies in sharing part of higher education expenditure. However, the government remains the main funder of tertiary education sector with the allocation of huge amount of annual national budget for financing public universities and student loan scheme. The sustainability of the current higher education funding model is a major concern amid the issues of the high rate of student loan default, an influx of enrolments into higher learning institutions and an increased cost for funding public universities.

THE SUSTAINABILITY ISSUE OF HIGHER EDUCATION FUNDING IN MALAYSIA

The sustainability of the current higher education funding model is a major concern amid the issues of an increased cost for funding public universities, the high rate of student loan default and an influx of enrolments into higher learning institutions.

An Increased Cost for Funding Public Universities

The development and operational expenditures of public universities show an upward trend in recent years. This phenomenon occurs due to the expansion of public universities with myriad of activities including Teaching and Learning (T&L), and, research, development and innovation (R&D&I). Public fund covers ninety per cent of public universities' operational expenditure and the remaining ten per cent collected from tuition fee (MOHE, 2007). Between 2004 and 2014, public fund allocation for public universities increased progressively from RM4.3billion to RM15.1billion that account to 13 per cent increment per annum. This growth led by a 6 per cent increased in student enrolment and 7 per cent rose of per student costs (MOE, 2015).

The per-student cost in higher education is much higher in comparison with lower levels of education. The per-student cost in Malaysian public universities showed a 90 per cent increment from RM11, 400 in 2004 to RM21, 700 in 2014. The figure includes the institutions' operating

costs and capital expenditure (MOE, 2015). However, the government has subsidised part of the cost by imposing low tuition fee for students enrolling into public universities.

In addition to T&L, the involvement of Malaysian universities in research, development and innovation (R&D&I) activities incurs a huge amount of fund. For example, to spur research and development activities, the government allocated RM1.86billion in the Eight Malaysia Plan (2000-2005) and the amount increased significantly to RM2.83billion in the Ninth Malaysia Plan (2006-2010) (Azlan & Jorah, 2014). The bulk of the fund allocated for funding R&D&I of the Malaysian Research University consist of five premier universities, USM, UM, UKM, UPM, and UTM. This initiative is vital to encourage researchers producing high impact discoveries that will enhance the reputation of Malaysian universities.

An Increased Cost for Funding Public Universities

The issue of high rate of student loan default is another challenged that may affect the sustainability of Malaysian higher education funding model. Student loan scheme emerges as the key financial assistance instrument for students with the allocation of RM49.4billion to more than 2.1 million eligible students since its inception in 1997 until 2014. More than seventy per cent of students enrolled in public universities and forty eight per cent of students registered in private higher learning institutions receive loan for completion of their study (MOE, 2015). The sustainability of the scheme is questionable amid the low repayment rate. For example, between 1997 and 2008 PTPTN allocated RM25billion amount of loans to 1.25 million students that equivalent to eighty per cent of the total 1.57 million students enrolled in higher learning institutions (Benjamin, Marathamuthu, Muthaiyah, & Raman, 2011; S. Ismail et al., 2011).

Nevertheless, the repayment rate is considerably low as only fifty per cent of the borrowers repay back the amount due. The low repayment rate affected the operational expenditure of PTPTN that had forced the agency applied RM2billion loan from the government, which went unsuccessful. Alternatively, Employees Provident Funds (EPF), an agency under the Ministry of Finance (MOF) agreed to provide the loan as per requested. Increasing the repayment rate of the loan has become the main priority for the agency to cover their operational expenditure and to enable new students continues receiving financial support for completing the study. Nevertheless, with the projection of further rising of enrolment rate to 2.5 million in 2025, the sustainability of this scheme has concerned the stakeholders.

Rising Enrolments Rate

The rising enrolment rate is another issue that may affect the sustainability of Malaysian tertiary education funding model. A sudden increase of enrolments affects the government expenditure for higher education especially involving the cost for maintaining T&L and the provision of student loan scheme. The escalating figure of students enrol into higher education is the global phenomena specifically in the Southeast Asia, East Asia and the Pacific that recorded a twelve-

fold increment from 3.9 million in 1970 to 46.7 million in 2007 (UIS, 2009). Currently, Southeast and East Asia becomes the largest share of global enrolments with 31 per cent of worldwide students.

In Malaysia, total enrolment in public and private higher learning institutions increased by 70 per cent from 2004 and 2014 to reach 1.2 million students. As of 2012, the level of tertiary education enrolment rate stood at 36 per cent with 545 thousands students enrolled in public universities and 455 thousands students registered in private universities and colleges. This figure projects to increase further in the next decade with the level of tertiary education enrolment rate expecting to increase to 53 per cent. With an increment rate of 5.1 per cent per annum, the enrolments into public universities projected to reach seven hundred and sixty four students in 2025. The similar pattern occurs for private higher learning institutions with an increment rate of 2.6 per cent, the enrolments expected to stretch to eight hundred and sixty seven in the next ten years.

The scholars have recommended several funding alternatives to encounter these challenges. Among the recommendations are the involvement of public universities in entrepreneurships and soliciting funds through the establishment of philanthropic and endowment funds (Abd Rahman et al., 2012; Azlan & Jorlah, 2014; Bank, 2007; Faridah Hanum, brahim Kamal, Kalsom, Syed Noh, & Noor Hasniza, 2014; Lee, 2004; Sirat, 2012; Speck, 2010). This study attempts to fill this research gap by extending its discussion to include Islamic voluntary sector particularly waqf to address the problems of sustainability of public funding for higher education in Malaysia.

Waqf Models for Funding Higher Education in Malaysia

The origins and the development of waqf in the country can be divided into three different periods: pre-colonial, colonisation, and post-independence. During the colonisation period, which lasted for more than 400 years, the implementation of secular policies by the British forced the Muslims to safeguard their religious rites. Muslims were encouraged to donate their lands for the purpose of building mosques and religious schools. At the end of the 19th century and the beginning of 20th century, the number of *madrasahs* or Islamic schools constructed on waqf lands had increased due to the demand of the Muslim community (Siti Mashitoh, 2006). Sekolah Menengah Agama Al-Attas, formerly known as Madrasah al-Attas, in Pahang and Madrasah Misriah in Penang are considered to be the earliest waqf assets developed for education purposes, and they are still in operation now (Ahmad Zaki, Abdul Halim, Che Zuina, Kamarulzaman, & Norzaidi, 2006).

Concerning waqf innovations, Malaysia is among the pioneers in establishing cash waqf models for funding charitable activities including financing higher education sector. Cash waqf concept allows the donors to dedicate their cash money or its equivalent such as shares to waqf fund manages by waqf institutions and later channels the proceeds for waqf purposes. The

accumulated waqf fund may be exchanged with immovable properties or invested in *Syariah* compliance instruments, and the incomes generated from these activities are channelled for waqf activities including for funding higher education sector (JAWHAR, 2009).

Cash waqf fund is recognised as one of the methods identified to generate income for sustaining higher education sector in Malaysia. As mentioned in the previous section, the sustainability of higher education has concerned the stakeholders amid the issues of the rising operational costs of higher learning institutions, an increase of enrolments rate and the high number of student loan defaulters. For that reason, The Ministry of Higher Education (MOHE) encourages public universities to establish cash waqf fund for funding student assistance schemes such as scholarships and student loan. A number of public universities and a private university college introduced cash waqf scheme for funding higher education as shown in Table 5. Recently, MOHE established The Purple Book that provides guidelines for higher learning institutions especially public universities in structuring cash waqf model (MOHE, 2016). This book offers recommendations and strategies for the setting up of cash waqf fund with the governance and management structure.

Table 5: Cash Waqf Scheme Managed by Public and Private higher learning institutions in Malaysia

Name of Institutions	Cash Waqf Scheme	Year Established
Universiti Kebangsaan Malaysia	Dana Waqaf UKM	2010
Universiti Putra Malaysia	Dana Wakaf Ilmu	2012
Universiti Sains Islam Malaysia	Dana Wakaf Al-Abrar	2013
Universiti Islam Antarabangsa Malaysia	Islamic Endowment Fund	1999
Kolej University Bestari	Skim Wakaf Pendidikan Peyatim	2010

Source: Dana Waqaf UKM (UKM News Portal, 2010), Dana Wakaf Ilmu (UPM, 2015), Dana Wakaf al-Abrar (USIM, 2015), Islamic Endowment Fund (IIUM, 2015), Skim Wakaf Pendidikan Peyatim (Utusan, 2010).

Table 5 shows a number of cash waqf schemes established by public and private higher learning institutions in Malaysia. Waqf proceeds generated from the cash waqf fund are channelled for the provision of scholarships and student loan. As the fund grows, more students will be able to get financial assistance for the completion of their studies.

Nevertheless, the establishment of cash waqf fund at higher learning institutions or micro level may have several disadvantages. Firstly, the recipient of waqf fund is limited to the students in that particular institution. Secondly, the established and premier higher learning institutions with a huge number of alumni are in the better position to solicit them to contribute into cash waqf fund.

compares to the new universities and colleges with low number of alumni. Thirdly, the creation of cash waqf fund in each public university may create the competition among them to solicit the public to contribute into their cash waqf scheme.

In view of these drawbacks, this paper proposes the creation of Ulul Albab Cash Waqf Fund (UACWF) model at the national level with the participation of all stakeholders such the Ministry of Higher Education, State Islamic Religious Council (SIRC) of each state and the representative from public universities as the advisory council of cash waqf institution.

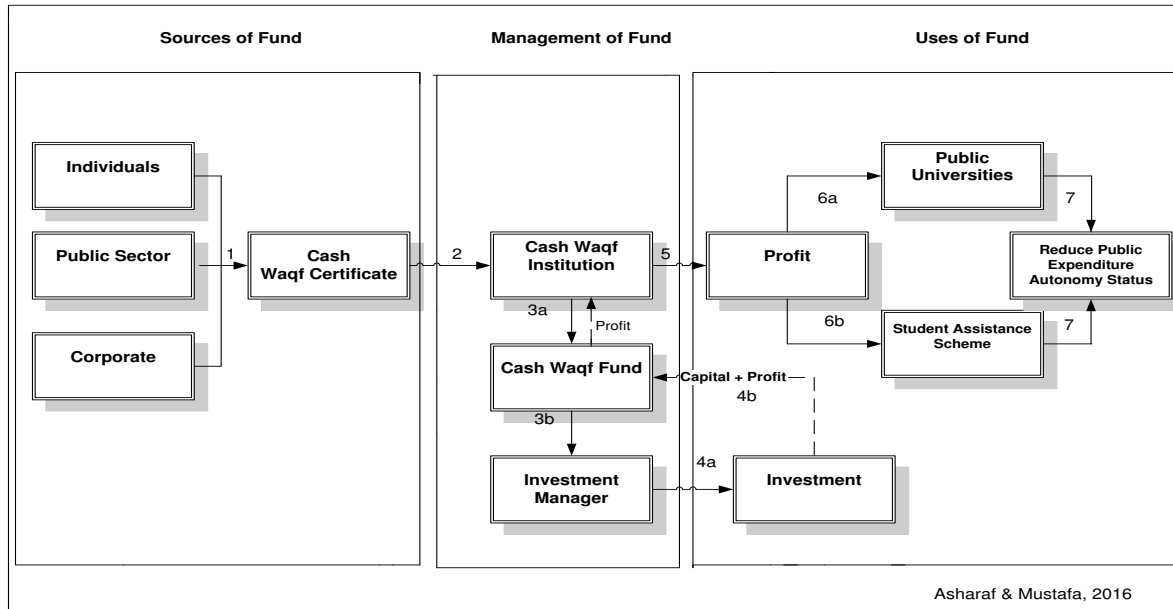


Figure 1: Ulul Albab Cash Waqf Fund (UACWF) Model

As shown by figure 1, Cash Waqf Institution is responsible to manage and distribute waqf proceeds for funding higher education expenditures, for example, financing the operational expenditure of public universities and student assistance schemes. Following this, the researcher conducted a focus group interview with six waqf practitioners that involved in managing waqf in selected public universities, government agencies and a financial institution. The findings reported are based on the respective institutions of the interviewees such Public University (PU1, PU2 and PU3), Government Agency (GA1, GA2) and a financial institution (FI1). The main objective of the focus group interview was to acquire relevant information and opinions from subjects in the field that could supplement the objective quantitative data to better address the research problem. With this focus group interview, the researcher would also acquire in-depth understanding of the issue through personal contact with the people and institutions concerned and gain access to a wide range of opinions from respondents with differing levels of knowledge and experience.

QUALITATIVE ANALYSIS

In relation to the establishment of cash waqf fund as the alternative funding for higher education, participants confirmed that cash waqf is one of the viable instruments. The government also encourages public universities to establish cash waqf fund to cover the cost of student assistance schemes like scholarships and student loan. This initiative is imperative in view of the decrease of public fund for funding higher education recently.

Evidence indicates that participants comprise of PU1, P2, GA1, GA2 and FI1 have the same impressions about the legal challenge to establish a macro model of cash waqf scheme. They all felt that the separation of power between The Federal and State government in administering higher education and waqf respectively is the biggest obstacle. However, PU3 is optimistic about the cooperation and collaboration between these two entities in establishing a cash waqf model at the national level. He further elaborates that Sultan and Di Pertua Negeri hold two important positions as the Head of State Islamic Religious Council (SIRC) and the Chancellors of certain public universities. This element could be useful to convince the relevant authorities to establish cash waqf scheme for the benefits of all students studying in their areas or any public university nationwide.

In addition, nearly all participants agreed with the challenge of managing cash waqf fund. A participant at public university then further supported this view. PU2 pointed out that public university with different categories and status may have different perspective towards their roles in managing this scheme. Thus, a clear policy and accompanying documentation is needed to ensure that all parties know their functions and responsibilities. To ensure the involvement of the relevant stakeholders, the advisory committee may comprise the representatives from The Ministry of Higher Education, SIRC of each state and the representative from public universities. The initiative also known as National Blue Ocean Strategy (NBOS) is currently implementing to solve the national issue with the participation of multiple government agencies at the Federal and State levels.

CONCLUSION

The challenges of public funding of higher education require the adoption of suitable and appropriate financing mechanisms for the sustenance of the sector. The alternative funding instrument through the establishment of cash waqf fund is one of the potential mechanisms to accumulate fund for funding higher education sector. The proposed UACWF model is the macro model of cash waqf fund with the involvement of all relevant authorities such as The Ministry of Higher Education, SIRC of each state and public universities. The findings from a focus group interview involving waqf practitioners indicate the potential of the establishment of UACWF for sustaining higher education in Malaysia. The proceeds of UACWF could be distributed for funding higher education without any limitation regarding the locality of students and higher learning institutions. Given the strong support from stakeholders — the government, private and

corporate entities, and Muslims — in the country, it is expected that UACWF model could be a viable alternative for funding higher education in Malaysia.

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EW054: TAX INCENTIVES FOR WAQF: AN INSIGHT FROM PRACTITIONERS

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Abstract

Higher education institutions especially public universities and colleges have been enjoying financial support from the government for so many years. Current practices however indicate that public universities are given the financial autonomy to manage their own income and expenditure. Recent Budget 2017 tabled in the Parliament also indicated a reduction of fund allocated to public universities. Therefore, to ensure sustainability it is timely for higher education institutions especially public universities and colleges to seek other alternative of funding such as through waqf. Indeed, history indicates that throughout the world many reputable higher education institutions either use waqf or share similar spirit of waqf through endowment to sustain their operations. This paper presents some findings from a study on the tax incentives for waqf in higher education institutions in Malaysia. A focus group consisting six practitioners in waqf discussed the possible tax incentives for waqf in the context of higher education institutions in Malaysia. Data from the focus group discussion was recorded and later transcribed accordingly. Findings indicate that the main challenges to introduce tax incentives for waqf are due to the absence of waqf terminology in the Income Tax Act 1967 (amended) and interpretation of income generated from waqf asset as understood by the Malaysian tax law. The findings from this study are useful to policy makers and waqf practitioners in strengthening the waqf practices in Malaysia especially in the higher education institutions.

Keywords: Higher Education Institutions, Waqf, Tax Incentives, Focus Group

INTRODUCTION

Charitable foundation in Islam is known as waqf. Since the early days of Islam, waqf has been a popular way to provide public services to societies and continues to play important roles in Islamic civilization over the time. This is because waqf institutions reduce the burden of the government in providing social services to the public such as developing the hospitals, schools and community hall using funding from waqf (Cizakca, 2011). Another possible reason on the wide usage of waqf is perhaps because waqf beneficiaries are not specifically stated unlike *zakat*. The benefits of waqf in general can be enjoyed by anyone regardless of religion except for waqf *ahli* or *dhurri* which is specific waqf for family members. History also indicates that throughout the world many reputable higher education institutions either use waqf or share similar spirit of waqf through endowment to sustain their operations.

For many years, higher education institutions especially public universities and colleges in Malaysia have been enjoying financial support from the government. Current scenario however indicates that public universities are given the financial autonomy to manage their own income and expenditure. The recent Budget 2017 tabled in the Malaysian Parliament also indicated a reduction of fund allocated to public universities. Therefore, to ensure sustainability it is timely for higher education institutions especially public universities and colleges to seek other alternative of funding such as through waqf.

As a support to the public universities, the Ministry of Higher Education has published a book, the Purple Book, which discusses the practice of waqf in public universities in Malaysia. The book also identified six challenges in establishing waqf in public universities. Among them is lack of activities to generate financial support. Meanwhile, the Purple Book also reported that from the period January 2012 until June 2015, waqf contribution in public universities in Malaysia was mostly contributed by individuals amounted to RM457.9 million which constituted 92% of the total waqf contribution. This was followed by private sectors of RM245 million or 5% and non-government agencies of RM15.544 million or 3%. In view of the foregoing, an interesting question that arises is, “how to overcome the challenges in gaining financial support through waqf, sustain, as well as improve the momentum of waqf contributors?” One possible method is through giving tax incentives to *waqif* which this paper attempts to address.

This paper presents some findings from a larger study on the tax structure of corporate waqf in Malaysia, discussing specifically on the tax structure of a university-based model corporate waqf. After the introduction section, the remainder of the paper is organized as follows. The second section presents a review of waqf in Islam particularly the concepts and models, follows by a brief discussion on corporate waqf in Malaysia, tax incentives for *tijari* (commercial) based economic instruments in Malaysia and tax incentives for *ijtima'i* (social) based economic instruments in Malaysia. Then, the paper presents research method used in the study and finally, the findings, discussions and conclusions are provided in the final section.

LITERATURE REVIEW

Waqf in Islam: Concepts and Models

Waqf is literally defined as “to hold” (Obaidullah, 2015) and according to *syariah*, waqf refers to perpetual endowment. The benefits from an asset could be used according to the terms and conditions specified by the *waqif* (donor). The assets which are already being waqf cannot be inherited, sold, given as a gift, leased, rented or owned by any types of ownership. The assets must be maintained and the ownership of the assets cannot be transferred to other party.

From *fiqh* point of view, waqf could generally be grouped based on three different aspects which are the timing, purpose and object (Jalil and Mohd Ramli, 2008). Based on timing aspect, waqf

can be divided into permanent and temporary. The purpose of waqf can be grouped into two main groups which are for family members (waqf *ahli/dhurri*) and general charity (waqf *khayri*). The general charity can be further divided into two groups which are general (waqf *am*) and specific (waqf *khass*). If waqf is defined according to the nature of object, then it can be divided into moveable assets which are transformed into waqf assets (waqf *al-manqul*) and non-moveable assets (waqf *al-àqar*). Moveable assets are assets which can be transferred from one place to the other such as cash waqf.

There are basically three models of waqf such as physical asset waqf, cash waqf and corporate waqf (Mohd. Hanefah et al., 2010). Physical asset waqf refers to assets such as land and building which have been waqf for charity purpose and normally being used as schools or mosque. In some cases, there are also buildings which are built on land which have been waqf by the donor and later the buildings are rented or leased. The rental or lease income is credited into the waqf fund which will be channelled to the beneficiaries.

Another type of waqf is cash waqf or waqf of monetary which is currently popular among the public (Jalil & Mohd Ramli, 2008). Cash waqf is endowment in the form of monetary assets or cash or near cash items such as financial securities (Obaidullah, 2015). The income from the investment in funds using the cash or near cash items are later used as charities to the beneficiaries. One advantage of cash waqf which may explain its popularity is its flexibility in term of raising waqf resources and applying the waqf resources. Unlike waqf on physical assets, cash waqf can take in any forms of value and thus less rigid.

The third type of waqf is corporate waqf, which in Malaysia was initiated by Johor Corporation (JCorp). Despite some similarities with cash waqf with both handle cash and stocks, corporate waqf is different since it involves an institutional entity and entitle for a status of nazir or management-trustee (Obaidullah, 2015). There are basically six corporate waqf models in Malaysia and one of it is the university corporate waqf model (Mohd Ramli and Jalil, 2013), which is the focus of this paper. To provide better understanding on corporate waqf, the following section provides a brief explanation on the concept of corporate waqf.

The Concept of Corporate Waqf

Corporate waqf is a contemporary concept of waqf and has been in practice in many majority populated Muslim countries such as Turkey, Pakistan and Bangladesh (Mohd Ramli and Jalil, 2013). Corporate waqf refers to management of moveable waqf assets such as cash, shares and share dividend which are governed fully by the corporate entity or as a cooperation between corporate entities and waqf authorities (Abdel Mohsin, 2013), in the case of Malaysia, the Islamic Religious Council. This is consistent with the definition provided by Jalil and Mohd Ramli (2013) which suggests that corporate waqf means developing and managing waqf assets as well as distribution of waqf benefits professionally by entities either independently or co-

operate with other organizations. Among important elements of corporate waqf are the asset must be transferable in nature, the corporate entity is the trustee (*mutawwali*) and at the same time could become beneficiaries of the waqf assets (Mohd Ramli and Jalil, 2013).

The current scenarios indicate that public universities in Malaysia have to be less dependent on government for financial support. One way to obtain funding is by exercising waqf. Based on the Purple Book published by the Ministry of Higher Education, there are basically three models of waqf for universities in Malaysia. The three models illustrate the structure of waqf that universities could apply. The Purple Book also addresses six challenges to waqf practices in universities and one of the challenges is to obtain financial support. To address this issue, one way is by giving tax incentives to those who contribute to waqf.

Overview of Current Tax Treatment for *Tijari* and *Ijtima'i* Sectors in Malaysia

Tax system in a country plays a role to generate income for the government and at the same time could also be used to encourage certain activities as well as discourage certain unfavourable activities. For instance, Malaysian government provides relief for taxpayers who incurred expenditure in sports items to encourage healthy lifestyle. Meanwhile, high tax is imposed on cigarettes with the intention to discourage people from smoking. Therefore, tax incentives could be used as a motivation for people to perform certain activities. To better understand the issue under study, it is noteworthy to compare the current tax incentives available for *tijari* based instruments and *ijtima'i* based instruments.

Tax Incentives for *Tijari* Based Instruments

Islamic economy consists of different sectors which fulfil different needs of the society. One of the sectors which form a comprehensive Islamic economy model is the *tijarah* (commercial or trade) sector. From the perspective of Islamic economy consists of different sectors which fulfill different needs of the society. One of the sectors which form a comprehensive Islamic economy model is the *tijarah* (commercial or trade) sector. From the perspective of Islamic economy, Islamic banking, finance and *takaful* instruments represent this *tijarah* aspect. Apart from fulfilling the needs of the majority Muslim populations in Malaysia, Islamic banking, finance and *takaful* industries have brought significant amount of income to Malaysian economy. To further encourage the development of Malaysia as a global hub for Islamic finance, banking and *takaful*, throughout the years the Malaysian government has aggressively been promoting these sectors. To attract investors into the market, the government has been generously providing tax incentives to these sectors. Some of the tax incentives are discussed here.

Sukuk (Islamic bond) is an important financial tool in Islamic capital market. Commencing from year of assessment 2003 until 2015, expenses related to the issuance of *sukuk* under the principles of profit sharing, profit and loss sharing, leasing, purchase order, cost plus sale, agency and deferred payment based on sale approved by the Securities Commission of Malaysia

(SC) or the Labuan Financial Services Authority (LFSA) are treated as allowable expenses in arriving at adjusted business income of the *sukuk* issuer. In the recent Budget 2016, the government has agreed to extend this incentive which allows expenses related to the issuance of *sukuk* under the principle of leasing and agency as allowable expenses provided that these *sukuk* are approved by the SC and LFSA. The tax incentive will be given from year of assessment 2016 to 2018. This is to further expand the *sukuk* market at the international level and strengthen Malaysia as the Islamic financial hub (Malaysian Institute Certified Public Accountant, 2015). Double deductions are also given to expenses related to *AgroSukuk* and *Retail Sukuk* at arriving at adjusted income provided these *sukuk* are approved by the SC commencing from year of assessment 2013.

The *takaful* industry in Malaysia has also enjoyed various tax incentives. For example, commencing year of assessment 2012, *takaful* operators are allowed to utilize current year loss other from family fund sources against aggregate income from *takaful*. In addition to that, 100 percent tax exemption is also given for a period of ten years from year of assessment 2007 to 2016 for *takaful* operators transacted in international currencies. An exemption of 100 percent of income derived by *takaful* operator registered under the *Takaful* Act 1984 from its overseas branch or its investee company. The exemption is given for a period of five consecutive years for *takaful* operators which application is received by the Central Bank of Malaysia from 24 October 2009 to 31 December 2015 and started its operation within two years after obtaining the approval.

Various tax incentives are also given to Islamic banking and finance as well as *takaful* operators in Malaysia such as income tax exemption for a period of ten years commencing from year of assessment 2007 to 2016. In addition to that, gains from investment in AmIslamic Bank Berhad and Special Purpose Vehicle (SPV) for Islamic finance are also exempted from tax starting from year of assessment 2007. For investment funds companies which manage *syariah* compliant investment funds, they are given tax exemption for a period of ten years from year of assessment 2007 until 2016.

In addition to the abovementioned tax incentives, the Income Tax Act 1967 (ITA 1967) also provides an extensive list of various tax incentives available to Islamic banking and finance industries which inclusive not only the retail Islamic banking and finance products but covers as well the Islamic capital market and *takaful* industries.

Tax Incentives for *Ijtima'i* Based Instruments

Apart from *tijarah* sector, another sector which forms an Islamic economy is *ijtima'i* (social) sector. The *ijtima'i* sector is equally important to assist in the development of a well-balanced society. Equal distribution for social development is an important aspect in Islamic economy which could assist the government in developing the country.

Islam provides a mandatory form of charity in the form of *zakat* and voluntary charities in the form of *sadaqah* and waqf (Obaidullah, 2015). These *zakat* and waqf represent the *ijtima'i* (social) aspect of Islamic economy which promote social justice and alleviate poverty. Despite its importance, the tax incentives given to *zakat* are still limited compared to the tax incentives provided to Islamic banking, finance and *takaful* industries which represent the *tijarah* aspect of Islamic economy.

With regard to *zakat*, the only tax incentive given to individual taxpayers who pay *zakat* is rebates on the full amount of *zakat* paid before arriving at total tax payable. There will be no refund if the amount of *zakat* paid is more than the amount of tax payable. Commencing year of assessment 2005, companies which pay their *zakat* could enjoy a tax incentive in the form of an exemption of 2.5 percent from the aggregate income and this is the only tax incentive given to companies which pay *zakat* in Malaysia. This exemption is extended to co-operative, sole proprietorship, partnership and association in the 2007 Malaysian Tax Budget.

A review of the Income Tax Act 1967 indicates that, as yet there is no tax incentive specifically under the name of waqf provided to donors or management of the waqf. The Income Tax Act 1967 only state in general, an incentive through exemption on amount equal to the gift of money to Government, a State Government, a local authority or an institution or organization approved by the IRB under Section 44(6) of the ITA 1967. The definition of approved institution is explained under Section 44(7) of the ITA 1967 as (a) hospital (b) a public or benevolent institution (c) a university or other educational institution (d) a public authority or society engaged solely in research or other work connected with the causes, prevention or cure of disease in human beings (e) a government- assisted institution engaged in socio-economic research (f) a technical or vocational training institution. Generally approved organizations as stated in Section 44(6) of the ITA 1967 refers to an organization in Malaysia which is conducted not for the purpose of generating profit. An explanation to this term of approved organizations is also provided under Section 44(7) of the ITA 1967.

Section 44(6) of the ITA 1967 also explains the exemption given does not exceed 7 percent from the aggregate income of a person other than companies and 10 percent to companies. To become approved entities, one has to apply to tax authority. Section 44 (6) of the Income Tax Act 1967 for instance has listed Klinik *Wakaf* An-Nur as one of the entities which is entitled for approved cash gifts for tax purposes. It is also important to note that, Section 44(6) only covers gifts in the form of money but not in-kind.

The review suggests that tax incentives should be given to waqf since it has the potential to alleviate poverty, reduce the burden of the government in providing services in certain aspects to the society and assist in developing the country. While it is acknowledged that waqf can utilize the general term of 'gift of money' to claim for exemption as what is practiced by for instance

Perbadanan Wakaf Selangor, from Islamic point of view however, gift has different meaning from waqf which could possibly create confusion to the society. On the technical part, the assessment form produced by the IRB also uses the term “gift or donation” allowed for exemption under Sections 44(6), (6A), (8), (9), (10), (11), (11B) and (11C). The term donation has also different spirit and meaning from waqf.

RESEARCH METHOD

This paper presents some findings from a larger study on taxation and corporate waqf in Malaysia. The objective of the study is to explore and understand the tax issues surrounding corporate waqf in Malaysia particularly in the context of university-based model for corporate waqf. Thus, qualitative approach is considered as the most appropriate since it allows for rich data and deep understanding to emerge from the discussions (Bryman and Bell, 2011).

Data from the study presented in this paper were collected through a focus group interviews of six participants. The participants were selected based on their involvement in waqf practices which could be very helpful in understanding the issues of the study. The participants of the focus group consisted of three representatives from higher learning institutions, one participant from the financial industry and two participants from a government agency. The focus group interviews were conducted at the faculty of the researchers in May 2016.

The focus group interviews were recorded after obtaining consent from the participants and later the data were transcribed and analyzed using thematic approach. On average the focus group session took about 2 hours to complete. Questions on tax incentives on waqf and corporate waqf in the context of university-based corporate waqf model became the highlights of the focus group interviews. To ensure accuracy, apart from repeatedly listening to the record, the transcripts of the interviews were also checked by other research members in the research group. The following section presents the findings, discussion and conclusion of the study.

FINDINGS, DISCUSSIONS AND CONCLUSIONS

The current scenarios in education in this country encourages public universities in Malaysia to seek their own funding and reduce their financial dependency on the government. Waqf is a useful tool to meet this purpose while at the same time provides opportunities for Muslims to practise good deeds. Indeed, the importance of waqf in public higher learning institutions could be seen from the publication of Purple Book by the Ministry of Higher Learning Education.

To understand the issues of taxation and corporate waqf in the context of university-based corporate waqf model, the participants were firstly asked about their general understanding on corporate waqf. The participants agreed that waqf is Islamic endowment which spiritually has different meaning with *sadaqah*, gift and *zakat*. However, in the context of income tax law the participants are unsure whether or not the Income Tax Act 1967 (ITA 1967) could consider waqf

as similar to donation, contribution or gift. They are also aware that, to date there is no tax incentive given specifically under the name of waqf in the ITA 1967.

During the session, the participants unanimously agreed that tax incentives should be given to the *waqif* (donor) and *mutawwali* (trustee) as a motivation and acknowledgment by the government to those who involved in waqf. This is because, as argued by the participants, waqf has the potential to alleviate poverty, reduce the burden of the government in providing certain services to the society and also assist to develop the country. In the context of university however, *mutawwali* which is the university is a government agency and thus not taxable. Furthermore, in Malaysia, the governance of waqf falls under the Islamic Religious Council of the respective states since under the Malaysian Statutes, Islamic Religious Council of each state is responsible for Islamic religious matters. Pursuant to Section 44 (6) of the ITA 1967, Islamic Religious Councils are state government agencies and thus income produced from waqf assets are not supposed to be taxed. This support the suggestion by the participants that tax incentives should be given to the *waqif* in the context of university-based corporate waqf model.

When probed further the type of tax incentives possibly given to *waqif* in the context of university-based corporate waqf, the participants basically suggested similar exemption under Section 44(6) of the ITA 1967 for cash money given as waqf but it should be under the name of waqf. They argued that, by indicating clearly the term waqf in Section 44 (6) of the ITA 1967, it will be easier to motivate people to contribute to waqf and no further interpretation is needed unlike if the general term ‘gift of money’ as stated in the current tax law.

While it is interesting to discuss on the tax incentives possibly given to the *waqif* of university-based corporate waqf model, an important aspect on the absence of recognition of waqf as a legal entity was not highlighted during the focus group session. Alias (2011) for instance, argues that the absence of recognition for waqf as a legal entity restricts the tax incentives which could possibly be claimed by waqf institutions. In comparison to the waqf establishment in other countries, such as Turkey and the United Kingdom, waqf practices are performed through foundations which act as trustees. These foundations represent the legal entities of waqf which allow for more tax incentives to be granted.

In conclusion, in the context of university based corporate waqf model, tax incentives should be given to the *waqif* to motivate more people to be involved in waqf. While the *mutawwali* in this case, the universities may transfer their expertise in managing waqf, they are not subject to taxation and thus any tax incentives given to them as *mutawwali* may not result into any economic benefits. The tax incentives which could possibly be given to the *waqif* can be extended from the current tax incentives available under the tax system which caters for “gift” and “donation”. Thus, some changes to the current ITA 1967 are required for a more conducive

tax system which eventually recognizes the contribution of waqf as an economic tool to assist in the development of the country.

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EW055:
**WAKAF SELANGOR MUAMALAT (WMS): A PERFORMANCE
ANALYSIS**

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Abstract

Wakaf Selangor Muamalat (WSM) is considered as one of the recent corporate waqf practices in Malaysia. From another perspective, WMS is a banking model of corporate waqf operationalized by a dedicated Islamic financial institution, namely Bank Muamalat Malaysia Berhad. Since its introduction in September 2012, WMS has collected more than RM200,000 a month and distributed a portion of its fund into various charitable channels. The current balance of its fund as at the end of June 2016 is RM 10,112,024.20. WMS provides quarterly financial reports of its fund beginning from 2013 until now. This fact demonstrates WMS's commitment towards implementing corporate financial reporting for its fund. Hence, this study aims to analyze the performance of Waqf Selangor Muamalat generally from its initiation and specifically in term of its sources and uses of fund. The expected outcome of this study could put some light on the transparency of WMS's corporate waqf management and its effectiveness in managing waqf fund.

Keywords: Waqf, Corporate Waqf, Wakaf Selangor Muamalat

INTRODUCTION

Current development of waqf activities in Malaysia is the participation of corporate entities in the development and management of waqf properties. Corporate entities' involvement in waqf practice could represent the ethical dimensions of the corporate world. This new concept of corporate waqf set the direction of managing waqf assets by corporate company, which known for their corporate culture of professionalism, accountability and transparency. A number of corporate figures and corporate bodies have been recognized to actively engage in the practice of waqf development and management comprehensively.

The engagement of corporate bodies in waqf affairs is imperative considering a number of issues associated with waqf authorities, for example, lack of management, mismanagement and accountability. Waqf authorities in a number of Muslims and non-Muslim countries have been blamed for under developed and negligent of waqf properties. Thus, collaboration between waqf agencies with corporate bodies could bring a new dimension of good governance in waqf affairs. With the emergence of cash waqf concept which requires the prudent and systematic

management team, the expertise of personnel from corporate world benefits waqf authorities. (Asharaf Mohd. Ramli & Abdullaah Jalil, 2013)

Corporate waqf is not limited to the business corporations only. It could also be adopted and applied by other several institutions. In this context, Tan Sri Ali Hashim has suggested six (6) institutions that could be modeled into corporate waqf structures (Hajah Mustafa Mohd. Hanefah et al., 2010). These institutions are:

- i. Business entity or corporations,
- ii. Banking and financial institutions,
- iii. Universities,
- iv. Foundations,
- v. Cooperatives, and
- vi. Hospitals or clinics.

Wakaf Selangor Muamalat (WSM) is perhaps the most successful banking-based corporate waqf in Malaysia. Thus, this study aims to analyze the performance of Waqf Selangor Muamalat (WSM) generally from its initiation and specifically in term of its sources and uses of fund. Wakaf Selangor Muamalat is selected for the purpose of this study for two main reasons: (i) the authors has undertaken study on the concept of wakaf selangor Muamalat in previous years, and (ii) Wakaf Selangor Muamalat could be considered as one of the most transparent corporate Waqf in Malaysia in term of financial reporting.

BACKGROUND OF WAKAF SELANGOR MUAMALAT

Waqf Selangor Muamalat is the first milestone of corporate waqf in Malaysia concerning the cooperation between a state-owned waqf management institution and an Islamic commercial bank i.e. Perbadanan Wakaf Selangor Berhad (PWS) and Bank Muamalat Malaysia Berhad (BMMB) (Asharaf Mohd Ramli & Abdullaah Jalil, 2014). PWS and BMMB have established a joint committee to manage the operation of Wakaf Selangor Muamalat which is known as “Jawatankuasa Pengurusan Bersama (JPB)” or Joint Management Committee. JPB consists of:

- Supervisory committee form MAIS
- A chairman
- A secretary and
- A joint secretariat which consists of six members where three of them come from BMMB and another three are from PWS.

JPB is responsible in channeling the waqf fund to the agreed waqf projects, helping the needy beneficiaries for the educational and health purposes, and reinvest the proceeds of waqf fund and et cetera. See Figure 1.

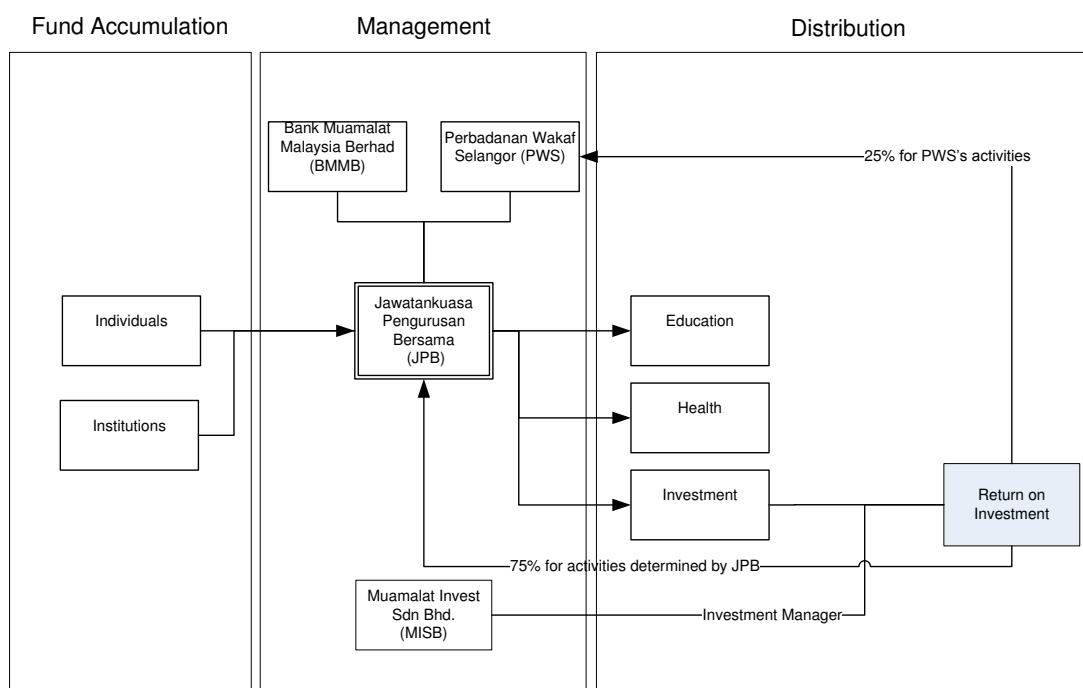


Figure 1: Financial and Operational Framework of Wakaf Selangor Muamalat (Asharaf Mohd. Ramli & Abdullaah Jalil, 2013)

The waqf fund is obtained through the Bank Muamalat banking services from the individuals and institutions. The minimum contribution is RM10 by individuals and RM100 by institutions and there is no maximum amount for contribution by both. WMS aims to accumulate a sum of RM50 million in three years' time and Bank Muamalat itself has endowed RM1 million into the fund and its staff has contributed RM74,040 at the launching ceremony of Wakaf Muamalat-Selangor ("Bank Muamalat Lancar Khidmat Wakaf," 2012). The fund will be managed and channeled by JPB to three main sections. The sections are:

1. Education, such as infrastructure construction, equipment and etc.
2. Healthcare, such as dialysis machine and equipment, research and treatment.
3. Investment by Muamalat Invest Sdn. Bhd.

Muamalat Invest Sdn. Bhd. - a fund management company - will invest the allocated fund professionally in *Syariah* compliant instruments to generate return. 25% of the return will then be distributed to the PWS and 75% of them will be channeled back to JPS for redistribution in areas deemed appropriate by them. The two main sectors aimed as beneficiaries of Wakaf Selangor Muamalat are healthcare and education for the needy people, both Muslim and non-Muslim. These two sectors have been the major area of waqf distribution in the history of Islamic countries. Murat Cizakca (2011) believes that waqf distribution to the public will eventually help to mitigate the cost of living and government spending.

Wakaf Selangor is a form of cash waqf managed by a joint committee consisting representatives from corporate body and state authorities. Thus, it could be considered as corporate waqf since it is established and managed by corporate institutions of BMMB and its investment arm, Muamalat Invest Sdn. Bhd. The waqif could be institutions and individuals. JPB is assigned as nazir/mutawalli of the fund and responsible directly in managing the fund and channeling the fund's proceeds to the beneficiaries. MISB is appointed based on *wakalah bi al-istithmar* (agency for investment) contract. However, it is unclear whether MISD charges fee on the investment of the fund or not. Since the purpose of waqf is for healthcare and education purposes, it is clear that Wakaf Selangor Muamalat is a form of waqf *khairi* (charitable waqf) and not a waqf *dhurri*. The main beneficiaries are the needy people in these two areas: (i) healthcare and (ii) education. The third beneficiary is PWS. However, PWS is only entitled to receive 25% of the waqf investment's proceeds and the rest of 75% will be returned back to JPB for determined activities later. Thus, in term of beneficiaries, it observed that the main beneficiaries are general (*'amm*) in nature where no individuals are specified. However, the scope of beneficiaries is restricted by its purposes. Nevertheless, PWS is also specified as an entity (*khass*) who will receive 25% of the waqf fund's proceeds from the investment. Thus, beneficiaries of waqf are the combination between general and specific beneficiaries. The waqf fund is perpetual in nature. The *syariah* consideration of Wakaf Selangor Muamalat could be summarized in the following table and figure.

Table 1: Syariah Concept of Wakaf Selangor Muamalat

No.	Aspect	Syariah Consideration
1	Subject Matter of Waqf	Cash
2	Purpose of Waqf	Khairi (Charity)
3	Beneficiaries of Waqf	'Amm (General) and Khass (Specific): Needy party in the areas of healthcare and education and PWS
4	Waqif	Individuals and Institutions
5	Nazir/ Mutawalli	JPB
6	Management	Corporate
7	Investment contract	Wakalah bi al-istithmar
8	Timing	Perpetual

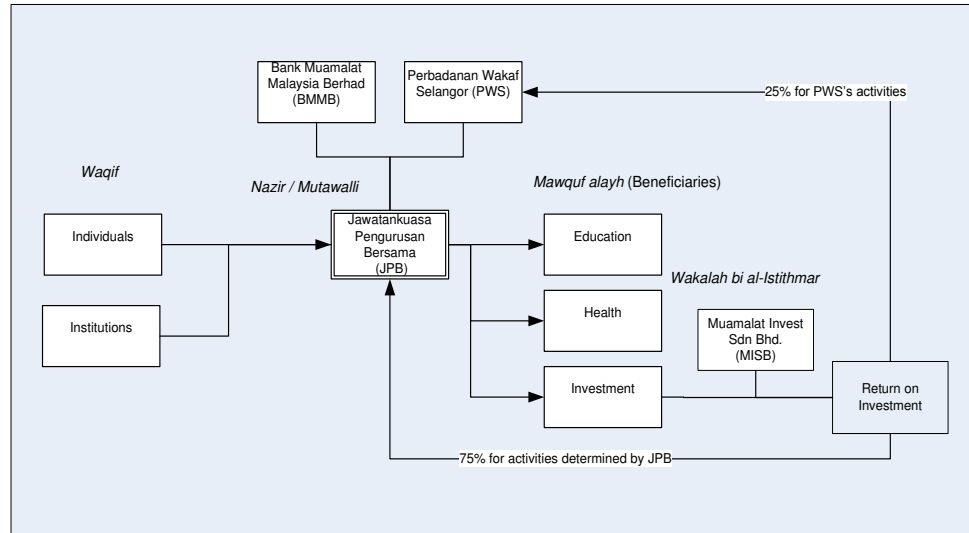


Figure 2: Syariah Concept of Wakaf Selangor Muamalat

ANALYSIS OF THE PERFORMANCE

This section constitutes the very objective of this article. It deals with the analysis on the performance of Wakaf Selangor Muamalat from two aspects: (i) collection of waqf fund and (ii) expenses of waqf fund. The analysis is based on the secondary data provided by Wakaf Selangor Muamalat at <http://www.muamalat.com.my/wakafselangor/Laporan-Wakaf.html> (WMS, 2012-2016). Wakaf Selangor Muamalat has provided brief financial reports from October 2012 until September 2016. These reports were published quarterly year starting from April 2013. The first report covered the six early months since it was launched on 27th September 2012. These reports provide information related to collections amount, expenses amount and current activities. These reports are prepared by the Secretariat of WSM for the Joint Management Committee of Wakaf Selangor Muamalat (JPB WSM).

The structure of the report is illustrated in the below figure. The reports usually comprise several sections i.e. objective, background, current activities, collections, expenses and conclusion. The focus of the authors' analysis is on the financial information provided by the reports.

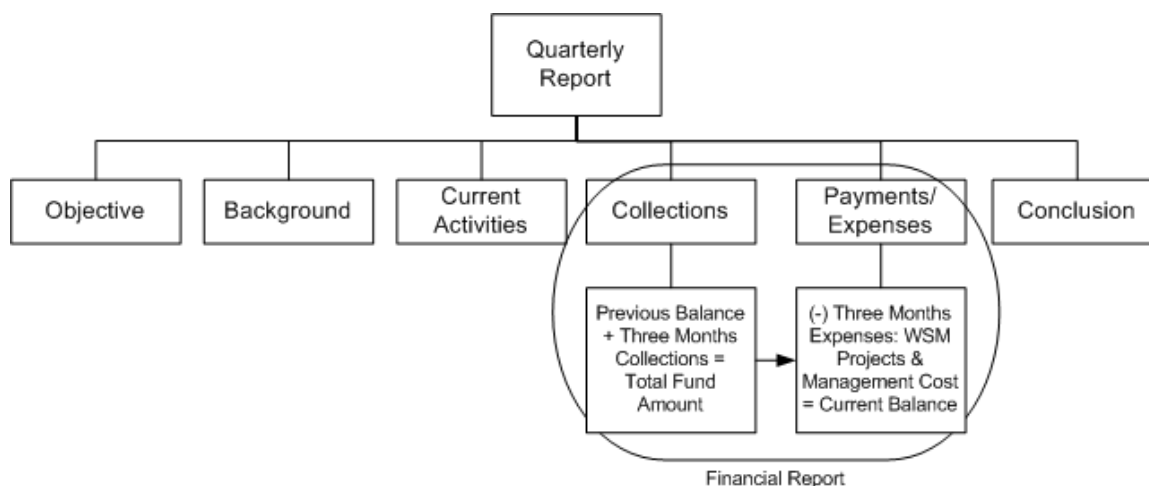


Figure 3: Structure of Reports Provided by Wakaf Selangor Muamalat

The financial report of the fund is provided in the section 4 and 5 of the report. Section 4 provides information on the previous balance of the fund, collections of cash waqf for three consecutive months and total of the waqf fund collection. Section 5 provides information on the expenses undertaken by the fund and the current balance of the fund after deducting the expenses. The figure below illustrates the structure of the section 4 and 5 of the reports.

Section 4	Collections	Previous Balance		
		+	Month 1	
		+	Month 2	
		+	Month 3	
		Total Fund Amount (A)		A
Section 5	(Expenses)	Expenses		
		-	Waqf Projects	
		-	Management	
		Total Expenses		B
	Balance	Current Balance (A-B)		C

Figure 4: Structure of Financial Component in WMS Reports

Sources of Fund

Based on the reports, it is observed that WSM has collected a total of RM16, 425, 187.19 throughout four (4) years of operation. The minimum monthly collection is RM47, 227.31 which was in February 2013 and the maximum monthly collection is RM1,796, 693.78 which was in December 2013. However, no explanations have been provided in the report on the reasons of

these two minimum and maximum values. The average value for the collections throughout these four years is RM335, 207.90. Figure 5 below depicts the amount and trend of collections by Wakaf Selangor Muamalat from September 2012 until September 2016.

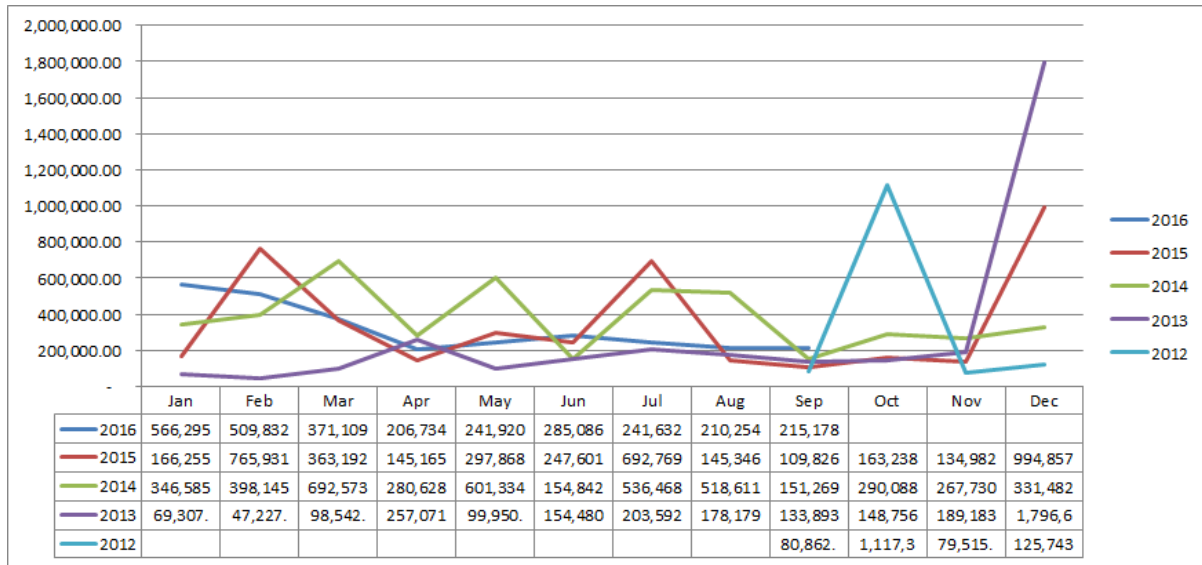


Figure 5: Collections of Cash by Wakaf Muamalat Selangor

The reports did not provide information on the contributors towards the waqf fund, whether they are individuals or institutions and their demographical background. Such information would be very valuable for future managerial and marketing analysis. The reports also did not provide information on the returns/proceeds of waqf investment. Such information is vital to differentiate between the principal of cash waqf and its proceeds. There are significant differences between the *Syariah* rulings between the principal and proceeds of waqf assets. Nevertheless, Wakaf Selangor Muamalat could be considered as the most transparent waqf project that provides information on its sources of fund.

Uses of Fund

Based on the data provided in the reports, the researchers have developed the following figures related to the expenses of Wakaf Selangor Muamalat.

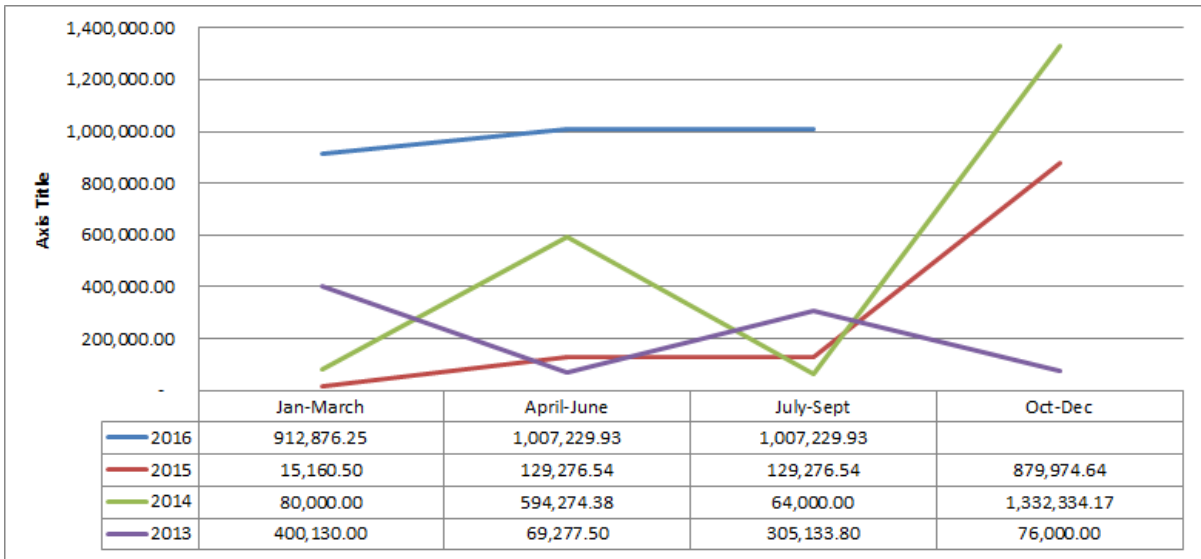


Figure 6: Expenses of Wakaf Selangor Muamalat from September 2012 until September 2016

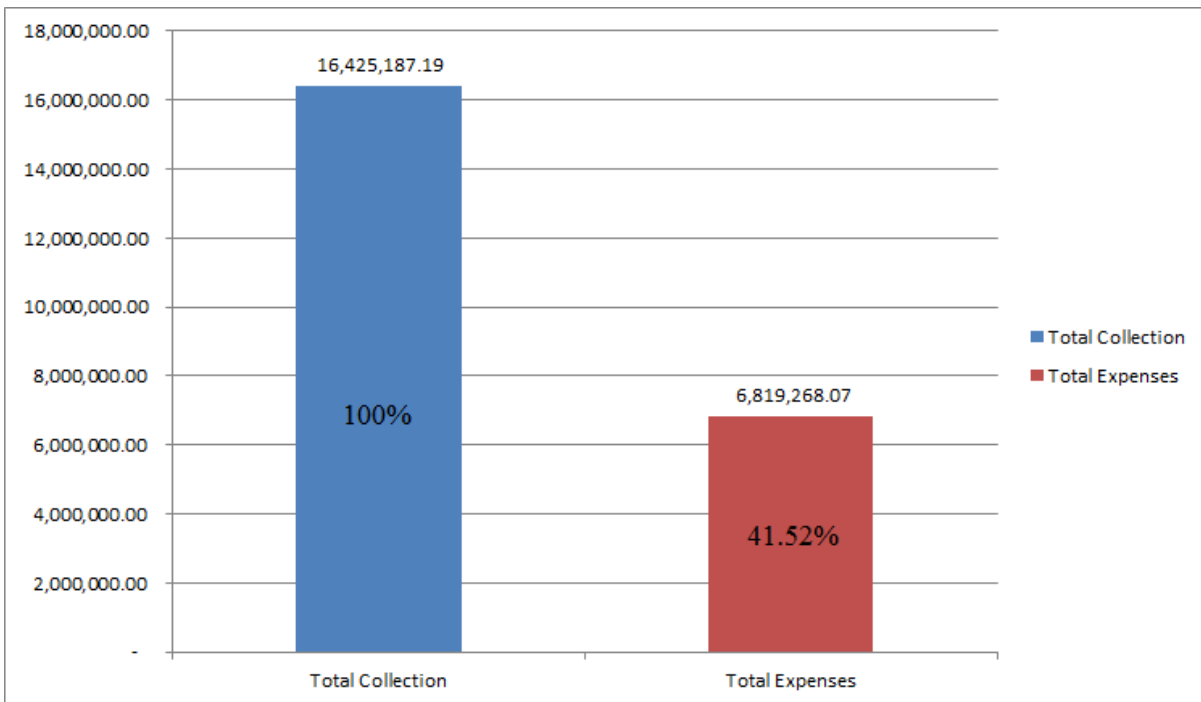


Figure 7: Total Collection and Total Expenses of Wakaf Selangor Muamalat (WMS) Fund

Based on the financial statement, the expenses that are being charged on the waqf fund are two types, namely: (i) Waqf projects and (ii) management cost. The management costs that were charged on the waqf fund are only direct costs and they are very minimal and trivial. Examples of these costs are like internet banking charge, cheque issuance cost, and legal fee for investment asset acquisitions.

It is observed that Wakaf Selangor Muamalat has spent a total of RM6,819,268.07 from the waqf fund. In details, WMS has spent RM850,54.30 in 2013, RM2,070,608.55 in 2014, RM1,204,971.60 in 2015 and RM2,693,146.62. In other words, WMS has spent 41.52% of its collections into waqf projects (inclusive of minimum direct management cost). The expenses of WMS have increased significantly in 2014. This was due to the reason of investment and asset constructions. Most of the expenditures were being channeled to two courses i.e. health and education. A portion of the expenditures were used to acquire investment assets, which most of the assets are in the form of real estate. Most of the expenses are considered as *istibdal* from *fiqhi* point of view. The cash assets are being transformed into other form of fixed assets such as instruments, vehicle, constructions and real estate. The main reason for the practice is a fatwa issues by Selangor Fatwa Committe on September 5, 2006 stating that (WMS, 2016):

Hasil daripada Saham Wakaf Selangor (Wakaf Selangor Muamalat) hendaklah dibelanjakan bagi tujuan pembelian aset kekal. Manakala wang Manfaat Wakaf Selangor (Wakaf Selangor Muamalat) boleh dibelanjakan untuk memberi bantuan dan perbelanjaan lain yang difikirkan sesuai oleh MAIS.

“The proceeds/ collections from Saham Wakaf Selangor (Wakaf Selangor Muamalat) must be spent for the purpose of purchasing fixed assets. While the money of Manfaat Wakaf Selangor (Wakaf Selangor Muamalat) could be spent to provide assistance and other expenses deemed appropriate by MAIS (Majlis Agama Islam Selangor).”

CONCLUSION

Wakaf Selangor Muamalat has exemplified a successful banking model of waqf practice throughout the four years of its operation. The professionalism and corporate nature of Bank Muamalat has contributed to the good governance of the waqf fund. WMS could be considered as the most transparent in term of disclosure and report. This advantage may be the major part of the cause for trust and reputation gained by WMS. The practice of waqf by an Islamic banking institution is seen as one of the salient features of Islamic banking institution vis-à-vis to its conventional counterparts. The future of waqf in Malaysian Islamic financial industry is seemed promising as there are efforts that currently take place by several Islamic banking institutions to undertake the practice of waqf. More studies could be conducted in the area waqf practices by the Islamic financial institutions.

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ES056:
**CHALLENGES OF ISLAMIC FINANCING PRODUCTS FOR HOUSING
DEVELOPMENT AMONG DEVELOPERS**

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Abstract

Financing a housing project requires immense capital. Various financing options are available for the developers to utilise as their sources of funding. Among the Islamic financing products which are suitable for housing developments are Istisna' and Ijarah. Despite the rapid growth in Malaysia, the use of Istisna' and Ijarah are still underutilised. Thus, this study was conducted among the housing developers in Northern Peninsular of Malaysia to discover the challenges of using Islamic financing particularly Istisna' and Ijarah for their development. The findings highlighted six major challenges perceived by the housing developers that resulted in the lack of interests to use Islamic financing as part of their development funding. These factors should be considered for making the enhancement of Islamic finance specifically in the future of housing developers in Malaysia.

Keywords: Islamic Financing, Istisna', Ijarah, Housing industry

INTRODUCTION

Malaysia has been spearheading the Islamic financial sector for more than 30 years in the global scene (Bank Negara Malaysia, 2016). Since then, various Islamic financing options and services are formulated and refined under the scrutiny of Bank Negara Malaysia. Despite the valiant effort to become the Islamic financial hub in the world, the complex mechanism of Islamic packages offered by the market continuously creates confusion for prospective consumers (Ahmad and Ahmad, 2015, Kammeret *et al*, 2015)

The integration between Islamic finance and housing development is still farfetched. The Islamic banking system has continuously liberalised its services to attract partners in the industry in joining the quest. Among the packages that are specifically tailored to the niche market of housing construction are *Istisna'* and *Ijarah*. These packages has been utilised sparingly by housing developers notwithstanding promotions by Islamic banks. The key lies in the understanding and familiarity with the system that are lacking within the players of the Malaysian construction and housing sector (Ling *et al*, 2012; Jaffaret *et al*, 2011). Previous researchers focused more on other Islamic financing options available in the capital markets specifically for infrastructure projects (Jhordy Kashoogie Nazar, 2011; Zhamal K Nanaeva,

2010). This paper attempts to highlight the challenges of *Istisna'* and *Ijarah* specifically for housing developers.

Housing Development in Malaysia

The Malaysian Housing Policy has outlined the need of providing adequate and accessible housing for all Malaysians particularly for the construction of low cost housing. Bank Negara Malaysia (2015) reported the gap between the housing stock and the number of households widening up to a variance of 0.4 million units within the last ten years. The last five years has persistently registered a decline in the number of affordable housing segment causing the middle income and low income Malaysians to face difficulties in securing houses. The high demand for houses has caused sharp increase in the price of houses, which brings the housing price to income ratio to an alarming 4.4 gap in 2014.

The housing development sector involves interrelated activities between parties. Basically it requires the participation of four main players namely the Government, the developers, the contractor, the supplier, the customers and the banks/financiers for a housing development project to be successful. Table 1 describes the roles of each participant in a housing development.

Table 1: Major Participants in Housing Developments

Participants	Descriptions
Government	Grants approval for proposed development. Government may establish a new regulatory policy and provides permits to developers. Have an interchangeable role as a developer.
Developer	A licensed company to undertake a development project. All the management and documentation about the development will be controlled by the developer
Contractor	Responsible for the construction of the development according to the needed specifications and is appointed by the developer
Customer	The party who are interested and willing to purchase the output of the development. Often is engaged in a contract with bank/financier in order to obtain the output.
Bank/Financier	Provide loans to developers, contractors and customers with certain terms and conditions. Usually requires collateral or mortgage as a security to the loan.

Currently, there are sixteen local and foreign Islamic banks operation in Malaysia offering Islamic financial packages to the market (Bank Negara Malaysia, 2016).

LITERATURE REVIEW

Islamic Finance in Malaysia

Continuous let downs in the economics has led to the search for a more stable financial alternative to exploit. Islamic finance is gradually being accepted as the solutions to providing a rejuvenated economic structure especially in the accumulation of massive capital requirement. A *syariah* compliance product revolves around three basic principles which includes the prohibition of interest (*riba*), avoidance of excessive uncertainties (*gharar*) as well as gambling (*maisir*). The economic activities should also exclude all things which are considered *haram* by

Muslims. The main sources of determining the financing products to be complied by *syariah* are the Quran, the *sunnah* and *Ijma'*.

As seen in Table 2, various financing options are offered by Islamic banks in the market. Out of which, market capitalisation of *Istisna'* and *Ijarah* are still underutilised. Both financing modes only secured approximately 3 percent and 20 percent respectively. Regardless of the insufficient supply of housing and the strain on capital establishment for housing developments, these mode of financing still fails to appeal the housing developers.

Table 2: Market Capitalisation of Various Islamic Financing Modes

Mode of Financing	RM ('million)
Murabahah	23,418.90
Ijarah	11,387.80
Mudarabah	289.80
Istisna'	1,553.60
Bay' BithaminAjil	17,038.60
Musharakah	3,104.0
Others	21,362.00

Source: Ibrahim and Kamaruddin (2014)

It is permissible in Islamic law to have multiple secondary contractual arrangements attach under one main contract. For example, a developer may have an *Istisna'* contract with his contractor or *SukukIstisna'* with the financier and latter develop an *Ijarah* contract with his leaseholder. Similarly, a contractor could have *Musyarakah* joint venture contract with his partner, *Murabahah* with his material supplier and *Ijarah* with his equipment suppliers (Rashid, 2007).

Istisna'

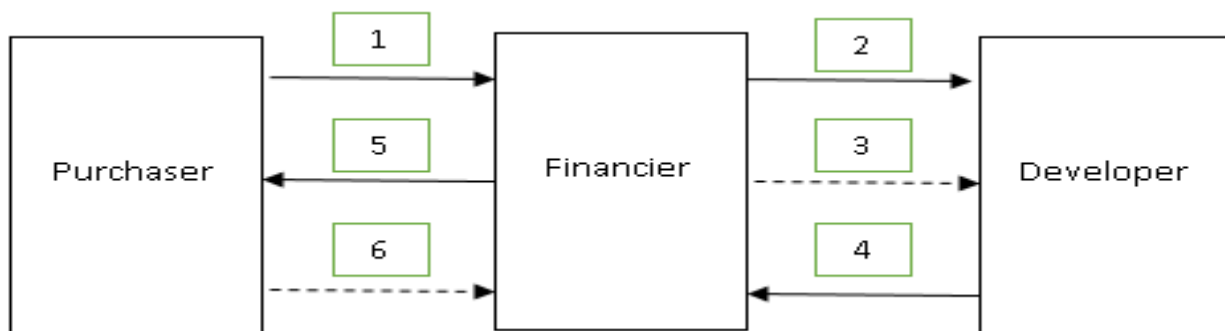
Istisna' refers to:

“a contract to sell to a purchaser a non-existent asset that is to be constructed, built or manufactured according to the agreed specifications and delivered on a specified future date at a pre-determined price” (Bank Negara Malaysia, 2014a).

In an *Istisna'* contract, the construction work is not conditioned to be accomplished by the undertaking party. In other word, a developer could enter into an *Istisna'* contract with the financier, but the actual commissioning of the construction activation could be executed by another party. The parties involved in *Istisna'* contract of housing development are the purchaser (*mustani'*), financier (*sani'*) and the developer. The flow of activities for an *Istisna'* contract is illustrated in Figure 1.

The purchaser approach the developer with the intention of purchasing a house (1). The bank then enters into an agreement with a developer to construct the house based on customer's specifications under specific terms and agreements (2). The financier will then supply the capital

to the developer progressively to construct the required house (3). After completion, the developer will deliver the house to the financier (4). The bank will then deliver the house to the purchaser (5). The purchaser will ultimately pay the price of the house in full or in parts over a period of time as agreed (6).



Note: Dotted lined indicate flow of funds

Figure 1: Flow of Activities for Istisna'

Ibrahim and Kamarudin (2014) suggested that all of the parties involved benefit from the *Istisna'* mode of financing due to the management of capital to produce the goods under construction lies on the financier. This is especially important for the housing industry as most developments sold by developers now are under the Sell then Build system.

To be more competitive with the contemporary financing market, there are several variance of *Istisna'* available. Namely, *Parallel Istisna'*, *Hybrid Istisna'* And *SukukIstisna'*. These flexibility of *Istisna'* structure could be more perplexing or engaging to potential customers. In addition, most housing development projects that have used *Istisna'* in Malaysia are high ends projects

Ijarah

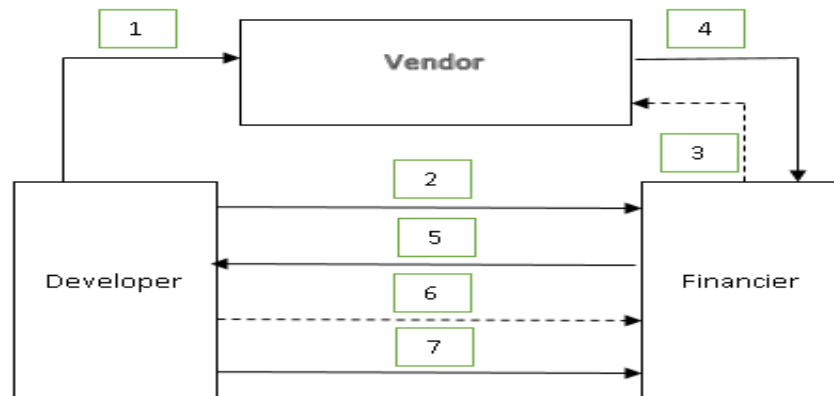
Ijarah refers to:

“a contract that transfers ownership of a permitted usufruct and/or service for a specified period in exchange for a specified consideration” (Bank Negara Malaysia, 2014b)

Through this contract, Islamic financiers lend plants or equipment in their own possession to the developers, and profit from the rental fees. According to Polley(2011), *Ijarah* rental amounts are structured to include a profit element which is to cover the financing costs of the funding arrangements, and which may be compared to the rental provisions of conventional leases. This may confuse potential users as they might perceived this Islamic arrangement to be following the present dealings of conventional finance.

The parties in an *Ijarah* contract involve a financier ('*ajir*) and a developer (*musta'jir*). Figure 2 illustrates the flow of activities in an *Ijarah* agreement which is more popularly used. This type of arrangement involves a vendor and is frequently used when the financier do not possess the required machinery and equipment.

Jaffaret *al* (2011) elaborates an alternative arrangement of an *Ijarah* contract. A contractor upon having an agreement with the owner of a project (financier/developer), only has the responsibility of performing the works according to the specification with the materials provided by the owner.



Note: Dotted lined indicate flow of funds

Figure 1: Flow of Activities for *Ijarah*

The developer identifies and approaches a vendor or supplier of the assets needed for a development project, and collects all relevant information (1). The developer then approaches the financier for an *Ijarah* contract for the asset with the financier to take the asset on lease upon purchase (2). The financier will made payment of price to the selected vendor (3) and the vendor will transfer the ownership to the financier (4). Bank leases the asset, transfer possession and right of specified use to the developer (5). The developer will pay the financier progressively/completely for the use of the asset over a period of agreed time (6). Upon completion of the development or reaching the end of leasing period, the asset will reverts back to the financier (7).

Challenges of Islamic Finance

The challenges of introducing and enhancing the use of Islamic finance has been a global phenomenon for a significant period of time. Wilson (2000), had studied the challenges of Islamic financing sector in the United Kingdom since the 1990's. Though Islamic financing products were striving back then, it then later experienced regression in the market. Obstacles faced by Western bankers to enhance the offerings of Islamic finance had gradually dampened the interests of consumers to continuously support the system. Limited number of institutions and financing facilities provided failed to incite the consumers to explore the exceptional

features of Islamic financing packages. It was also reported that the banks had been slow in promoting and encouraging the Muslim consumers to use Islamic financing and merely responded to clients demand. In the United States, various local banks with Islamic finance windows has been offering *Ijarah* as one of the Islamic financing options for residential sector (Shayesteh, 2009). Perceptions on the lengthy time frame for market penetration for foreign Islamic banks has created a sluggish market for Islamic finance to expand. Findings by Tahmina (2013) on the study of Islamic finance in Canada correspond with most of the challenges previously mentioned. The study highlighted on the regulation, lack of awareness, even among Muslim communities, and uncertainties on the authenticity of *syariah* rulings as the reasons arising from the external environment. Internally, Islamic finance is deemed to be unfeasible due to highly customized IT infrastructures, lack of funds and foreign investment.

One would think that the challenges for Islamic finance would be less in Islamic countries. In reality, similar problems echoed in this part of the world and continues to cloud the market. In a research by Butt (2011), consumers in Pakistan feels discourage from using Islamic banking services due to the perception that Islamic banks do not follow the Islamic principles. Ling *et al* (2011) concede the findings by adding that most developers in Malaysia are unaware of the Islamic principles embedded within an Islamic financing contract. Zin (2011) expands the notion by describing the unique features of Islamic finance become lost in application and lack in Islamic identity. The decline of public interests in Islamic finance was a result of insufficient public exposure and information on knowledge and news of Islamic finance (Abdullah *et al*, 2012).

Although the Middle East has conquered the Islamic finance market in recent years, the population is still sceptic on the products and services particularly offered by Islamic windows in embracing the essence of *syariah* into their packages (Magd and McCoy, 2014). Interestingly, the same study also draw attention to the role of educational institutions in providing pool of talented workforce to heighten the performance of the Islamic finance sector. A publication by Malaysian Islamic Finance Centre (2015) repeat the issue on the shortage of talent in the Islamic finance industry as a threat to the growth of the sector. The same study also stressed on the lack of awareness by prospective investors and consumers especially among non-Muslims to be the main reason for not subscribing to the Islamic products and services.

RESEARCH METHODOLOGY

This research had adopted a quantitative approach in the data collection and analysis of the data obtained. Primary source was retrieved from questionnaires distributed to selective group of samples. Secondary sources were obtained from literature review through published articles, journals as well as online information and publications.

The Instruments

A questionnaire survey was developed to collect data from the sample population. The questionnaire was designed to include both nominal and ordinal scales sets of questions. The nominal sets were included to reduce biased interpretation and are easier to analyse. The questions that used nominal scales are related to the respondents' background and analysed using the frequency. Meanwhile, the ordinal scale sets were used to assess the order of value of the required data. The aim is to derive an ordinal level of each of the challenges highlighted. Six challenges were selected to be tested based on the most common challenges highlighted by previous researchers. The respondents were asked to determine their level of agreement based on a 5 points Likert Scale. The scale ranges in ascending order from strongly disagree, disagree, moderately agree, agree and strongly agree. SPSS Version 21 software was used to present a descriptive analysis of the collected data. The data were analysed to acquire the mean score of each challenge. The classification of rating for average index is based on Abd. Majid and McCaffer (1997);

- $0.00 \leq \text{Average index} < 1.50$ (strongly disagree)
- $1.50 \leq \text{Average index} < 2.50$ (disagree)
- $2.50 \leq \text{Average index} < 3.50$ (moderately agree)
- $3.50 \leq \text{Average index} < 4.50$ (agree)
- $4.50 \leq \text{Average index} \leq 5.00$ (strongly agree)

The Sample

The sample selected for this research was determined from the housing developers who are registered with the Real Estate and Housing Developers' Association (REHDA) from the Northern Branch. 183 developers were identified as prospective respondents for the distribution of questionnaire. Out of the total population sample, only 100 can be contacted via email, telephone and company address. It was assumed that the rest of the developers had changed their corresponding address or contact information. The questionnaires were sent through Google Drive, e-mail and direct mail. The researcher also made efforts to personally visit the companies who were within reasonable reaching distance to hand in the questionnaire and collect them back. From the total questionnaires distributed, only 30 sets of questionnaires were returned.

Findings and Discussion

The first part of the analysis was to discover the background of the respondents. The questions asked were the respondents' religion, educational level, average development cost per project and their involvements in Islamic finance.

Table 3: Respondents' Religion

Religion	Frequency	Percentage (%)
Muslim	20	67%
Non-Muslim	10	33%

Total	30	100%
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Table 4: Respondents' Educational Level

Educational level	Frequency	Percentage (%)
Primary	2	6%
Secondary	5	17%
Tertiary	23	77%
Total	30	100%

Table 5: Average Gross Development Cost per Project

Average Gross Development Cost per Project	Frequency	Percentage (%)
Below 1 million	3	10%
RM1 million – RM5 million	6	20%
RM 5 million – RM10 million	11	37%
Above 10 million	10	33%
Total	30	100%

Table 6: Respondents' Involvement in Islamic Finance

Involvement in Islamic Finance	Frequency	Percentage (%)
Yes	16	53%
No	14	47%
Total	30	100%

Table 3 shows the respondents were a well mix of Muslims and non-Muslims. This is important as to get an overall view of respondents. A higher percentage of Muslims respondents might skewed the overall result in choosing Islamic finance for religious reasons. Table 4 reveals the educational levels of the respondents. According to Ling *et al* (2011) and Abdullah *et al* (2012), most Islamic finance consumers have tertiary level education. This is probably due to having more understanding and knowledge on the financial market. Based on the findings, most respondents have a tertiary level education which is imperative to obtain correct interpretation throughout the survey. It is also important to identify the gross development value per project of the respondents as reported in Table 5. From the findings, most respondents are involve with an average to high end value housing development which requires greater value when using Islamic finance particularly *Istisna'*. Table 6 depicts the respondents' experience in using Islamic finance. The result was almost a fair mix of users and non-users with a slightly higher percentage of respondents are/were involved in Islamic finance for their housing development projects.

The second part of the questionnaire analysis is to determine the challenges of using Islamic finance particularly *Ijarah* and *Istisna'* for housing development. Table 7 presents the mean score of each challenge and the findings were ranked in descending order to show their level of importance on the subject matter.

Table 7: Challenges to Islamic finance (*Istisna'* and *Ijarah*)

Barriers of Islamic Finance	Level of agreement	Mean	Rank
Lack of awareness among developers on the options available for Islamic finance	Agree	3.63	1
Islamic finance is less popular compared to conventional finance	Agree	3.50	2
Lack of information among developers for the Islamic finance system	Moderately agree	3.43	3
Lack of funding allocation for Islamic finance	Moderately agree	3.44	4
Insufficient loan information/expertise rendered by Islamic financier for development projects	Moderately agree	3.38	5
Less number of banks offering authentic Islamic financing products	Moderately agree	2.63	6

Based on the analysis, the main challenge as perceived by the housing developers to using Islamic finance packages is the lack of awareness on the options offered by the Islamic financiers for housing development projects. This particular challenge has been repeatedly being reported by researchers all over the world as the main hindrance of Islamic finance. As the respondents for this research are predominantly Muslims, religion seems not to be to a central issue in ensuring the consumers to be aware of Islamic financing options. The unpopularity of Islamic finance is ranked second most contributing factor to be the challenge of Islamic finance. While Islamic banks has been around since the 80's in Malaysia, the history of conventional banks were far back stretching to the early days of independence. Zin (2011) accentuate, the familiarity of conventional system steer the housing developers away from Islamic finance to avoid tedious and ambiguous procedures. Out of the six factors, only these two factors were characterised as reaching the agreed level from the respondents.

The other four factors perceived as only being moderately agreed by the respondents to become the challenges of Islamic finance in Malaysia. Lack of information disseminated to the correct target group is probably the contributing factor to the challenge. A lot of information were only available to those who are already involve or have the interests to search for Islamic financing options. It is not common to see advertisements targeting housing developers to utilise *Istisna'* and *Ijarah* as their mode of development financing options. Other mode of Islamic finance such as *Sukuk*, *Bai' Bithamin Ajil* and *Murabahah* had been receiving more attentions targeting the infrastructure investors and house buyers. The perception that Islamic banks have less funding allocation might be due to the market share and capital structure of Islamic banks compared to conventional banks. Although, many Islamic banks has gone through rebranding and restructuring of capital, it is still far less convincing than conventional financial institutions. As reported by Chong and Liu (2009), conventional banks were able to secure 57 percent of the total Islamic banking assets through its Islamic windows operations while pure Islamic banks only managed to capture 26 percent of the market share. This demonstrates the stability of the conventional banks. Since then, a lot of conventional banks had opened up wholly owned Islamic financial subsidiaries to grab the lucrative market. Presently, Bank Negara reported the Islamic

banking assets to reach USD656.6 billion at a pace of 18 to 20 percent growth annually (Bank Negara Malaysia, 2016).

Another factor which deemed to be the challenge for the enhancement of Islamic finance is the lack of expertise offered by the Islamic banks professionals in dealing with matters pertaining to housing development. Insufficient information provided by the staff increase the reluctance of housing developers to utilise Islamic financing packages. Trained professional in the industry should play a role in educating prospective developers in embracing the benefits that Islamic finance could offer. Finally, majority of the consumers are still sceptic about the Islamic packages offered by Islamic banks. It is seems that many packages are often way too similar to conventional practises without the distinctive nature of the *syariah* elements. Chong and Liu (2009) concluded the rapid growth of Islamic banking was driven by the worldwide interests of the religion and is largely similar to conventional banking. In addition, Muslim scholars from different school of Islamic jurisprudence still dispute on the Islamic finance fundamental variance especially when competing with the Western markets. Therefore, many believes that it is still hard to find banks that offer a pure Islamic financing products and services that adhere strictly to Islamic principles.

CONCLUSION

As the journey in Islamic finance seems promising, there are still challenges that dampened the momentum of its growth. Islamic banking system worldwide need to revamp its operation to become more appealing not only to Muslim consumers but also to non-Muslims. Islamic finance is still perceived to be lagging behind conventional offerings. The vast opportunities in housing development in Malaysia creates a gap to be filled by Islamic finance to boosts up the sector. It is crucial to note that most Malaysian housing developers are still unaware of the Islamic financing products and services. With the flexibility offered in *Istisna'* and *Ijarah*, the housing developers should become more interested to utilise these mode of financing. Based on the results of the research findings and analysis, none of the factors tested scores heavily as being strongly agreed to be the challenges of Islamic finance for housing developers. This outcome positively concede Islamic financing as having a strong presence in the market despite the challenges overshadowing its success. The Islamic banking sector need to take on a more serious approach to reduce the impact of the challenges presented beforehand in order to enhance Islamic financing specifically *Istisna'* and *Ijarah* for the housing developers in Malaysia.

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BW058:
PARAMETER SYARIE DAN EKONOMI DALAM PELABURAN DANA
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Abstrak

Dalam perundangan Islam wakaf di bawah pengurusan institusi merupakan sebuah sistem yang boleh dikategorikan sebagai aktiviti ibadah sosial. Wakaf juga dianggap sebagai sarana sekaligus modal yang mampu meningkatkan ekonomi dan kesejahteraan umat dengan tetap mengekalkan aset wakaf tersebut. Untuk mencapai matlamat tersebut, diperlukan parameter sebagai kayu ukur agar pelaburan dana wakaf dapat dijalankan secara profesional dan efisien selari dengan kaedah fiqh muamalat dan maqasid syariah. Secara garis besarnya kertas kerja ini membincangkan parameter ekonomi dan syarie yang bersifat umum dalam pelaburan dana wakaf mengikut pendekatan fiqh muamalat. Ringkasnya, kajian ini menyimpulkan beberapa parameter yang antara lain; Aktiviti dan bidang pelaburan dana wakaf harus sesuai dengan tuntunan syarie, bebas dari elemen riba, gharar, qimar (judi) dan sebagainya; pelaburan dana wakaf harus mengekalkan asset asal; asset wakaf harus mudah dicairkan dalam bentuk tunai; pelaburan dana wakaf harus menghindari bidang yang berpotensi mengalami kerugian; dan pelaburan dana wakaf harus didahului dengan membuat kajian terlebih dahulu agar terhindar dari risiko kerugian yang menyebabkan kemusnahan aset asal.

Kata kunci: Pelaburan, Wakaf, Parameter.

PENDAHULUAN

Di dalam konsep wakaf terdapat paradigma ideologi dan social ekonomi yang bersandarkan kepada kalimat tauhid di mana keyakinan kepada keesaan Tuhan harus disertai dengan kesedaran akan kewujudan keadilan sosial. Islam mengajarkan kekayaan yang dimiliki oleh setiap individu atau institusi harus mengandungi nilai-nilai sosial, kerana harta tidak dibenarkan dikuasai hanya oleh sekelompok orang sahaja, tetapi ia mestilah boleh dinikmati oleh golongan yang memerlukan (al-mustahiqin). Kertas kerja ini membincangkan tentang standard atau parameter syarie dan ekonomi secara umum dalam pelaburan dana wakaf mengikut pendekatan fiqh muamalat. Wakaf dianggap sebagai salah satu pencapaian perundangan Islam dalam

merealisasikan sikap solidariti sosial, dan menjamin sumber kewangan bagi amal kebajikan. Ia juga merupakan satu mercu tanda kemajuan tamadun Islam, kerana ia menggabungkan antara peraturan duniawi dan kesinambungan pahala kehidupan selepas kematian.

Dalam sejarah Islam, wakaf mempunyai peranan yang signifikan dalam membangunkan bidang pendidikan, sosial, ekonomi umat Islam. Kewujudan wakaf juga telah banyak memberikan kemudahan para sarjana dan mahasiswa dengan pelbagai sarana dan prasarana yang memadai untuk melakukan penyelidikan dan pendidikan, sehingga dapat mengurangi kebergantungan dana kepada kerajaan. Secara tidak langsung, institusi wakaf telah menjalankan sebahagian dari tugas dan tanggungjawab kerajaan dalam membangun suatu negara. Kejayaan institusi-institusi wakaf dalam mengembangkan aset wakaf untuk membangun umat tidak lepas dari peranan yang dimainkan oleh pihak pengelola wakaf atau nazir atau mutawalliy. Sumber sumber wakaf dikelola dengan baik dan professional sehingga mampu menyediakan kemudahan awam, kemudahan pendidikan, hospital, universiti, perpustakaan ataupun usaha-usaha perniagaan yang produktif.

Meskipun wakaf telah memainkan peranan dalam pembangunan masyarakat, namun realitinya masih terdapat institusi wakaf yang belum mencapai hasil yang diharapkan. Berlaku penyelewengan harta wakaf di mana harta yang diamanahkan tidak ditadbir secara cekap dan professional. Oleh itu, diperlukan usaha yang berterusan dengan menerapkan strategi pengelolaan wakaf agar dapat mencapai matlamat kewujudan wakaf tersebut. Perkara ini penting, memandangkan aset harta wakaf di kebanyakan institusi wakaf di dunia mengalami penurunan sehingga hasil yang diperolehi tidak mencukupi untuk memelihara aset harta wakaf yang sedia ada, apatah lagi untuk memberikan manfaat kepada golongan yang memerlukan.

Menurut M.A. Mannan, reformasi pengelolaan wakaf sudah dilakukan di beberapa negara misalnya Tunisia, Aljazair, India dan lain-lain. Di India yang kebanyakan penduduknya beragama Hindu, pengaturan wakaf dengan undang-undang dimulai dengan peluncuran Musalman Waqf Act pada tahun 1923. Beliau menambahkan wujud fleksibiliti dan skop yang cukup untuk dilakukan reformasi lebih jauh bagi pengembangan pengurusan dan pentadbiran harta wakaf di negara-negara Muslim atau negara yang majoriti penduduknya Muslim, terutama yang berkenaan dengan wakaf tunai. (M.A. Mannan, 1999: 247).

Pengertian Parameter Wakaf

Kamus Dewan memberikan makna parameter sebagai garis-garis yg menentukan atau menandakan keluasan atau batasan sesuatu, keluasan yang ada batasan-batasannya. (www.prpm.dbp.gov.my/Search.aspx?k=parameter). Parameter juga bermakna ukuran, kriteria, pembatasan, standard, tolak ukur (kayu ukur), patokan yang digunakan untuk melakukan penelitian. (www.arti-definisi.com/parameter). Dengan kata lain, parameter adalah sebuah acuan atau standard yang dapat digunakan untuk menetapkan suatu keadaan, kondisi, maupun kadar

atau ukuran tertentu. Dalam konteks parameter pelaburan wakaf, ia merupakan syarat atau prinsip yang diletakkan oleh ulama fiqh untuk mengatur operasi dan aktiviti pelaburan wakaf. Manakala pelaburan bermaksud wang atau (modal dan sebagainya) yang dilaburkan dalam sesuatu perniagaan dari masa ke masa.

Pengertian Wakaf

Secara ekplisit konsep wakaf tidak disebutkan di dalam Al-Quran ataupun Hadis, namun, konsep wakaf itu dijelaskan secara implisit menerusi pernyataan yang menyebutkan tentang derma harta (infak) untuk kepentingan umum atau dengan perkataan *habs* yang bermaksud menahan. Semua pernyataan yang ada di dalam Al-Quran dan hadits senada dengan erti wakaf iaitu, penahanan harta yang dapat diambil manfaatnya dengan mengekalkan harta asal untuk penggunaan yang mubah serta dimaksudkan untuk mendapatkan keredhaan Allah SWT (Basyir Azhari, 1977: 55). Benda atau harta yang diwakafkan harus bersifat tahan lama dan tidak mudah musnah. Harta yang diwakafkan kemudian menjadi milik Allah dan berhenti dari peredaran (transaksi) dengan tidak boleh diperjual belikan, tidak boleh diwariskan dan tidak boleh dihibahkan.

Perkataan wakaf (فقو) membawa maksud pengekalan bentuk asal dan tidak berubah-ubah. Dari segi istilah pula, terdapat pelbagai definisi wakaf yang diutarakan oleh ahli fiqh. Menurut mazhab Hanafi, wakaf bermaksud pengekalan bentuk asal sesuatu aset yang diperolehi dari pihak lain. Mazhab Maliki pula mendefinisikan wakaf sebagai pemberian manfaat sesuatu aset dengan kewujudan aset tersebut dan pemilikan aset kekal di bawah pemberi wakaf (*al-wakif*). Manakala menurut Mazhab Syafie, wakaf bermaksud pengekalan sesuatu aset yang boleh dimanfaatkan dan fizikal asal sesuatu aset hendaklah dikekalkan untuk tujuan pemberian yang mengikut syarak kepada penerima manfaat wakaf tertentu. Mengikut Mazhab Hanbali pula, wakaf merujuk kepada pengekalan bentuk asal aset wakaf dan penyebaran manfaatnya.

Ringkasnya, merujuk kepada definisi-definisi tersebut di atas, beberapa mazhab berbeza pendapat pada syarat sesuatu aset wakaf tersebut. Namun, mereka bersepakat bahawa dua elemen penting yang perlu ada dalam wakaf adalah pengekalan bentuk asal aset wakaf dan penyebaran manfaatnya kepada penerima manfaat wakaf.

Muhammad mendefinisikan wakaf dengan sebagai menyerahkan harta benda yang tidak boleh dimiliki kepada seseorang atau lembaga untuk dikelola, dan manfaatnya didermakan kepada orang fakir, miskin atau untuk kepentingan umum. (Muhammad Kamaluddin Imam, 1999: 189).

Majlis Penasihat Syariah bagi Accounting dan Auditing Organization for Islamic Financial Institute (“AAOIFI”) mendefinisikan wakaf seperti berikut: “Membuat sesuatu harta yang bebas daripada apa-apa pelupusan yang boleh membawa kepada pemindahan pemilikan dan menderma manfaat harta wakaf tersebut kepada penerima manfaat wakaf.

Keterkaitan Wakaf Dengan Pelaburan

Objektif utama daripada wakaf adalah kesinambungan manfaat dengan tetap mengekalkan harta asal. Sepertimana disebutkan dalam sebuah hadis: (*ihbis Aslaha wa sabbil tsamrataha*) yang bermaksud: “Tahanlah atau (kekalkanlah) (harta) asal dan jadikan hasilnya (sedekah). Di antara ciri khas wakaf adalah mengurus tadbir dan memanfaatkan harta asal secara berterusan.

Hakikatnya amalan wakaf itu adalah pelaburan; kerana orang yang berwakaf atau al-wakif ingin mewakafkan hartanya di jalan di mana ia boleh menuai hasilnya kelak di hari kiamat. Harta benda yang diwakafkan hendaklah dikelola dan dijaga dengan baik sehingga hasilnya dapat dimanfaatkan di jalan Allah SWT untuk kepentingan awam. Jadi harta benda yang diwakafkan sama ada menghasilkan buah-buahan apabila yang diwakafkan pokok-pokok atau kebun dengan pepohonan yang berbuah, atau menghasilkan upah manfaat apabila yang diwakafkan harta sewaan, atau keuntungan apabila yang diwakafkan harta berupa wang.

Terdapat hubungkait antara wakaf dan al-syirkah di mana masing-masing bertujuan mengekalkan harta asal sambil memanfaatkan hasil daripadanya. Sebagaimana tujuan pelaburan harta wakaf adalah untuk menjamin pendapatan yang tinggi tanpa ada unsur kecuaiian sehingga memerlukan pengembangan

Pengertian Pelaburan Wakaf

Pelaburan wakaf bermaksud menggunakan dana wakaf untuk mendapatkan manfaat atau pulangan yang digunakan untuk kebaikan pihak yang diamanahkan (*al-amawquf alayh*). Pelaburan wakaf juga merupakan usaha pihak nazir atau mutawalliy sama ada dari segi pemikiran ataupun harta untuk menjaga dan mengembangkan aset wakaf dengan cara yang sah mengikut maqasid syariah, sesuai dengan niat dan keinginan orang yang mewakafkan (*al-waqif*) selama mana tidak bercanggah dengan syarak. Dengan kata lain, pelaburan wakaf adalah menggunakan atau membelanjakan harta asal wakaf dalam usaha untuk mencapai pulangan kewangan pada tempoh masa yang berbeza.

PARAMETER SYARIE DALAM PELABURAN DANA WAKAF

Di dalam pelaburan terdapat elemen untung dan rugi, di mana dana wakaf merupakan dana kebajikan awam yang mengikut pandangan ulama fiqh memiliki ciri ciri khusus yang dibenarkan untuk digunakan bagi tujuan pengembangan.

Memandangkan mekanisme wakaf berdasarkan kepada pengekal modal dengan menyalurkan manfaat pulangan bagi badan-badan kebajikan, maka pihak pengelola wakaf (nazir atau mutawalliy) wajib menjaga harta asal atau aset wakaf tersebut serta melestarikannya dan pada masa yang sama membuat pelaburan agar hasilnya dapat dimanfaatkan oleh mereka yang memerlukan (al-mustahiqqin). Oleh itu, untuk mengembangkan aset wakaf para ulama menetapkan beberapa parameter yang bersifat umum agar dapat dijadikan garis panduan atau

parameter dalam membangunkan institusi wakaf. Adapun parameter yang bersifat umum adalah seperti berikut:

Parameter Pertama

Pelaburan wakaf mestilah dibenarkan oleh syarak. Maksudnya, dari segi aktiviti dan operasi pelaburan dana wakaf mestilah selari dengan peruntukan undang-undang Islam yang merupakan rujukan pertama dalam aktiviti. Sebagai contoh, pelaburan dalam pembinaan projek yang bermanfaat seperti perumahan, kilang, hospital, sekolah, universiti dan sebagainya. Dana wakaf hendaklah dilaburkan dalam bidang atau projek yang dibenarkan oleh syarak serta bebas dari elemen-elemen seperti berikut:

- a. *al-Ghisy*: Menampakkan sesuatu yang tak sesuai dengan faktanya (*izh-haru ghair al-haqiqah*), atau menampakkan sesuatu secara berbeza dengan apa yang disembunyikan. *Al-ghisy* melakukan kecurangan yang disengaja yang akan menimbulkan kerugian pada pihak lain.
(*Man Ghasysyana laysa minna*)
- b. *Riba*, (Allah Memusnahkan *riba* dan menyuburkan sedekah) (*al-Baqarah* 2:275-276)
- c. *al-qimar* atau *al-maysir* (perjudian) (*al-Maidah*. 5:90) (*al-Baqarah*. 2:219). Memperoleh sesuatu dengan sangat mudah tanpa kerja keras atau mendapat keuntungan tanpa bekerja. Secara tekniknya adalah setiap permainan yang di dalamnya disyaratkan adanya sesuatu yang diambil dari pihak yang kalah untuk pihak yang menang.
- d. Tidak terlibat dalam perniagaan narkotik dan dadah.
- e. *Al-ihthikar*: Menyimpan atau menimbun suatu barang dengan tujuan menaikkan harga yang lebih tinggi.
- f. *Al-tatfif*: Menipu atau berbuat curang dalam takaran dan timbangan serta menafikan atau mengurangi kadar upah pekerja. Dengan kata lain, mengurangi hak orang lain dalam timbangan ataupun takaran.

Oleh yang demikian, adalah tidak dibenarkan melaburkan dana wakaf di bank-bank yang menggunakan sistem *riba*. Pelaburan seumpama ini hukumnya haram dan termasuk dosa besar; kerana terdapat unsur saling bekerjasama dalam dosa dan permusuhan. Sebagaimana firman Allah SWT yang bermaksud: “Janganlah kamu tolong menolong dalam perkara dosa dan permusuhan dan bertakwalah kepada Allah, sesungguhnya Allah itu amat pedih siksaanNya.”. (*al-Maidah*, 5:2).

Selain itu, akad pelaburan dana wakaf hendaklah dilakukan dengan betul dan sesuai dengan syarak tanpa ada jaminan ke atas modal atau penetapan keuntungan pada kadar tertentu.

Parameter kedua

Pelaburan dana wakaf berdasarkan kepada maslahat syarie yang perlu dicapai dengan tetap mempertimbangkan status keutamaan projek sama ada daruriyyat, hajjiyat ataupun tahsiniyyat.

Parameter ketiga

Mengelak dari pelaburan di projek atau bidang yang boleh memusnahkan harta asal.

Parameter keempat

Sighah atau pernyataan dalam akad transaksi pelaburan tidak membawa kepada hilangnya kepemilikan harta orang yang berwakaf. Harta wakaf terjamin dan terjaga dari sebarang risiko.

Parameter kelima

Mampu menampung keperluan mendesak bagi pihak penerima wakaf. Sekiranya dana wakaf meningkat dan bertambah sehingga boleh memenuhi keperluan asas golongan yang berhak (*al-mustahiqqin*), maka melaburkan dana wakaf adalah dibenarkan. Namun, sekiranya sebaliknya, maka ia tidak dibenarkan, kerana maslahat harta wakaf adalah untuk memenuhi keperluan golongan *al-mustahiqqin* seperti fakir miskin, orang yang berhutang (*al-gharimin*) dan sebagainya. Selain itu, melaburkan dana wakaf boleh menyebabkan penangguhan maslahat sampai kepada mereka yang berhak.

PARAMETER EKONOMI DALAM PELABURAN DANA WAKAF

Parameter pertama

Menentukan bidang pelaburan yang menyediakan keuntungan yang lebih baik, dengan formula pilihan yang baik selaras dengan mengekalkan moratorium dan hak dan keadaan yang lebih baik untuk mencapai pulangan ekonomi yang memuaskan.

Parameter kedua

Mengelak dari pelaburan yang berpotensi mengalami kerugian.

Parameter ketiga

Mengurangkan risiko pelaburan dengan menghindari projek pelaburan yang berisiko tinggi. Membuat keseimbangan antara pulangan dan keselamatan.

Parameter keempat

Penggantian skop pelaburan dan format seperti moratorium faedah, selepas kajian kemungkinan bagi setiap projek. Ia menyumbang kepada endowmen, bukan asalnya dalam pelaburan dan dalam semua tindakan yang berkaitan dengan pemberhentian itu adalah untuk mencapai faedah.

Parameter kelima

Pengawasan terhadap pulangan sosial dengan keuntungan kewangan. Ertinya pengawasan atau pemerhatian terhadap pulangan sosial dianggap pelaburan yang baik bagi wakaf. Dan sebagaimana yang ditetapkan dalam perundangan Islam bahawa masalah kumpulan lebih diutamakan di atas maslahat individu. Ini adalah asas yang universal terhadap semua aspek hak dalam Islam, dan bukan hanya khas untuk wakaf.

Parameter keenam

Penggunaan kaedah teknikal dan sarana moden dalam pelaburan. Ertinya kajian kelayakan ke atas projek-projek wakaf perlu dibuat terlebih dahulu dengan mengambil kira keterkaitan antara tempoh tertentu kajian kelayakan agar tidak menyebabkan kelewatan yang boleh menimbulkan perbezaan hasil jangkaan asal.

Oleh yang demikian, setiap pelaburan dana wakaf dari pelbagai saiz mesti didahului dengan siasatan, kajian dan perundingan dengan pihak pakar dan membuat perhatian penuh untuk melihat kemungkinan dan faktor-faktor kejayaan dalam pelaburan dana wakaf.

Parameter ketujuh

Dana wakaf hendaklah dilaburkan pada aset yang dapat dicairkan dengan mudah sekiranya diperlukan.

Parameter kelapan

Mempelbagaikan projek dan bidang pelaburan yang bersesuaian dengan sifat semulajadi dana wakaf.

Parameter kesembilan

Mengambil kira tradisi perniagaan dan pelaburan yang berlaku agar dapat mencapai matlamat utama dari pelaburan dana wakaf dan sekali gus dapat memberikan maslahat dan manfaat bagi pihak-pihak yang berkenaan.

KESIMPULAN

Dalam perundangan Islam, wakaf merupakan sebuah sistem yang boleh dikategorikan sebagai ibadah sosial. Wakaf juga dianggap sebagai sarana sekali gus modal bagi meningkatkan ekonomi dan kesejahteraan umat. Dengan adanya parameter pelaburan wakaf, pihak pengelola wakaf (nazir atau mutawalliy) sama ada individu ataupun institusi yang diamanahkan untuk mentadbir dana wakaf dapat menjalankan pelaburan selari dengan tuntutan syarak dan maqasid syariah dan sesuai dengan niat dan keinginan pihak pemberi wakaf selama mana tidak bercanggah dengan syarak sehingga harta wakaf dapat berkembang dengan baik dan hasilnya dapat dimanfaatkan oleh masyarakat yang memerlukan.

PENGHARGAAN

Artikel ini sebahagiannya bersumber daripada beberapa tulisan yang di antaranya dibentangkan di Mu'tamar Wakaf kali Keempat di Madinah Munawwarah 2013, buku-buku tentang pedoman dan pengelolaan wakaf di Indonesia dan Malaysia, buku-buku perundangan Islam klasik dan sebagainya. Saya mengucapkan banyak terima kasih kepada para ulama, akademisi, cendekiawan yang telah banyak menyumbangkan pemikirannya dalam bentuk penulisan dalam bidang wakaf khususnya sehingga saya dapat menyediakan kertas kerja yang ringkas dan sederhana. Selain itu, saya berharap, penulisan yang ringkas ini dapat menambah wawasan masyarakat terhadap konsep wakaf yang merupakan salah satu instrument umat Islam yang boleh mengembangkan dan mempertingkatkan ekonomi dan kesejahteraan umat Islam sekiranya ditadbir urus secara efisien dan professional.

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BW059: MENURUT FIQH DAN PERUNDANGAN: SATU SOROTAN

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PENDAHULUAN

Berwakaf merupakan satu amalan yang amat digalakkan dalam Islam. Amalan berwakaf bukan setakat untuk kegunaan dan manfaat umum, bahkan ia merupakan saham dan bekalan apabila kita meninggalkan dunia ini untuk menghadap Allah SWT. Sekiranya insurans merupakan jaminan untuk sumber kewangan bagi kita dan ahli keluarga bagi meneruskan kelangsungan kehidupan seharian atau menampung kos rawatan dan seumpamanya, maka wakaf pula menjamin keselamatan dan kebahagiaan di alam akhirat. Sabda Rasulullah SAW yang bermaksud:

“Apabila mati seseorang manusia itu, maka terputuslah segala pahala dari amalan kebbaikannya melainkan tiga perkara: sedekah jariah (sedekah jariah di sini merujuk kepada wakaf) atau ilmu yang dapat di manfaat dengannya atau doa anak soleh yang sentiasa mendoakannya”.

Walaupun begitu pewakaf hendaklah memastikan harta yang diwakafkan itu berkekalan statusnya dan tercapai matlamat asalnya berwakaf sekalipun setelah meninggal dunia. Untuk memastikan kelangsungan matlamat murni pewakaf ini, mereka hendaklah mendokumenkan harta wakafnya itu dengan jelas. Dokumen merupakan kaedah pembuktian yang paling popular hari ini berbanding kesaksian, ikrar dan kaedah-kaedah pembuktian yang lain. Dokumen sebagai kaedah pembuktian boleh dibahagi kepada dua bahagian iaitu dokumen rasmi dan persendirian.

Dokumen rasmi atau dokumen awam ini merupakan dokumen yang dikeluarkan oleh badan berautoriti seperti kerajaan atau mana-mana pihak yang dilantik secara rasmi oleh pemerintah untuk mengeluarkan sesuatu dokumen. Manakala dokumen persendirian merupakan fokus dalam kertas kerja ini merupakan dokumen yang tidak menepati syarat-syarat yang ditetapkan dalam sesuatu dokumen rasmi. Matlamat kertas kerja ini ialah untuk menghuraikan sejauh manakah dokumen persendirian dapat dijadikan bahan bukti berkaitan dengan wakaf menurut nas-nas syarie dan undang-undang yang diguna pakai di mahkamah khususnya di Mahkamah Syariah.

Selain itu kajian ini juga bertujuan untuk mengenal pasti kelebihan dan kelemahan sesuatu dokumen yang berstatus dokumen persendirian.

Konsep Wakaf

Wakaf merupakan instrumen pembangunan ekonomi umat Islam. Ia merupakan salah satu daripada kontrak *tabarru'at* (kontrak kebajikan) dalam sistem muamalat Islam. Tujuannya ialah memberikan ruang kepada umat Islam untuk menginfakkan harta pada jalan kebajikan menuju reda Allah S.W.T. Bahkan, wakaf juga mampu membantu golongan tertentu bagi meningkatkan taraf hidup mereka di samping menjana aset kekayaan umat Islam (Mohamad Zaim Ismail et al. 2015. 1-13).

Wakaf berasal dari perkataan Arab: *wakafa* yang membawa maksud berhenti, menegah dan menahan. Wakaf dari segi istilah pula ialah apa-apa harta yang ditahan hak pewakaf ke atas harta tersebut daripada sebarang urusan jual beli, pewarisan, *hibah* dan wasiat di samping mengekalkan sumber fizikalnya, untuk kebajikan dengan niat untuk mendekatkan diri pewakaf kepada Allah SWT (Al-Zuhailiyy, Wahbah. 2007. 10:7601). Menurut seksyen 2 Enakmen wakaf (Negeri Selangor) 2015, wakaf diartikan sebagai: menyerahkan hak milik apa-apa harta yang boleh dinikmati manfaat atau kepentingannya. Wakaf juga bermaksud menyerahkan manfaat atau kepentingan yang boleh dinikmati daripada apa-apa harta. Selain itu juga wakaf bertujuan untuk menyumbangkan kepakaran dan perkhidmatan yang boleh dinikmati manfaat atau kepentingannya.

Wakaf terbina di atas beberapa rukun. Rukun-rukun wakaf terdiri daripada pewakaf (*al-waqif*), harta yang diwakafkan (*al-mawquf*), penerima manfaat wakaf (*al-mawquf'alaih*) dan lafaz akad (*sighah*). Pewakaf mestilah seorang yang merdeka, baligh, berakal, berkelayakan untuk berwakaf, dan secara sukarela (tidak dipaksa untuk berwakaf). Manakala harta yang diwakafkan (*mawquf*) hendaklah harta yang mempunyai nilai, harta yang boleh dipindah milik, harta yang boleh diambil manfaat berkekalan dan ia adalah harta yang dimiliki secara sempurna oleh pewakaf. Penerima manfaat wakaf (*mawquf'alaih*) pula mestilah terdiri daripada penerima khusus sama ada seorang atau lebih atau penerima tidak khusus (tidak ditentukan penerima wakaf). Akhirnya lafaz akad (*sighah*) boleh dibuat dengan kata-kata atau tulisan yang boleh difahami. (Al-Zuhailiyy, Wahbah. 2007. 10: 7601). *Sighah* yang difahami ketika berwakaf sama ada dengan tulisan atau kata-kata adalah wajib bagi mengesahkan pelaksanaan wakaf.

Terdapat beberapa nas-nas al-Quran dan Hadith mengenai pensyariatian wakaf. Antaranya firman Allah SWT

لَنَنظُرَنَّ أَلْوَابِرَ حَتَّىٰ تَنْفِقُوا أَمْمَاتُ جُبُّوْ مَا تَنْفِقُوا أَمِنْ شَيْءٍ فَإِنَّا لِلَّهِ بِهِ عَالِمٌ

Maksudnya: Kamu tidak sekali-kali akan dapat mencapai (hakikat) kebajikan dan kebaktian (yang sempurna) sebelum kamu dermakan sebahagian dari apa yang kamu sayangi. Dan sesuatu

apa jua yang kamu dermakan maka sesungguhnya Allah mengetahuinya.

(Ali Imran: 92)

Sabda Rasulullah SAW:

إِذَا مَاتَ الْإِنْسَانُ انْقَطَعَ عَمَلُهُ إِلَّا مِنْ ثَلَاثٍ: صَدَقَةٌ جَارِيَةٌ، وَعِلْمٌ يُنْتَفَعُ بِهِ، وَوَلَدٌ صَالِحٌ يَدْعُو لَهُ

Maksudnya: Apabila mati seseorang manusia itu, maka terputuslah segala pahala dari amalan kebbaikannya melainkan tiga perkara: sedekah jariah (sedekah jariah di sini merujuk kepada wakaf) atau ilmu yang dapat di manfaat dengannya atau doa anak soleh yang sentiasa mendoakannya.

(Al-Tarmizi, 1395. 3: 652)

Berdasarkan pada nas-nas di atas, wakaf merupakan salah satu instrument ekonomi yang sangat penting dalam Islam. Sejarah telah mencatatkan bahawa wakaf telah banyak membantu umat Islam sejak zaman Rasulullah SAW sehinggalah ke zaman kegemilangan Islam berikutnya. Perbuatan Rasulullah SAW merupakan contoh terbaik yang telah menjadi batu asas kepada amalan berwakaf, di mana wakaf yang pertama dalam Islam ialah pembinaan Masjid Quba' seterusnya diikuti dengan pembinaan Masjid Nabawi. Diriwayatkan bahawa Rasulullah SAW telah membeli tanah tersebut daripada dua saudara yatim piatu iaitu Sahl dan Suhail dengan harga 10 dirham, kemudian Baginda mewakafkan tanah tersebut bagi pembinaan masjid.

Abu Thalhah, seorang Anshar (penduduk asal Madinah), adalah seorang yang paling banyak mewakafkan hartanya yang paling disayangi, iaitu Bairuha. Bairuha adalah kebun kurma yang terletak berdekatan Masjid Nabawi. Begitu juga Khalid bin Al-Walid RA juga turut mewakafkan baju-baju perang serta peralatan perang di jalan Allah SWT. Sejak dari itu, institusi wakaf semakin berkembang sehinggalah ke saat ini. Institusi Wakaf telah digunakan untuk membiayai projek – projek kebajikan yang menguntungkan semua rakyat di dalam kerajaan Islam. Antara institusi–institusi awam dan kemasyarakatan yang dibiayai oleh sistem wakaf adalah sektor pendidikan, keagamaan, kesihatan dan ketenteraan. Contohnya, Madrasah al-Nooriyah di Damascus, Universiti al-Azhar di Mesir dan beberapa Universiti di Turki serta beberapa buah bank yang dimiliki oleh institusi wakaf.

Wakaf kadangkala dilakukan melalui perkataan mahupun catatan dan seumpamanya. Manakala dokumen pula terdiri dalam dua bentuk iaitu secara rasmi seperti didaftarkan di Majlis-Majlis Agama Negeri (MAIN). Terdapat juga seseorang itu berwakaf hanya menggunakan dokumen seperti dalam buku catatan biasa dan di simpan dalam almari dan seumpamanya. Namun skop perbincangan dalam kertas kerja ini ialah ingin melihat sejauh manakah wakaf yang telah dibuat melalui dokumen persendirian dapat dijadikan bukti jika berlaku pertikaian di antara pihak-pihak, khususnya jika pewakaf telah meninggal dunia.

Keterangan dalam perbicaraan amat penting bagi merungkaikan segala pertelingkahan di antara pihak-pihak yang terlibat sehingga bertemu dengan titik penyelesaian. Keterangan yang sah, jelas dan munasabah akan membantu hakim membuat keputusan yang tepat dan adil. Dokumen merupakan kaedah pembuktian paling konsisten dan paling banyak digunakan pada hari ini. Keterangan melalui dokumen telah banyak membantu mahkamah merungkaikan pelbagai kes.

Keterangan melalui kata-kata berkemungkinan boleh berubah, mungkin disebabkan lupa, atau perubahan fakta akibat ugutan, sogokan dan seumpamanya. Berbeza dengan keterangan yang dibuat secara dokumen seperti pengakuan bertulis bahawa harta yang dimilikinya itu telah diwakafkan, maka pengakuan tersebut akan berkekalan sekalipun telah berlalu tempoh yang lama. Dengan kata lain keterangan secara dokumen lebih tinggi tahap kebolehpercayaannya, berbanding dengan kaedah-kaedah keterangan lain. Persoalannya sekarang, adakah semua keterangan dokumen diterima sebagai bahan bukti apabila timbul pertelingkahan khususnya berkaitan dengan wakaf.

Dalam perundangan, dokumen dibahagikan kepada dua bahagian iaitu dokumen persendirian termasuklah catatan peribadi bahawa sesuatu aset telah diwakafkan dan dokumen Awam seperti sijil kelahiran, kad pengenalan dan lain-lain lagi. Dokumen awam dan persendirian mempunyai kekuatannya tersendiri menurut undang-undang keterangan Islam atau sivil, namun dokumen Awam semestinya lebih kuat dalam pembuktian dan akan diterima terus sebagai bukti sekiranya tidak ada pihak-pihak yang mempertikaikan keasliannya. Manakala dokumen persendirian yang merupakan topik perbincangan dalam artikel ini tidak akan diterima terus sebagai bukti melainkan terlebih dahulu disahkan tahap keasliannya.

Konsep Dokumen Menurut Islam

Dokumen bahasa Arab dikenali sebagai “*kitābah*” merujuk kepada tulisan (*khat*) iaitu salinan dari ucapan lisan seseorang dengan menggunakan huruf-huruf tertentu. Para ulama berselisih dalam memberi maksud dokumen itu sendiri berdasarkan kemudahan semasa yang digunakan waktu itu. Namun dokumen dapat ditakrifkan sebagai:

“Menjelaskan atau menyifatkan sesuatu dengan menggunakan tulisan atau lakaran atau salinan yang berbentuk zahir sama ada secara klasik seperti menggunakan kertas, kayu dan seumpamanya atau secara moden seperti penggunaan disket, cakera padat, internet dan seumpamanya”. (Al-Qurrāfi, 2001. 1: 6, Ibn Qayyim, 2007: 174, al-Dhimiyaī, 1993: 235, al-Jurjānī, 2000: 183 & al-Farāhaidi, t.t: 831).

Definisi ini adalah lebih sesuai berdasarkan kepada kepada kemudahan semasa. Dokumen tidak mensyaratkan penggunaan alat-alat tertentu, yang penting ialah ia dapat difahami dan ia bersifat fizikal sama ada ia boleh di fahami secara terus atau dengan menggunakan peralatan tertentu. Rakaman suara, kaset, cakera padat dan seumpamanya juga termasuk dalam kategori dokumen

kerana ia dapat difahami kandungannya sekalipun dengan menggunakan alat-alat tertentu.(al-Ḥumaidiyy,1989:437). Dokumen perlu dilihat dalam skop yang lebih luas iaitu dari segi fungsi dokumen itu sendiri dan bukan hanya pada bentuk dokumen serta peralatan yang digunakan semata-mata, apa yang penting ialah maklumat yang hendak disampaikan dapat difahami (Sulaimān Marqus,1981: 198). Kenyataan ini menunjukkan seseorang yang berwakaf dan dibuat secara bertulis mengenai hasratnya itu diterima dalam pembuktian sekiranya ia telah disahkan status keasliannya dan selamat dari segala bentuk penipuan dan pemalsuan.

Menurut seksyen 3, Akta Keterangan Mahkamah Syariah (Wilayah-Wilayah Persekutuan) 1997 dan Akta Keterangan 1950, dokumen diertikan sebagai: “Apa-apa huruf, tanda, nombor, simbol atau isyarat yang dinyatakan, diperihalkan, atau bagaimana jua pun digambarkan, atas apa-apa benda, bahan, barang atau artikel, termasuklah apa-apa hal yang terkandung dalam cakera, pita, filem, runut bunyi atau apa jua pun peranti (alat atau perkakas) lain”.

Nas-nas syarak secara jelas menyebut berkenaan pensyarian dokumen sebagai bahan bukti sepertimana dalam surah al-Baqarah ayat 282:

(يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا دَأَبْتُمْ بِذُنُوبِكُمْ إِلَىٰ جُلُوسٍ فَكُتِبُوا هُوَ لِيَكْتَبَنَّ كَمَا تَبِيبُ الْعَدْلُ)

Maksudnya: Wahai orang-orang yang beriman! Apabila kamu menjalankan sesuatu urusan dengan hutang piutang yang diberikan tempoh sehingga ke suatu masa yang tertentu, maka hendaklah kamu menulis (hutang dan masa bayarannya) itu. Dan hendaklah seorang penulis di antara kamu yang menulisnya dengan adil (benar).

Selain itu Rasulullah SAW bersabda:

مَا حَقُّ أَمْرٍ لَهَا شَيْءٌ يُؤْصِي فِيهِ يَيْتُ لَيْتَيْنِ إِلَّا وَوَصِيَّتُهُ مَكْتُوبَةٌ عِنْدَهُ

Maksudnya: “Tidak ada hak seorang Muslim yang mempunyai suatu barang yang diwasiatkan, yang bermalam dua malam, kecuali wasiatnya itu ditulis (disaksikan) di sisinya”. (Al-Bukhāri, 1422. 3:186).

Nas-nas di atas secara jelas menyatakan pentingnya dokumen dalam wasiat. Sekalipun ayat di atas merujuk kepada kes berkaitan wasiat, ia tidaklah bermakna dokumen tidak boleh dijadikan bukti dalam kes-kes yang lain termasuk wakaf. Kenyataan ini merujuk kepada kaedah (العبرة بعموم السبب (اللفظ لا بخصوص السبب). Pengajaran diambil dari keumuman lafaz, bukan dari pengkhususan sebab”. Sabda Rasulullah SAW ini menunjukkan dokumen dapat dijadikan sebagai kaedah pembuktian dalam sesuatu pendakwaan. Kalau dokumen tidak dapat dijadikan bukti Rasulullah SAW tidak menyuruh seseorang itu menulis wasiatnya. (Ibn Qayyim,2007: 174). Menurut Ibn Ḥajar al-Asqalāni, sekiranya sesuatu maklumat itu penting, maka hendaklah ia ditulis, kerana tidak ada cara terbaik untuk menjaganya melainkan dengan cara menulis. (Ibn Ḥajar, 1996:9).

Ijmak ulama menyatakan, dokumen telah menjadi amalan sejak zaman khulafa' rasyidin dan pemimpin zaman silam lagi. (Ibn Qudāmah, 1996. 13:598).

Kebolehterimaan Dokumen Persendirian Dalam Pembuktian Menurut Undang-Undang Keterangan Islam

Para ulama berselisih dalam menerima dokumen sebagai bukti dalam sesuatu keterangan. Menurut jumhur ulama (Hanafi, Maliki dan sesetengah pengikut Syafie dan Hanbali), dokumen tidak dapat dijadikan kaedah pembuktian. (Al-Syīraziyy, 1995. 3:401, Ibn Farhūn, 1995. 1: 304, Ibn Qayyim, 1991. 1: 204 & Ibn Qudāmah, 1996:13: 605). Golongan ini berpendapat dokumen mudah ditiru, terdedah dengan dengan kepada pemalsuan dan terdapat persamaan catatan tangan antara satu sama lain.

Selain itu juga, nas-nas syarie menunjukkan kaedah pembuktian hanya berkisar kepada ikrar, kesaksian dan sumpah sahaja. Sekiranya dokumen diterima sebagai kaedah pembuktian bermakna penambahan masa akan berlaku. Ibn Qayyim dalam kitabnya “‘Alam al-Muwaqq’ in” merungkaikan kekusutan ini. Ibn Qayyim menyatakan setiap orang mempunyai seni penulisan tersendiri. Sehebat mana seseorang dapat meniru bentuk dan gaya tulisan, orang lain, ia tetap terdapat perbezaannya. Mereka yang telah dilatih dan terdedah dengan didedahkan mengesan pemalsuan tulisan atau, perkara bukanlah suatu yang sukar buat mereka. Maka di sini menunjukkan bahawa khidmat pakar boleh digunakan sekiranya timbul keraguan mengenai status keaslian sesuatu dokumen. Sekiranya pendapat pakar tidak dapat diterima, maka tiada faedahnya firman Allah SWT yang bermaksud: “*Maka bertanyalah kepada Ahli Ilmu (pakar) sekiranya kamu tidak mengetahui (sesuatu perkara)*”. (al-Nahl :43)

Selain itu juga, pendapat yang mengatakan kaedah pembuktian hanya berkisar kepada ikrar, kesaksian dan sumpah sahaja adalah tidak tepat. Perkataan (شَاهِدَاكَ أَوْ يَمِينَهُ) “*kesaksianmu atau sumpahmu*”, di dalam Hadith ini tidak menunjukkan kaedah pembuktian hanya kesaksian atau sumpah semata-mata. Kesaksian atau sumpah kerap disebut kerana ia yang paling banyak digunakan dalam pembuktian dan bukanlah bermakna kaedah-kaedah pembuktian lain ditolak. (Al-Syīraziyy, 1995. 3: 401 & al-Hasfakiyy, 2000. 8:152). Menurut mazhab Maliki, sesetengah riwayat Ahmad dan sesetengah ulama *muta’akhirīn*, (Ibn Farhūn, Muḥammad, 1995.1: 303, Ibn Qayyim, 1991: 173, Ibn Muflih, 2003. 11: 227 & Ibn Nujaim, 2002. 7:5). Dokumen merupakan kaedah pembuktian yang diterima syarak. Kenyataan ini berasaskan al-Quran, Sunnah dan akal.

Firman Allah SWT:

(يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدِينِكُمُ الْبِائِسَاتِ جُمُوعًا فَقَاتِبُوا)

Maksudnya: Wahai orang-orang Yang beriman! Apabila kamu menjalankan sesuatu urusan dengan hutang piutang yang diberi tempoh hingga ke suatu masa yang tertentu maka hendaklah kamu menulis (hutang dan masa bayarannya) itu.

(al-Baqarah :282)

Dalam ayat ini secara terang-terangan Allah SWT menyebut perintah dokumen (menulis)"فَاكْتُبُوا". Sekiranya dokumen tidak dapat dijadikan kaedah pembuktian, apa gunanya Allah SWT memerintahkan dokumen apabila transaksi hutang itu dibuat. Sabda Rasulullah SAW yang bermaksud:

"Tidak berhak seorang Muslim yang memiliki sesuatu yang diwasiatkan dan ia masih mempunyai kesempatan hidup selama dua malam melainkan hendaklah ia mempunyai wasiat yang ditulis". (al-Nawawi,1997. 11: 78).

Hadith ini menunjukkan bahawa Rasulullah SAW menggalakkan umatnya menulis wasiat dan juga dalam perkara lain untuk dijadikan bukti seperti wakaf. Berkemungkinan ahli waris tidak mengetahui bahawa seseorang telah mewakafkan hartanya, lebih-lebih lagi pewakaf telah meninggal dunia. Jika pewakaf telah meninggal dunia dan ahli waris pula tidak mengetahui bahawa si mati ada mewakafkan hartanya, maka dokumen bertulis ini akan menjadi buktinya. Kalaulah penulisan (dokumen wakaf) tidak penting dan tidak bernilai dari segi pembuktian, maka sudah tentulah Rasulullah SAW tidak akan menyuruh kita berbuat demikian.(Ibn Qayyim, 1991: 174). Keadaan ini menunjukkan bahawa dokumen dapat dijadikan hujah sama ada untuk dakwah atau pembuktian atau lain-lainnya termasuklah berkaitan wakaf (Salih Uthman Halil, 2001: 334).

Hasil penelitian terhadap kedua-dua pandangan, pendapat kedua yang mengatakan dokumen dapat dijadikan sebagai kaedah pembuktian lebih relevan kerana kekuatan hujah yang berasaskan keperluan manusia terhadap dokumen itu sendiri. Dokumen tidak dapat dijadikan sebagai kaedah pembuktian ia akan menyusahkan dan menyulitkan banyak urusan harian manusia seperti urusan jual beli, sewa menyewa, tempah menempah dan sebagainya. Penggunaan dokumen sebenarnya menepati prinsip-prinsip umum syarak iaitu memudahkan dan menghilangkan kesulitan bagi tujuan menjaga hak-hak tertentu.

Kaedah fikah ada menyebut (الكتاب كالخطاب) dokumen sama dengan lafaz dalam menzahirkan kehendak dan niat di hati. (al-Zarqā', 2007: 349). Kenyataan melalui dokumen bagi pihak yang tidak hadir terutamanya dalam perbicaraan sama seperti percakapan orang yang hadir. (Ibn ʿĀbidīn, 5:582, Al-Bahūtiyy, 2000. 6:387 & Ibn Qayyim, 1991: 174). Merujuk kepada pandangan ini,wakaf melalui dokumen persendirian dalam pembuktian dapat dijadikan bahan pembuktian dan diterima dalam keterangan di Mahkamah sekiranya terbukti keasliannya.

Konsep Dokumen Menurut Perundangan Islam

Menurut perundangan, dokumen dibahagikan kepada dua kategori iaitu dokumen awam (*kitabah rasmiyyah*) dan dokumen persendirian (*kitabah ʿurfiyyah*). Pembahagian dokumen menurut fiqh

dan perundangan adalah hampir sama, kecuali perbezaan dari segi istilah yang digunakan sahaja. Namun dokumen menurut perundangan lebih tersusun dan jelas, kerana pendedahan dan penggunaan dokumen lebih meluas berbanding zaman sebelum ini.

Sebelum penjelasan mengenai dokumen persendirian, huraian mengenai dokumen awam perlu dibuat kerana pemahaman mengenai dokumen awam mempunyai hubungan yang amat rapat dengan pemahaman berkaitan dokumen persendirian. Menurut Fiqh dokumen awam terbahagi kepada beberapa bahagian iaitu *Al-Barā'āt al-Sultaniyyah* (البراءات السلطانية) *Kitāb al-Qādi ila al-Qādi* (كتاب القاضي إلى القاضي) dan *Diwān al-Qādi* (ديوان القاضي)

Manakala menurut perundangan pula dokumen awam merupakan dokumen rasmi yang merupakan bukti yang kukuh di mahkamah. Dokumen Awam diterima oleh Mahkamah dalam keterangan tanpa mempersoalkan tahap kebolehpercayaannya, melainkan terdapat pihak-pihak berjaya menimbulkan keraguan terhadap keaslian dokumen tersebut. Sekiranya timbul keraguan terhadap dokumen rasmi, maka mahkamah akan meminta ia disahkan keasliannya terlebih dahulu termasuklah menggunakan pakar forensik. Dokumen awam dikeluarkan oleh pihak kerajaan atau pihak-pihak yang dilantik mewakili kerajaan. Antara contoh dokumen awam ialah kad pengenalan, sijil kelahiran, surat nikah, passport, visa, dan banyak lagi. Dokumen awam hanya dikeluarkan oleh pemerintah yang sah sahaja.

Menurut Seksyen 57 Akta Keterangan Mahkamah Syariah (Wilayah-Wilayah Persekutuan) 1997 dan Seksyen 74 Akta Keterangan 1950, Dokumen Awam perlu memenuhi tiga syarat, iaitu ianya hendaklah dikeluarkan oleh penjawat awam atau pihak-pihak yang dilantik khas oleh pihak kerajaan, hendaklah dikeluarkan oleh pegawai yang mempunyai bidang kuasa yang khusus mengenai dokumen yang dikeluarkannya, dan terakhir keluarannya hendaklah memenuhi ciri-ciri yang telah ditetapkan oleh undang-undang. Dokumen Awam yang telah memenuhi syarat-syarat yang telah ditetapkan, akan mempunyai nilai pembuktian yang kukuh dalam perbicaraan tanpa memerlukan pengakuan pihak yang mengeluarkan dokumen tersebut. Walau bagaimanapun, jika timbul keraguan yang munasabah pihak mahkamah akan meminta ujian saringan unruk mengesahkan keasliannya. (Nabīl Ibrāhīm Sa^cad, 2000: 117).

Manakala dokumen persendirian pula ialah dokumen yang tidak menepati syarat dokumen awam seperti yang telah dinyatakan dalam syarat-syarat dokumen rasmi. Bagi dokumen persendirian termasuklah wakaf, mahkamah hendaklah terlebih dahulu memerintahkan dokumen tersebut disahkan tahap keasliannya sebelum dijadikan bahan bukti dalam perbicaraan. Sekiranya seseorang itu meninggal dan di dapati dokumen persendirian yang memaklumkan bahawa hartanya tertentu telah diwakafkan, maka mahkamah akan meminta ia disahkan terlebih dahulu oleh pakar forensik seperti bentuk tulisan tangan, bentuk tandatangan kalau ada dan sebagainya. Dengan kata-kata lain, mana-mana dokumen yang tidak memenuhi syarat-syarat yang telah ditetapkan oleh Dokumen Awam, maka ia dianggap sebagai Dokumen Persendirian.

Dokumen persendirian ditakrifkan sebagai dokumen yang dibuat atau diterbitkan oleh pihak perseorangan tanpa melibatkan penjawat awam untuk membuat pengesahan. Walaubagaimanapun dokumen yang dikeluarkan oleh penjawat awam dikira juga sebagai dokumen persendirian sekiranya ia diterbitkan atas dasar individu dan bukannya berdasarkan jawatan penjawat awam yang dipegang. (Mustafa Majdi, 1991:177). Menurut Seksyen 58 Akta Keterangan Mahkamah Syariah (Wilayah-Wilayah Persekutuan) 1997 dan Seksyen 75 Akta Keterangan 1950, segala dokumen selain dokumen yang disebut dalam Seksyen 74 ialah dokumen persendirian. Justeru dokumen bertulis yang ditemui selepas kematian seseorang, adalah dikategorikan sebagai dokumen persendirian sekiranya tidak memenuhi syarat-syarat Dokumen Awam.

Dalam seksyen 9 (c) Enakmen Wakaf (Negeri Selangor) 2015 juga menyatakan dokumen amat penting dalam urusan wakaf untuk dijadikan bahan bukti apabila diperlukan:

“menyimpan dan memegang semua surat cara, dokumen hak milik atau dokumen lain yang berhubungan dengan mana-mana mawquf yang terletak hak pada Majlis”

Isu-Isu Dokumen Persendirian Berkaitan Wakaf

Pendaftaran Harta Wakaf (Mawquf) Menggunakan Dokumen Rasmi

Penggunaan dokumen persendirian bagi pihak yang berwakaf mengundang risiko yang tinggi terutama sekali jika pewakaf meninggal dunia. Jika keadaan ini berlaku, kebarangkalian timbulnya konflik adalah terlalu tinggi terutamanya jika anak-anak tidak menerima hakikat bahawa harta peninggalan telah diwakafkan sejak hayat si mati lagi. Tambahan pula, dokumen sokongan hanya bersifat persendirian dan keadaan ini tidak menguatkan sokongan bahawa harta tersebut telah diwakafkan. Akibatnya pewaris akan membuat tuntutan terhadap harta tersebut dan secara tidak langsung telah membantut hasrat asal pewakaf untuk di jadikan saham atau pahala berterusan selepas kematian nanti.

Untuk mengelakkan keadaan ini berlaku, pewakaf perlu mendaftar harta yang diwakafkan itu terutama harta agar harta tidak alih seperti tanah, bangunan dan seumpamanya di Majlis Agama Islam Negeri (MAIN). MAIN merupakan *mutawalli* dan pemegang amanah tunggal bagi harta wakaf. MAIN akan bertanggungjawab menjaga dan mentadbir harta wakaf dari disalah guna atau dicerobohi oleh mana-mana pihak melampaui dari syarat yang telah ditetapkan oleh pewakaf dipatuhi dalam seksyen 15 Enakmen Wakaf (Negeri Selangor) 2015:

(1) Mana-mana orang yang ingin mewakafkan hartanya sebagai mawquf boleh berbuat sedemikian dengan mengisi borang sebagaimana yang ditentukan oleh Perbadanan.

(2) *Mana-mana permohonan pendaftaran mawquf yang diterima oleh Perbadanan di bawah subseksyen (1) hendaklah didaftarkan oleh Pendaftar Wakaf dalam Daftar Wakaf dengan seberapa segera yang dapat dilaksanakan.*

(5) *Segala surat cara yang mewujudkan, yang menjadi keterangan, atau yang menyentuh mana-mana wakaf, berserta dengan mana-mana dokumen hak milik atau cagaran lain yang berhubungan dengannya, hendaklah dipegang dan disimpan oleh Ketua Pendaftar Wakaf.*

(6) *Walau apa pun subseksyen (2), tiada wakaf boleh menjadi tidak sah semata-mata kerana wakaf itu tidak didaftarkan.*

Apabila harta yang hendak diwakafkan telah di daftarkan bawah MAIN sudah tentu pihak MAIN akan mengeluarkan sijil atau dokumen yang bersifat rasmi untuk mengesahkan bahawa harta tersebut telah diwakafkan. Dokumen rasmi akan dijadikan bukti yang kuat oleh mahkamah jika berlaku penafian atau pencerobohan oleh mana-mana pihak-pihak terhadap harta wakaf. Berbeza dengan dokumen persendirian ianya perlu terlebih dahulu disahkan keasliannya sebelum diterima sebagai bahan bukti sekalipun tidak ada pihak yang mempersoalkan statusnya.

a. *Wakaf Tidak Boleh Dibatalkan*

Harta yang diwakafkan tidak boleh dibatalkan dengan sewenang-wenangnya. Namun , wakaf yang menggunakan dokumen persendirian mempunyai risiko akan berlakunya pembatalan wakaf kerana keaslian sesuatu dokumen persendirian boleh dipertikaikan. Masalah ini akan dapat diselesaikan jika ia didokumenkan dengan mengguna dokumen rasmi. Pewakaf tidak boleh membatalkan sesuatu yang diwakafkan sesuka hati dan ia bertepatan dengan matlamat pensyarian wakaf itu sendiri. Seksyen 17 Enakmen Wakaf (Negeri Selangor) 2015 ada menyatakan *Sesuatu wakaf yang disempurnakan menurut Hukum Syarak tidak boleh dibatalkan oleh waqif.*

b. *Wasiat Untuk Berwakaf Dengan Dokumen Persendirian.*

Wasiat merupakan amalan yang disyariatkan dalam Islam sepertimana firman Allah SWT:

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةَ لِلْأَوْلِيَّةِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

Maksudnya: “Kamu diwajibkan, apabila seseorang dari kamu hampir mati, jika ia ada meninggalkan harta, (hendaklah ia) membuat wasiat untuk ibubapa dan kaum kerabat dengan cara yang baik (menurut peraturan agama), sebagai suatu kewajipan atas orang-orang yang bertaqwa” (al-Baqarah : 180)

Wasiat dalam ayat di atas boleh merujuk kepada wakaf yang ingin dibuat oleh seseorang selepas kematiannya sekalipun menggunakan dokumen persendirian dengan syarat wakaf tersebut terpakai selepas kematian pewakaf dan harta yang diwakafkan melalui wasiat pula hendaklah mendapat persetujuan ahli-ahli waris yang berhak mendapat harta pusaka serta harta wakaf yang

diwasiatkan itu tidak melebihi satu pertiga dari harta pusaka pewakaf. Dalam Enakmen Wakaf (Negeri Selangor) 2015, Seksyen 33 menyatakan bahawa:

- (1) Mana-mana orang yang berhasrat untuk berwakaf boleh mewujudkan suatu wakaf secara wasiat dan hendaklah mula berkuat kuasa selepas kematiannya.*
- (2) Seseorang wasi yang telah dilantik hendaklah melaksanakan wakaf secara wasiat yang dibuat oleh waqif.*
- (3) Wasi hendaklah, selepas kematian waqif, mendapatkan persetujuan daripada semua waris untuk melaksanakan wakaf itu sekiranya waqif menamakan waris sebagai penerima wakaf secara wasiat.*
- (4) Wasi hendaklah, selepas kematian waqif, mendapatkan persetujuan daripada semua waris untuk melaksanakan wakaf tu sekiranya waqif menamakan bukan waris sebagai penerima wakaf secara wasiat yang melebihi satu pertiga daripada harta waqif.*
- (5) Wakaf secara wasiat hendaklah dilaksanakan menurut peruntukan Enakmen ini.*

Dalam Seksyen 34 Enakmen Wakaf (Negeri Selangor) 2015 pula menyatakan:

Mawquf yang diwakafkan melalui wasiat kepada bukan warisnya hendaklah tidak melebihi satu pertiga daripada jumlah harta peninggalan waqif setelah ditolak hutang dan apa-apa tanggungan mengikut Hukum Syarak, kecuali dengan persetujuan semua waris.

Penggunaan dokumen persendirian ketika berwasiat untuk berwakaf adalah dibenarkan syarak. Namun ia tetap mengundang permasalahan pada masa akan datang sekalipun wasiat telah dibuat menepati syarat dan rukun wasiat yang telah ditetapkan syarak seperti harta yang diwakafkan itu tidak melebihi sepertiga. Antara permasalahan yang timbul di sini ialah dipertikaian ahli waris mengenai status wasiat bagi tujuan wakaf yang telah dibuat oleh si mati. Kadangkala pihak mahkamah menerima wasiat berwakaf yang dibuat oleh si mati dengan hanya menggunakan dokumen persendirian yang disaksikan oleh dua orang saksi sebagai memenuhi syarat-syarat sebagai saksi seperti yang ditetapkan syarak. Walaupun begitu tetap terdapat risiko masih berlaku terutama jika saksi yang tercatat dalam dokumen itu pun meninggal dunia.

Namun terdapat juga dokumen itu asalnya bersifat persendirian iaitu hanya dicatat dengan tangan dan dalam dokumen tersebut mengandungi maklumat yang mencukupi seperti Nama pencatat, dua saksi dan disahkan tahap keasliannya oleh mahkamah, maka ia boleh diterima sebagai bukti berwakaf. Walau bagaimanapun penggunaan dokumen rasmi seperti dokumen yang disediakan oleh peguam adalah lebih terjamin dan kekuatannya dalam pembuktian lebih kuat dan

meyakinkan. Cuma penggunaan khidmat peguam terpaksa melibatkan kos agak tinggi dan ia merupakan halangan bagi pihak yang kurang berkemampuan.

Pengesahan keaslian dokumen

Dokumen rasmi dapat diterima sebagai bahan bukti di Mahkamah tanpa perlu terlebih dahulu melalui saringan tahap keasliannya melainkan jika pihak-pihak berjaya menimbulkan keraguan tentang status keasliannya. Keadaan ini berbeza dengan dokumen persendirian, ia perlu disahkan terlebih dahulu sebelum diterima sebagai bahan bukti termasuklah dokumen berkaitan dengan wakaf. Dalam Islam pengesahan sesuatu dokumen dibuat dengan empat peringkat iaitu Ikrar atau pengakuan pewakaf, kesaksian, pendapat pakar dan akhir sekali melalui keterangan bersumpah.

KESIMPULAN

Hasil perbincangan daripada ke atas kerja ini menunjukkan, bahawa dokumen merupakan salah satu kaedah pembuktian yang diterima oleh syarak termasuklah dokumen berkaitan wakaf. Sekiranya wakaf dibuat melalui dokumen rasmi, isu penipuan, pembatalan dan pertelingkahan dengan ahli waris selepas kematian pewakaf tidak akan berbangkit. Sebaliknya, wakaf yang menggunakan dokumen persendirian terdedah kepada banyak masalah di kemudian hari khususnya setelah pewakaf meninggal dunia. Namun begitu jika semua ahli-ahli waris bersetuju dengan dokumen wakaf persendirian yang ditinggalkan oleh pewakaf maka isu perbalahan dapat diselesaikan.

Sikap berhati-hati dari terhadap sebarang pertelingkahan berkaitan dengan harta wakaf ini adalah amat dituntut. Maka lebih baik setiap harta yang ingin diwakafkan perlu didaftarkan sebagai dokumen rasmi di MAIN untuk mengelakkan sebarang perselisihan di kemudian hari. Ini kerana MAIN merupakan *mutawalli* atau pentadbir atau penjaga harta wakaf daripada sebarang perceroohan dan penyalahgunaan. Orang awam juga perlu didedahkan mengenai kepentingan pendaftaran harta wakaf dengan menggunakan dokumen rasmi. Ini bagi menjamin pewakaf untuk menjadikan harta wakaf sebagai saham apabila bertemu dengan Allah SWT nanti akan tercapai.

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EW060:
**THE CONCEPTUAL FRAMEWORK OF AL-TAWRIQ AND A
SCHOLARLY DISCUSSION ON THE LIQUIDATION (AL-SUYULAH) OF
WAQF ASSETS**

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Abstract

Lack of financial resource had led waqf assets / land development remain idle or unproductive. Al-Tawriq (securitization) is an innovative financial instrument to mobilize a range of secured assets of debt by transforming it from debt to enhanced credit, and then presenting to the public through a specialized way for subscription in the form of securities, in order to minimize risks and to ensure the continued flow of liquidity (al-Suyulah). This paper will explore the conceptual framework and conduct a fiqh discussion on the principles of Tawriq in liquidating (al-Suyulah) waqf assets which can be employed in the waqf financing and development problem. Remarkably, it has proven that liquidating of waqf assets was done and with proper documentation, obtaining cash (al-Suyulah) is permissible and these were applied in solving the waqf financing and development problem in Islamic history. This paper finds that there several conditions that should be met before allowing the liquidity of waqf assets and they are: 1) The Maslahah or general good and daruriyah in allowing the liquidity of waqf assets 2) Madhahib thought of provisions which allows for the sale, exchange / and or lease of waqf property 3) permissible of sell and the need with order from the court, sale of waqf property is permissible. On top of that, an important illah permission is vital to be consider in liquidating the waqf assets such as waqf revenue was inadequate to cover repair cost or lack necessary fund for repairs. This content analysis provides a theoretical foundation that there alternative ways to unlock the waqf assets. Thus, new insight to innovation financial instrument will give an impact to the enhancement of Bumiputera economic equity possession's policy.

Keywords: Liquidation of waqf assets, Waqf financing, securitization.

INTRODUCTION

Since the early years of independence, the government has implemented numerous policies including the New Economic Policy (NEP) and the latest policy namely National Transformation Policy (NTP). However there has not been significant improvement in Bumiputera capabilities in

terms of equity possessions. Thus, in the Eleventh Malaysia Plan 2016 – 2020 (RMK-11) has been outline with continuous commitment in enhancing Bumiputera economic community opportunities through its strategies. Among others, by the end of the Eleventh Plan, the government wants to increase Bumiputera corporate equity ownership with effective control to at least 30% (The Star, 21 May 2015; Eleventh Malaysia Plan 2016-2020). Until 2008 for example, the Bumiputeras only hold the equity of ownership around 21.9% compared to 36.7% non-Bumiputeras, while foreigners and nominee ownership are 41.4%. (Tenth Malaysia Plan 2011-2015). Thus, focusing on specific area of waqf, Yayasan Wakaf Malaysia, state Islamic religious councils, and other Bumiputera-based institutions will collaborate to develop Malay reserve and waqf land to unlock value while retaining Bumiputera ownership (Eleventh Malaysia Plan 2016-2020).

The Ninth Malaysia Plan 2006-2010 stated that *Wakaf*, *baitulmal* and *zakat* resources will be appropriately mobilized towards enhancing the development of Bumiputera and other Muslims during the plan period. Emphasis will be given to develop waqf land within the commercial urban areas of Johor Bahru, the Klang Valley and Pulau Pinang. The development programme will involve integrated redevelopment of housing settlements with infrastructure and economic facilities, including business and industrial premises on waqf land. The *Jabatan Wakaf, Zakat dan Haji* will coordinate the establishment of a new entity with the participation of State Religious Islamic Councils to implement programmes to develop *wakaf* and *baitulmal* land into viable economic investments and thus, contribute to the development of the BCIC. In addition, the database on waqf, *zakat* and *baitulmal* resources will be enhanced (Ninth Malaysia Plan 2006-2010).

However, lack of financial resource had led waqf land development remain idle. For example in the case of Mukim Panchang Bedena, Sabak Bernam, Selangor, 25 acres of waqf land was left idle and not cultivated due to lack of financial resources. The Surau committee of the district was supposed to use the land for oil palm cultivation at a cost of RM 26,000.00. However, the proposed project was delayed because the committee did not have enough funds to take on the development project. On top of that, another project worth RM 1.5 million involving the construction of houses to be rented out also failed due to lack of capital. This projects was under the purview of the office of mosque in the area of Meru and is viewed as most viable and can potentially benefit the society (Razali Othman, 2015).

The main issue in these methods of development is on the protection and security of the waqf assets. Waqf assets are either owned by Allah SWT or by the beneficiaries (in accordance to different opinions of Islamic jurists) and hence, the transfer of the ownership of waqf assets either through *ibdal* or *istibdal* is highly unfavourable from the fiqh perspective but it allows for improvements in the methods of developing waqf assets to be made. However, there are Islamic scholars and jurists who permit the practice of *ibdal* and *istibdal*, there are, however, several

conditions that should be fulfilled. Some Islamic schools of law have a very strict guidelines on the practice of *ibdal* and *istibdal* (Jalil, A, 2008). Apart from the *Istibdal* method, another practical method to be considered is *Tawriq*. This paper will explore the conceptual framework and conduct a fiqh discussion on the principles of *Tawriq* in liquidating (*al-Suyulah*) waqf assets which can be employed in the waqf financing and development problem. It may be a viable solution at this point in time.

DEFINITION OF AL-TAWRIQ AND AL-SUYULAH FROM THE SYARIAH PERSPECTIVE

Tawriq is an Arabic word literally meaning “issuing paper” and the *masdar* word of *warraqa* means paper (Mu’jam al-Ma’ani al-Jami’, 2016). *Tawriq* is Arabic for securitization. It’s the process of issuing certificates that represent debts and loans (generally any type of obligation). The issued certificates (or securities) can be traded in financial markets like stocks and bonds. In this sense, the underlying debts and loans are actually traded as assets. The securitization process need not be limited to debts, but rather it can be undertaken to divide ownership of tangible assets, usufruct (*manfa’ah*) or both into units of equal value, and then to issue securities representing their values (Investment and Finance Encyclopedia, 2016).

Tawriq is a unique product of Islamic securitization model within the Islamic financial system. It is the conversion of *Syariah* compliant deferred debt that originated from the contract of exchange of *Syariah* compliant assets into tradable paper that can be traded in the secondary market (Razi Pahlavi Abdul Aziz & Anne-Sophie Gintzburger, 2009).

Al-Tawriq (securitization) is an innovative financial instrument to mobilize a range of secured assets of debt, by converting it from debt to enhanced credit, and then presenting it to the public through a specialized way for subscription in the form of securities in order to minimize risks and to ensure the continued flow of liquidity (*al-Suyulah*) (Ajil Jasim al-Nasyami, undated).

Al-Suyulah is defined as the capacity of an individual or a company to convert assets into cash (*al-Suyulah*) or the immediate ability to meet one’s financial obligation (Mohd Daud Bakar, 2008). According to Mohd Daud Bakar (2008), this definition gives the impression that liquidity is a process of converting assets into cash or cash equivalents and the process must not lead to significant loss. Liquidity varies in purpose. In the finance sector for example, liquidity is the bank’s ability to meet any unexpected demands for cash from its depositors. Thus, liquidity is parallel to the term ‘solvency’ i.e. the ability to meet debts due to a situation where a bank’s current assets exceeding its current liabilities. The term *Tawriq* was an inspiration from in al-Quran in Surah al-Kahfi verse 19:

قَالُوا فَابْعَثُوا أَحَدَكُمْ بِوَرِقِكُمْ هَذِهِ إِلَى الْمَدِينَةِ فَلْيَنْظُرْ أَيُّهَا أَزْكَى طَعَامًا فَلْيَأْتِكُمْ بِرِزْقٍ مِنْهُ
رَبُّكُمْ أَعْلَمُ بِمَا لَبِثْتُمْ

“Allah (alone) knows best how long ye have stayed here. Now send ye then one of you with this money of yours to the town: let him find out which is the best food (to be had) and bring some to you...”

The word of “*wariq*” according to Yusuf Ali was translated as money in general, while in Shah International and Shakir translations and to the majority of Tafser scholars, it means silver; either official currency (coins or just silver that could be accepted to be traded and exchanged in the market). Thus, it can be implicitly stated that the word “*wariq*” means giving something in cash (Khairun Najmi Saripudin, 2013).

Abi Bakar Muhammad (undated) narrated the opinion of Imam Abu Hanifah mentions that the unmovable assets (العقار) are allow to use *Tawriq* as unmovable asset are absent from “possession” (يقبض) issues and cannot be transferred (ولا ينقل) as the asset is well known and unmovable. In other words, unmovable asset is not full filling the prohibition which is no liability with possession (لا يضمن بالقبض). This opinion confirms the fact that unmovable assets are allowed to become assets backed in *Tawriq* transactions. Thus, *Tawriq* is suitable and permissible to be applied in association to the waqf assets.

According to (Ajil Jasim al-Nasyami, undated), there are two types of application of the principles of *Tawriq*. The first is securitizing debt based on currency and secondly, securitizing debt based on commodity. The debt that based on deferred payment in currency, the whole Fiqh Scholar was agree that this is prohibited and not permissible (على عدم جواز). The only option are allow is the second type of application which is securitizing debt based on commodity. Commodity is the best-selling characteristic in disclosure, possession with specific characteristic and value identified ; such as agriculture product, animal, derivatives or industries such as metal (iron or steel), cement, automobile, aircraft or product from raw materials like natural gas or semi-processed oil etc. Imam Ahmad says that issuing *Tawriq* for commodity items is allowed. This opinion was agreed by Ibn Taymiyyah and Ibn al-Qayyim. Imam al-Syafie also says that selling debt with deferred payment from non-debtor invaluable with deferred price in avoiding the riba. Imam Malik also agrees that permission the trading as long as not selling food items. Another criteria is absent from gharar, riba, and some of other prohibition, restriction and *syariah* compliance.

Characteristic of *Tawriq*

(Ajil Jasim al-Nasyami, undated), mention that, *Tawriq* specifically are debt or debit debt (received in future). *Tawriq* is covered in all type of permissible goods whose ownership is

permitted in *Syariah* and also debt of Murabah, Istisna' and Salam with regards to *syariah* issues on these debt. *Tawriq* is the possession of the ownership from the originator to the beneficiary based on legal interpretation used. There are three conditions for possession from the origin of sale so that the condition of actual sale can be needed. These are:

- a) The transfer must be in such a way that nobody can take it away because it is a loan meant to be paid in the future. It cannot be converted to a lease or the originator cannot in any way use the property or sell it to another party.
- b) The transfer must be in total and at the same time and on a condition based on the originator's condition.
- c) The sale must be in such a way that is different from any pledges on the property made before the sale.

Mohd Daud Bakar, 2008 conducted an in-depth analysis on the research of *al-Suyulah*. One interesting precedent found was that the concept of *al-Suyulah* or liquidating the waqf assets had been documented in the history of Islamic commercial activities in the case of mursad or khulu' loan in the area of waqf (endowment) law. This finding has shed light on the application of ways in solving the waqf financing and development problem and provide solution in the current and modern world. Thus, this article will look into the scholarly discussion on the conditions that allow the selling or liquidating the whole or parts of the waqf assets for maintenance or development project.

THE ANALYSIS OF SCHOLAR DISCUSSION ON THE LIQUIDATING (AL-SUYULAH) OF WAQF ASSETS

In this section, efforts will be made to explore the scholars' view in selling, leasing or exchanging the waqf property in order to enhance its benefits. The discussion will include various instances in which the *qadi* or any party in the authority permits a transaction in a *syariah* compliant manner of all or any part of the waqf property so that its mission, aims and objectives can be protected to the perpetuity, a relevant examples based on the real cases will be cited. We will also cite an example of using *Tawriq* instruments to liquidate some or all parts of the waqf property for the purpose of its development.

As a general rule, it may state the private alienation, temporary or absolute, by mortgage or otherwise, selling of waqf lands, even though for the repair or other benefit of waqf, is illegal according to Islamic law. However, where it is necessary for the purposes of the waqf, the qadi and authorize a sale, or vary the rules of management of the waqf, even where this has been expressly forbidden by the founder, the qadi may 1) authorize contracting debts for repairs of the property, or for payment of taxes when there is no income or means of paying them out of the waqf 2) mortgaging the dedicated land of its produce by way of security for debts so contracted 3) selling part of the dedicated land for the purposes above mentioned (Mohd Zain Othman, 1982).

***Maslahah* or general good and *daruriyah* in allowing the liquidity of waqf assets**

The primary issue that will be dealt with regards to the waqf assets is the concept of “*Maslahah*” or “general good” of the waqf. The most important work of the *mutawalli* and indeed the only reason for his employment is the existence of the *Maslahah* of the Waqf. What is understood by the “general good” is mainly defined by the formal waqf deed of the donor, all the conditions set out there are once validated binding on the *Mutawalli*; i.e should the founder stipulate that the waqf should never be sold, lent, rented or exchanged then the *Mutawalli* must abide by these stipulations. On the other hand; if the founder makes a condition that the land can only be disposed of in a specified manner or that the waqf income is to be used to acquire another property, then such directions must be abide by the *mutawalli*. If he violates such a condition thereby subvert the good of the waqf then he must be liable for dismissal by the appropriate authority or qadi (R.D. McChesney, 1991).

In some cases where explicit stipulations were not laid down, the *mutawalli* by definition a judicious and capable person; has the authority to manage the waqf in its best interest in line with the rules and regulations found in the authoritative law manuals at that time and always the judicial review is required he can exercise his power based on the *Maslahah* of the Waqf. For the donor, the overriding concern (After the validation of the Waqf) must be the object of which the waqf was founded. Since he cannot know what conditions may exist after his demise, and since his intention is to ensure that the waqf continue to be of benefit its intended recipients, whether it is mosque, school or social services like hospital, there is small point in arbitrarily limiting the efforts of the administrators to achieve such purposes; in certain cases, provision can be made of the depreciation of waqf land in the waqf deed itself. In the other case, a slave given as waqf together with a real property in the form of land on which the slave used to work on, the *Mutawalli* could sell this slave when he is old and use the price to buy a younger slave for the “*Maslahah*” of the Waqf; to continue to serve its purposes (R.D. McChesney, 1991).

Ron Shahem (2006) he expressed based on the classical views of the past scholars a situation in which waqf property can be sold or leased; in order to ensure its continued existence. In particular he cited the case in which in 1858 Ottomon land law determined full categories of land, some of them are completely privately owned land (*Mulk*) waqf and miri. Miri land can be transacted under certain restrictions, but the buyer of such land was entitled only to usufruct right and the consent of the sultan is required to turn the miri land into *mulk* in a procedure known as *Tamlik*. The purpose of this was to ensure that the land will be cultivated and if neglected the state will reclaim it. Furthermore in another occasion; it was mentioned that two major reasons/justifications to legitimize transactions of waqf assets were *maslaha* or *manfaa*-benefit for the endowment and on the other hand *darura*-necessity regarding the physical or economic condition of the estate (Qadri Pash 1902 and Abu Zahra 1972 cited by Ron Shahem, 2006).

***Madhahib* Thought of provisions which allow for the sale, exchange/and or lease of waqf property**

The power of the manager of waqf to sell the waqf property, a subsidiary issue to the welfare of the waqf, has drawn the attention of many observers; who in the absence to the contrary assume that the waqf property is inalienable. It is very common to find such statements like “it is well-known that the sale, exchange or any other alteration in the status of the waqf property is forbidden by the *syariah*. Sometimes even when the writer has evidence to counter this statement, such statements surely are reasonable especially given the importance placed by the Quran and sunnah on the stability and permanent nature of the waqf and the straight forbidden of sale of many if not all of the waqf placed by the waqf deeds. But the same sources also offered an alternative to alter the states of the waqf property validly. In the Hanafi manuals current at Balkh’ in the period of his study, there are many provisions which allow for the sale, exchange/and or lease of waqf property regardless of whether stated explicitly in the waqf deed or not in as much as there is a *maslaha* for the waqf property (R.D. McChesney, 1991).

The discretionary power to sell, lease or exchange waqf property subject to the donor condition is not just unlimited but such action must be backed by another authority, in some texts the government role in such cases was implied by the frequent references. In the fatwa works in particular, to the qadi-judge and his decisions, in certain aspects it appears where there are discussions of the conditions which makes the waqf deed null and void and it can be altered based on the Maslaha of the Waqf (R.D. McChesney, 1991).

Permissible of Sell and the need for order of the court

Andeson, (1995) stated that, when there is a maslahah, the waqf land can be sold under agreeable conditions but there is need for a court order. He further noted that; when the necessity for the sale of waqf comes before the waqf commissioners, the shafi’i Qadi leaves it to his Ibadi colleagues to take the action of stating the allowance and then subsequently he supports such action.

Based on the above; two major methods of alienating waqf assets were legitimized by the jurists under these circumstances; the first was leasing the waqf property for a long period in a variety of forms (Sukuk based on Ijara contract), the second method is to abandon the interpretations of viewing the assets as absolute perpetual element and allow under certain conditions the exchange or even the sale of the property as a means of ensuring the charitable purpose of the waqf. Thus, the income generated from the waqf can be used to fund the perpetual charity of the waqf and satisfy its eternal nature. This second method is called *istibdal* or long-term lease or even sale of waqf property were common practices in Palestine and were authorized by Muslims religious authorities even when the buyers were Jews or other non-Muslims (Ron Shahem, 2006).

There are some examples that showed that some of the waqf properties in fact were sold with the approval of established religious figures, these evidences were taken from the *syariah* courts i.e. under the British rule between 1917-48, 32 out of 56 real estate transactions in Jerusalem involved the waqf properties that changed hands through *Istibdal bil- darahim*. In most cases, the waqf sold unused urban land and invested the proceeds in the constructions of new buildings for the waqf in another vacant plots in its possession or in purchasing houses or warehouses. One of these transactions was a sale by the family waqf of *Ali-Karim al-din al-namiri* of a twenty-dunam street in Jerusalem to the English sports association for use as an athletic field. The Qadi who permitted the transaction was employed by the SMC which also approved the sale; in addition; there are many instances where waqf properties were sold with the approval of Qadi (Ron Shahem, 2006).

In another example; two large urban plots belonging to the Ali pasha waqf in acre were sold to the Bahas, one in 1962 (6.5 dunams in a village east of acre) and other in 1974 (6 dunams in acre, al-majadala neighbourhood). In another case, the Qadi approved the sale of waqf House in Haifa without asking the price or the name of the buyer, who was a Jew, in his records, he wrote that he relied on the judgment of the administrators' attorney, who also happened to be a Jew and that the sale will benefit the waqf. The attorney was interested in selling the house without committing himself to a specific purchase and the Qadi separated between the two parts of the *istibdal*, selling and buying by granting the waqf administrator general permission to sell and specific permission to buy and vice-versa. In an interview conducted with Qadi who authorized these transactions, he expressed his motivation as satisfying present day economic requirements. That is maximizing the waqf profits. In so doing, the Qadi eased the restrictions on selling waqf assets according to market needs, even when the buyers of the waqf estate were non-Muslims (Ron Shahem, 2006).

THE APPLICATION OF *AL-SUYULAH* AS A SOLUTION AND A PROPOSAL FOR *TAWRIQ* DOCUMENTATION

The application of *al-Suyulah* for waqf assets has been well documented in history. The selling, leasing or exchanging the waqf property in order to liquidate the waqf assets is permissible with the qadi's permission and the illah that been support the permission granted the liquidating process. Table 1 summarizes the evidence in terms of date, case name, illah, permission granted and the solution.

Table 1: The Evidence of al-Suyulah Solution in History

Date	Case	Illah	Permission granted – documentation	<i>Al-Suyulah</i> Solution
26 th Ramadan 1205 (May 29, 1791)	Kamal ad-Din Hamzah Zadah	Waqf revenue were inadequate to cover repair cost for this dar located in the <i>an-</i>	Registered according to the <i>Hanafi madhhab</i> , also in <i>al- Awniyyah</i> court, mention that a mursad had been	The tenants of this dar loaned/owed 5,075 <i>qirsh fiddah sahihah mahallan</i> annually, they were

		<i>Nahhasin</i> section of the <i>al-Amarah</i> district in Damascus.	arranged 2 years previously on one of the houses (dar) in the waqf.	to pay only 5 <i>masari</i> . Their <i>mursad</i> was be repaid by a reduction in the future rent.
1797 - 1798	Waqf al-Usqifah in Bab Tuma in Damascus	Lacked necessary funds for repairs	Registered the document according to the Hanbali and Hanafi Madhhab in the Kubra court. With the permission of the qadi the <i>mursad</i> was to be repaid by a sublease on the building.	Advance <i>mursad</i> loan of 110 and ½ <i>qirsh</i> and 8 <i>masari fiddah sahahah saghah miriyyah</i> . The loan was to pay for repairs to the wooden ceiling of the structure.
1797-98	Waqf al-Usqifah Mosque in Bab Tuma in Damascus.	Lacked necessary funds for repairs	Registered according to Hanbali and Hanafi in <i>al-Kubra</i> court.	Tenant 3 storeyed building in the waqf advances a <i>mursad</i> loan of 110 and ½ <i>qirsh</i> and 8 <i>msari fiddah sahahah saghah miriyyah</i> .

Source: Randi Deguilhem-Schoem (undated)

Based on table 1, the application of *al-Suyulah* for waqf assets was well documented in history. The selling, leasing or exchanging the waqf property in order to liquidate the waqf assets is permissible with the qadi's permission and registered according to specific madhhab and document in specific court.

CONCLUSION

The commitment to raise Bumiputera capabilities through equity possessions is the main agenda to enhance progress of the ummah and Waqf has been identified as an excellent instrument to be explored. However, due to lack of financial resources waqf land development has been negligible. *Al-Tawriq* (securitization) is an innovative financial instrument to mobilize a range of secured assets of debt by transforming it from debt to enhanced credit, and then presenting to the public through a specialized way for subscription in the form of securities, in order to minimize risks and to ensure the continued flow of liquidity. This paper finds that there several conditions that should be met before allowing the liquidity of waqf assets and they are: 1) The *Maslahah* or general good and *daruriyah* in allowing the liquidity of waqf assets 2) *Madhazib al-Arba'* thought of provisions which allows for the sale, exchange / and or lease of waqf property 3) permissible of sell and the need for order of the court/With order from the court, sale of waqf property is permissible. On top of that, an important *illah* permission is vital to be consider in liquidating the waqf assets such as waqf revenue was inadequate to cover repair cost or lack necessary fund for repairs. History has proven that liquidating of waqf assets was done and with proper documentation, obtaining cash (*al-Suyulah*) is permissible and these were applied in solving the waqf financing and development problem. Thus, the same method should be

formulated by using proper documentation termed *al-Tawriq* as a solution to the problems plaguing the current and modern world not only for waqf land, but also ‘Tanah Adat’ (Customary Land) and unclaimed inherent land. .

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BS061:
**PENUBUHAN MINI BAITULMAL DI MASJID-MASJID TERPILIH
DALAM AGENDA STRATEGI LAUTAN BIRU DI NEGERI SEMBILAN**

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Abstrak

Baitulmal merupakan sebuah institusi kewangan awam terpenting dalam sejarah tamadun Islam telah bermula sejak zaman Rasulullah s.a.w. Namun peranan dan fungsi Baitulmal di Malaysia dilihat kurang efektif dalam memenuhi keperluan masyarakat terutamanya daripada segi pengurusan dan pengagihan. Antara isu utama yang akan dilihat dalam kajian ini adalah terdapat persepsi dan kekeliruan masyarakat tentang fungsi sebenar Baitulmal, karehna birokrasi dan pentadbiran Baitulmal yang berpusatkan secara eksklusif di bawah Majlis Agama Islam Negeri. Oleh itu, satu penilaian komprehensif perlu dibuat bagi memperkukuhkan dan mentransformasikan fungsi serta peranan Baitulmal supaya ia dapat memberi impak yang positif terhadap kedudukan sosio-ekonomi umat Islam di Malaysia. Fokus kajian ini ialah untuk menilai semula resolusi Baitulmal kebangsaan dan bagaimana menterjemahkan resolusi ini dalam bentuk yang boleh digunakan pakai dan dilaksanakan. Kajian akan menggunakan kaedah kualitatif melalui kaedah analisis dokumentasi dan cadangan pelaksanaan. Di akhir kajian, antara pelaksanaan yang boleh diterjemahkan hasil resolusi adalah dengan mewujudkan strategi lautan biru dengan melibatkan sinergi pelbagai pihak antaranya melibatkan Bank Muamalat Malaysia Berhad sebagai penyedia perkhidmatan kewangan, Institusi masjid sebagai pusat sehenti Mini Baitulmal yang akan memainkan peranan dan fungsi Baitulmal serta Universiti Awam sebagai penilai kepada pelaksanaan, kesediaan dan penerimaan masyarakat setempat terhadap cadangan penubuhan Mini Baitulmal ini. Penemuan ini mempunyai implikasi terhadap polisi dan cadangan dalam menghasilkan keperluan manual tabdir urus Mini Baitulmal di Malaysia.

Kata Kunci: Baitulmal, Perbendaharaan Islam, Pengurusan Kewangan Masjid, Ekonomi dan Kewangan Islam

PENGENALAN

Kewujudan dan zaman kegemilangan Baitulmal telah bermula sejak daripada zaman pemerintahan Rasulullah SAW dan ia bertindak sebagai sebuah institusi pemegang amanah bagi umat Islam. Melalui institusi Baitulmal, segala hasil perbendaharaan negara pada waktu itu termasuklah sumbangan daripada hasil rampasan perang, zakat, badan amal malah cukai telah

diuruskan (Dayang & Mustafa Omar, 2012). Institusi Baitulmal juga berperanan dalam membangunkan sosio-ekonomi masyarakat dalam sesebuah negara yang bertujuan untuk mewujudkan kestabilan dan pembangunan ekonomi masyarakat (Mahamad & Mohd Farihal Osman, 2009; Osman, Tayib Ahmad & Ahmad, 2014). Fungsi Baitulmal ini selari kisah yang terjadi di zaman Nabi Yusuf AS seperti mana yang dicatatkan dalam Al-Quran yang bermaksud :

“Yusuf berkata: Jadikanlah aku pengurus perbendaharaan hasil bumi (Mesir); Sesungguhnya aku sedia menjaganya dengan sebaik-baiknya, lagi mengetahui cara mentadbirkannya.”
(Yusuf:55)

Pengajaran daripada ayat di atas adalah mengenai urus tadbir yang dilaksanakan oleh Nabi Yusuf AS dengan mewujudkan perbendaharaan (Baitulmal) yang berperanan dalam mengurus hal ehwal kewangan negara, khususnya sebagai persediaan dalam berhadapan dengan krisis ekonomi yang disebabkan oleh kemarau yang panjang, ini bertujuan untuk memelihara dan melindungi rakyat Mesir daripada kesan ketidakpastian ekonomi seperti kelaparan dan kemiskinan (Osman, et al., 2014). Urus tadbir yang baik dan berkesan amat diperlukan bagi mengembalikan semula kegemilangan institusi Baitulmal sebagai sebuah institusi yang mengurus dan mengagih perbendaharaan umat Islam.

Perkembangan Baitulmal Berdasarkan Sejarah

Pada zaman pemerintahan Rasulullah SAW, pengurusan dan pengagihan harta Baitulmal dilaksanakan sepenuhnya oleh khalifah Islam yang dikenali sebagai *WaliyyulAmri* dengan kebenaran dan arahan daripada Rasulullah SAW. Namun, adakalanya harta tersebut diagihkan sendiri oleh Rasulullah SAW terutamanya apabila selesai sebuah peperangan dan agihannya adalah berdasarkan kepada kepentingan umat Islam. Sumber utama Baitulmal pada ketika itu adalah daripada hasil harta rampasan yang diperolehi dalam peperangan tersebut dan ia dikenali dalam Islam sebagai harta *ghanimah* (Dayang & Mustafa Omar, 2012; Zallum, 1983).

Secara amalnya, Rasulullah SAW tidak pernah menyimpan harta rampasan tersebut untuk jangka masa yang lama dan pengagihannya dilaksanakan secepat yang mungkin (Amin, Lubis, Yusnita, Arfan & Sumatera, 2016). Sebagai contoh, seandainya harta rampasan tersebut diperolehi pada sebelah pagi, maka pengagihannya akan dilakukan pada tengah hari, hari yang sama dan seandainya harta tersebut sampai pada sebelah petang, maka ia diagihkan sebelum malam dan ini menjadikan hasil Baitulmal sentiasa tiada berbaki (Dayang & Mustafa Omar, 2012; Zallum, 1983). Corak amalan pengurusan dan pembahagian harta Baitulmal ini dilaksanakan sehingga pemerintahan Saidina Abu Bakar.

Peranan Baitulmal semasa pemerintahan Saidina Abu Bakar mula berkembang dan ia tidak hanya terhad dalam mengagihkan harta-harta rampasan perang pada ketika itu tetapi sebagai

tempat untuk menyimpan harta umat Islam yang mana beliau menyediakan satu ruangan khusus di dalam rumahnya. Harta Baitulmal dan harta-harta lainnya disimpan di dalam sebuah kantung atau beg khas yang dikenali sebagai *ghirarah* (Dahlan, 1999; Dayang & Mustafa Omar, 2012). Setelah kematian saidina Abu Bakar, peranan Baitulmal terus diperluaskan oleh pemerintahan saidina Umar Al-Khatab di mana hasil perolehan Baitulmal tidak hanya melibatkan harta *ghanimah*, tetapi hasil daripada zakat dan lain-lain pendapatan yang seiring dengan tuntutan *syarak* (Dayang & Mustafa Omar, 2012; Amin, et al., 2016).

Seiring dengan perkembangan Islam, peranan Baitulmal semakin diperluaskan semasa kegemilangan pemerintahan Khalifah Umar Abdul Aziz. Hasil yang diperolehi pada ketika itu tidak terhad kepada harta *ghanimah* dan zakat, malah turut meliputi sumber-sumber lain dalam Islam seperti *ufti*, *kharaj*, *usyurdan fai'* (Nor, 2015). Malah ketika pemerintahan beliau, Baitulmal merupakan institusi kewangan yang mampu untuk memainkan peranan dalam menjaga kebajikan masyarakat dan mengurangkan kemiskinan (Amin, et al., 2016; Abdullah, 2012)

Isu Dan Cabaran Pengurusan Baitulmal Di Malaysia

Secara amalnya, pengurusan Baitulmal di Malaysia tertakluk kepada Majlis Agama Islam Negeri dengan bantuan beberapa agensi kerajaan di bawah Jabatan Perdana Menteri. Setiap negeri mempunyai sistem pengurusan yang berbeza-beza menyebabkan ketidakselarasan struktur organisasi pengurusan *Baitulmal* di antara negeri-negeri di Malaysia (Mahamood, 2007; Osman, et al., 2014). Walaupun kutipan dana masjid secara agregatnya adalah besar, namun ianya hanya melibatkan masjid-masjid bandar yang mempunyai taraf sosio-ekonomi yang lebih tinggi berbanding masjid-masjid di luar bandar, yang mana kadar pungutan dananya adalah lebih rendah. Ini menyebabkan kekangan dalam menganjurkan program dan aktiviti keagamaan dan kemasyarakatan.

Keadaan ini menyebabkan jurang ekonomi di antara masjid bandar dan luar bandar, dan situasi seperti ini menjadikan peranan dan fungsi Baitulmal dilihat kurang efektif dari segi pengagihan dana dan penjagaan kebaikan golongan miskin dan kaya masih lagi wujud. Selain itu, penglibatan pihak Baitulmal yang kurang menonjol di dalam aktiviti kemasyarakatan (Mahamad & MohdFarihal Osman, 2009) dan kewujudan pelbagai institusi awam dan swasta yang berperanan hampir sama dengan fungsi Baitulmal menyebabkan persepsi masyarakat tentang fungsi sebenar Baitulmal semakin negatif (Tahir, 1982; Ismail, 2009; Osman, et al., 2014). Kesannya sumber-sumber Baitulmal tidak dapat diselenggarakan secara efektif dan keperluan masyarakat tidak dapat dipenuhi dan ini boleh menyebabkan prestasi dan pengurusan Baitulmal terjejas.

Latar Belakang Baitulmal

Secara asasnya, perkataan Baitulmal berasal daripada dua perkataan Arab "*Baty al-Mal*" yang mana '*Bayt*' itu bermaksud rumah manakala '*al-Mal*' pula bermaksud kebajikan. Gabungan dua perkataan itu memberi makna kamus yang lain seperti 'Rumah Kebajikan' atau 'Rumah

Dermawan' (Possumah & Ismail, 2012); 'Rumah Duit', 'Rumah Bendahari', 'Rumah Harta', 'Bendahari Negara'dan 'Bendahari Negeri' (Abdullah, 2012). Maksud kamus tersebut seiring dengan peranan Baitulmal sebagai sebuah institusi perbendaharaan dalam negara yang mengawal dan memelihara hasil mahsul negara tersebut melalui kaedah mengurus, menerima serta mengagih semua jenis harta(Osman, et al., 2014).

Baitulmal juga bertanggungjawab kepada jaminan sosial rakyat serta bertindak sebagai agensi yang menyalurkan bantuan (Ismail, 2009). Di zaman Rasullullah SAW dan para sahabat, hasil Baitulmal diperolehi daripada harta rampasan perang,pungutan cukai, sedekah, zakat, wakaf dan lain-lain harta dan pengagihannya adalah untuk peperangan (keselamatan),peruntukan asnaf dan rakyat. Dalam memastikan keberkesanan fungsi Baitulmal dalam pembangunan negara dan penyelesaian permasalahan rakyat, perbelanjaan negara perlu diuruskan secara amanah kerana segala perbendaharaan tersebut merupakan kekayaan yang diberikan oleh Allah SWT.

Oleh itu, bagi memperkasakan kembali institusi Baitulmal di Malaysia satu resolusi telah dicapai di Konvensyen Baitulmal Kebangsaan 2009 anjuran Jabatan Wakaf, Zakat dan Haji (JAWHAR) dengan kerjasama Majlis Agama Islam Wilayah Persekutuan (MAWIP) pada 24 hingga 25 Jun 2009. Berdasarkan kepada resolusi tersebut enam dasar utama telah dirangka bagi memperkasakan kembali institusi Baitulmal. Antaranya adalah:

1. Mewujudkan entiti Baitulmal di peringkat kebangsaan dengan menjalankan fungsi penyelarasan harta-harta milik umat Islam. Justeru, satu kajian yang teliti bagi memperhalusi isu-isu yang berkaitan akan dilakukan.
2. Memartabatkan kedudukan Baitulmal dalam sistem kewangan negara dengan menjadikan Baitulmal sebagai dana awam yang mempunyai hak untuk bertindak bagi pihak masyarakat Islam dalam melindungi kepentingan dan membangunkan ekonomi umat Islam.
3. Merangka perincian pemantapan pengurusan Baitulmal. Antaranya ialah memperkemaskan sistem tadbir urus institusi Baitulmal,mengaplikasikan pengurusan kewangan yang bersifat telus berasaskan kepada standard perakaunan dan melaksanakan audit dalaman dan luaran.
4. Meneroka sumber kewangan berdasarkan ijtihad dan keperluan. Antaranya ialah penjenamaan semula produk zakat, sedekah jariah dan wakaf (Sohaimi, Rokhoun & Hasan, 2009).

Strategi Lautan Biru Agenda Penubuhan Mini Baitulmal

Cadangan kepada penubuhan Mini Baitulmal di masjid-masjid terpilih di Negeri Sembilan merupakan strategi lautan biru bagi kerajaan Negeri Sembilan. Strategi Lautan Biru Kebangsaan (National Blue Ocean Strategy – NBOS) merupakan langkah bersepadu Kerajaan merangka dasar dan inisiatif melalui perkongsian pintar antara kementerian dan agensi. Penubuhan Mini Baitulmal ini adalah sinergi antara Majlis Agama Islam Negeri Sembilan (MAINS) yang memayungi masjid-masjid Negeri Sembilan dan Bank Muamalat Malaysia Berhad sebagai

penyedia kemudahan sistem kewangan serta Universiti Sains Islam Malaysia (USIM) sebagai penyelidik utama dalam menilai kesediaan institusi masjid menyediakan tadbir urus yang baik terhadap Mini Baitulmal di Negeri Sembilan.

Konsep Tadbir Urus

Bagi memastikan kejayaan Mini Baitulmal, tadbir urus yang baik perlu dilaksanakan. Tadbir urus boleh ditakrifkan sebagai satu sistem dan proses bagi memastikan bahawa hala tuju keseluruhan, keberkesanan, penyeliaan dan kebertanggungjawaban dalam organisasi (Cornforth, 2002). Mekanisma tadbir urus boleh terdiri daripada pentadbiran lembaga pengarah, sistem pemantauan dan mekanisme isyarat seperti pelaporan. Tadbir urus adalah satu konsep umum yang merujuk kepada semua cara organisasi. Ini bermakna secara khususnya tadbir urus boleh dibahagikan kepada tadbir urus awam, tadbir urus global, tadbir urus organisasi bukan keuntungan, tadbir urus korporat dan tadbir urus projek.

Dalam konteks penubuhan Mini Baitulmal, tadbir urus yang baik bermaksud suatu proses membuat dan melaksanakan suatu keputusan dengan baik (*good decision*). Satu sistem tadbir urus yang kemas dan terperinci amat perlu dirangka bagi memantapkan pengurusan Mini Baitulmal. Tadbir urus dan keputusan pelaksanaan yang baik perlu mempunyai ciri-ciri proses pelaksanaan yang baik dan mempunyai kesan positif terhadap dasar perundangan dan amalan, prosedur mesyuarat, protokol kualiti perkhidmatan, carta aliran dan kod tatacara kelakuan pelaksana, peranan, penjelasan dan hubungan kerja yang baik. Tadbir urus baik hendaklah mempunyai ciri-ciri berpaksikan prinsip tauhid, ketelusan, kebertanggungjawaban, akauntabiliti, kepercayaan, kerahsiaan, konsisten, dan kebolehcapaian (maklumat) (Shukri Rahman, 2012).

Tadbir urus baik yang dilaksanakan di masjid-masjid akan memperkukuhkan lagi peranan masjid dalam masyarakat setempat. Dalam masa jangka panjang, masjid-masjid ini juga boleh menjadi cawangan mini Baitulmal, Perbadanan Wakaf Negeri Sembilan (PWNS) dan Pusat Zakat di peringkat kariah. Pembayaran zakat, penyaluran bantuan, pengurusan wakaf dan lain-lain boleh dilaksanakan di peringkat masjid tanpa perlu berurusan di pejabat Baitulmal Negeri Sembilan, Perbadanan Wakaf Negeri Sembilan mahupun Pusat Zakat Negeri Sembilan disebabkan penggunaan sistem yang sedia ada di masjid (Shuhadak Mahmud, 2014).

Baitulmal Negeri Sembilan adalah terletak di bawah bidang kuasa Majlis Agama Islam Negeri Sembilan (MAINS). Ia merupakan bahagian penting di bawah carta organisasi MAINS yang berfungsi sebagai penyimpan dan pemegang amanah ke atas harta-harta umat Islam di Negeri Sembilan. Melalui peruntukan yang diberikan oleh Enakmen Pentadbiran Agama Islam Negeri Sembilan 2003, Majlis Agama Islam melalui Baitulmal mempunyai ruang dan kuasa untuk menggariskan kaedah dan tatacara penyimpanan dan pengagihan harta kepada pihak yang berhak menerimanya (Dewan Undangan Negeri Sembilan, 2003).

Projek Pilot Mini Baitulmal Di Masjid-Masjid Negeri Sembilan

Di peringkat permulaan, lima masjid terpilih untuk dijadikan projek pilot iaitu Masjid Negeri, Negeri Sembilan, Masjid Jamek Seremban, Masjid Hussein, Seremban 2, Masjid Seremban Jaya dan Komplek Islam Rantau. Projek pilot ini adalah bagi memperkasakan fungsi Baitulmal yang akan urus tadbir oleh Perbadanan Wakaf Negeri Sembilan (PWNS) dan masjid terpilih di Negeri Sembilan bagi menjalankan operasi berikut:

- a) Memperkemaskan pentadbiran masjid dengan penyediaan garis panduan kewangan masjid
- b) Melaksanakan system perakaunan berkomputer (Web Based) yang bertujuan memudahkan pengurusan dan kawalan kewangan ke atas setiap transaksi kewangan masjid.
- c) Membuka Akaun Bank Muamalat (M) Berhad dan penerimaan cadangan Sistem Pengurusan Tunai secara leseluruhannya.
- d) Mewujudkan Mini Baitulmal Masjid bagi menyediakan perkhidmatan
 - i. Pengurusan kutipan zakat, fidyah, wakaf, wasiat dan lain-lain hasil yang berkaitan
 - ii. Pengurusan agihan seperti menerima permohonan, memproses permohonan serta mengagih permohonan. Untuk permulaan cadangan untuk menurunkan kuasa untuk mengagihkan bantuan bulanan tunai dan makanan.
 - iii. Cadangan seterusnya masjid akan menjadi “one stop centre” bagi semua perkhidmatan agensi agama.

Sumber: Perbadanan Wakaf Negeri Sembilan, (2016)

Bank Muamalat Malaysia Berhad (BMMB) pula akan berperanan menyediakan kemudahan perkhidmatan perbankan seperti pembukaan Akaun Semasa Tawarruq dan perkhidmatan e-Perbankan (Internet) iaitu *i-Biz Muamalat Corporate Internet Banking (i-Biz)*. *i-Biz* Muamalat Corporate Internet Banking (*i-Biz*) adalah perkhidmatan perbankan internet yang menyediakan fleksibiliti dan kemudahan kepada pelanggan untuk melakukan pelbagai transaksi perbankan 7 hari seminggu sehingga 16 jam sehari dan 365 hari setahun. Perkhidmatan yang disediakan di bawah *i-Biz* termasuk semakan baki atau transaksi, pembayaran gaji secara *auto pay* dan pemindahan dana (dalam dan luar negara). Sistem ini menggunakan token dan pin untuk memastikan semua urusan niaga yang dilakukan terjamin keselamatannya (Bank Muamalat Malaysia Berhad, 2016).

Manakala Universiti Sains Islam Malaysia berperanan dalam melaksanakan penyelidikan dalam tempoh setahun bermula 1 Disember 2016 sehingga 30 November 2017 yang antara lain bagi mengenalpasti bentuk pelaksanaan yang efisien dalam mewujudkan Mini Baitulmal di masjid-masjid Negeri Sembilan. Kajian terhadap penggunaan sistem kewangan yang disediakan oleh Bank Muamalat Malaysia Berhad juga diambil kira sebagai pelengkap pelaksanaan Mini Baitulmal dalam menyediakan dokumen kewangan yang efisien. Selain itu, kajian tersebut juga akan menilai kesediaan institusi masjid untuk menubuh dan menjalankan fungsi-fungsi

Baitulmal serta merangka kertas kerja polisi dan manual urus tadbir baik (*good governance*) terhadap pelaksanaannya di masjid-masjid terpilih sekitar Negeri Sembilan. Kajian itu juga akan menggunakan kaedah kualitatif dengan menganalisa dokumentasi, laporan pemerhatian, temubual, diskusi panel, penulisan kertas kerja polisi dan manual urus tadbir (Universiti Sains Islam Malaysia, 2016).

Analisa dokumentasi akan melibatkan analisa literatur dan dokumen berkaitan Baitulmal Negeri Sembilan manakala laporan pemerhatian audit dalaman dan luaran akan dilaksanakan terhadap penyata kewangan tahunan masjid-masjid di Negeri Sembilan. Terdapat sejumlah 289 masjid di Negeri Sembilan yang mempunyai status kewangan yang amat baik, baik, sederhana dan lemah. Ahli Jawatankuasa Tertinggi Masjid akan terlibat dalam sesi temubual bagi menilai tahap kesediaan mereka untuk menjalankan fungsi di masjid mereka selain daripada lima masjid-masjid terpilih itu tadi. Temubual dan diskusi panel kepakaran bidang Baitulmal dan pegawai pelaksana di Majlis Agama Islam Negeri Sembilan juga akan dilaksanakan untuk menilai kebolehlaksanaan fungsi Baitulmal di masjid. Analisa kualitatif menggunakan perisian Nvivo akan dilaksanakan untuk menghasilkan kerangka kertas kerja polisi dan manual urus tadbir baik (*good governance*) dalam melaksanakan fungsi pelaksanaan penubuhan Baitulmal di masjid-masjid Negeri Sembilan (Universiti Sains Islam Malaysia, 2016). Hasil kajian ini akan dapat memberi panduan kepada ahli jawatankuasa yang dilantik tentang kaedah pengurusan fungsi Baitulmal di masjid-masjid di Negeri Sembilan dan sekaligus dapat memberi impak kepada pembangunan Baitulmal di Negeri Sembilan secara khusus dan di negeri-negeri lain di Malaysia secara amnya (Universiti Sains Islam Malaysia, 2016).

KESIMPULAN

Penilaian yang komprehensif perlu dibuat bagi memperkukuh dan mentransformasikan fungsi dan peranan yang boleh dimainkan oleh Baitulmal supaya ia benar-benar dapat memberi impak positif terhadap kedudukan sosio-ekonomi umat Islam di Malaysia. Kerjasama daripada semua pihak yang berkaitan perlu digembleng dalam usaha berterusan memperkasa dan mentransformasikan peranan Baitulmal di setiap negeri. Antara aspek yang perlu diberi penekanan ialah tadbir urus yang baik yang boleh digunapakai oleh semua Baitulmal. Kepakaran pengurusan yang berkesan digabungkan dengan sistem pentadbiran efektif akan mewujudkan ekosistem yang dapat mencapai misi dan visi sesebuah organisasi. Kajian berkaitan resolusi Baitulmal kebangsaan dan bagaimana menterjemahkan resolusi tersebut dalam bentuk yang boleh digunakan pakai dan dilaksanakan adalah amat penting untuk merealisasikan pelaksanaan Mini Baitulmal di Negeri Sembilan. Keperluan manual tadbir urus yang baik juga sangat penting sebagai maklumat asas yang boleh dijadikan panduan kepada pembangunan institusi Baitulmal diperingkat antarabangsa. Justeru, institusi Baitulmal perlu diberi ruang dan dimensi baru bagi melakukan transformasi supaya ianya terus relevan dan kekal sepanjang zaman.

PENGHARGAAN

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**EW062:
THE IMPORTANCE OF REVIVING WAQF-BASED HEALTH CARE
INSTITUTIONS IN MALAYSIA**

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Abstract

A healthy society is achieved through good health care facilities and the ability of each member of the society in getting their health care needs. However, the major concern in the health care services all over the world today is the financing issue where it has become the main challenge in many countries especially in providing a safety net for the poor and low-income group. The contribution of Waqf in an Islamic country development during the glory of the Caliphs ruling not only involves educational development, public utilities and religion facilities but also contributes to the provision of health care services. The practice of Waqf has continued to flourish in the Muslim world even after the Prophet's lifetime and until today it still continue in providing assistance to the poor especially in the health care services. In Malaysia, among the Waqf-based health care institutions that has been established were hospital and clinics chain of Waqf An-Nur under WANCorp Berhad and USIM Medical Specialist Clinic with the collaboration of Majlis Agama Negeri Sembilan (MAINS). The purpose of this article is to discuss the past, current and future development of Waqf-based health care institutions. This article adopts content analysis approach based on several articles and past research and organized based on specific themes (thematic). Past research showed that the current practices of Waqf-based health care institutions in Malaysia is prominent and in order for this institution to be well implemented and sustainable, some of the important factors that will contribute to the success of health care institutions need to be identified and implemented.

Keywords: Waqf-based health care institutions; History; Malaysia experience.

INTRODUCTION

Health is one of the crucial indicators in measuring the performance of countries development and very related to the wellbeing (Farhat Nazirul Mubin, 2015). A healthy society can be achieved through good health care facilities and the ability of each member of the society in getting the health care needs provided. However, the major concern in the health care sector all over the world today is on the financing issue. Health care financing has become the main challenge in many countries especially in providing a safety net for the poor and low-income group. Inability to pay for the health care costs have led these socio-economic group in facing with a lower health status compared with higher incomes groups and this is due to the congestion in public health facilities (Norizah Mohamed & Asmak Abd Rahman, 2015); limited budgets and difficulties in the method of payments such as not having an insurance coverage;

lack of essential nutrients (Malaysia Ministry of Health, 2011; Norizah Mohamed & Asmak Abd Rahman, 2015); inability to access medical care prevention, acute or long-term (Karen Seccombe, 2000); having a lower level of education and awareness about the health care and lack of resources to maintain a good health (Haldar & Mallik, 2010). Until today, there were no health care institutions that could provide a free health care facilities and services to every citizen in the society as what have been achieved during the administration of Ottoman Caliph in Turkey.

HOSPITAL FACILITIES AND HEALTH CARE SERVICES IN MALAYSIA: AN OVERVIEW

Health care services in Malaysia has begun since before the independent of Malaysia and at the end of the 19th century most of the hospital was built in Perak (15 hospital has been built) with the objective to provide a health care services for the workers in the mining industry (Pelan Strategik Kementerian Kesihatan Malaysia, 2015). Public health care provider under MOH administration is the major provider where it's health care services and facilities is widely available and accessible by people in every state including rural areas (Norizah Mohamed @ Haji Daud & Asmak Ab Rahman, 2015). Besides public health care services, health care provider in Malaysia is complemented by the private sector which constitutes about 35 percent of the overall health care services (Manaf, Mohd & Abdullah, 2010) and from that percentage, not all private health care institutions in Malaysia solely are based on profit-orientation objective (see Table 1). Among the private health care institutions, some of them can be categorized as a social-based health care institution which includes a non-profit organizations, Waqf-based health care institutions and social health enterprise.

In solving the issues related to the patient congestion in public health care institutions and the rising in the health care cost, Waqf have been identified as one of the alternative in providing a financing to develop health care services which is affordable by other group in the society especially the poor and low-income household in meeting their needs for a better health care services (Ismail & Possumah, 2014; Farhat Nazirul Mubin, 2015). The development of Waqf-based health care institutions was among Waqf development project that has long been practiced by the Caliph which has helped the government in providing the health care services according to the economic ability of its society. Thus, with the increasing number of patients in Malaysia, the presence of Waqf-based health care institution is one of the alternative for today's society in seeking a good health care services besides public and other private health care services which have already exists.

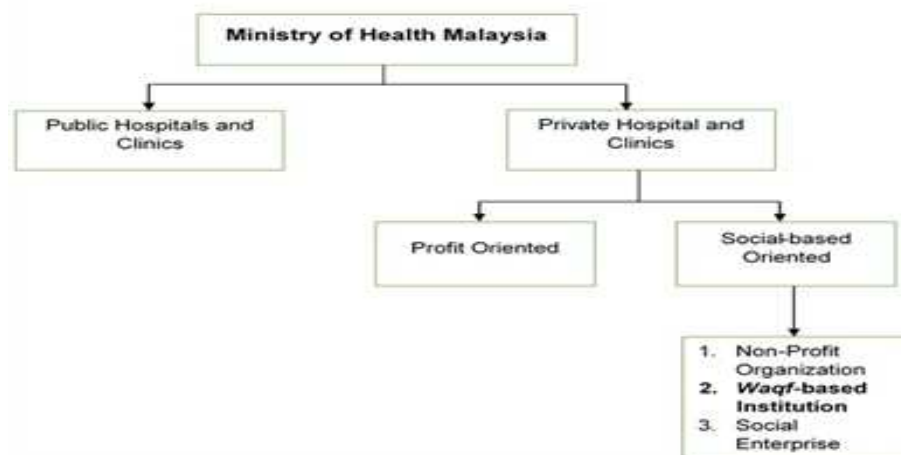


Figure 2: Health Care Provider in Malaysia

Challenges and Current Issues

The rising in burden of diseases, uneven distribution of medical professional and a lack of financial cost of health care services which projected to increase from MYR42 billion (USD13bn) in 2014 to MYR94 billion (USD28bn) by 2024 in local currency terms and US dollar terms has caused a burden on the government spending to accommodate the growing needs of patients (BMI Research, 2015). The rising healthcare cost has become an issue for health care sustainability in Malaysia where the government finances for the public health care services through the Consolidated Revenue Fund under the Ministry of Finance (Thomas, Beh & Nordin, 2011). Moreover, the global financial crisis recently has been affecting the global trade and economic growth of the country which caused the declining in the government revenue which in turn affects the ability of the government to provide additional resources to finance the development of the social sector (Alias, Fuadah & Asma, 2014).

Health care services in Malaysia was not only provided by the government, but also supported by the private sector as well. However not every people in the society is being able to afford the cost of health care services especially in the private profit-oriented based clinics or hospitals. Moreover, the uncertainty in the economic situation recently have led to the increasing in the cost of basic household needs such as the food prices, education and also health care services where it has given an impact to the economic well-being of the society especially to the household that received a monthly income from RM 4,999 and below (Economic Planning Unit Malaysia, 2016). It is a major concern when the cost of health care services increased, it will lead the society especially those who do not have insurance or the poor and low-income group to bear the health care service cost or just ignore the diseases suffered without any treatment and risk being unable to work (WHO, 2013). Therefore in order to overcome this situation, the third sector of the economy including Waqf-based institutions should be placed in the mainstream by the government based on the potential and its role as a socioeconomic enhancer during the past history in the society.

METHODOLOGY

This article adopts a content analysis approach based on articles and past research on Waqf-based health care development. The issues discussed in these articles are based on thematic analysis that were classified into few main topics which are definition on Waqf, history of Waqf-based health care institutions, current Waqf-based health care institutions and future Waqf-based health care development in the Malaysia context. The classification of the article is based either on the content or the abstract of the article.

Definition of Waqf

In Arabic, the term Waqf is defined as to hold, confinement or prohibition (Kahf, 2003). Kamus Dewan Bahasa (2013) defines Waqf as something given for the public use or for a purpose related to Islam. In *syariah* perspective, Waqf is defined as holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition of it outside that specific objective and this implies to a non-perishable property whose benefit can be extracted without consuming the property itself (Kahf, 2003). Generally, it can be seen that Waqf is a form of wealth submission where the asset was being held for the benefit from personal use and been given to other people or society according to the wish of the owner of the asset (Asmak, 2009). When the asset has been declared as a Waqf property, the private possession of an asset has been put under injunction from any form of transaction including sale, inheritance, *hibah* (grant) and *wasiyyah* (will) and its physical source should remain intact and unchanged (Zakaria et al., 2013).

Waqf is seen as a wealth sharing mechanism with the other persons and the society where the title of an owned Waqf asset was locked up either for disposition or for ownership transfer and allotment of its benefits for a specific purpose mainly charitable in nature such as for educational institutions, orphanages, roads, religious establishments like mosques, graveyards or for other public facilities (Asmak, 2009) which in this sense, Waqf can be categorized as a voluntary charity characterized by perpetuity (Sadeq, 2002). Waqf is also seen as an Islamic Philanthropy which act as an institutionalized pooling and its linked to the concept of Islamic solidarity (*takaful*) where its role is to distribute the private resources with the goal of building capacity, sustainable financing and expertise for long term socioeconomic benefit (Chepkwony, 2008). Besides perpetuity as a dominant characteristics for Waqf, it also hold the characteristic of benefit repeatability, voluntarism, permanent, non-perishable property and irrevocable dedication of a portion of one's wealth (in cash or kind) to Allah (SWT) (Zakaria et al., 2013). The flexibility of Waqf in the form of donor's ability to contribute and the widespread of benefits that can be gained by all groups and levels of the society has made Waqf as one of the best mechanism for wealth distribution and poverty alleviation and in creating a well-being society.

History on Waqf-Based Health Care Institutions

The history of Waqf-based health care services in Muslim society has begun since the time of Prophet Muhammad SAW. Before the hospital building exist, Muslim society have used mobile dispensaries to treat the patient and the idea in having a mobile dispensaries was taken from the history of Khandaq battle where Rasullullah SAW has ordered Sa'id bin Mu'az that was injured to be taken in a separate tent in order to receive a better treatment and Ummi Rufaidah binti Sa'ad was the first Muslim female nurse that was assigned to take care for the patients during the war at that time (Razali, 2015). The idea for hospital building as a treatment institution for the patient was only exist after the coming of Islam and it has introduces three types of medical facilities that are mobile dispensaries, hospital building and emergency treatment center (Hussain Nagamia, 1986). Even before the advent of Islam, there are only a sanatoria and inns that was connected with the house of worship which managed by the priest while for the treatment process for the patient, the method used was through prayer and hypnosis (Razali, 2015; Norizah Mohamed @ Haji Daud & Asmak Ab Rahman, 2015) and the arrival of Prophet Muhammad SAW, has changed the traditional treatment to a modern treatment similar to what we have today (Razali, 2015; Sara Al-Rawi & Fetters, 2012).

Health care development and facilities during the glorious era of Islam have been funded by Waqf and among the earliest hospital that have been built using the concept of Waqf are Ghulam Badr Hospital in Baghdad, Baghkami Hospital built by Amir 'Abd al-Hassan Bagh (Yukham) in Turkey, Ikshidid Hospital, Egypt built by Turkish Kafur al-Ikhshid, hospital built up by Muizzuddawala ibn Buwayh in Baghdad, Hospital Marakish in North Africa, Hospital Adudi in Baghdad, Hospital Nuri founded by Raja Nur al-Din Zanji and Hospital Mansuri founded by al-Mansur ibn Qulawun in Kaherah, Egypt during 675 H (1276 M) (Norizah Mohamed @ Haji Daud & Asmak Ab Rahman, 2015). Every Waqf hospital has their own Waqf properties in order to finance the cost of operation which includes the salaries of the doctors, while the administration of Waqf properties was placed under the supervision of a superintendent held by the authorities of the state or Caliph. At that time, Waqf hospital was not only provided treatment services to the patients but also serves as a teaching hospital for medical students, as the exchange of scientific knowledge and as the medical development center (Razali, 2015). During the Sultan al-Mansur ibn Qulawun administration in Kaherah, Egypt (880H/1281M), the hospitals have served every patient regardless of their socioeconomic background and this has been proven in the statement below:

“This hospital must treat and care for all patients, men or women so that they are fully recovered. Costs incurred by the hospital whether patients come from near or far, locals or outsiders, strong or weak, high or short, rich or poor, employed or unemployed, blind or not blind, sick or insane and educated or illiterate. There is no requirement for consideration and payment; all free. All services are provided only because of Allah, the Most Beneficent.”

(Source: Razali, 2015)

The success of Waqf hospital during that day has encouraged each member of the society to participate in donating their property for hospital facilities and from Waqf activities performed, the administration of the hospital has successfully earn 1 million dirham for the hospital income (Razali, 2015). From the hospital earnings, the management of the hospital could provide in giving a free health care services to the people in the society, paying for the maintenance and hospital expenses, able to give a small stipend money to its patient and also capable in producing its own medical experts as quoted by Hussain Nagamia (1986) in the book written by Razali Othman (2015) “*Institusi Wakaf, Sejarah dan Amalan Masa Kini*”:

“All the hospitals in Islamic lands were financed from the revenues of pious bequest called Waqf. Wealthy men, and especially rulers, donated property as endowments, whose revenue went toward building and maintaining the institution. The property could consist of shops, mills, caravanserais, or even entire villages. The income from an endowment would pay for maintenance and running costs of the hospital, and sometimes would supply a small stipend to the patient upon dismissal. Part of the state budget also went toward the maintenance of a hospital. The services of the hospital were to be free, though individual physicians might charge fees.”

The historical evidence on the glorious era of Waqf hospital showed that among the critical success of Waqf-based health care services during that time was driven by a good management which can be seen in resources allocation where with fully utilized of Waqf assets, it could help to generate an income in funding the cost of health care expenses and avoid wasteful and negligence of Waqf asset (Mohammad Alias, 2015; Mohammad Alias, Muhammad Shamsir Mohd Aris & Mohd Yunus Abdullah, 2015; Farhat Nazirul Mubin, 2015). Besides that, to be well developed and sustainable, Waqf-based health care institution should also be integrated with the other element of Waqf instrument such as cash Waqf, investment-based Waqf or *istibdal* method (Farhat Nazirul Mubin, 2015) and the most important elements are the support and awareness from the public society by continuously contributing to the Waqf fund.

Current Waqf-Based Health Care Institutions: Malaysia Experience

In Malaysia, Waqf-based health care institution has begun since year 1998 and currently there are two Waqf-based health care institution that have been operating which is hospital and clinics chain of Waqf An-Nur (KWAN) under WANCorp Berhad and USIM Medical Specialist Clinic which was established on February, 2013. Both health care institutions were administrated by an appointed corporate entity that has been established in order to manage the operation of health care institution. The establishment of both institutions has received a full cooperation and approval from each Religious Council of the State (MAIN) (Farhat Nazirul Mubin, 2015; Borham, 2011). For the health care institution under JCorp Bhd which administrated by WANCorp Bhd, the fund was received from a total of 25 percent stock dividend of its subsidiaries company that listed and unlisted in Bursa Malaysia which have been endowed and

other fund from the individual donation and private companies. Until today, there are about 19 Waqf clinics throughout the country and one Waqf hospital which is situated in Pasir Gudang, Johor (Farhat Nazirul Mubin, 2015). According to the Annual Report of the Waqf *An-Nur* Corporation Berhad (2014), as for December 2014, Waqf clinics and its network have benefited a total of 1,057,154 patients and this number has increased to 10 percent compared to the previous year.

The mission in establishing the Waqf *An-Nur* hospital is to provide a health care services to the general public especially for those who have no place to get a basic medical treatment due to a reasonable economic obstacles or less fortunate in the community such as a poor household and a lower income group, regardless of their race and religion (Norizah Mohamed @ Haji Daud & Asmak Ab Rahman, 2015). Every patient who visits the Waqf hospital can have a quality medical service just like a government hospital or private hospital services with a minimal cost. The location of the hospital is situated near to the Pasir Gudang Mosque (funded by the Johor Islamic State Council) with an intimate surrounding to the community especially for the Pasir Gudang residence (Borham, 2011). According to Norizah Mohamed @ Haji Daud, among the health care services provided by Hospital Waqf *An-Nur* are outpatient department, accident and emergency department and wards for patient besides a clinic, x-ray room, pharmacy, and haemodialysis unit. This hospital operate 24 hours a day and the charge imposed on a patient is RM5 including consultation and treatment from doctors and medicines while charges for dialysis services to kidney patients is about RM90. The low services charge in Waqf hospital is due to the cost supported by Dana Waqf *An-Nur*, Baitulmal and NGOs which aims to serve the community with a good medical care provided and equivalent to a government or private clinics with a minimal charges and in accordance with the ability to pay of each member in the society (Waqf *An-Nur* Corporation Berhad 2013; KPJ Healthcare Berhad, 2012).

Another Waqf-based health care institution that has been established in Malaysia besides Hospital Waqf *An-Nur* and its clinics chains is USIM Medical Specialist Clinics which is situated in Nilai, Negeri Sembilan. This specialist clinic has been built by USIM's Centre for Awqaf Financing Development (PPPW) under the concept of Waqf. PPPW has been initiated by the former Vice Chancellor of USIM, Prof Datuk Dr. Asma Ismail in February, 2013 with the aim to manage Waqf financing (Mohammad Hj Alias, Muhammad Shamsir Mohd Aris & Mohd Yunus Abdullah, 2015). The establishment of USIM Waqf-based health care institution has received a starting capital of MYR2 million and MYR1.5 million from the State Islamic Religious Council of Negeri Sembilan based on a grant and *qard-hassan*. The clinic is also funded by donation from USIM staff and students and the public (Farhat Nazirul Mubin, 2015). Currently USIM Medical Specialist Clinic (UMSC) is managed by medical experts from its Faculty of Medicine and Health Sciences. The health care's services provide in this clinic include outpatient, eye and dental treatment.

Future Waqf-Based Health Care Development in Malaysia

The success of Waqf-based health care institutions during the past and current society with the development of Hospital Waqf *An-Nur* under WANCorp Berhad and USIM Medical Specialist Clinic has encouraged many parties especially the private health care providers in collaborating with state religious council (MAIN) to develop their own Islamic hospital. Among the future health care development projects that have the element of Waqf is the development project of Hospital Islam Pulau Pinang (HIPP) which is located in Bayan Baru, Pulau Pinang where a total of 20 Waqf beds will be located for the poor patients and the medical cost will be fully funded by the hospital. This new hospital project worth MYR280 million is developed by Yayasan Islam Pulau Pinang (YIPP) with the collaboration of Majlis Agama Islam Negeri Pulau Pinang and projected to start operating by the year of 2020. Hospital Pakar *An-Nur* has been selected as the operator of the hospital.

The concept of this new hospital is according to the *Syariah* principle where the male and female wards will be separated, a female doctor will be dedicated for child birth procedure and all the staff uniform must follow the Islamic ethics code. Besides Hospital Islam Pulau Pinang, another hospital that will be developed using the Waqf fund is Specialist Medical Complex in Bandar Baru Uda, Johor. The development of this new health care institution is one of the proposed projects that will be implemented under the project development project of Waqf fund or Tabung Wakaf Rakyat Johor. This project has been launched by Sultan Johor, Sultan Ibrahim Sultan Iskandar on November, 2016. Currently the fund has managed to raise MYR12 million contributed by government agencies, private companies, non-governmental organizations and individuals.

CONCLUSION

The development for Waqf-based health care institutions is needed in fulfilling the society need especially among the poor and low-income household. Based on the history and current practices, Waqf has been proven to provide an efficient alternative source of funding to the development of health care institutions. Therefore, in order for Waqf-based health care institutions in Malaysia to be well implemented, success and sustain the cooperation from various parties including the government, private sector and civil society are needed.

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ES063:
FACTORS AFFECTING THE CONSUMER INTEREST DO PRECIOUS METALS PRODUCT PURCHASE IN PEGADAIAN SYARIAH LANGSA CITY ACEH PROVINCE

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Abstract

To identify and analyze the influence of cultural factors, social factors and personal factors against the interest of consumers to purchase products of precious metals in Pegadaian Syari'ah, Langsa City, Aceh Province. Quantitative research approach used to manage data obtained from questionnaires by first transforming into shape Numeric (numbers). data collection through a questionnaire containing questions, and respondents were asked to answer questions about the proposed research according to their own understanding for each question are provided. A sample of 80 customers who have purchased precious metal products of Pegadaian Syariah institutions selected for this study. The study found that the analysis used is multiple linear regression of hypothesis testing using in partial culture $t_{hitung}1,119 < 1,665$ from t_{tabel} with a significant level of $0,049 < 0,05$. This means that cultural variables have no effect on the interest of consumers to purchase precious metal products. Social $t_{hitung}3,112 > 1,665$ from t_{tabel} with a significant level of $0,003 < 0,05$. Personal $t_{hitung}2,598 > 1,665$ from t_{tabel} with a significant level of $0,011 < 0,05$. This means that social and personal variables have effect on the interest of consumers to purchase precious metal products. In the analysis of R Square obtained 0,505 is 51% the dependent variable of consumer interest to buy gold bar can be explained by the independent variables culture, social, and personal. The remaining 49% is explained outside variables used. This paper explains that in terms of culture does not influence consumers to buy the precious metal products, but in terms of social and personal greatly influence consumers to buy the precious metal products. therefore, for further research we can find factors that can significantly influence consumers to buy precious metals for future investments in addition to cultural factors.

Keywords: Consumer Interest, Cultural, Social, and Personal.

INTRODUCTION

As we know, gold has touched many aspects of human needs. Gold also has emotional benefits to enjoy its beauty. There is already a cultural agreement globally that gold is a precious metal with a high aesthetic value. The value of beauty combined with an attractive price to be gold as a means to express themselves, gold has become a status symbol in Indonesia.

Pegadaian Syariah has three financing products:

- a. Rahn that pawnbroking service product that is based on Islamic principles. Customers will only be charged for administrative costs and Ijarah (save service costs and maintenance of the collateral)
- b. Arrum (Arrahn To Micro), the loan scheme with the Islamic system for small micro enterprise for business development purposes with repayment installments system using gold collateral or reg motor vehicle. Terms of the business has been running a year.
- c. Precious Metals Products or 99.99% pure gold bullion there a certificate and ID number. Noble metals or gold has touched many aspects of human needs in addition to having a high aesthetic value is also a kind of investment whose value is stable, liquid and secure in real terms. Noble (Murabahah Precious Metals Investing for Eternal) is the sale of precious metals by Pegadaian to their efforts. The procedure is simple and the prices are also very competitive. The process will be quicker if applicants meet all the requirements.

One of the investment products offered by Pegadaian Syari'ah, namely MULIA (Murabahah Gold Precious Metals Long-term Investment), since 2008. That Pegadaian facilitate the sale and purchase gold bullion. Could be by way of cash or credit to a maximum of 36 months. Precious metals or gold has touched many aspects of human needs in addition to have a high aesthetic value is also a kind of investment whose value is stable, liquid and secure in real terms.

Assumptions customers about their reasons for buying the precious metal, which is for long-term investment. Precious Metals are very easily cashed, it can be sold back to PT Antam or to the branch office nearest Pegadaian Syari'ah according buyback price listed in the official website of the two companies. In addition, the value of precious metals despite experiencing fluctuating, but when viewed from the movement of the previous 5 years, has increased significantly. This makes the precious metal into one right choice as an investment and protector of our money from inflation. In addition, it also affects the availability of facilities in the maintenance and security of pledge is the main thing to consider in choosing the right place to pawn the goods. On the other hand, customers also pay attention to maintenance fees charged by provider sharia pawn.

Culture in the purchase of gold to save money, a gold deposit that can be withdrawn at any time when needed. And the advantage of their savings in precious metals one of which is a unique liquidity. Gold is getting long kept the price is getting higher. Slowly but surely the price of gold is always up. Rarely gold prices decline. This is what causes the other side of society, especially in the tribal region of Aceh Langsa buying gold for short-term savings and in case if there is a sudden interest.

DSN-MUI Fatwa No.26 / DSN-MUI / III / 2002, on Rahn and Gold as follows:

1. Rahn gold is allowed based on the principle of Rahn
2. Costs and fees borne by the storage of goods marhun pawner Rahn.
3. The cost of storage processors based on the amount of spending that obviously needed
4. The cost of storage of goods carried by aqad Ijarah marhun.

Precious Metals Products also has risks due to changes or fluctuations in the price of gold. Fluctuations in gold prices may occur due to unbalance the market demand and supply. Gold prices tend to fall when the exchange rate goes up, it also encourages customers to invest in disguise, buying gold when the price of gold down and sell when prices rise.

Bank Indonesia (BI) has issued a rule in late February 2012. But revamping the standard operating procedures (SOP) pledge of gold has been underway since September 2011. Although the gold pawn business increasingly proliferated, revamping the mortgage business to Islamic banks have a significant impact at the end of 2012 ago. This is due to the price of gold is very volatile. During the first quarter of 2012, financing backed qardh gold fell 12 percent compared to the position in December 2011. Its value is only Rp 11.4 trillion from Rp 13 trillion.

Consumer behavior in economic theory is influenced by several factors, namely the cultural, social, personal and psychological. Of these four factor cultural factors are factors that affect the most extensive and deep. As for other factors also have an influence, but for the influence of cultural factors, because culture is what determines the most basic usability and behavior.

In contrast to that in the mentioned by Kotler and Keller, the concept of consumer behavior Muslims asserted that Muslim consumer behavior based on the principle of monotheism and brotherhood and distributive justice which revealed to be understood justice, all ihsan's, and qana'ah. Qana'ah means accepting willingly whatever conditions he experienced without ruling out any kind of business. Man who qana'ah not mean sacrificing himself so that his fate is ignored. Therefore, a Muslim qana'ah that encourages fair manner, then consumption is always measured and analyzed properly (all ihsan's), both for current and maslahah maslahah come. So in essence the principles explained that all the resources that exist on this earth belongs to God and should be utilized for people to live well as long vigil in the Lord.

Research on consumer behavior is intended to analyze the extent to which the influence of the factors that affect the interests of consumers to purchase products of precious metals. Given the behavior of society is always changing as the culture and civilization. Community behavior among a row of fast-changing behavior, because it relates to everyday people to make ends meet.

LITERATURE REVIEW

Consumer Interests, Interest as psychiatric aspects dyeing behavior of someone to perform activities that cause a person to feel attracted to something. While consumers as providers of funds in the process of transaction of goods or services. So the consumer interest can be defined as the tendency of consumers to fund providers interested in the products offered. While Schiffman interpret consumer interest as external influences, awareness of the need, product introduction and evaluation of alternatives is something that can cause consumers to buy. These external influences consist of marketing efforts and socio-cultural factors.

Consumer behavior is when a person processes and activities associated with the search, selection, purchase, use, and evaluation of products and services to meet the needs and desires. Consumer behavior is the behavior of the consumer is willing to spend its limited resources such as money, time, effort to acquire goods and services desired.

The purpose of a company is to meet, serve and satisfy the needs and desires of consumers efficiently and effectively against its competitors. However, consumers know it is not easy because of the behavior or the behavior of each consumer is very diverse in terms of age, income, educational level, lifestyle and tastes.

Learn and understand consumer behavior will provide guidance to marketers in developing new products, product features, price, channel marketing, and other marketing mix elements. Consumer behavior illustrates how consumers make purchase decisions and how they use and manage purchases of goods and services. Definition of consumer behavior is the behavior according to Kotler end consumers, both individuals and households who buy goods or services for personal consumption.

Understanding the influence of individual consumers in the decision process is the main issue to understand consumer behavior. The first influence, in the selection of consumers are stimuli. Stimuli indicate receipt of information by consumers and the information process occurs when consumers evaluate information from advertising, friends or from his experience alone. A second influence, coming from consumption itself, which includes the perceptions, attitudes and the benefits sought, and the characteristics of the consumer's own (personality and lifestyle). The third influence, on the selection of the consumer is the consumer response, which is the end result of the decisions of consumers and a thorough consideration of all the factors and variables of consumer behavior.

Factors That Affect Interest Consumer

The factors-factors that affect consumer interest in making purchasing decisions according to Kotler:

a. Cultural Factors

Cultural factors influence the broadest and deepest on consumer behavior. Marketers need to understand the role played by culture, sub-culture, and social class buyers.

1) Effect of Culture on Consumer Behavior

Culture is a group of social values received by society as a whole and scattered to their members through language and symbols -symbol. culture is a fundamental determinant of a person's desires and behavior.

Culture is a determining factor desires and behaviors of the most fundamental. In other word is the most important factor in the decision-making behavior and buying behavior. According to an analysis, the birth of the consumer society first

appeared in Britain in the eighteenth century when there were few fundamental events that occur in line with the many villagers who move to larger urban communities. The cultural change can affect a variety of cultural significance in their community in a continuous process and reciprocity that is almost similar to the analysis of consumer wheels. For examples the new urban residents interested with their social class status. Changes in the values espoused brought on trust and a new attitude toward products that can communicate its social differences that result in changes in purchasing behavior.

Culture is defined as a complex symbol and man-made items *artifacts* that are created by certain people and handed down from one generation to another generation as *determinants* and *regulator* the behavior of its members. Culture refers to a set of values, ideas, artifacts, and other meaningful symbols that help people communicate, make interpretations, and evaluate community members.

Some of the attitudes and behaviors that are more important are influenced by culture are as follows:

- a) Sense of self and space
- b) Dress and Appearance
- c) Time and Awareness of time
- d) Values and Norms
- e) The mental processes and learning
- f) Communication and Language
- g) Food and eating habits
- h) The relationship (family, organization, government, etc.)
- i) beliefs and attitudes
- j) work habits and practices

Culture is an important character of a social group that distinguishes it from other cultures. Elements that should be highlighted is the value of every culture, language, myths, customs, rituals and laws that sharpen the behavior on culture. Culture is impregnated. What was eaten by a person, how they dressed, what they think and feel, what language they were talking about is the dimension of culture. It includes all the things that consumers do without consciously chosen for their cultural values, customs, and rituals they have been united in their daily habits.

b. Social Factors

Consumer behavior will also be influenced by social factors such as small groups, families, role and social status of the consumer.

2) Social Influence in Consumer Behavior

Social factors that can affect a person's behavior, namely consumer groups, families, role and status. Person group consists of all the groups that have a direct impact or influence indirectly to the establishment or the person's behavior.

The group is a group of people who live and interact. Most of the primary groups, such as family, friends, neighbors and coworkers. Where people who are constantly interacting with them. Secondary groups, such as religious groups, professional and trade association group.

Family within a family, the necessary expenditure in many ways. Especially spending on children is an important economic sector in many countries. Not all families are able to provide luxury items for their children, but there are some families who are able and willing to do so.

Most of the consumer behavior research took the individual as the unit of analysis. The purpose is generally to explain and understand how individuals make purchasing decisions that marketing strategies can be developed to be able to influence the process more effective.

The family and their relationships with the purchase and consumption is important, but often overlooked in the analysis of consumer behavior. Importance of family arises for two reasons:

First, many products purchased by consumer double act as family. house unit is an example of the products purchased by both partners, perhaps by involving children, grandparents, or other family member of a large family.

Second, even when the purchase is made by the individual, the individual purchasing decisions may be strongly influenced by other members of his family. Family influences on consumer decisions completely absorbed.

The influence of the family role in consumer behavior that occurs in Indonesia. Many cultural and social changes that have occurred in recent years that has affected the family structure that change is a change in the empowerment of women, the role of women in general is a housewife.

c. Personal Factors

A buyer's decision was also influenced by personal characteristics such as age and life-cycle stage of the buyer, occupation, economic circumstances, lifestyle, personality and self-concept of the buyer concerned.

1. Personal Influence on Consumer Behavior

Personality is the dynamic organization of individual psikofisis system that determines the adjustment itself to its environment is unique. Personal characteristics that influence consumer behavior, namely:

- a) Age and Life Cycle Stage
People change the goods and services they buy during his lifetime. Taste for food, clothing, peraboot, and recreation is often associated with age. Buying is also shaped by the family life cycle stage of the stages that may be passed in accordance with the maturity family.
- b) Work
One's job affects goods and services that they purchase. Blue-collar workers tend to buy more clothes for work, while the office workers to buy more suits and ties. Marketers try to identify occupational groups who have an interest in the above-average products and services.
- c) Economic Situation
The economic situation someone would affect the choice of products. Jennifer Flores can consider buying an expensive Nikon if he has income to spend, savings, or the ability to borrow.
- d) Lifestyle
Lifestyle is the lifestyle of the world expressed by the activities, interests and opinions of a person. Lifestyle described the "whole person" who interact with environment. Lifestyle also reflects something behind a person's social class
- e) Personality and self-concept
Each individual has its own unique characteristics. Personality can be a variable that is very useful in analyzing consumer behavior. When the personality types can be classified and has a strong correlation between personality types with a wide selection of products or brands.

Analysis and Hypothesis Test

Analysis and evaluation of data using descriptive analysis and multiple linear regression model. Descriptive analysis is used to determine and describe the independent variables and the dependent variable. The independent variables in this study is the cultural, social and personal. The dependent variable in this research is consumer interest.

Multiple linear regression analysis is used to see the functional relationship between the variables of culture, social variables, private variables on the dependent variable, where the consumer interest in analyzing data using SPSS (Statistical Package for Social sciences) version 20.

Characteristics of Respondents

- a. Identity of Respondents by Gender

The respondents of this study amounted to 80 people, researchers took data on respondents' descriptions. Survey respondents by sex can be seen in the table below.

Tabel 1

No	Jenis Kelamin	Frequency	Persentase (%)
1	Laki-laki	37 orang	46,3 %
2	Perempuan	43 orang	53,8 %
Jumlah		80 orang	100

Source: Data compiled from Questionnaire Results

From the table above it can be concluded that the amount of the proportion of men and women in the interest of consumers to purchase products of precious metals at the Pawnshop Syari'ah Langsa dominated by women with a percentage of 53.8% of all consumers who sampled.

b. Identity of Respondents by Age

Based on the age of survey respondents, the results of the answers to a questionnaire circulated to the respondents can be seen in the table below.

Tabel 2

No	Umur	Frequency	Persentase (%)
1	≥ 20 – 30 tahun	26 orang	32,5 %
2	≥ 30 – 40 tahun	26 orang	32,5 %
3	≥ 40 – 50 tahun	23 orang	28,8 %
4	≥ 50 tahun	5 orang	6,3 %
Jumlah		80 orang	100 %

Source: Data compiled from questionnaires result

From the table above it can be concluded that the syariah pawnshop customers who purchase precious metal products is dominated by customers aged ≥ 20-30 years and ≥ 30-40 years is 32.5% of the overall sample.

Individual Significance Test (t-test Partial)

Coefficients^a

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Collinearity Statistics	
	B	Std. Error	Beta			Tolerance	VIF

	(Constant)	11.734	1.429		8.212	.000		
1	kebudayaan	-.071	.064	-.136	-1.119	.267	.713	1.402
	sosial	.232	.075	.356	3.112	.003	.807	1.239
	pribadi	.211	.081	.290	2.598	.011	.853	1.172

a. Dependent Variable: minat konsumen

1. Cultural variables have a p-value 0.267 < 0.05 means that a significant, while t-arithmic -1.119 < 1.665 from t-table means insignificant. Then partially cultural factors have a significant influence on consumer interest to purchase products of precious metals in the Pegadaian Syari'ah.
2. Social variables have a p-value 0.003 < 0.05 means that a significant, while t-arithmic 3.112 > 1.665 of t-table significant meaning. Then the partial social factors affect the interest of consumers to purchase precious metal products in the Pegadaian Syari'ah.
3. Personal variables have a p-value 0.011 < 0.05 means that a significant, while t-arithmic 2,598 > 1,665 of t-table significant meaning. Then partially personal factors affect the interest of consumers to purchase precious metal products in the Pegadaian Syari'ah.

4.

Simultaneous Significance Test (Test-F)

ANOVA^a

Model		Sum of Squares	Df	Mean Square	F	Sig.
1	Regression	34.624	3	11.541	6.123	.001 ^b
	Residual	143.264	76	1.885		
	Total	177.887	79			

a. Dependent Variable: minat konsumen

b. Predictors: (Constant), pribadiX3, sosialX2, kebudayaanX1

The above table shows the F amounted to 6.123, with a p-value of 0.001, then the probability variables when seen consumer interest can be used simultaneously with independent variables at alpha 5%. However, if viewed from F-arithmic and F-table, then Anova table above explains F-table for $df = 4-1 = 3$, $df (nkl) = 80-3-1 = 76$, then $F\text{-table} (0.05) = 2.725$ and $6.123 > F\text{-arithmic}$ amounted, it this indicates that $F\text{-arithmic} 6.123 > F\text{-table} 2,725$.

The hypothesis of this study is that the variable cultural, social, and personal simultaneously have a significant influence on consumer interest to purchase products of precious metals at the Pegadaian Syari'ah.

Test R^2 (Coefficient of Determination)

Model Summary^b

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.441 ^a	.505	.493	1.373

a. Predictors: (Constant), pribadi, sosial, kebudayaan

b. Dependent Variable: minat kons

From the results of multiple linear regression analysis above. Based on figures obtained output Adjusted R Square of 0.505 or (51%). This suggests that the independent variables are the cultural, social, and personal able to explain the dependent variable is the interest of consumers to purchase products in the Pegadaian Syari'ah precious metals by 51%. the remaining 49% is explained by other variables outside variables used.

Test Linear Regression, regression analysis was used to see the effect of independent variables on the dependent variable and the predicted value of the dependent variable using independent variables, regression analysis is used primarily for the purpose of forecasting in the model there is a dependent variable and how the independent variables. The equation that is often used is:

$$Y = \alpha + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \varepsilon$$

$$Y = 11,734 + 0,71 + 0,232 + 0,211 + \varepsilon$$

Where:

Y = Consumer Interests

α = constant of 11.734 means that if there are no changes in all variables, then the average rate of consumer interests influence of 11.734 the unit.

X1 = If the variable culture fell by the unit, then the consumer interest declined by -0.071 one-unit assuming other independent variables remain valuable.

X2 = If social variables increase of the unit, then the increased consumer interest 0.232 single-unit assuming other independent variables remain valuable.

X3 = If a private variable increased by one-unit, then the increased consumer interest in the 0,211-unit assuming other independent variables remain valuable.

ε = Standard Error

CONCLUSION

The main objective of this study was to determine whether there is consumer interest influence of cultural factors, social, and personal purchases precious metal products and the extent of their influence. Based on the analysis, it can be concluded as follows:

Partial cultural variables do not have a significant effect on the interests of consumers to purchase products of precious metals in the Pegadaian Syari'ah, Langsa City of -1.119 where t-arithmetic $-1.119 < 1.665$ from t-table with a significant level of $0.267 < 0.05$.

Partial social variables significantly influence consumer interest in making a purchase precious metal products in the Pegadaian Syari'ah, Langsa City of 3.112 where t-arithmetic $3.112 > 1.665$ of t-table, with a significant level of $0.003 < 0.05$.

Partial personal variables significantly influence consumer interest in making a purchase precious metal products in the Pegadaian Syari'ah, Langsa City of 2,598 where t-arithmetic $2,598 > 1,665$ from t-table, with a significant level of $0.011 < 0.05$.

Simultaneous independent variables are the cultural, social, and personal significant effect on consumer interest to purchase products in the Pegadaian Syari'ah precious metals amounted to 6.123 where F-arithmetic $6,123 > F\text{-table } 2,725$ with a significant level of $0.001 < 0.05$.

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ES064:
**ISLAMIC BUSINESS ETHICS IN MARKETING: THE MUSLIM
SCHOLARS AND ENTREPRENEURS PERSPECTIVES**

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Abstract

The main discussions in this study are inclined to the theories and the basis for developing the Islamic Business Ethics. This study will accommodate the views and experiences of the respondents on the implementation of Islamic business ethics in marketing the products. This qualitative study adopted a semi-structured interview as a method of data collection. The data collection processes were involving two types of respondents, namely the Muslim Scholars and the Muslim entrepreneurs. An analysis of the implementation of Islamic business ethics in marketing will be based on the principles of Islamic business Ethics in pricing, product promotion rules, the distribution channels, the people and encountering the business rivals.

Keyword: Muslimpreneurs, Islamic marketing, Islamic Business Ethics, Akhlāq

INTRODUCTION

The Islamic marketing principles join a quality amplification idea along with the law of justice for more widespread benefit of the community. These principles aim at producing esteem and elevate the expectation for everyday comforts of every human being through the business interests. The Islamic ethical rules assurance regard for, and the individual flexibility of, both entrepreneurs and customers. Islamic ethics manage that by no means ought to advertisers misuse their customer or in any capacity includes themselves in untrustworthiness, extortion or misleading. Any unscrupulous and immoral marketing act is considered injustice, which, by definition, nullify the notions of partnership, brotherhood and justice for mankind that construct the basic of the Islamic vision (Saeed, Ahmad, & Mukhtar, 2001). Therefore, accepting the Islamic marketing ethics promised that the seeds of congruity are instilled and a fitting demand from the public arena is given, along these lines enhancing the dignity of, and preserving the constitutional rights of the people.

The Islamic marketing ethics focused around the principles of equity and value in Islam varies from western ethics in numerous points of view. There are three qualities of business ethics from the Islamic point of view. First and foremost, Islamic ethics are based on the *Qur'ānic* commandments and rule out indistinct clarification by marketing executives to suit their individual whims and desires. Secondly, the main contrast is their transcendental element of

totality and non-pliable nature. Thirdly, the Islamic methodology emphasizes esteem growth in perspective of more important else's benefit of the general public as compared to the egotistical mission for benefit amplification. Such properties award Islamic ethics a huge capability to penetrate human soul and are fit for affecting the conduct of marketing executives from inside (Saeed et al., 2001).

As stated by Niazi (1996), the Islamic business activity is governed by two principles: (i) accommodation to the moral (*Akhlāq*) order of Allāh and (ii) compassion and leniency to Allāh's creations which proposes forgoing giving harm to others and consequently keeping the spread of exploitative practices. In recent era, an attempt is made to study marketing in the Islamic ethics setting. Islam views extrinsic aspects of work positively. It is clear that the Islamic ethics argues that engagement in economic activities is an obligation (Yousef, 2000). Thus, work is the source of independence and the means to achieve a fulfilled life. The holy Quran speaks in favour of free trade and legitimate profit so long as it is consistent with Islamic ethics and does not exploit others (Ludwig, 2001).

In fact, Islam encourages prosperity through the appropriate use of the resources given by Allah. Such resources are seen as important in providing the basic survival and physical needs as well as accumulation of wealth (Kriger & Seng, 2005). As such, it is clear that those Muslim entrepreneurs believing in Islam are likely to pursue extrinsic work values in their entrepreneurial activities consistent with Islamic teachings. Muslim entrepreneurs will also view the extrinsic aspect of their work positively. They should acknowledge - as for Muslims - economic life is thus seen as a means to a spiritual end, where prosperity means the living of a virtuous life (Kriger & Seng, 2005). Islam also suggests a positive relationship between Islam and intrinsic work values. As an Islamic adherents approach work, they are likely to view the intrinsic aspects of work positively. In Islam, work is considered to be a source of independence and a means of fostering personal growth, self-respect, satisfaction, and self-fulfilment (Yousef, 2000). Thus, the Islamic business ethics encourages adherents to view the intrinsic aspects of work positively.

As mentioned earlier, intrinsic aspects relate to openness to change and the pursuit of initiative and creativity at work. The Islamic business ethics clearly emphasizes creative work as an important source of accomplishment (Yousef, 2001) that could be implied in Muslim entrepreneurial activities. Numerous studies have shown that ethical considerations are important for business (Hornsby, Kuratko, Naffziger, LaFollette, & Hodgetts, 1994; Quinn, 1997; Spence & Lozano, 2000). Ethical practices within a commercial context make claims about what must be done or what must not be done in managing a business (Kuratko, Hornsby, & Naffziger, 1997).

Ethics as a code of conduct in larger firms has been the centre of attention in business ethics research. With a view that ethical practices should be the guiding principle for all businesses, the

studies investigating ethics in Small-Medium Enterprises have started to gain momentum. The implementations of Islamic business ethics in all aspects of entrepreneurial activities will established the Muslim entrepreneurs as Muslimgpreneurs which was defined as the Muslims who practice the Islamic business ethics comprehensively with the Islamic values in their entrepreneurship activities (Mohd Faizal, Muhammad Ridhwan, Kalsom, & Suhaida, 2014; Mohd Faizal, Muhammad Ridhwan, & Kalsom Ab. Wahab, 2014).

METHODOLOGY

The primary method of data generation in this study is semi structured qualitative interview. The interviews were conducted with two different groups of respondents namely, (1) The Muslim scholars and experts, and (2) The Muslim entrepreneurs to obtain multiple perspectives on the issues of this study. A semi- structured interviews are flexible by allowing an interviewer to bring up new questions during the interview to probe for more information compare to the structured interviews which are standardise predetermined questions which are asked in the same order for all respondents (Greene, 2005). The semi-structured interview was chosen because of its ability to provide the flexibility and autonomy to cover all areas of the research interest. At the same times, it allows the respondents to be flexible in their responses to the questions (Bryman, 2004). A total number of 6 respondents were interviewed in the actual data gathering process for this study. In results and discussion, the respondents for this study were mentioned as R1, R2, R3, R4, R5 and R6. All the interviews were transcribed manually despite its laborious and tedious process.

RESULTS AND DISCUSSION

There is not a single possibility of Islam to cover up misleading promotional act. Al-Quran criticizes all types and shapes of fake assertion, unfounded allegation, concoction and forged testimony. Allāh says: *“And they make into females angels who themselves serve Allāh. Did they witness their creation? Their evidence will be recorded, and they will be called to account!”* (Al-Dhukhruf, 43: 19).

R1 described his view as follows: *“In terms of the principles of marketing ... the marketing must be done in the best manner... there are high ethical values should be practiced... Islam clearly prohibits some forms of transaction such as “Bay^ع al-Najash”, “lā bay^ع hādir ribā”, “lā yathummu ‘alā thaumu akhīhi”, no monopolies, and no manipulations...”* (R1). While R2 insisted that the marketing process in Islam is similar to the marketing principles that are practiced today. She explained this as follows: *“... Islamic marketing is not much different from what has been practiced... the concept of 4P’s (price, product, place, promotion)... For marketing, the 4P’s important...”* (R2). This section will present analyses of the principles of Islamic marketing ethics based on the four main keys of pricing the product, product promotion rules, distribution channels, people (4ps) and encountering the business rivals.

Pricing the product

Psychologically, pricing policies are formed to endeavour and control human brain as seen by regular practice in the market. Commonly, the suggested retail cost printed on an item is frequently significantly higher than what retailers really charge. The point of such estimating approaches is to provide clients a forged impression that they are indeed getting a deal (Shaw, 1996). This kind of action is prohibited under the Islamic law. Islam forbids attaining something excessively exclusive of hard work, or accepting a profit without working for it (Shaw, 1996). Furthermore, it is illegal to modify a cost without changing the quality or amount of the item in relation to the fact that this is misleading the nice client for unlawful addition (Ibn Taymiyah, n.d.).

Islam also forbids fake promulgation or reputation from marketers with respect to the position of demand and supply through the media. It must be called into serious attention to that Islam does not confine price controls and manipulations according to the needs of the market. It entails that the Islamic ethics eventually allow in which to charge higher costs as a result of characteristic deficiency of supply of a given product or setting value roofs to ensure pioneering inclinations among dealers. In Islam, moving towards the direction of oneself instrument of price changes and healthy rivalry are to be empowered. Allāh says “*The seal thereof will be Musk: and for this let those aspire, who have aspirations*” (Al-Muṭaffifīn, 83: 26).

Nevertheless, the fundamental conditions for the successful process of such a mechanism direct that there must be no corner market, no advertisement, no unwarranted price manipulation, and no imprisonment on dealing (Niazi, 1996). Malik bin Anas (1989) claimed that once the second Caliph ʿUmar Ibn al-Khaṭṭab passed by Hatib ibn Abi Baltaʿah and found out that him selling raisins at a much lesser cost with the anticipation of putting his rivals to calamity. Caliph ʿUmar Ibn al-Khaṭṭab told him either to enhance the prices or get away from the market.

Islam firmly forbids the hoarding of a single product. Simultaneously, Islam proposes flexibility if challenging marketers offer at one price higher to compulsion and contortion of the free market or in the occasion that it entails high item costs. Based on these conditions, authorities of the Islamic government can bring together market pioneers speaking to a particular setting or an exact thing, in the vicinity of others. The rationale for existing is to accomplish an agreement on price level that would not be despicable towards the customers and at the same time produce reasonable benefits to the marketers. The major desire to mediate on such an spontaneous principle is to prevent “black-marketing” and “concealment of essential foodstuffs” (Abul Hassan, Abdelkader, & Salma, 2008).

Ibn al-Ukhuwwah (1983) considers several sorts of modern “ethical lapses” in pricing. It comprises when real possessors of the products act as if that they are not the owners so as to mark-up the cost by making customers think that a significantly upper value would be

implemented by the true dealers, or when there are collusive agreements. Ibn al-Ukhuwwah also underlines the role of authorities' official to assure that prices are still practical and just by examining any ethical lapses in price setting. Ibn al-Ukhuwwah also explained that the authorities' official need to be aware that a dealer attains his commission only from the merchant and must not affect the price to be decreasing in an agreement with the customer.

R3 shared this matter as follows: *“Muslimpreneurs must produce the best product or service to costumer. It includes a quality, honest and not deceives in the transaction. Ethical entrepreneurs may not misuse the price speculation to take advantage of costumers. This situation can maintain the convenience of costumers for the product or service that used. Among the unethical deeds is falsified the expiry date of a product, misuse the Halāl logo, misappropriation of advertising, inaccuracies measurement, the use of certain ingredients have been hidden from the user and others...”* (R3).

Every immoral act in pricing is equal to ‘injustice’ and is definitely sinful. Consequently, every profit earned through such unjustified prices is not only immoral, but they intrude upon the special status of a person and his or her roles and obligations as mentioned under the Islamic framework. With the aim of abolishing this sort of ‘injustice’, the marketer and customer must be aware that they have higher moral obligations on earth rather than be diverted with profit boost alone.

The Prophet SAW said: *“Do not raise prices in competition”* (Al-Nawawi, n.d., 2: 270). The above principles are summarized by R2 as follows: *“Muslim entrepreneurs should be clear about how to set the price because Islam has put the basic principles in pricing such as not oppressive and unfair...”* (R2).

Product Promotion Rules

Based on Islamic marketing ethics, it is unprincipled to over-praise the products and characterise the qualities that they do not acquire (Ibn al-Ukhuwwah, 1983). In addition, giving a fake idea of any kind to uphold, promote or sell a product is firmly forbidden in the Islamic marketing ethics framework. Thus, in the area of product promotions, the rules in Islamic marketing ethics included (i) prevention of fake and deceptive advertising; (ii) refusal of high pressure manipulations, or deceptive sales tactics; and (iii) evading of sales promotions that use deception or manipulation.

In Islamic ethics, an entrepreneur is an individual who thinks that he is accountable to Allāh. They must be honest and just in their marketing strategies. Only accurate documents which disclose precise specifications in terms of quality, contents, etc. will trade. They are forbidden to practice or else comprises shameful, disgraceful and dishonourable gain through pandering, dishonesty, disloyalty, theft or injustice (Ibn Miskawayh, 1968).

In the view of Islamic principles, entrepreneurs are also needed to reveal all faults in their products, whether it is in obvious form or concealed. By hiding all faults of the products, they are actually being deceitfully (Ibn al-Ukhuwwah, 1983). Niazi (1996) highlighted that it is compulsory for the entrepreneurs to disclose all known imperfections which cannot be discovered on the surface and cannot be seen by the brief glance of the customer. Additionally, it is essential that the thing sold must be free from imperfection (Tyser, Demetriades, & Efendi, 1967). Marketing revelation is revealed either by certification which will be given by informal or in composing, or in several instances silence will mean confirmation (Niazi, 1996).

Promotional strategies in Islamic ethics must not make use of sexual bid, passionate claim, dread advance, fake confirmations and counterfeit exploration offer, or help the bluntness of the brain or maintain indulgence. Based on the Islamic framework, these practices are manipulative since they are used merely to attempt the fundamental impulse of customers globally with the intention of getting profits and bigger market share (Munazza Saeed & Baig, 2013). Besides, Islamic ethics firmly confines stereotyping upon women in promoting, and unnecessary use of fantasy. The use of suggestive dialect and act, and the misuse of women as objects to draw and pull in customers are equally prohibited.

In commenting on the advertisement, the RI explained it as follows: “... *The advertising is very nice...the picture is beautiful... but their products are not as great as it is... I mean... the outrageous and extravagance promotion..., not as an absolute fact... Muslim entrepreneurs must apply the concept of clean, pure, and also khiyār...*” (R1). While R2 explained that: “... *Sometimes, there are exaggerated peoples in doing marketing... everything is great in the advertisements generated... whereas, in reality it is quite different. Muslimpreneurs must be honest and transparent in marketing the product. All the principles of Akhlāq must be maintained... the models and product ambassadors must comply with Shari‘ah... an explanation of the product should be correct, accurate and true...*” (R2).

Halāl products and its marketing are an advantage for Muslimpreneurs. It is an opportunity that should not be ignored. But in reality, many Muslimpreneurs fail to do well. This exacerbation was shared by R2 as follows: “... *Halāl products should be controlled by Muslims... I think the effort to promote Halāl products should be taken as advantage of Muslimpreneurs... unfortunately, now I see it has become a commercial value and this opportunity has been widely used by non-Muslim entrepreneurs. Maybe that’s their advantage in marketing the product...*” (R2).

Distribution Channels

The ethical proportions of decision-making in relation to allocation are a great implication in the area of marketing. Physically, products allocation can be looked as an incorporated collection of information, people, equipment, and organization. Hence, Muslim entrepreneurs will pursue the

Islamic distribution principles such as (i) not manipulating the availability of a product with the intension of exploitation; (ii) not using coercion in the marketing path; and (iii) not applying unwarranted influence over the re-sellers choice to handle a product (R1 & R2).

It is not astonishing to be aware of the choices made on the profit maximization belief are not essentially the most suitable in an Islamic viewpoint. An alternate sample of deceitful practices in conveyance include the use of packaging design with inadequate security and protection for the product, improper packaging, and dangerous and risky products delivered through open highways. According to Islamic point of view, such action on customers is guilty, unforgivable and associated to unjust marketing practices. Based on Islamic principles, distribution channels must not make a trouble for the final customer, concerning higher costs and deferrals. Ibn al-Ukhuwwah (1983) identifies that ethical lapses in distribution channels lead to needless delays in their delivery, convincing customers to come back constantly and subsequently giving them pointless bothers. Islam does not limit the agency representation as an association within the business sector to persuade the movement and acquisition functions. Looking at the Islamic ethical framework, the key point of distribution channels should produce value and motivate the standard of living by offering ethically pleasing services.

People

Islam emphasises the significance of free and autonomous judgment on behalf of the client. The ability to think rationally while coming at a decision recognizing with global marketing activities is vital in Islamic law (Mustaq Ahmad, 1995). The society as a whole should not be deprived of honesty, free from threats of promoting information. A customer's right has the privilege to gain such information and is indicative of the status given to them by Islam, on top of the embedded rights of their wealth that they splurge in buying products and services. It is the responsibility of the entrepreneurs not to turn to any coercion and they must, under any conditions, have respect for the educated morality and a higher level of awareness of the customers to guarantee that the well-deserved cash of customers is not misspent. Allāh says: *"But those whose desires exceed those limits are transgressors"* (Al-Mu'minūn, 23:7).

Ikrāh (coercion) as illustrated by Tyser et al., (1967), is to force a person of doing something exclusive of his consent. For that reason, at whatever point some coercive force is applied for as the basis of finalising a business deal, the main and fundamental state of mutual approval remains discontented and the consequential transaction is immoral and illegitimate. As stated by Mustaq Ahmad (1995), The Prophet SAW constrained a transaction concluded under restriction that is known as *Bay' al-Mudtarr*. Based on the Islamic principles, sexual, emotional, and fear forms of appeal, subliminal advertising and fake scientific claims have the elements of coercion that cause them to be considered as unethical as a marketing means. As a result, an ethically marketing states that customers' decision-making freedom should be protected from any coercion elements (Abul Hassan et al., 2008). A consumer right, as discussed above was

explained by R1 as follows: “... *But sometimes, it is written on of some goods, especially those made of glass “if touch consider sold”, or “don’t touch”, and there are also “if broken consider sale”... if you break one, perhaps you can afford... but if it more than two? Right, it's our fault... but this is not fair... it's the same as “bai' al-hasōd” which are prohibited in Islam ... you have to buy when you touch... it is considered unjust... then other business principles have to apply because we have a choice...*” (R1).

The Principles of Islamic Business Ethics to Encounter the Business Rivals

Ethical competition is fair competition which can improve the quality of the product. In an increasingly challenging of business environment, the entrepreneur should be more resilient, not easily give up, and be professional and ethical. In competition, the entrepreneur must be dynamic and creative person. The reformations or innovations made to overcome business competitors must be done within the moral and ethics framework. It also should not bring the negative effects, especially for consumers. Entrepreneurs do not have to counter their competitors in a wrong and illegal way. Actually, the way of thinking and the new ideas proven that are more efficient in the competition and will ensure the survival of the organization. The advantage on the competition was explained by R4, R5 and R6 as follows: “... *The business competition is good. A healthy competition will inspire the entrepreneurs to constantly strive to improve the quality of their products. Among SMEs, if they have the Halāl certificate, they will be able to market their products in the broader market, it is because only the good quality products which produced according to the rules will get a Halāl certificate...*”.

Marketing seeks to highlight the advantages of a product. However, there are ethics of marketing that must be followed by every Muslimpreneurs. When there are clashes of the same products in the market, the efforts to ensure that products are able to attract their customers would be done aggressively by all parties involved. The high expectation to make a sale will cause a breach of ethical values among the entrepreneurs. Thus, Islam has suggested that all Muslimpreneurs should prioritize the quality of their products. At the same time, only the true information should be used in the marketing of the product. Muslimpreneurs are also prohibited from disparaging the others products. They are also forbidden from sabotaging, patronizing or discredit their rivals.

In explaining this competitive situation, R1 stated that: “... *But there are ethics in marketing... Muslimpreneurs shall not degrade their competitors. Instead, the entrepreneurs have to portray the best of their products... the information also must present correctly and shall not put others down... Advertising should be done like that... for example, laundry soap in television ads usually use ‘X’ as a comparison with their soap... They also will use sentences such as “X is less effective”. They do not use the real names of existing products in markets because it is wrong from the perspective of ethics. High ethical values must be applied, so that... they do not bring down the credibility of the other party...*” (R1)

While R2 explained that: “... *Each business functions must implement the principles of Akhlāq as a whole, but may seem different in a framework because of the different scope or field. For example, in terms of marketing, we have to be fair to competitors and consumers. Entrepreneurs should highlight the advantages of their products in comparison with others products; but with the condition that they do not reveal the characteristics of competing products until it is clearly known by the consumer. By doing this, the entrepreneurs actually have patronizing other people's work; whereas it is actually prohibited in Islam. If the consumers are trying to guess what the product is, it is up to them. The important is; the entrepreneurs maintain their ethics of marketing...*” (R2)

In describing this, the respondents demonstrated clearly how Islamic banking institutions are seen as very dynamic and aggressive in marketing their products. At the same time, they will ensure that the activities are conducted in line with Islam. The respondents explained it as follows: “... *Promotion is to grab the market... to highlight that I'm the best... it's too hard to think. Please give an attention to banking institutions including Islamic banking... they are very competitive in order to attract their customers ... they has offer a variety of incentives... They are willing to offer a million ringgit of cash prize to the customers who open a bank account with them... The deals such like this is allowed because it is a gift from the share holder and does not cause any losers. Which means it is valid from an Islamic technical point... there is no barrier from the point of Islamic law... it is allowed. If it is was a gambling... I'm sure there will be losers... and gambling is prohibited in Islam...*” (R4, R5 & R6). R2 also explained the aforementioned as follows: “*Similarly, in terms of competition... we need a fair (‘adl) competition... marketing process that does not involve the element of gharār, do not force, do not deceive...*” (R2)

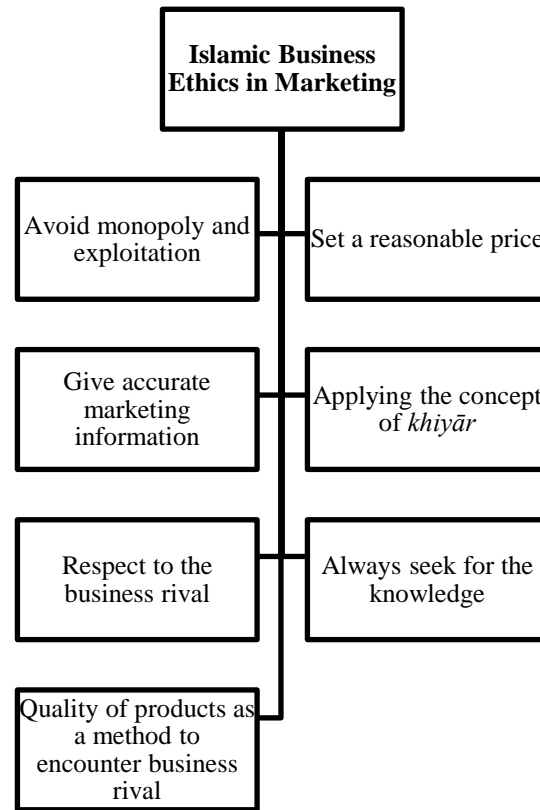


Figure 3: The Summary of Findings

CONCLUSION

Islamic marketing ethics combines the principle of value maximisation with the principles of equity and justice of the society. Adherence to the Islamic ethics in the entrepreneurs activities can help Muslim enhance the standards of behavior and living both of buyers and sellers. An Islamic entrepreneurship that aims to be morally responsible in adopting Islamic marketing policies often faces difficulties in determining how popular their products should be. This difficulty is compounded by the fact that economic costs attach to making products safe. These costs must be reflected in the price of a product. Thus, Muslimpreneurs should develop its products much popular than its competitors. At the same times, they will have to sell those products at a comparatively reasonable price and risk suffering a corresponding disadvantage in the marketplace. Marketing ethical practices is must, not choice. Each Muslimpreneurs should come across practicing or behaving ethically. This study proved that Islamic Ethics has the dominating characteristics over others. The Muslimpreneurs who were adherents with the Islamic ethics will be accountable at a supreme level. Therefore, their sincerity, timeliness, modesty, honesty, integrity, accountability will be at the highest standards.

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INTERVIEW SESSION

- R1: Prof. Dr. Joni Tamkin Borhan (18 April, 2013). Head of Department, Department of Shariah and Economy, APIUM.
- R2: Dr. Nor 'Azzah Kamri (22 April, 2013). Head of Department, Department of Shariah and Management, APIUM.
- R3: Mdm. Siti Rahmaniah Bachok (28 June, 2013). Ketua Penolong Pengarah, Bahagian Penyelidikan Jabatan Agama Islam Melaka.
- R4: Mr. Ideris Zainuddin (1 July, 2013). Manager, Perniagaan Ideris Zainudin.
- R5: Mr. Muhammad Shukri Jaafar (2 July, 2013). Manager, Shukri Food & Beverages Enterprise (Re-Cool).
- R6: Mr. Mohamad Shah Mohamad (3 July, 2013). Operation Manager, Ismail Food Enterprise.

**BS065:
TOKO KELONTONG SEBAGAI WADAH UMAT BERDAYA
DENGAN TIGA PILAR MANFAAT; KEWIRAUSAHAAN,
PENITIPAN ZISWA (ZAKAT, INFAK, SADAQOH, WAKAF) DAN
EDUKASI DINAR DIRHAM**

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Abstrak

Kapitalis semakin tumbuh subur dengan sistem ribawi yang mengarahkan arus dana pada kepentingan pengusaha tertentu, maka diperlukan cara untuk mengalihkan arus dana tersebut kepada masyarakat menengah kebawah yang selama ini hanya sebagai konsumen. Keberadaan toko kelontong atau yang kita kenal sebagai warung rakyat harus dimaksimalkan sebagai wadah pemberdayaan umat, keberadaannya saat ini hanya sebagai tempat transaksi jual beli kebutuhan harian masyarakat yang berdomisili pada daerah padat penduduk, keberadaannya di tengah masyarakat menjadi ciri khas sebagai tempat berlangsungnya hubungan bermuamalah. Konsep pemberdayaan toko kelontong diperluas dengan membuat model toko kelontong 3 in 1 yang saya berinama Takaful Store, gagasan nama Takaful dari 5 tahapan hubungan antara sesama manusia ; Ta'ruf, Tafahum, Ta'wun, Takaful dan Itsar. Semangat ini menghasilkan 3 jangkauan manfaat Takaful Store yaitu berkaitan dengan aktifitas Kewirausahaan, Wadah ZISWA (Zakat Infaq Sadaqoh Wakaf) dan Edukasi penggunaan alat transaksi Dinar Dirham. Sesuai kaedah maqosid syariah proses muamalah tidak saja berakhir pada hasil dari jual beli yang dilakukan namun lebih luas dari itu, menjangkau zat dari benda tersebut hingga sosialogis aktor muamalah, wujud dari kesempurnaan sistem yang Allah tetapkan. Metode pendekatan yang dilakukan yaitu LFA (Logic Framework Approach), menganalisa kebutuhan dan masalah yang terjadi dari penyimpangan keuangan disekitar masyarakat kita mulai dari moral hazard hingga paradigma berpikir tentang keuangan serta stakeholder yang terkait. Penelitian dan pemberdayaan ini berdasarkan pada nilai nilai tersebut dengan harapan ide dan gagasan ini dapat disebar secara luas agar kebermanfaatannya mudah dirasakan dan dapat digunakan sebagai solusi untuk bencana sosial yang saat ini semakin meluas berupa kemiskinan dan kelaparan.

Kata Kunci : Toko Rakyat, Takaful Store, Kewirausahaan, ZISWA, Dinar Dirham

TUJUAN DARI MUAMALAH SYARIAH

Ditetapkannya sebuah aturan tentu ada tujuan baik di dalamnya, syariat Islam yang telah ada saat ini hanya menjadi formalitas di masyarakat kita, aturan yang menjangkau seluruh bagian dari kebutuhan manusia baik rukhiyahnya, fiqriyahnya, jasadiyahnya dan finansialnya.

Subtansi ditetapkannya syariah adalah maslahat, dapat diwujudkan apabila lima unsur pokok kehidupan dapat diwujudkan dan dipelihara, yaitu :

1. Dien Pemeliharaan agama, dibutuhkan oleh manusia untuk menuntun keyakinan, memberikan aturan sehingga bermuara pada moralitas.
2. Nafs Pemeliharaan Jiwa, dibutuhkan untuk menjamin hak keberlangsungan hidup manusia
3. Aql Pemeliharaan Akal, dibutuhkan untuk menjadi pengetahuan yang diperoleh oleh umat manusia, sebab tanpa pengetahuan maka akan mudah tersesat dalam mengambil keputusan.
4. Nasl Pemeliharaan Keturunan, dibutuhkan untuk menjadi keberlangsungan generasi untuk kemaslahatan hidup manusia.
5. Maal Pemeliharaan Harta, dibutuhkan untuk memenuhi kebutuhan hidup manusia dan mempermudah ibadah, sebab ibada juga membutuhkan harta.

Kelima bagian pokok dari tujuan ditetapkannya syariah diatas adalah kunci kemaslahatan umat manusia atau yang dikenal sebagai *Maqhasid Syariah*. Dari kelima aturan tersebut kita dapat mengimplementasikannya kedalam aktivitas muamalah di masyarakat, seperti aktivitas jual beli. Model aktitas jual beli dimasyarakat sangat beragam, baik wujudnya seperti barang atau jasa, lalu prosesnya cash atau perjanjian, hingga bemuara pada kemaslahatan bersama.

Dalam hal ini kita coba menganalisa proses muamalah yang terjadi ditengah masyarakat kita tepatnya di samping rumah kita, dari tempat jual beli sederhana atau yang sering kita kenal toko kelontong, kita bernama *Takaful Store*.

Takaful Store atau pasar kelontong ialah bentuk muamalah yang melibatkan penjual, pembeli danada barang yang diperjual belikan seperti pada umumnya, yang membedakan ialah terdapat fungsi sebagai tempat penitipan ZISWA (Zakat Infak Sadaqah Wakaf) dan alat transaksi yang digunakan ialah Dinar dan Dirham.

Wirausaha merupakan aktivitas usaha yang dilakukan seseorang atau kelompok untuk menghasilkan keuntungan dari barang atau jasa yang ditransaksikan. Pengusaha ialah pemilik dari barang atau jasa yang ditransaksikan tersebut.

Berikut merupakan data pengangguran di Indonesia ;

Jadual 1 : Data Tenaga Kerja dan Pengangguran di Indonesia

(Dalam juta)	2010	2011	2012	2013	2014	2015	2016
Tenaga Kerja	116.5	119.4	120.3	120.2	121.9	122.4	127.8
Bekerja	108.2	111.3	113.0	112.8	114.6	114.8	120.8
Menganggur	8.3	8.1	7.3	7.4	7.2	7.6	7.0

Source: Badan Pusat Statistik Indonesia

Melihat data diatas memberikan gambaran kepada kita bahwa industry cepat atau lambat tidak lagi mampu menampung pencari kerja, dalam konsep jual beli kita mengenal jika permintaan

atau kebutuhan terhadap suatu barang banyak, maka akan mempengaruhi harganya tentu akan lebih tinggi, begitupun yang terjadi pada masyarakat pencari kerja. Oleh sebab itu dibutuhkan perluasan lapangan kerja melalui industri kreatif masyarakat atau usaha rumahan yang mudah dan murah.

Maslahat Model Mikro Kewirausahaan Toko Rakyat

Untuk memenuhi semua itu maka dibutuhkan sebuah model bidang usaha yang dapat menjangkau masyarakat menengah kebawah dengan memaksimalkan potensi yang dimiliki, assetnya berupa teras tempat tinggalnya sebagai tempat display barang dagangan dan tenaganya untuk menjalani usaha tersebut, kemudian untuk modal dapat bekerjasama dengan pemodal yang melakukan system bagihasil atau yang kita kenal dengan *Qirad atau Mudharabah*.

Dengan demikian para pencari kerja dapat memiliki penghasilan dari usaha tersebut, tidak hanya itu market kapitalis yang saat ini memonopoli pasar dapat dikontrol sehingga bermuara pada kemaslahatan dari hasil edar uang pada proses muamalah tersebut, inilah yang disebut dengan menjalankan fungsi *Kewirausahaan*.

Hubungan muamalah dalam syariah islam tidak saja proses jual beli yang tidak memiliki makna, namun terselip hikmah yang besar, dari transaksi jual beli tersebut terduplikasi nilai silaturahmi hingga silaturahmi tersebut dapat mengeratkan hubungan kedua aktor muamalah tersebut. Ketimpangan dimasyarakat kita telah nyata terjadi dimasyarakat kita, sikap apatis dan individualis menghasilkan generasi yang non empatik, hidup sepenuhnya orietasi materi tanpa mau membaur dan memperhatikan tetangga disekitar. Padahal syariat islam mengajarkan untuk berbuat baik kepada tetangga bahkan dalam memilik tempat tinggal parameternya ialah bagaimana tetangganya. Maka jangan heran jika bencana kemanusiaan berupa kemiskinan dan tindak kriminalitas lainnya ialah wujud dari ketidak pedulian kita terhadap tetangga kita.

Terkait hal itu dibutuhkan wadah untuk mengarahkan aktor muamalah tersebut dan sebagai pemicu untuk menimbulkan rasa tolong menolong yang disebut titipan kemanusiaan, adapun bentuk titipan tersebut berupa zakat, infak, sedekah dan wakaf, untuk infak dan sedekah dapat berupa dana tunai atau bahan makanan pokok yang dapat langsung didistribusikan kepada tetanggan sekitar Takaful Store yang membutuhkan, dengan demikian bencana kemanusiaan terkait kelaparan dan kemiskinan dapat terasasi dengan cepat dan tepat sasaran, sedangkan untuk tujuan zakat dan wakaf bekerjasama dengan lembaga kemanusiaan nirlaba untuk menjalankan fungsi program kemanusiaan yang lebih luas lagi.

Berikut merupakan kutipan potensi Zakat di Indonesia ;

TEMPO.CO, Jakarta - *Wakil Ketua Umum Badan Amil Zakat Nasional Zainulbahar Noor mengatakan potensi zakat Indonesia mencapai Rp 217 triliun. Dengan potensi itu, Zakat dinilai mampu membantu Pemerintah mengentaskan kemiskinan.*

"Nilainya hampir 10 persen dari APBN kita," kata Zainul di gedung Arthaloqa, Jakarta, Selasa, 7 Juni 2016. Sayangnya, zakat yang terhimpun baru 1,2 persen atau Rp 3 triliun.

Secara tidak langsung Takaful Store dapat menjadi resource untuk lembaga lembaga tersebut untuk menjalankan program kemanusiaan yang lebih besar, inilah yang disebut dengan menjalankan fungsi sebagai *wadah ZISWA (Zakat, Infak, Sadaqah, Wakaf)*.

Fungsi maslahat ketiga dari konsep Toko kelontong (toko rakyat) ialah sebagai wadah sosialisasi terkait penggunaan Dinar Dirham, sebelum lebih jauh terkait Dinar Dirham, perhatikan data inflasi dua tahun berikut ;

Jadual 2 : Data Inflasi Tahun 2015-2016

Bulan Tahun	Tingkat Inflasi
Nopember 2016	3.58 %
Oktober 2016	3.31 %
September 2016	3.07 %
Agustus 2016	2.79 %
Juli 2016	3.21 %
Juni 2016	3.45 %
Mei 2016	3.33 %
April 2016	3.60 %
Maret 2016	4.45 %
Februari 2016	4.42 %
Januari 2016	4.14 %
Desember 2015	3.35 %
Nopember 2015	4.89 %
Oktober 2015	6.25 %
September 2015	6.83 %
Agustus 2015	7.18 %
Juli 2015	7.26 %
Juni 2015	7.26 %
Mei 2015	7.15 %
April 2015	6.79 %

Sumber: Bank Indonesia

Terlihat tingkat inflasi menggerus nilai mata uang, selama standar alat transaksi berupa mata uang kertas yang tidak memiliki nilai instrinsik tersebut, lalu tersandarkan lagi pada mata uang Dollar, maka selama itu juga ketidak adilan nilai tukar mata uang sebab inflasi terjadi.

Berikut merupakan fakta dari infasi, 10 tahun yang lalu 1 juta masih bisa kita gunakan untuk membeli sepeda motor, sedangkan untuk saat sekarang hal itu adalah hal yang tidak mungkin, sebab inflasi membuat nilai mata uang tergerus sehingga harus menambah nilainya.

Bandingkan dengan Dinar dan Dirham, 1 Dinar pada masa Rasulullah seharga satu ekor kambing, 1 Dinar 4,25 gram jika dirupiahkan dengan nilai rata rata 2 juta Rupiah, perhatikan harga satu ekor kambing sekarang sekitar 2 juta Rupiah atau senilai 1 Dinar, lihatlah nilai 1 Dinar tidak dan tidak terpengaruh bentuk barang transaksinya, hal itu terjadi sebab Dinar memiliki bentuk instrinsik dari zatnya saja ialah berupa logam mulia yang bernilai tidak seperti mata uang kertas, berupa kertas yang diberi nilai (angka) hingga membuatnya berharga. Untuk mengenalkan kembali di masyarakat tentang alat transaksi yang adil inilah yang disebut fungsi *edukasi Dinar Dirham Takaful Store*.

Takful store menempatkan ketiga fungsi masalahat tidaklah mungkin Rasulullah bersabda 9 dari 10 pintu rizqi itu dengan berwirausaha atau berdagang jika tidak terdapat manfaat besar didalamnya, sudah saatnya kita menjadi aktor pewujud hadist tersebut, lalu menularkannya dimulai dari saudara dekat kita, lalu ke tetangga hingga ke masyarkat, sehingga tujuan dari masyarakat madani dapat terwujud.

Ketiga fungsi takaful store tersebut tidak saja menghasilkan kemaslahatan pribadi namun juga kemaslahatan bersama yang bermuara pada eratnya hubungan ukhuwah (kekeluargaan), menghasilkan nilai kemandirian dari aktifitas kewirausahaan, menumbuhkan jiwa kepedulian dari aktifitas penitipan ZISWA dan mewujudkan revolusi alat transaksi yang adil, inilah yang menjadi tujuan kemaslahatan, hingga bermuara pada negeri yang bergelar Baldhatun Ghafurur Rahim yaitu negeri yang di Berkahi ampunan dan Kasih Sayang yang besar sebab penerapan syariah di dalamnya.

PENGHARGAAN

Atas inspirasi dan berbagi semangatnya baik dalam seminar keilmuannya dan inspirasi dari beberapa pertemuan, hingga papper atas sebuah kerangka solusi ekonomi masyarakat ini selesai, saya ucapkan terima kasih kepada Bapak Imam Teguh Saptono selaku Direktur PT Bank BNI Syariah dan untuk FEB Universitas Indonesia, para akademisi ekonomi syariah dan mahasiswa KIEI (Kuliah Intensiv Ekonomi Islam) , semangat dalam forum diskusi mengingkatkan kita sudah saatnya kita menjadi aktor ekonomi umat dengan menerapkan nilai nilai syariah Islam.

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EZ066:
**THE INFLUENCE OF RELIGIOSITY TOWARD OF THE MUSLIM'S
HAPPINESS WITH THE BEHAVIOR OF ZAKAT, INFAQ AND ALMS AS
MODERATING VARIABLES**
(Case Study at LAZ Dompot Dhuafa Yogyakarta)

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Abstract

The behavior of zakat, infaq, and alms is very important for a person to get Muslim the true happiness that is the happiness of the world and the hereafter. Religiosity is one of the factors that affect the happiness of a muslim. But the happiness it brings should be accompanied by the behavior of the zakah, infaq, and alms. This research aims to know the influence of religiosity against the muslim's happiness and to find out whether the behavior of the zakat, infak and alms to moderate the relationship between religiosity with muslim's happiness. This research included in this type of research quantitative research design with causality and using paradigms of positivistic method. The population in this research is muzakki and sampling using a purposive sampling that is as much as 100 respondents muzakki in LAZ Dompot Dhuafa Yogyakarta. Data analysis using regression analysis techniques Weight Least Squares. The results of this research show that religiosity effect significantly to the muslim's happiness. The behavior of the zakat, infaq, and alms was able to moderate positive relationship of religiosity with happiness muslim.

Keywords: Religiosity, Happiness, Behaviour of zakat, infaq and alms

INTRODUCTION

Condition happy in whatever situation, here's what always pursued by mankind. Human beings want to live happily. Life is quiet, serene, peaceful, and prosperous. Some people pursue happiness with work hard to gather treasure. There is the pursuit of happiness on the throne, in power, because they think that power is synonymous with happiness and enjoyment in life.

Happiness is to be had in a way when we can do a lot more things to more happiness of others, even when they can no longer appease himself. Happiness can also we can perform social activities such as sharing or helping people who are around us, it will be able to further improve the quality of our happiness. As a result of the research, who argued that happiness is related to social behavior, namely as a circular motion, where volunteers and behavioral socialism has suggested that happy people are more likely to engage in these activities (social) and then experience a higher level of happiness from doing so (Thoits & Hewitt, 2001; Piliavin, 2003).

In Islam the happiness is happiness which is sought is essential to happiness, the happiness of the world and the hereafter.

In surah al-' Asr (1-3), God said, meaning:

“By time, Indeed, mankind is in loss, Except for those who have believed and done righteous deeds and advised each other to truth and advised each other to patience” (QS.al-"Asr: 1 - 3).

To achieve the happiness of living in the world and in the hereafter, then needs we have an unwavering Faith, and the practice of Dharma, as well as mutual told the truth and patience. Happiness is also to be had in a way when we can do a lot more things to more happiness of others, even when they can no longer appease himself. With high social support can become our happiness because it has helped people-people who are around us.

Factors that affect happiness is gender, age, education, income level, marriage, employment, health, religion, an important events in life (live events), traits, the level of well-being of the population, and the level of overcrowding. (Eddington & Shuman, 2005).

According to various studies in America have found that there is a significant correlation between happiness with someone's beliefs will be religion, the power of one's relationship with God, worship, as well as participation in religious activities. This can occur because of religious experience or trust owned someone makes a person feel meaningful in his life. (Eddington & Shuman, 2005)

One of the things that concerns religiosity is worship. Worship in Islam is divided into heart of worship, oral, and limbs. *Zakat* is one of the pillars of Islam and it is one form of worship material *qalbiyah* (physical and heart). *Zakat*, means Holy, grow, grow and blessings. Thus, the charity that clears (purify) one's self and one's wealth, reward increased, treasures grow (evolve), and bring a blessing. God said in Surat *At-Tawbah* : 103 which means:

“Take, [O, Muhammad], from their wealth a charity by which you purify them and cause them increase, and invoke [Allah 's blessings] upon them. Indeed, your invocations are reassurance for them. And Allah is Hearing and Knowing.” (At-Tawbah : 103)

Based on the text to be drawn the conclusion that the charity will provide peace of mind and peace of mind for a Mecca for *muzakki* because it has been one of the pillars of Islam and purify the treasure because the rights of the people in it have been ejected, cleaning the inner impurity in a person in addition with *zakat* we have been helping fellow Muslims.

In the book by Wiyono (2006) by paying the alms people will feel happy, delighted, excited, and that's the sign of a healthy liver, can feel the joy in giving. In contrast, a heart that hurts, he'll be griping or stingy or miserly and reluctant to take out the *zakat, infaq*, and alms to the person entitled to receive it. According to some researchers that the reply from giving charity is a motivation which is the happiness in alms. (Sutikno, 2012)

Zakat, infaq, and alms can indeed prosper the poor because it is a tool of distribution property, and must be carried out for people who can afford. But in a society that has been able to but not *zakat*, this did not change the situation that exists, then the need for awareness of the behavior of the people who is *muzakki* who can afford to *zakat*.

The intensity of activity or behavior of the *zakat, infaq* and alms (charity) a person driven by religious attitudes (religiosity) and subjective values about social welfare and justice. (Parsons, 1951; Fishbein and Ajzein, 1980; Sarlito Wirawan, 2002). In addition the behavior of someone who seems naturally occurs because influenced by beliefs adhered (Zakiah Daradjat, 1991). Religious beliefs who actually will produce a strong motivation in human beings to do good, there is a feeling of sin takes another person's rights, dutifully against the command of God and gratitude toward this brings is a high faith element that should be realized in good works (charity).

As described previously religiosity someone is benchmark a believer who believe in doing worship and practices of someone to get the true happiness that is the happiness of the world and the hereafter. This research concluded that attitudes such as religiosity turned out much correlated with happiness. The result is the higher the attitude of religiosity, the higher one's happiness (Aghili and Kumar, 2008). By having the religiosity or religious beliefs that a person's height will be compelled to behave charity (*zakat, infaq*, and alms) (Zakiyah, 1991). People who engage in social activity or charity will experience higher levels of happiness than what it does. Paying *zakat* man will feel happy, delighted, excited, and that's the sign of a healthy liver, can feel the joy in giving. The behavior of the *zakat, infaq* and alms at *muzakki* is important, because it is very beneficial to oneself, others, and the public.

HAPPINESS

Happiness is a broad concept, such as positive emotions or experiences that are fun, low negative mood, and has a high life satisfaction. (Diener, e., Lucas, r. e., & Oishi, s, 2005)

Happiness in Islam

The source of true happiness is tranquility or peace of the soul is a gift from Allah SWT, which is very valuable. Everyone definitely wants it, but few people who get it. This is because many humans who forget their creator, forget the essence of the giver of happiness. Allah have explained in his word in Sura Al-Fath verse 4 and An-Nahl verse 97 that it means:

It is He who sent down tranquillity into the hearts of the believers that they would increase in faith along with their [present] faith. And to Allah belong the soldiers of the heavens and the earth, and ever is Allah Knowing and Wise. (QS. Al-Fath: 4).

Whoever does righteousness, whether male or female, while he is a believer - We will surely cause him to live a good life, and We will surely give them their reward [in the Hereafter] according to the best of what they used to do. (An-Nahl: 97)

And some of the Hadith-Hadith that explain about happiness:

Narrated Anas : The Prophet said, "O Allah! There is no life worth living except the life of the Hereafter, so (please) make righteous the Ansar and the Emigrants [HR Ahmad]

Based on the Hadith, it can be inferred that the happiness in Islam is sought is essential to the happiness that is the happiness in the world and in the hereafter

Factors that Affect Happiness

Some researchers also tried linking happiness with environmental and demographic factors. The following will explain some of the factors that affect happiness (Eddington & Shuman, 2005):

- a. Gender
Global happiness levels between men and women remained on the same level.
- b. Age
As we get older so that both the level of happiness or life satisfaction tend to be stable.
- c. Education
Level of education has a slightly greater correlation
- d. Income Level
In General, richer people have higher levels of happiness than with a poorer person, however the difference is very small.
- e. Wedding
Marriage and well-being significantly correlated despite their age and income level is already controlled.
- f. Occupation
The work has a high correlation with the level of happiness due to work being able to provide the optimal level of stimulation
- g. Healthy
People who claim that he is a healthy person is one who has a tendency to high happiness.
- h. Religion
Religion is also able to meet the social needs of a person through religious activities together or share the same values and beliefs.
- i. Live Events

Related experience with nature is also assessed to increase positive behavior

j. Traits

The characteristics of the personality of the person owned was considered capable of affecting the level of happiness and life satisfaction of a person

Measuring indicators of happiness

In Journal of Forgeard, m. j. c., Jayawickreme, e., Kern, m. & Seligman, m. e. p. (2011)
Indicators measuring the happiness of some of the following :

1. Pleasure
2. Engagement
3. Relationship
4. Meaning
5. Accomplishment

RELIGIOUSITY

Religiosity of religiosity which means great devotion to religion. Religiosity is derived from religious concerning religion or religious nature inherent in one's self. In Indonesia category "religio" had been taken and adapted into said gama. Many or even most Indonesia seems to assume that "religion" is a literal translation of the results for the word "religion". The reality is not that simple, because "religion" includes a semantic field that is much narrower than "religion" and for which this person Indonesia must borrow the word "religion" from the Netherlands. In fact, the "religion" is a concept that is wrapped in Sanskrit, but a combination of Christian views about what is considered a world religion with the Islamic understanding of what defines real religion: namely: divine revelation (For: 2006). (Durkheim, 1915) that religion is a positive social institution which helps people to be together and a stable society. (Durkheim, 1915)

Factors affecting Religiosity

The four factors of the religiosity in enter in the main group (Robert, 1935), is:

1. Social influences
Social factors include all social influences in the development of an attitude of religious, namely: parent education, social traditions and social pressures to conform to a variety of opinions and attitudes which are agreed by the environment.
2. A wide range of experience
Personal experience or religions conflict experience moral and emotional set of inner experience which is tied directly with God or with some other form of religious attitudes can also assist in the development of religious attitudes.
3. Needs
Needs that cannot be met completely, resulting in noticeably the need fulfillment.

4. The process of thought
The last factor is the role played by verbal reasoning in the development of religious attitudes.

Religiosity in Islam

On the authority of Abdullah, the son of Umar ibn al-Khattab (ra), who said: I heard the Messenger of Allah say, "Islam has been built on five [pillars]: testifying that there is no deity worthy of worship except Allah and that Muhammad is the Messenger of Allah, establishing the shalat (prayer), paying the zakat (obligatory charity), making the hajj (pilgrimage) to the House, and fasting in Ramadhan." [Bukhari & Muslim]

Religiosity, Islam is divided into five dimensions, namely: dimensions of “*aqidah*” concerning beliefs and human relationships with God, Angels, prophets, and so on:

- a. Dimensions of worship, concerning the frequency, the intensity of the exercise of worship that has been established for example prayer, *zakat*, *Hajj* and fasting.
- b. Charitable dimension concerns the social life behavior, such as helping others, defend the weak people, work and so on.
- c. Dimensions *ihsan* concerning their experiences and feelings about the presence of God, fear of violating the ban and others.
- d. Dimensions of science comes to knowledge a person about religious teachings.
- e. The dimensions of *Aqidah* (Ideology) of a religious Muslim who will have the main characteristics in the form of a strong belief. The dimensions of this problem reveal the beliefs *aqidah* of man against the tenets of faith (faith in God, Angels, Scriptures, prophets, and the day of vengeance-*qada* and *qadhar*), the truth of religion and the supernatural issues taught religion. The core dimension of faith in Islam is Unity or oneness in God.

The Measurement of Religiosity

In the journal Youssef et al (2011) also has been exploring a concept of measurement based on the perspective of behavior called Islamic Behavior Religiosity Scale (IBRS). IBRS is used by marketers to access the level of religiosity that consumers can be connected with consumer behavior and make purchasing interest Predictor. Factors used in the Islamic Behavioral Religiosity Scale (IBRS) that is, the first factor is the doctrine of Islam (Islamic Doctrinal), factors both intrinsic religiosity and extrinsic religiosity third factor.

BEHAVIOR

The behavior is a human activity itself. The behavior is activity that arise because of stimulus and response as well as can be observed in to cause reactions, i.e. stimulation (Sunaryo, 2004). Human behavioral traits that distinguish it from other beings are social sensitivity, survival behavior, task orientation, effort and struggle, as well as the uniqueness of each individual (Notoadmojo, 2003). Each individual is unique, which means that humans are different from one

human to another and no two human beings are exactly upfront of this earth, even though he was born a twin. Human beings have the characteristics, properties, character, personality, and its own motivation that sets it apart from other human beings. Experience the difference experienced individuals in the past and his later, determine individual behavior in the present. There is some research related to this charitable behavior some of which are research Machus and Purwono using approach theory Ajzen (2005) measurement consists in many factors i.e. intentions, attitudes, subjective norms, normative beliefs, control trust and the perceived behavior control. In each of the factors used to measure the scale of construction behavior/approach behavior based on the Target, Action, Context, Time, or TACT. His research examines the Alawiyah in deeds of charity Indonesia Muslims as well as factors related to the magnitude of the awarding of meritorious deeds, to gauge in society measured using questions the amount of money spent by respondents a year subs (Alwiyan, 2009).

ZAKAT, ALMS, AND INFAQ

A. *Zakat*

In terms of language, the word *zakat* is the basic word (masdar) of *zakat* which means blessing, growing, clean, and Nice. Something that 'zaka', meaning to grow and grow, and a zaka, it means that person is good. While colloquially, *zakat* is a part of the treasure with certain requirements, which Allah has enjoined upon the owner to be handed over to heirs.

1) *Muzakki* terms

As for the terms *muzakki* is as follows:

- Muslim
- Independent
- Adult (Puberty)
- That has a certain amount of wealth in a certain condition (Insufficient Nisab and Haul)

2) The obligation of *zakat*

And establish prayer and give zakat and bow with those who bow [in worship and obedience]. (QS. Al-Baqarah: 43)

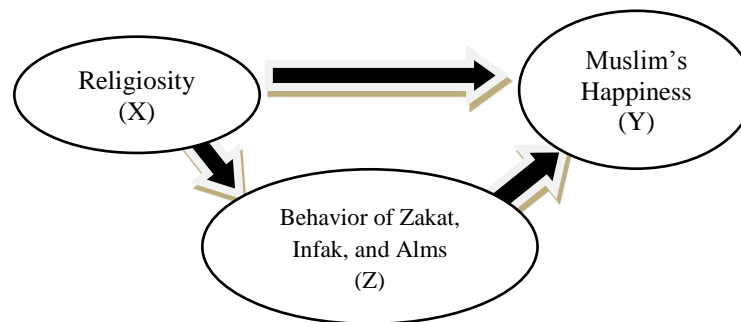
The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakat and obey Allah and His Messenger. Those - Allah will have mercy upon them. Indeed, Allah is Exalted in Might and Wise. (QS. At-Taubah : 71)

The Day when it will be heated in the fire of Hell and seared therewith will be their foreheads, their flanks, and their backs, [it will be said], "This is what you hoarded for yourselves, so taste what you used to hoard (QS. At-Taubah : 35)

B. *Infaq* and Alms

Infaq may refer to donate or give Scott (gift of God) or spend something to other people based on a sense of sincere and purely God Almighty. While the charity is the manifestation of faith and devotion. This means that the person who likes giving charity is the correct confession of faith of the people. In Islamic jurisprudence, alms, *infaq* sense equal to include also the law and its provisions. Side of the difference only lies in his. *Infaq* form of the material, while alms in the form of material and not material. Some have specific requirements with *zakat*, *infaq* and more charity is flexible because it has no requirement *nishab*, *haul*, as well as the compulsory eject and are eligible to receive it. Based on some of the blurb writers can take the conclusion that *infaq* and alms have the same sense but that sets it apart is located at the given material form and there is no special condition to give it.

THE FRAMEWORK OF THOUGHT



Picture 1: The Framework Of Thought

Based on the explanation earlier, religiosity is one of the factors in one's happiness. In Islam *Zakat*, alms, and *infaq* is a form of worship, which the *zakat*, alms and *infaq* has many benefits if seen from several aspects. However, these benefits cannot be us we feel in a society that has been able to but no tithes then the need for awareness of the behavior of the people who is *muzakki* who can afford to *zakat*.

RESEARCH HYPOTHESES

The framework for the formulation of research and thought the issue hypothesis, presented as follows:

- H_{0a} : A positive effect against religiosity of the Muslim's happiness
- H_{1a} : A negative effect against religiosity of the Muslim's happiness
- H_{0b} : The behavior of the *zakat*, *infaq*, and alms was able to moderate positive relationship of Muslim Religiosity with happiness
- H_{1b} : The behavior of the *zakat*, *infaq*, and charity was able to moderate negative relationship of Muslim Religiosity with happiness

RESEARCH METHODOLOGY

Research methods adopt a positivistic paradigm is also known as confirmation, because the method is suitable for proof/confirmation and can be called as a method of quantitative research because the data in the form of figures and its analysis using statistics. Endraswara States understand "deductive" with the positivistic methods of "quantitative", i.e. formulating or determining the research issues as well as to extrapolate answers to problem solving. The core of a scientific research is to be based on the value of scientific knowledge so that problems are discussed and a solution must be based on scientific value. (Endraswara, 2006) Communication i.e. positivism paradigm is a linear process or the process because the result that reflects the efforts of the sender of the message to change the knowledge of the message recipients. (Ardianto, 2010) Design research is included in a causal research, the type of research to the characteristics of the issue of the form of causal relationship between two or more variables. The design of this research is used to find relations between causal 3 variables that will be made the object of research i.e. the dependent variables, variable independent variable and moderation. This research uses the approach of fieldwork (field research) that is the data that you retrieve data that comes from the fact that real are occurring in the field. This type of research using quantitative models, namely by obtaining research data in the form of figures or qualitative data that numbering (Sugiyono, 2003). The population in this research is the whole *muzakki* in Dompot Dhuafa Yogyakarta. The sampling techniques used in this research is purposive sampling. Purposive sampling is the determination of the sample based on certain criteria (Sugiyono, 2003). Data sources used are primary data. Primary data is data that is retrieved directly from the subject of research by using data capture of the subject directly as the information sought. The method of data collection in this study using the method of questionnaire (question form). The questionnaire is written statement is used to obtain information from the respondent within the meaning of the report about private or things that it knows.

A. *Data Analysis Techniques*

The analysis of the data used in this study is the analysis of Weight Least Squares (WLS) with moderate variable using the MRA (Moderated Regression Analysis) because it consists of one independent variable, the dependent variable one, and one variable moderation. As for the stages consist of a descriptive test, hypotheses test, WLS test, and moderated regression analysis.

1. Descriptive Test
2. Regression analysis WLS (Weight Least Squares)

WLS methods in the study of econometric model derived as following:

$$Y = C + b_1.X \dots \dots \dots (1)$$

Description:

Y : Muslim's Happiness

X : Religiosity

- C : Constants
 b1 : Regression Coefficient

3. Hypotheses Test

- a. T-Test
- b. F-Test
- c. Correlation (R)
- d. Coefficient of Determination (R²)
- e. *Moderated Regression Analysis (MRA)*

RESEARCH RESULTS

The analysis used in this study is the analysis of Weight Least Squares (WLS). This analysis is used to find out the influence of Religiosity of the muslim's happiness against the behavior of *zakat*, alms, and *infaq* as a variable in moderation Dompot Dhuafa Yogyakarta. After the calculation is performed by using a computer-assisted program Eviews 7.0 obtained the results that are listed in the following table:

Table 1

Variable	The Regression Coefficient	Standard Error	T count	Sig. t
Religiosity (X ₁)	1,698	0,550	3,082	0,002
Behavior of <i>Zakat</i> , <i>Infaq</i> , and alms (X ₂)	37,245	16,696	2,230	0,028
Moderation (X ₁ *X ₂)	-0,160	0,074	-2,147	0,034
Constants	-171,7			
Adjusted R Square	0,466			
R Square	0,483			
F	6,883			
Sig. F	0,000			

Source: Data 2016

A. The Result of T-Test

Based on testing of the variable behavior of the *zakat*, alms, and *infaq* against happiness muslim obtained the results that the value t calculate registration -2.147 with sig. t of 0.034 ($p < 0.05$) so that his decision to reject H_{0b} and accept H_{1b}. Means there is a significant influence of the variable behavior of the *zakat*, alms, and *infaq* against the muslim's happiness. So the second hypothesis States that the behavior of the *zakat*, alms and *infaq* able to moderate positive relationship of Religiosity with happiness Muslim is supported.

B. *The Result of F-Test*

Based on the calculation analysis of WLS, retrieved value of F is 6.883 and count of level of significance 0.000. Because the probability of significance is much smaller than 0.05, then it can be said that religiosity, Muslim happiness and religiosity are moderated by the behavior of the *zakat*, alms, and *infaq* collectively effect on happiness.

C. *Correlation*

Simple correlation coefficients (*r*) are used as analytical tools to demonstrate a significant relationship of variables variable against Religiosity and Happiness the behavior of *zakat*, alms, and *infaq*. The result can be seen in the table below:

Table 2

Variable		Behavior of <i>Zakat</i> , <i>Infak</i> , and Alms	Religiosity	Happiness
Behavior of <i>Zakat</i> , <i>Infak</i> , and Alms	Pearson Correlation	1	0,168	.207*
	Sig. (2-tailed)		0,095	.039
	N	100	100	100
Religiosity	Pearson Correlation	0,168	1	0,373**
	Sig. (2-tailed)	0,095		0.000
	N	100	100	100
Happiness	Pearson Correlation	0,207*	.373**	1
	Sig. (2-tailed)	0,039	0,000	
	N	100	100	100

Source: SPSS 16 (2016)

Based on table 2 above are obtained from the results of testing is:

- 1) Variable value Religiosity (X_1) against the Muslim's happiness (Y) of 0.373, which means that the relationship between Religiosity (X_1) towards the happiness of Muslims (Y) a low category
- 2) Value of the variable behavior of the *zakat*, alms, and *infak* (X_2) against the Muslim's happiness (Y) of 0.207, which means the relationship between the behavior of *zakat*, alms, and *infaq* (X_2) against the Muslim's happiness (Y) with a low category.

The value of *r* is obtained positive means the direction of the relationship between variables is positive, then the higher the value of the coefficient of correlation between the variables then ties each variable will increasingly affect each other

CONCLUSION

It can be concluded that the results of this study showed that the average *muzakki* in LAZ Dompot Dhuafa Yogyakarta has a religiosity in the high category. Similarly the *muzakki* obtain

happiness is also included in the high requirements. The test results stated that, there is a positive and significant influence among variables religiosity towards happiness obtained. The acquisition of t-values to calculate and test the higher meaning of WLS religiosity someone then happiness will be higher. Similarly the behavior of *zakat*, *infaq*, alms and moderate the relationship between Muslim religiosity with happiness, so that it can be concluded that the behavior of the *zakat*, *infaq* and alms was able to moderate positive relationship of Religiosity with happiness.

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**BW068:
PENYELESAIAN SENGKETA TANAH WAKAF YANG BERASA DARI
TANAH ULAYAT KAUM DENGAN SISTEM MUSYAWARAH UNTUK
MENCAPAI MUFAKAT DI SUMATERA BARAT.**

Yasniwati

Abstract

The economic crisis that hit the Indonesian people very impact on the social conditions of society. The collapse of building the foundations of the nation's economy is the key issue to repair (recovery) economic community. At the end of the period of the New Order (1998), Indonesia's economy experienced a drastic slump. This can be seen in the poverty rate. If in 1997 before the financial crisis, the poverty rate in Indonesia is only about 11%, but in 1998 has increased dramatically to more than 45%. The things that stand out from the institution of waqf is its role in financing various religious activities (Islam), Islamic education and health. Data contained in Sub-Directorate of Information Systems Waqf, Religious Affairs Ministry showed that in 2012, the waqf land area in Indonesia reached 3.492.045.373,754m², the data is the result obtained from the data collection process manually waqf land in Indonesia, which is conducted in phases ranging from the district level by KUA power, then recapitulated the district / city level by the Ministry of Religious Affairs, and so on up to the national level. Waqf land area of 420 003 scattered locations throughout Indonesia. The waqf land there is already certified and some are not certified then the land diwakafkan by wakif only verbally there is no written evidence. This situation led to disputes which resulted in the donated land is problematic in use and the resulting empowerment wakif heirs sued the ground has diwakafkan but proof that the land has been given no. So many of the waqf dispute is resolved amicably.

Keywords : Settlement of disputes, endowments, communal land.

LATAR BELAKANG MASALAH

Tujuan Negara Kesatuan Republik Indonesia sebagaimana yang diamanatkan dalam Pembukaan Undan-undang dasar 1945 antara lain memajukan kesejahteraan umum. Dalam rangka mencapai tujuan tersebut, perlu diusahakan menggali dan mengembangkan potensi yang terdapat dalam lembaga keagamaan yang memiliki manfaat ekonomis. Salah satu langkah strategis untuk meningkatkan kesejahteraan umum, yang tidak hanya bertujuan menyediakan berbagai sarana ibadah dan sosial, melainkan juga memiliki kekuatan ekonomi yang berpotensi antara lain memajukan kesejahteraan umum, sehingga perlu dikembangkan pemanfaatannya sesuai dengan prinsip syariah (UU Wakaf :2004)

Islam sebagai ajaran yang lengkap, mempunyai konsep ekonomi untuk mensejahterakan umat. Salah satu sistem ekonomi Islam yang mempunyai peranan penting bagi pengembangan kesejahteraan masyarakat adalah wakaf. Wakaf merupakan instrumen Ekonomi Islam yang sangat unik dan sangat khas dan tidak dimiliki oleh sistem ekonomi lain. Masyarakat non-

Muslim boleh memiliki konsep kedermawanan (*philantropy*) tetapi ia cenderung seperti hibah atau infag, berbeda dengan wakaf. Kekhasan wakaf juga sangat terlihat dibandingkan dengan instrumen zakat yang ditujukan untuk menjamin kelangsungan pemenuhan kebutuhan dan peningkatan kesejahteraan masyarakat *mustahiq*(M Aziz Setiawan :2015)

Dalam hal menguatkan peranan wakaf, telah muncul pemikiran bahwa pendekatan wakaf mesti keluar dari kepompong, pendekatan wakaf tradisional kepada pendekatan wakaf produktif (Irfan Abu Bakar:2009). Wakaf tradisional di sini merujuk kepada wakaf konvensional yang terbatas hanya kepada wakaf mesjid, madrasah, pesantren, perkuburan dan sebagainya. Ia dianggap kaku, tidak bergerak bagi pemanfaatan umat secara maksimal. Wakaf produktif merujuk kepada wakaf yang dapat menuju tercapainya keadilan sosial dan penguatan peranan umat. Ia melampaui dimensi ritual keagamaan semata-mata dengan merangkumi dimensi kemaslahatan umum, misalnya wakaf jembatan, wakaf tempat mandi, wakaf air minum, wakaf taman perkotaan seperti pendekatan wakaf zaman kejayaan Islam pada abad pertengahan, dan dimensi sosio-ekonomi umpamanya wakaf untuk kesehatan, wakaf untuk lingkungan yang bisa diukur pencapaiannya (M Aziz Setiawan:2015)

Transformasi bentuk wakaf dari berbentuk tradisional kepada yang berbentuk produktif ini secara langsung telah membawa kepada transformasi dalam barang wakaf. Dalam wakaf tradisional, barang wakaf sering bertumpu kepada barang tetap saja. Adapun dalam wakaf produktif, barang wakaf dipelbagaikan dengan merangkumi barang bergerak. Barang tetap di sini merujuk kepada barang tidak dapat dialihkan seperti tanah dan bangunan. Barang bergerak merujuk kepada barang yang dapat beralih, terutama uang tunai dan barang-barang lain seperti buku, kendaraan, emas, perabot, peralatan, dan sebagainya. Beberapa waktu belakangan ini, usaha memperkasakan wakaf telah mencoba membebaskan benda wakaf dari yang hanya terikat dengan benda tetap dan membuka ruang yang lebih luas kepada benda bergerak. Usaha ini dilandasi dengan inovasi hukum dan pembinaan fatwa baru(Aziz Setiawan: 2015)

Indonesia adalah negara yang terletak di benua Asia Tenggara. Meskipun jauh dari negara asal agama Islam, namun penduduk yang menganut agama Islam di Indonesia sangatlah besar, yaitu sekitar 12,7 persen dari total Muslim dunia. Pada tahun 2010, penganut Islam di Indonesia sekitar 205 juta jiwa atau 88,1 persen dari jumlah penduduk. Pada tahun 2013 menurut data BPS maka penduduk muslim di Indonesia berjumlah 80 persen dari jumlah penduduk. (<http://www.topix.com> : 2015)(Luas tanah wakaf di Indonesia ternyata hampir lima kali lipat dari luas keseluruhan negara Singapura. Data yang terdapat pada Subdit Sistem Informasi Wakaf, Kementerian Agama menunjukkan bahwa pada tahun 2012, luas tanah wakaf di Indonesia mencapai 3.492.045.373,754m², data tersebut merupakan hasil yang diperoleh dari proses pendataan tanah wakaf secara manual di seluruh Indonesia, yang dilakukan secara berjenjang mulai dari tingkat kecamatan oleh tenaga KUA (kantor urusan agama), kemudian direkapitulasi pada tingkat Kabupaten/Kota oleh kantor Kementerian Agama, dan seterusnya

hingga tingkat nasional. Tanah wakaf seluas itu tersebar di 420.003 lokasi di seluruh wilayah Indonesia (<http://bimasislam> :2015)

Meskipun memiliki kelemahan, metode pendataan aset wakaf secara manual tersebut untuk sementara masih dijadikan acuan. Kasubdit Sistem Informasi Wakaf, Kementerian Agama, Abdul Syukur ketika berbincang dengan *Bimas Islam* mengatakan bahwa metode manual memang masih berjalan, namun demikian dua tahun terakhir ini pihaknya memiliki program untuk mengembangkan sebuah aplikasi Sistem Informasi Wakaf yang memuat informasi komprehensif tentang data-data perwakafan di Indonesia. Metode aplikasi Sistem Informasi Wakaf ini nantinya akan menggantikan metode manual yang selama ini masih dilakukan. Selain luas tanah wakaf, aplikasi ini akan berisi data-data lain seperti jumlah *nazhir* (pengelola wakaf), bidang usaha yang dikembangkan, aset wakaf benda bergerak dan tidak bergerak, dan sebagainya, “sebagai percobaan, pada tahun 2012 sistem aplikasi ini kita lakukan di beberapa kota sebagai sampel, seperti Semarang, Banjarmasin, dan Palembang. Tahun 2013 ini akan kita coba lagi untuk tingkat provinsi di Jawa Tengah, Jawa Timur dan Yogyakarta,” tuturnya. Kedepan, aplikasi Sistem informasi Wakaf ini akan terus disempurnakan agar Kementerian Agama memiliki data *real time* mengenai jumlah aset wakaf di Indonesia. Selama ini, sistem pendataan aset wakaf secara manual dinilai memiliki beberapa kelemahan, diantaranya adalah masyarakat merasa kesulitan untuk mengakses luas tanah wakaf secara *update*. Selain itu metode pendataan manual juga dinilai tidak efisien baik secara waktu maupun secara anggaran. Abdul Syukur menerangkan bahwa pada tahun 2013 ini Subdit Sistem Informasi Wakaf akan melatih sistem *entry data* untuk beberapa angkatan di berbagai provinsi di Indonesia. (<http://www.topix.http> :2015)

Harus diakui, berbagai upaya pemberdayaan wakaf telah dilakukan baik dari organisasi massa Islam, *nazhir*, Perguruan tinggi, LSM (lembaga swadaya masyarakat), maupun pemerintah sendiri. Lahirnya undang-undang No. 41 Tahun 2004 Tentang Wakaf dengan PP No. 42 Tahun 2006 Tentang Peraturan Pelaksanaan wakaf yang merupakan bukti bahwa pemerintah menggarap wakaf secara serius sebagai payung hukum untuk mengembangkan perwakafan dimasa mendatang. Bahkan upaya pemerintah meregulasi peraturan terkait dengan masalah tersebut masih terus dilakukan yang bertujuan untuk memberdayakan lembaga-lembaga keagamaan secara optimal untuk kepentingan peningkatan kesejahteraan masyarakat banyak (Suhrawadi. K..lubis,dkk). 2010 Akan tetapi pada kenyataannya jika kita kaitkan dengan pemberdayaan wakaf untuk meningkatkan perekonomian umat wakaf belum efektif untuk mengurangi jumlah penduduk miskin di Indonesia. Jumlah penduduk miskin pada Maret 2012 mencapai 29,13 juta orang (11,96 persen), berkurang 0,89 juta orang (0,53 persen) dibandingkan dengan penduduk miskin pada Maret 2011 yang sebesar 30,02 juta orang (12,49 persen). (<http://www.bps> :2013)

Di Indonesia pengelolaan wakaf belum bisa sepenuhnya untuk membiayai kegiatan negara khususnya dalam pengentasan kemiskinan. Padahal kalau kita perhatikan harta wakaf yang ada di Indonesia terutama wakaf tanah sangat banyak sekali. Tetapi harta wakaf yang berupa tanah kebanyakan digunakan untuk pembangunan mesjid, mushala, panti asuhan dan pemakaman. Orientasi penggunaan tanah wakaf masih bersifat sosial belum berorientasi ekonomi. Seandainya kita mau kreatif dalam penggunaan tanah wakaf kita bisa mengkombinasikan pelayanan sosial dan keagamaan serta ekonomi di satu lokasi areal tanah wakaf, seperti yang telah dilakukan oleh mesjid muhammadiyah yang ada di kota Padang yaitu Mesjid Muhammadiyah Taqwa dan mesjid Muhammadiyah simpang haru Padang. Dari hasil sewa toko tersebut dapat diinvestasikan lagi untuk pinjaman bagi pedagang kecil yang ada di sekitar tanah wakaf yang sudah produktif tadi dan keuntungan dari investasi bisa digunakan untuk kegiatan operasional mesjid seperti honor ustadz dan lain-lain.

Dengan demikian dapat dikatakan, bahwa wakaf merupakan sumber daya ekonomi yang dapat dikembangkan untuk meningkatkan kegiatan-kegiatan ekonomi, disamping kegiatan-kegiatan yang bersifat keagamaan dan sosial. Artinya pemanfaatan wakaf tidak hanya sebatas untuk kegiatan sosial belaka, namun juga hendaknya dapat dimanfaatkan untuk pengembangan ekonomi yang bersifat makro, seperti pertanian, perikanan, peternakan, industri, pertambangan, dan lainnya. Tanahnya tetap saja merupakan tanah wakaf, namun hasil dari tanah wakaf tersebut dapat dimanfaatkan. (Rahmadi Usman, 2009).

Legalitas merupakan suatu hal yang tidak dapat dipisahkan dalam kegiatan apapun. Legalitas menjadikan kegiatan tersebut kuat secara hukum sesuai dengan peraturan yang ada. Wakaf sebagai salah satu instrumen dalam ekonomi Islam merupakan suatu kegiatan filantropi yang legal diatur dalam undang-undang negara. Wakaf, merupakan sentral *voluntary* ekonomi Islam yang berfungsi sebagai aset konstruksi pembangunan demi kesejahteraan masyarakat. Pada prinsipnya wakaf merupakan anjuran kepada sikaya untuk membantu orang-orang yang kurang mampu dengan cara mendermakan dana abadi yang dikelola, dan hasilnya dimanfaatkan untuk membantu kebutuhan, membina dan mengangkat derajat manusia (Wahidudin Adams :2015).

Sejatinya, agama tidak dimaknai sekedar ritual formalitas yang bertumpu pada ritual keagamaan saja; agama juga bukan sekedar media kontemplasi bagi pemenuhan kebutuhan batin berupa pengetahuan tentang dunia yang transeden, dunia langit yang darinya kehidupan ini bermula. Lebih dari itu, agama adalah sebuah nilai yang mengajarkan sekaligus motor bagi sebuah perubahan sosial dimasyarakat, mediator sekaligus motivator bagi individu maupun komunitas untuk meraih kehidupan yang lebih baik. Agama berperan dalam proses penataan kehidupan ini menuju arah yang baik dan sejahtera (Jaja Zarkasyi : 2015).

Wakaf sebagai salah satu lembaga yang berasal dari hukum* Islam telah lama dikenal dan hidup dalam masyarakat Indonesia. Namun praktik dan pengembangan wakaf yang selama ini berjalan

dimasyarakat masih bersifat sangat konvensional yang pada umumnya hanya ditujukan untuk mendukung sarana dan prasarana ibadah ritual semata, seperti pembangunan tempai ibadah dan pengelolaan pesantren (Uswatun Hasanah : 2014).

Praktek wakaf di beberapa negara telah berkembang dengan baik dan cukup maju, telah dirasakan manfaatnya bagi kesejahteraan umat seperti: Saudi Arabia, Mesir, Turki, Yordania Qatar, Kuwait, Bangladesh, Jerman, Malaysia, Singapura dan Amerika Serikat. Di Amerika Serikat misalnya sebuah negara terbesar didunia, ternyata wakaf bagi warga muslim minoritas disana, telah dikelola secara profesional dan oleh lembaga keuangan Islam yang juga sangat bonafid, lembaga yang mengelola wakaf tersebut adalah *The Kuwait Awqaf Public Fondation (KAPF)*, yang bermarkas di New York, dimana *Al-Manzil Islamic Financial Services* sebagai advisornya. Satu hal yang perlu diketahui, berkat upaya *KAPF* dan *Al-Manzil* tersebut, kini di New York telah berdiri sebuah proyek apartemen senilai US 85 juta dolar di atas tanah yang dimiliki *The Islamic Cultural Center of New York (ICCN)* (Kementerian Agama RI : 2014).

Salah satu lembaga Islam yang sangat berperan dalam pemberdayaan masyarakat adalah wakaf. Dalam sejarah, wakaf telah berperan dalam pengembangan sosial, ekonomi dan budaya masyarakat. Hal-hal yang menonjol dari lembaga wakaf adalah peranannya dalam membiayai berbagai kegiatan keagamaan (Islam), pendidikan Islam dan kesehatan. Sebagai contoh di Mesir, Saudi Arabia, Turki dan beberapa negara lainnya, pembangunan dan berbagai sarana dan prasarana ibadah, pendidikan dan kesehatan dibiayai dari hasil pengembangan wakaf. Kesenambungan manfaat hasil wakaf dimungkinkan karena digalakkannya wakaf produktif untuk menopang berbagai kegiatan sosial dan keagamaan (Suhrawardi K.Lubis, dkk : 2010).

Pada tahun 2015 tanah wakaf di Indonesia berjumlah 4.359.443.170 M² atau 435.944,32 Hektar tersebar di 436.768 lokasi (Direktur Pemberdayaan wakaf Badan wakaf Indonesia). Pada tahun 2014 jumlah tanah wakaf di Indonesia berjumlah 4.142.464.287.91M² atau sekitar 414.246,43 Hektar dan tersebar di 435.395 lokasi. Pada tahun 2015 tanah wakaf di Indonesia berjumlah 4.359.443.170 M² atau 435.944,32 Hektar tersebar di 436.768 lokasi.

Sedangkan tanah wakaf yang ada di Sumatera Barat pada tahun 2015 adalah sebanyak 6299 lokasi dengan luas tanah 7075490 M², yang bersertifikat sebanyak 4229 lokasi dengan luas tanah 4729969 M². Umumnya tanah wakaf yang ada di Sumatera Barat berasal dari tanah ulayat.

Tanah wakaf yang umumnya berasal dari tanah ulayat adakalanya menimbulkan sengketa antara ahli waris wakif dengan pengelola tanah wakaf. Hal ini terjadi karena tanah wakaf tersebut belum bersertifikat. Sehingga tidak memberikann kepastian hukum.

Wakaf dalam konteks ke Indonesian pada awalnya diatur dalam undang-undang No. 5 Tahun 1960 tentang Peraturan Dasar Pokok-pokok Agraria, Peraturan Pemerintah Nomor 28 Tahun

1977 tentang Perwakafan Tanah Milik dan Instruksi Presiden Nomor 1 tahun 1991 tentang Kompilasi hukum Islam. Selanjutnya diatur dalam Undang-undang Nomor 41 tahun 2004 tentang wakaf dan Peraturan Pemerintah Nomor 42 tahun 2006 tentang Pelaksanaan undang-undang no. 41 tahun 2004 tentang wakaf. Undang –undang No. 41 Tahun 2004 tentang wakaf yang menjadi objek wakaf bukan hanya benda tetap seperti tanah dan bangunan tetapi juga benda bergerak seperti uang dan kendaraan.

Tanah merupakan salah satu objek yang paling dominan diwakafkan oleh masyarakat muslim di Indonesia. Tanah juga mempunyai kedudukan yang sangat penting dalam negara maupun dalam hukum adat, yang merupakan satu-satunya kekayaan yang meskipun mengalami keadaan yang bagaimanapun akan tetap dalam keadaan semula, bahkan akan menjadi lebih baik, menguntungkan jika dilihat dari nilai ekonomisnya, misalnya jika dilanda banjir, ketika air surut lagi, tanah akan menjadi subur (Bushar Muhammad, 1981).

Manusia akan hidup senang serta berkecukupan kalau mereka dapat menggunakan tanah yang dikuasainya atau yang dimilikinya sesuai dengan hukum alam yang berlaku, manusia akan hidup tentram dan damai kalau mereka dapat menggunakan hak-hak dan kewajiban-kewajibannya sesuai dengan batas-batas tertentu dalam hukum yang berlaku yang mengatur kehidupan manusia itu dalam bermasyarakat (G. Kartasapoetra : 1985).

Masih banyaknya tanah wakaf yang belum besertifikat menyebabkan besarnya peluang untuk terjadi sengketa di tengah-tengah masyarakat apalagi tanah wakaf yang ada di perkotaan dengan harga yang semakin hari semakin fantastis. Dengan harga tanah dan juga kebutuhan masyarakat akan tanah yang semakin tinggi menyebabkan tanah-tanah wakaf yang telah di wakafkan oleh orang tua mereka dahulu banyak yang di gugat ahli waris dengan alasan tidak pernah terjadi perwakafan yang telah dilakukan oleh orang tuanya atau oleh persekutuan mereka. Penyelesaian sengketa tersebut ada yang diselesaikan melalui pengadilan dan di luar pengadilan yang berupa musyawarah.

METODE PENELITIAN

Dalam penulisan penelitian yang dilakukan menggunakan pendekatan yuridis normatif atau penelitian hukum doktriner, juga disebut penelitian perpustakaan atau studi dokumen. Disebut penelitian hukum doktriner, karena penelitian ini dilakukan atau ditujukan hanya pada peraturan-peraturan yang tertulis atau bahan-bahan hukum yang lain. Dikatakan sebagai penelitian perpustakaan ataupun studi dokumen disebabkan penelitian ini lebih banyak dilakukan terhadap data yang bersifat sekunder yang ada di perpustakaan.(Suratman : 2012).

Penelitian ini bersifat deskriptif, yaitu penelitian yang bertujuan untuk melukiskan atau menggambarkan tentang sesuatu hal didaerah tertentu dan pada saat tertentu. Penelitian yang dilakukan adalah penelitian normatif maka data data utama yang digunakan adalah data sekunder. Data sekunder adalah data yang diperoleh dari penelitian kepustakaan dan

dokumentasi, yang merupakan hasil penelitian dan pengolahan orang lain, yang sudah tersedia dalam bentuk buku –buku atau dokumentasi, yang biasanya disediakan dipergustakaan, atau milik pribadi.(Munzir Quhar)

Perbahasan

Berkaitan dengan masalah wakaf ini, di dalam al-Qur'an tidak terdapat ketentuan yang jelas yang mengatur tentang masalah ini. Tetapi perintah al-Qur'an untuk berbuat baik dapat dijadikan landasan umum bagi amalan wakaf. Sebagian fuqaha mengaitkan dasar hukum wakaf dengan perintah berbuat baik dari al-Qur'an yang terdapat dalam Surat al-Ma'idah (5): yang artinya berbunyi, "...*Dan tolong-menolonglah kamu dalam (mengerjakan kebajikan dan takwa...*". ayat ini menganjurkan untuk bersama-sama melakukan kebaikan dalam segala bentuk amal kebaikan. Amal kebaikan ada yang bersifat abadi dan tidak terputus, ada juga yang berlangsung selama kurun waktu tertentu kemudian berakhir, dan ada juga yang langsung dimanfaatkan. Di sisi lain, kebaikan ada yang mengarah pada orang tertentu, seperti sekelompok orang tertentu dengan sifat tertentu, atau untuk tujuan tertentu tanpa memandang orang-orang yang mau memanfaatkannya(Munzir Quhar), Dan surat al-Ma'un (107): yang menetapkan, "*Dan enggan (menolong dengan) barang berguna*". Maksudnya, Allah memberi ancaman neraka kepada orang-orang yang mempunyai sifat buruk, di antaranya yang digambarkan pada ayat ini, bahkan mereka menahan barang yang dibutuhkan orang lain ketika mereka sendiri tidak membutuhkannya.(Munzir Quhar)

Di samping dasar umum dari beberapa ayat tersebut di atas, terdapat juga di dalam beberapa hadis diantaranya, riwayat hadis yang paling terkenal memuat tentang wakaf adalah hadis yang menceritakan wakaf Umar bin Al-Khatab.

Dan dari Ibnu Umar, bahwa Umar pernah mendapatkan sebidang tanah dari tanah Khaibar, kemudian ia bertanya (kepada Rasulullah): Ya Rasulullah, saya mendapat sebidang tanah di Khaibar, suatu harta yang belum pernah kudapat sama sekali yang lebih baik bagiku selain tanah itu, lalu apa yang hendak engkau perintahkan kepadaku? Kemudian nabi menjawab: "jika engkau suka, tahanlah pangkalnya dan sedekahkan hasilnya". Kemudian Umar menyedekahkannya dengan syarat tidak boleh dijual, tidak boleh dihibahkan, dan tidak boleh diwarisi, yaitu untuk orang-orang fakir, untuk keluarga dekat, untuk memerdekakan hamba sahaya, untuk menjamu tamu dan untuk orang yang kehabisan bekal dalam perjalanan (ibnu sabil) dan tidak berdosa orang yang mengurusinya itu untuk memakan sebagiannya dengan cara yang wajar dan untuk memberi makan (kepada keluarganya) dengan syarat jangan dijadikan hak milik dan dalam satu riwayat dikatakan: dengan syarat tidak dikuasai pokoknya (hadis diriwayatkan oleh Jama'ah). (Uswatun Hasanah)

Wakaf yang dilakukan Umar bin Khattab ini kemudian diikuti oleh sahabat-sahabat Nabi Muhammad saw yang lain misalnya Usman bin Affan, Abu Thalhah, dan lain-lain. Wakaf yang telah dilakukan oleh para sahabat itu kemudian diikuti oleh umat Islam sampai sekarang di seluruh dunia, terutama di negara-negara Islam atau negara-negara yang mayoritas penduduk beragama Islam seperti Mesir, Saudi Arabia, Yordania, Syiria, Pakistan, Turki, Indonesia, dan lain-lain.(Mundzir Qahar,)

Ustman bin Affan, juga pernah mewakafkan hartanya ketika menyambut seruan Rasulullah saw untuk membeli sumur Raumah dan juga pada waktu dia menjadi khalifah, sebagaimana diriwayatkan Tirmidzi dan Nasa'i dari Abu Salamah bin Abdurrahman dan Ahmaf bin Qias. Dalam sebagian riwayatnya, Rasulullah bersabda, "*barang siapa yang membelinya (sumur Raumah), dan menimbang bersama-sama kaum muslimin di sumur itu dengan baik, maka ia akan mendapatkan surga*".(Mundzir Qahar,).

Setelah mengalami periode pengembangan pengelolaan wakaf maka terbentuklah konsep paradigma wakaf produktif. Paling tidak ada tiga periode besar pengelolaan wakaf di Indonesia: (Achmad Djunaidi dan Thobieb Al-Asyhar):-

Pertama, periode tradisional, wakaf masih ditempatkan sebagai ajaran yang murni dimasukkan dalam kategori ibadah mahdhah (pokok). Yaitu, kebanyakan benda-benda wakaf diperuntukkan untuk kepentingan pembangunan fisik, seperti masjid, musholla, pesantren, kuburan, dan sebagainya. Sehingga keberadaan wakaf belum memberikan kontribusi sosial yang lebih luas karena hanya untuk kepentingan yang bersifat konsumtif.

Kedua, Periode semi-profesional adalah masa dimana pengelolaan wakaf secara umum sama dengan periode tradisional, namun pada masa ini sudah mulai dikembangkan pola pemberdayaan wakaf secara produktif, meskipun belum maksimal. Sebagai contoh adalah pembangunan masjid-masjid yang letaknya strategis dengan menambah bangunan gedung untuk pertemuan, pernikahan, seminar, dan acara lainnya, seperti masjid Sunda Kelapa, masjid Pondok Indah, masjid At-Taqwa Minggu, dan lain-lain.

Ketiga, Periode Profesional, wakaf secara profesional ditandai dengan pemberdayaan potensi masyarakat secara produktif. Keprofesionalan yang dilakukan meliputi aspek: manajemen, sumber daya kenazhiran, pola kemitraan usaha, benda wakaf bergerak seperti uang, saham, dan surat berharga, dukungan *political will* pemerintah secara penuh salah satunya dengan lahirnya UU Wakaf.

Semangat pemberdayaan potensi wakaf secara profesional produktif tersebut semata-mata untuk kepentingan kesejahteraan umat manusia, khususnya masyarakat yang sampai saat ini masih dalam keterpurukan ekonomi yang menyedihkan baik dibidang pendidikan, kesehatan, teknologi

maupun bidang sosial lainnya. Landasan yang digunakan untuk langkah-langkah tersebut adalah pemberdayaan wakaf yang sudah dilakukan oleh Negara-negara muslim Timur Tengah secara produktif, seperti Mesir, Turki, Arab Saudi, Yordania, Qatar, Kuwait, Maroko, Banglades.

Misalnya wakaf di Arab Saudi, Pemerintah Kerajaan Saudi Arabia membuat peraturan bagi Majelis Tinggi Wakaf yang mempunyai kewenangan untuk membelanjakan hasil pengembangan wakaf dan menentukan langkah-langkah dalam mengembangkan wakaf berdasarkan syarat-syarat yang ditentukan *wakif* dan manajemen wakaf. Disamping itu Majelis Tinggi Wakaf juga mempunyai beberapa kewenangan, antara lain: (1) melakukan pendataan wakaf serta menentukan cara-cara pengelolaannya; (2) menentukan langkah-langkah umum untuk penanaman modal, pengembangan, dan peningkatan harta wakaf; (3) mengetahui kondisi semua wakaf yang ada, langkah ini dilakukan untuk menguatkan kedudukannya sebagai lembaga yang menguasai permasalahan wakaf serta untuk mencari jalan pemecahannya; (4) membelanjakan harta wakaf untuk kebajikan menurut syarat-syarat yang telah ditetapkan oleh *wakif* dan sesuai syariat islam; (5) menetapkan anggaran tahunan demi kelangsungan wakaf dan mendistribusikan hasil pengembangan harta wakaf tersebut menurut perimbangan-pertimbangan tertentu; (6) mengembangkan wakaf secara produktif dan mengumumkan hasil wakaf yang sudah dikeluarkan oleh pemerintah. (Departemen Agama, 2008). Wakaf yang ada di Saudi Arabia bentuknya bermacam-macam seperti hotel , tanah, bangunan (rumah) untuk penduduk, toko, kebun, dan tempat ibadah. Pemanfaatan hasil wakaf yang utama adalah untuk memperbaiki dan membangun wakaf yang ada agar wakaf tersebut kekal dengan tetap melaksanakan syarat-syarat yang diajukan oleh *wakif*.

Menurut data keseluruhan dari Kementrian Agama Republik Indonesia sampai dengan tahun 2014, persentasi penggunaan tanah wakaf di seluruh indonesia berupa masjid sebesar 44.65%, musholla sebesar 29.11%, sekolah sebesar 10.78%, sosial lainnya sebesar 8.54%, makam sebesar 3.96%, dan pesantren sebesar 2.96 (<http://simbi.kemenag.go.id> : 2015) Secara sepintas, tampaknya wakaf kurang berperan dalam mewujudkan kesejahteraan masyarakat. Hal ini dipahami, karena kebanyakan wakaf yang ada kurang maksimal dalam pengelolaannya dan kadang kala tanah yang diwakafkan sulit untuk dikembangkan secara produktif.

Hampir semua aset tanah wakaf tersebut masih terbatas untuk peruntukan lembaga peribadatan dan belum produktif. Perwakafan tanah di Indonesia memang cukup mengalami kemandetan. Salah satu penyebab terjadinya kemandetan ini adalah karena terciptanya paradigma di masyarakat bahwa wakaf adalah selalu *fix asset*, yang peruntukannya selalu untuk ibadah dan untuk kegiatan sosial keagamaan. Oleh karena itu banyak tanah wakaf yang tidak terpelihara, diserobot oleh masyarakat atau beralih ke pihak ketiga.(<http://www.tabunganwakaf.com> : 2015). Terkadang kondisi tersebut disebabkan oleh keadaan tanah wakaf yang sempit yang hanya cukup dipergunakan untuk tujuan wakaf yang diikrarkan. Jika terdapat tanah wakaf yang cukup luas, seringkali kurang strategis dikelola secara produktif. Meskipun demikian ada pula tanah wakaf

yang cukup luas dan memungkinkan untuk dikelola secara produktif, sebagai contoh wakaf yang ada dapat didirikan gedung pertemuan yang memungkinkan untuk disewakan, sehingga menghasilkan dana. Akan tetapi karena nazhirnya kurang kreatif, tanah yang memungkinkan dapat dikelola secara produktif itu akhirnya tidak dimanfaatkan sama sekali bahkan perawatannya pun harus dicarikan sumbangan dari masyarakat.(Uswatun Hasanah)

Salah satu pilar atau komponen dari Sistem Hukum Nasional yaitu Hukum Islam (Busthanul Arifin). yang di dalamnya terdapat (Lembaga) Hukum Wakaf,(. Roihan A. Rasyid,). di samping Hukum Perkawinan, Hukum Kewarisan dan Hukum (positif)tertulis lainnya. Dalam undang-undang Nomor 41 Tahun 2004 ditetapkan bahwa pihak yang menerima harta benda wakaf dari wakif untuk dikelola dan dikembangkan sesuai dengan peruntukannya dinamakan dengan nazhir atau nadir, yang merupakan salah satu unsur atau rukun wakaf, disamping wakif, harta benda wakaf, ikrar wakaf, peruntukkan harta benda wakaf dan jangka waktu wakaf. Tugas dan kewajiban pokok nazhir tersebut adalah mengelola dan mengembangkan wakaf secara produktif sesuai dengan tujuan, fungsi dan peruntukannya, yang dilaksanakan sesuai dengan prinsip syariah. Pengelolaan dan pengembangan benda wakaf secara produktif dimaksud dilakukan antara lain dengan cara pengumpulan, investasi, produksi, kemitraan, perdagangan, agrobisnis, pertambangan, perindustrian, pengembangan teknologi, pembangunan gedung, apartemen, rumah susun, pasar swalayan, pertokoan, perkantoran, sarana pendidikan ataupun sarana kesehatan dan usaha-usaha yang tidak bertentangan syariah. Jadi, nazhir adalah pengelola harta benda wakaf yang tugasnya mengelola dan mengembangkan harta wakaf sesuai dengan peruntukannya (Rachmadi Usman).

Potensi sengketa wakaf sangat erat dengan Asset wakaf. Banyak terjadi sengketa wakaf di Indonesia akhir-akhir ini disebabkan masih banyak dari tanah wakaf tersebut yang belum bersertifikat. Berdasarkan data yang ada di kementerian Agama pada tahun 2014 bahwa tanah wakaf yang belum bersertifikat berjumlah 145.699, tahun 2015 tanah wakaf yang belum bersertifikat berjumlah 148.447.

Secara implisit UU No. 41 Th. 2004 telah mempatkan nazhir dalam posisi strategis pengembangan wakaf. Jika wakaf ingin produktif, tidak ada pilihan lain kecuali dengan memberdayakan nazhir. Nazhir bukan hanya unsur formal dalam penyelenggaraan wakaf, lebih dari itu, posisi nazhir diberdayakan sebagai profesi yang menuntut penguasaan kompetensi secara khusus. UU ini menuntut pentingnya pemberdayaan nazhir dari nazhir tradisional menjadi nazhir professional. Bagaimanapun juga, pengembangan harta wakaf secara produktif sulit dilakukan jika tidak diawali dengan pemberdayaan nazhir.

Peraturan lain yang juga mendasari pemberdayaan nazhir adalah Peraturan Pemerintah (PP) No. 42 Th. 2006 tentang Pelaksanaan Undang-Undang No. 41 Th. 2004 tentang Wakaf. Pasal 1 ayat (4) PP tersebut menetapkan: “Nazhir adalah pihak yang menerima harta benda wakaf dari Wakif

untuk dikelola dan dikembangkan sesuai dengan peruntukannya”. Ketentuan ini tidak hanya menempatkan nazhir sebagai penjaga ataupun pemelihara harta wakaf, tetapi lebih dari itu nazhir berperan sebagai pengelola dan pengembang harta wakaf. Peraturan ini menegaskan bentuk perluasan dan optimalisasi peran nazhir dengan cara memberikan kewenangan kepada nazhir dalam hal pengelolaan dan pengembangan harta wakaf.

Pasal 53 ayat (1) PP No. 42 Th. 2006 telah menetapkan: “Nazhir wakaf berhak memperoleh pembinaan dari Menteri dan BWI”. Dalam ayat (2) dikemukakan bahwa: ”Pembinaan nazhir dimaksud pada ayat (1) meliputi: (a) penyiapan sarana dan prasarana penunjang operasional Nazhir wakaf baik perseorangan, organisasi dan badan hukum; (b) penyusunan regulasi, pemberian motivasi, pemberian fasilitas, pengkoordinasian, pemberdayaan dan pengembangan terhadap harta benda wakaf; (c) penyediaan fasilitas proses sertifikasi Wakaf; (d) penyiapan dan pengadaan blanko-blanko AIW, baik wakaf benda tidak bergerak dan/atau benda bergerak; (e) penyiapan penyuluh penerangan di daerah untuk melakukan pembinaan dan pengembangan wakaf kepada Nazhir sesuai dengan lingkungannya; dan (f) pemberian fasilitas masuknya dana-dana wakaf dari dalam dan luar negeri dalam pengembangan dan pemberdayaan wakaf”. Pasal ini mengamanatkan tentang pentingnya pembinaan sebagai upaya memberdayakan nazhir. Pembinaan merupakan media bagi terbentuknya nazhir profesional yang memiliki kemampuan memadai untuk melaksanakan tugasnya.

Relevan dengan UU dan PP tentang Wakaf, Peraturan BWI No. 1 Th. 2007 tentang Organisasi dan Tata Kerja Badan Wakaf Indonesia menjabarkan tugas dan wewenang BWI kaitannya dengan pemberdayaan nazhir. Menurut peraturan tersebut, BWI memiliki tugas dan wewenang melakukan pembinaan terhadap nazhir dalam mengelola dan mengembangkan harta benda wakaf. Sebagai panduan bagi para nazhir, BWI membuat pedoman pengelolaan dan pengembangan harta benda wakaf. Di samping itu, BWI memiliki tugas dan wewenang menerima, melakukan penilaian, menerbitkan tanda bukti pendaftaran nazhir, dan mengangkat kembali nazhir yang telah habis masa baktinya. Substansi peraturan tersebut merupakan bagian proses pemberdayaan nazhir yang menjadi tugas dan wewenang BWI.

Mahkamah Agung dalam melaksanakan tugas pembinaan teknis yudisial peradilan Agama merasa adanya beberapa kelemahan, diantara hukum Islam yang diterapkan di lingkungan Peradilan Agama cenderung simpang siur. Simpang siur dimaksud sebagai akibat dari perbedaan pendapat para ulama pada suatu persoalan. Untuk mengatasi perbedaan itu, perlu menetapkan suatu buku hukum yang menghimpun semua hukum terapan yang berlaku bagi lingkungan Peradilan Agama yang dapat dijadikan pedoman oleh para hakim dalam melaksanakan tugasnya, sehingga terjamin adanya kesatuan dan kepastian hukum. Disinilah diperlukan suatu Kompilasi Hukum Islam (KHI) di bidang-bidang kewenangan Peradilan Agama yang memperjelas penerapan peraturan-peraturan fiqih hukum Islam (Abdul Ghafur Anshori). KHI itu nantinya dilaksanakan melalui empat jalur pengumpulan data bagi penyusunan tiga kitab hukum, yaitu: 1)

Kitab hukum tentang Perkawinan, 2) Kitab Hukum tentang Kewarisan, 3) Kitab Hukum tentang Wakaf, Sadaqah, Hibah, Hadanah, dan Baitumal. Ketiga kitab hukum itu memuat hukum Islam yang sekarang menjadi kewenangan Peradilan Agama dan ditulis dengan bahasa hukum/undang-undang Indonesia. Dengan demikian, hukum Islam yang termuat dalam ketiga kitab hukum itu akan menjadi bagian dari kultur hukum Indonesia dan akan menjadi bagian dari hukum Nasional Indonesia. (Abdul Gani Abdullah, 1994).

Berdasarkan uraian di atas dapat dikemukakan bahwa pemberdayaan nazhir merupakan implementasi dari amanat UU No. 41 Th. 2004 tentang Wakaf yang telah menempatkan nazhir dalam posisi strategis pengelolaan dan pengembangan wakaf. Posisi strategis nazhir ditegaskan dalam ketentuan mengenai kewajiban, tugas, tanggung jawab, serta hak dan penghargaan nazhir. Pelaksanaan pemberdayaan nazhir diatur dalam PP No. 42 Th. 2006 yang mengatur tentang proses pembinaan nazhir dengan tujuan meningkatkan etika, moralitas serta profesionalitas nazhir dalam pengelolaan dan pengembangan wakaf. Tugas dan kewenangan BWI dalam pembinaan nazhir telah diatur dalam Peraturan BWI No. 1 Th. 2007 tentang Organisasi dan Tata Kerja BWI. Di samping itu telah ditetapkan Peraturan BWI No. 4 Th. 2010 tentang Pedoman Pengelolaan dan Pengembangan Harta Benda Wakaf. Pedoman ini digunakan sebagai panduan nazhir dalam pelaksanaan tugasnya.

PENUTUP

Sengketa wakaf sebaiknya diselesaikan secara kekeluargaan sehingga tidak menimbulkan permasalahan antara keluarga wakif dengan nazhir. Nazhir sebagai pengelola harta wakaf harus bersifat aktif mengusahakan harta wakaf supaya bersertifikat dan memproduktifkan tanah wakaf tersebut untuk kepentingan masyarakat. Justeru disarankan;-

- a. Wakif yang akan mewakafkan tanahnya harus dibuatkan aktanya oleh KUA sebagai PPAIW (Pejabat Pembuat Akta Ikrar Wakaf). Sehingga jelas ada bukti tertulis tentang telah terjadinya wakaf. Dengan adanya Akta Ikrar Wakaf tanah wakaf yang belum bersertifikatkan dapat dibuat sertifikatnya sehingga ada kepastian hukum dan untuk menghindari terjadinya sengketa wakaf di Kemudian Hari.
- b. Jika terjadi sengketa dalam harta wakaf maka sebaiknya di selesaikan melalui musyawarah.

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**BS069:
DETERMINANT DISONANSI KOGNITIFNASABAH BANK SYARIAH**

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Abstrak

Penelitian ini dilakukan untuk mengetahui dan menganalisis faktor-faktor apa aja yang dapat enentukan pembentukan disonansi kognitif nasabah Bank Syariah yang menggunakan produk dan jasa perbankan baik Syariah maupun Konvensional. Penelitian ini termasuk dalam jenis penelitian kuantitatif dengan desain penelitian deskriptif, karena berupaya mencari penjelasan atau deskripsi tentang faktor-faktor yang menentukan terbentuknya disonansi kognitif nasabah bank syariah saat menggunakan produk dan jasa perbankan. Banyak dari masyarakat muslim yang memiliki persepsi bahwa riba atau bunga bank bertentangan dengan ajaran agama dan cenderung menyatakan penolakan terhadap sistem Perbankan Konvensional. Namun sebagian besar dari mereka adalah nasabah di Bank Konvensional. Bahkan sebagian nasabah muslim yang menjadi nasabah di Bank Syariah secara terpaksa harus menggunakan Bank Konvensional untuk memenuhi kebutuhannya yang hanya ada di Bank Konvensional. Hal ini menunjukkan bahwa telah terjadi ketidaksesuaian antara sikap atau perilakunya dengan persepsi atau keyakinan yang dianut. Ketidaksesuaian tersebut menyebabkan timbulnya perasaan ketidaknyamanan psikologis yang dalam istilah psikologi konsumen disebut “Disonansi Kognitif”. Memberikan informasi bagi perusahaan dan pihak-pihak yang berkepentingan lainnya terkait dengan disonansi kognitif yang dialami nasabah, sehingga dapat dicari upaya untuk menghindari atau meminimalisir tingkat disonansi kognitif tersebut.

Kata Kunci: Disonansi Kognitif dan Bank Syariah

PENDAHULUAN

Indonesia adalah Negara dengan jumlah penduduk muslim terbesar di dunia. Persentase Muslim Indonesia mencapai hingga 12,7 persen dari populasi dunia. Tercatat dari 205 juta penduduk Indonesia, dilaporkan sedikitnya 88,1 persen beragama Islam (republika.co.id). Maka seharusnya berdampak pada tingginya market share perbankan syariah. Namun sayang, kondisi yang sebenarnya terjadi di lapangan adalah *market share* perbankan syariah sampai dengan saat ini masih belum bisa beranjak dari kisaran 5%.

Berdasarkan penelitian yang dilakukan Widiarso Hermitian (2012) menunjukkan bahwa faktor penghambat perkembangan Bank Syariah di Indonesia disebabkan oleh persepsi masyarakat tentang bunga bank, kurangnya jaringan kantor Perbankan Syariah, kurangnya Sumber Daya Manusia (SDM), serta regulasi perpajakan dan landasan hukum pada masa lampau yang secara

spesifik belum mengatur tentang Perbankan Syariah. Selain itu, permasalahan-permasalahan lain yang juga menghambat perkembangan bisnis syariah dan menyebabkan pangsa pasar (*market share*) Perbankan Syariah masih rendah adalah ketersediaan produk dan standarisasi produk Perbankan Syariah (Permana, 2012:1), tingkat pemahaman (*awareness*) masyarakat terhadap Perbankan Syariah (Mahardika dalam Budiman, 2008) dan Peraturan perbankan yang belum berlaku sepenuhnya dalam mengakomodasi operasional Bank Syariah (Sari, 2013).

Menurut pengamat Keuangan Syariah, Syakir Sula (Barmana, 2013:4) terdapat beberapa sektor yang harus dibenahi agar pangsa pasar industri keuangan syariah nasional bisa berkembang, yaitu sumber daya manusia (SDM), teknologi, regulasi, institusi dan *supervise*. Tidak dapat dipungkiri bahwa Industri Perbankan Syariah di Indonesia tumbuh secara *bottom up*, sehingga dorongan dari masyarakat lah yang menjadi kekuatan bagi Industri Perbankan Syariah untuk berkembang, berbeda dengan Malaysia dimana pemerintah yang bertindak dalam mengembangkan Industri Keuangan Islam. Akan tetapi, Industri syariah Indonesia memiliki keunggulan dari Malaysia, yaitu dana pihak ketiga (DPK) Indonesia lebih dari Rp 1 triliun. Sementara di Malaysia, dana dari masyarakat masih relatif kecil karena banyak berasal dari pemerintah. Meski begitu, pemahaman masyarakat mengenai industri syariah perlu ditingkatkan.

Minimanya atau kurangnya pengetahuan dan pemahaman masyarakat mengenai industri syariah khususnya perbankan syariah seringkali menimbulkan kesalahpahaman pada masyarakat terutama nasabah bank syariah itu sendiri. Penelitian dari Adiwarmanto A Karim (dalam Daniar, 2012:2) menunjukkan bahwa sebagian masyarakat masih meyakini bunga bank tidak sama dengan Riba, dan sebagian masyarakat masih memiliki persepsi Bank Syariah tidak ada bedanya dengan Bank Konvensional. Menurut Karim, walaupun telah terjadi penambahan jumlah rekening Perbankan Syariah secara signifikan dalam 10 tahun terakhir dari hanya ratusan ribu menjadi enam juta pemegang rekening, namun ternyata kenaikan jumlah nasabah Bank Syariah tersebut berasal dari nasabah Bank Konvensional, tanpa meninggalkan Bank Konvensionalnya, artinya Bank Konvensional cenderung tetap menjadi bank pilihan utama. Namun demikian dari penelitian yang dilakukan oleh Daniar (2012:6), menemukan bahwa motif tujuan (*in order to motive*) seluruh informan (nasabah muslim) untuk menjadi nasabah Bank Konvensional memiliki persamaan tetapi terdapat perbedaan alasan diantaranya adalah karena “keterpaksaan” untuk memenuhi kebutuhannya yang hanya ada di Bank Konvensional. Keterpaksaan tersebut didasarkan pada persepsi terhadap *value* Bank Konvensional yang sifatnya subyektif, yaitu persepsi mengenai Bunga Bank sama dengan Riba. Sehingga tidak selaras dengan keyakinannya.

Maka tindakan atau perilaku yang dilakukan oleh sebagian informan (nasabah muslim) pada penelitian tersebut menunjukkan ketidaksesuaian (bertentangan/berlawanan) dengan persepsi atau keyakinan yang mereka anut. Ketidaksesuaian ini menyebabkan informan merasakan ketidaknyamanan psikologis yang dalam istilah psikologi disebut dengan “Disonansi Kognitif”. Disonansi kognitif adalah ketidaksesuaian yang terjadi antara dua elemen kognitif yang tidak

konsisten, yang memotivasi orang untuk berbuat sesuatu agar disonansi itu dapat dikurangi. Disonansi menyebabkan suatu tekanan Psikologis yang berujung kepada ketidaknyamanan Psikologis.

Seorang konsumen dalam hal ini nasabah Bank Syariah dapat merasakan ketidaknyamanan setelah melakukan atau tidak melakukan transaksi diperbankan Syariah maupun Konvensional baik melalui penggunaan produk maupun jasa yang ditawarkan. Apabila nasabah merasakan ketidaknyamanan pasca melakukan transaksi penggunaan produk atau jasa berarti nasabah telah mengalami kondisi disonansi kognitif. Menurut Kotler dan Armstrong (2003:228) Disonansi Kognitif adalah ketidaknyamanan pembeli karena konflik setelah pembelian. Teori ini juga berpendapat apabila secara psikologis tidak nyaman, maka akan memotivasi seseorang untuk berusaha mengurangi disonansi dan mencapai harmoni atau keselarasan dan selain upaya itu orang juga akan secara aktif menolak situasi-situasi dan informasi yang sekiranya akan meningkatkan disonansi (Severin, 2005:165).

Susanty, dkk (2009:4) dalam penelitiannya terkait disonansi menyebutkan bahwa apabila harapan yang dimiliki konsumen tidak sesuai dengan kondisi sesungguhnya yang ia peroleh dari produk yang dibelinya akan menimbulkan ketidakpuasan yang mempengaruhi perilaku konsumen berikutnya. Sehingga menjadi disonansi yang akan mendorong pelanggan melakukan suatu tindakan tertentu, seperti mengeluh atau meminta uangnya kembali. Maka nasabah Bank Syariah yang mengalami disonansi kognitif saat menggunakan produk dan jasa Perbankan Syariah maupun Konvensional memungkinkan mereka mengambil tindakan yang akan berpengaruh negatif dimana aspek syariah tidak lagi menjadi penting dimata nasabah.

Oleh karena itu, penyusun tertarik untuk mengadakan penelitian tentang “Determinant Disonansi Kognitif Nasabah Bank Syariah”. Penelitian ini dilakukan untuk mengetahui dan menganalisa faktor-faktor apa saja yang menentukan pembentukan disonansi kognitif nasabah Bank Syariah yang menggunakan produk dan jasa perbankan baik Syariah maupun Konvensional. Sehingga diharapkan nasabah Bank Syariah yang masih menggunakan produk dan jasa Perbankan Konvensional dapat beralih sepenuhnya (secara *kaffah*) ke Perbankan Syariah yang berdampak pada meningkatnya *market share*, pertumbuhan dan perkembangan Perbankan Syariah di Indonesia.

Bank Syariah

Bank Syariah, menurut Muhamad (2011) adalah bank yang beroperasi dengan tidak mengandalkan pada bunga dan merupakan lembaga keuangan atau perbankan yang operasional dan produknya berlandaskan pada Al-Qur'an dan Hadis Nabi SAW. Bank Syariah juga berarti lembaga keuangan yang usaha pokoknya memberikan pembiayaan dan jasa-jasa lainnya dalam lalu lintas pembayaran serta peredaran uang yang pengoperasannya disesuaikan dengan prinsip syariat Islam.

Sedangkan menurut Antonio dan Perwataatmadja (2012) membedakan menjadi dua pengertian, yaitu Bank Islam dan bank yang beroperasi dengan prinsip syari'at Islam. Bank Islam adalah (1) bank yang beroperasi sesuai dengan prinsip-prinsip syari'ah Islam; (2) bank yang tata cara beroperasinya mengacu kepada ketentuan Al-Qur'an dan Hadits. Sementara bank yang beroperasi sesuai prinsip syari'at Islam adalah bank yang mengikuti ketentuan-ketentuan syari'at Islam, khususnya yang menyangkut tata cara bermuamalat secara Islam. Lebih lanjut, dalam tata cara bermuamalat itu di jauhi praktek-praktek yang dikhawatirkan mengandung unsur riba untuk diisi dengan kegiatan-kegiatan investasi atas dasar bagi hasil dan pembiayaan perdagangan.

Antonio (2001) kemudian membuat perbandingan antara bank syariah dan bank konvensional yang disajikan dalam table 1 berikut:

Jadual 1: Perbandingan Antara Bank Syariah dan Bank Konvensional

BANK ISLAM	BANK KONVENSIONAL
1. Melakukan investasi yang halal saja	1. Investasi yang halal dan haram
2. Berdasarkan prinsip bagi hasil, jual beli, atau sewa	2. Memakai perangkat bunga
3. <i>Profit</i> dan <i>falah oriented</i>	3. <i>Profit oriented</i>
4. Hubungan dengan nasabah adalah kemitraan	4. Hubungan dengan nasabah dalam bentuk hubungan debitor – kreditor
5. Penghimpun dan penyaluran dana harus sesuai dengan fatwa Dewan Pengawas Syariah	5. Tidak terdapat Dewan sejenis (DPS dan DSN)

Jadi, dapat disimpulkan bahwa bank syariah adalah bank yang dalam operasionalnya menggunakan prinsip-prinsip syari'at Islam yang sesuai dengan ketentuan Al-Qur'an dan Hadits serta mengganti instrumen bunga (riba) dengan bagi hasil.

Adapun prinsip-prinsip dasar operasional bank syariah menurut Muhammad (2011), terdiri dari lima konsep dasar akad, yaitu Prinsip Simpanan (*wadi'ah*), Prinsip Jual Beli (*Bai'*), Prinsip Bagi Hasil (*Syirkah*), Prinsip Sewa (Ijarah) dan Prinsip Jasa/Fee (*al-Ajr walumullah*). Bersumber dari kelima konsep dasar inilah dapat ditemukan produk-produk lembaga keuangan bank syariah dan lembaga keuangan bukan bank syariah untuk dioperasikan.

Disonansi Kognitif

Secara definitif, *cognitive dissonance* atau disonansi kognitif berasal dari dua suku kata, yaitu *cognitive* (kognitif) dan *dissonance* (disonansi). Kognitif artinya *knowledge* (pengetahuan), sedangkan disonansi artinya ketidakcocokan (*incongruity*) (Myers and Tyrant, 1999). Menurut Festinger (Robbins, 2002:168), Disonansi kognitif mengacu pada setiap ketidaksesuaian yang mungkin dipersepsikan oleh seorang individu antara dua sikapnya atau lebih, atau antara perilaku dan sikapnya. Festinger berargumen bahwa setiap bentuk inkonsistensi tidak menyamakan dan bahwa individu-individu akan berupaya mengurangi disonansi itu dan, dari situ, mengurangi ketidaknyamanan. Oleh karena itu, individu akan mengusahakan keadaan sebaik mungkin di

mana disonansi minimum. Sedangkan Menurut East (Japariato, 2006:83), kondisi disonansi mendorong mereka untuk merubah pikiran, perasaan, dan tindakan mereka agar sesuai dengan pembaharuan. Disonansi dirasakan ketika seseorang berkomitmen pada dirinya sendiri dalam melakukan tindakan yang tidak konsisten dengan perilaku dan kepercayaan mereka yang lainnya.

Jadi, dapat disimpulkan bahwa disonansi kognitif adalah ketidaknyaman psikologis seseorang yang diakibatkan karena adanya pertentangan antara perilaku/sikap dengan keyakinan yang dianut. Apabila seseorang merasakan disonansi maka akan memotivasi dirinya untuk mengurangi kondisi tersebut baik dengan merubah perilaku/sikapnya maupun mencari informasi yang dapat menguatkan/membenarkan perilaku/sikapnya tersebut.

Faktor-Faktor Penyebab Disonansi Kognitif

Menurut Hawkins, Mothersbaugh, dan Best (2007:172) menjelaskan beberapa faktor yang dapat menyebabkan *postpurchase dissonance* (disonansi pasca pembelian), yaitu: (1) Tingkat Komitmen yang dimiliki Konsumen (*The degree of commitment or irrevocability of the decision*), (2) Pentingnya Keputusan yang dibuat Konsumen (*The importance of decision to the consumer*), (3) Kesulitan memilih alternatif yang disediakan (*The difficulty of choosing among alternatives*), dan (4) Kecenderungan Individu untuk mengalami Kecemasan (*The individual's tendency to experience anxiety*).

Sedangkan menurut Robert J. Halloway (dalam Loudon & Della Bitta, 1993) dalam penelitiannya mengenai disonansi yang dialami konsumen menyebutkan bahwa faktor-faktor yang menyebabkan disonansi dalam konteks pembelian (*dissonance arousing factors in a buying context*) adalah: (1) *Attractiveness of rejected alternative*, (2) *Negative factors in chosen alternative*, (3) *Number of alternatives*, (4) *Cognitive overlap*, (5) *Importance of cognitions involved*, (6) *Positive inducement*, (7) *Discrepant or negative action*, (8) *Information available*, (9) *Anticipated dissonance*, dan (10) *Familiarity and knowledge*.

Kemudian menurut Sarwono (2014:116) faktor-faktor yang berpengaruh menambah rumitnya persoalan disonansi kognitif adalah motivasi dan keinginan. Jadi, dapat disimpulkan bahwa disonansi muncul disebabkan oleh pengambilan keputusan yang relatif permanen dalam memilih satu alternatif yang dikehendaki dan melepaskan alternatif lain yang lebih menarik. Beberapa keputusan penting dalam pembeli anak menyebabkan disonansi dan ketika disonansi tidak dapat lagi ditoleransi maka, konsumen akan berusaha untuk mengurangi disonansi tersebut.

Disonansi Kognitif Terhadap Bank Syariah

Menurut Festinger (1957:56), perilaku seseorang dapat dijelaskan dari keinginan mendasar pada diri seseorang untuk selalu konsisten antara sikap yang telah ada dengan perilaku aktualnya. Disonansi terjadi apabila terdapat hubungan yang bertolak belakang antara elemen-elemen kognitif dalam diri individu. Hubungan bertolak belakang tersebut, terjadi bila ada penyangkalan

antara elemen kognitif yang satu dengan yang lain. Berdasarkan teori diatas, maka disonansi kognitif nasabah terhadap bank syariah adalah ketidaknyamanan psikologis nasabah terhadap bank syariah dikarenakan adanya elemen-elemen kognitif nasabah yang saling bertentangan, baik pengetahuan nasabah dengan pengetahuannya yang lain maupun pengetahuan nasabah dengan perilaku/sikap nasabah.

Dalam proses pengembangan perbankan syariah, disonansi nasabah terhadap bank syariah bisa saja terjadi. Sebab, bank syariah yang masih baru dan pemahaman masyarakat terhadap perbankan syariah masih kurang. Pernyataan tersebut diperoleh dari hasil penelitian Adawiyah (2010:8), yaitu pengetahuan konsumen terhadap bank syariah masih terbatas, sebagian besar konsumen hanya mengetahui tentang riba dan syariah. Sedangkan istilah-istilah dalam perbankan seperti *ijarah*, *mudharabah*, *musyarakah* dan *murabahah* masih belum diketahui dan dimengerti oleh konsumen. Serta dikuatkan oleh hasil penelitian Sari (2009), yaitu terdapat hubungan yang signifikan antara disonansi pasca pembelian dengan pengetahuan tentang produk.

Sebagaimana yang diketahui, disonansi menyebabkan suatu tekanan Psikologis yang berujung kepada ketidaknyamanan Psikologis yang kemudian akan memotivasi seseorang untuk berusaha mengurangi disonansi dengan jalan merubah kepercayaan, merubah tindakan (perilaku), atau merubah persepsi dan tindakan (perilaku) agar keadaan sesuai satu dengan yang lainnya. Sehingga dapat dikatakan bahwa apabila nasabah bank syariah mengalami disonansi kognitif terhadap bank syariah yang menyebabkan nasabah merasa tidak nyaman menggunakan produk dan jasa perbankan syariah, akan memungkinkan mereka mengambil tindakan yang akan berpengaruh negatif dimana aspek syariah tidak lagi menjadi penting dimata nasabah.

Hasil survey yang dilakukan Bank Indonesia dan Institut Pertanian Bogor (dalam Bukhori, 2012) di Kalimantan Selatan tentang persepsi masyarakat terhadap bank syariah, menunjukkan bahwa kelompok responden bank konvensional sebesar 79,3% menyatakan bunga bank bertentangan dengan ajaran agama dan cenderung menyatakan penolakan pada sistem perbankan konvensional. Namun disisi lain, mereka adalah nasabah bank konvensional, sehingga hal ini dapat mengindikasikan tidak konsistennya perilaku konsumen. Serta hasil survey Bank Indonesia dan Institut Pertanian Bogor (dalam Noor dan Yulizar, 2010) tentang perilaku masyarakat terhadap bank syariah di wilayah Sumatera Selatan menemukan bahwa terdapat ketidakkonsistenan di dalam perilaku konsumen dimana sebagian besar responden menyatakan dukungannya terhadap Bank Syariah dan setuju dengan sistem bagi hasil, namun di sisi lain sebagian besar responden adalah nasabah bank konvensional. Berdasarkan hasil survey tersebut, dapat dikatakan bahwa disonansi kognitif terhadap bank syariah telah terjadi di kalangan masyarakat.

Menurut Krech et al (dalam Daniar, 2012), tindakan dan pikiran individu mencerminkan kebutuhan dan tujuannya, apabila tujuan utama sulit dicapai, maka individu akan memilih tujuan

pengganti atau tujuan sementara, dengan demikian sikap tidak konsisten dari sebagian informan adalah karena tujuan utama sulit diperoleh, sehingga untuk sementara waktu beralih ke tujuan pengganti. Informan yang tidak konsisten sebenarnya menginginkan produk yang berasal dari Bank yang tidak berbasis bunga, namun karena adanya ketergantungan dengan pihak ke tiga atau produk Bank Syariah masih belum sesuai dengan kebutuhannya, maka informan akhirnya memilih Bank Konvensional sebagai tujuan pengganti. Ketidakkonsistenan tersebut dapat juga karena motif ekonomi dan pelayanan lebih kuat dibandingkan dengan motif religi. Tidak hanya itu, faktor lamanya berhubungan dengan bank konvensional menurut Rivai, dkk (2006:10) ikut memberikan kontribusi kecenderungan responden yang memahami bahwa bunga bank bertentangan dengan agama namun tetap memilih untuk memakai jasa atau produk bank konvensional. Sehingga sekalipun informan merasa terpaksa harus menggunakan bank Konvensional, mereka tetap menggunakan bank Konvensional tersebut.

Berdasarkan uraian teori di atas dapat disimpulkan bahwa faktor-faktor yang diduga dapat menentukan disonansi nasabah terhadap perbankan syariah, yaitu:

- 1) Motif ekonomi dan pelayanan lebih kuat dibandingkan dengan motif religi
- 2) Ketergantungan dengan pihak ketiga
- 3) Produk bank syariah masih belum sesuai dengan kebutuhannya
- 4) Faktor lamanya bertransaksi dengan bank konvensional (loyalitas nasabah)

Faktor-faktor ini, kemudian diringkas menjadi tiga faktor utama, yaitu faktor motif nasabah, produk bank dan loyalitas nasabah.

HASIL PENELITIAN

1) Tanggapan Responden Terhadap Indikator Motif Nasabah

Rangking tanggapan responden terhadap indikator Motif Nasabah berdasarkan hasil perhitungan diatas dijabarkan pada jadual 2 berikut:

Jadual 2: Rangking Tanggapan Responden Terhadap Indikator Motif Nasabah

No.	Motif Nasabah	Rangking	
		Bank Syariah	Bank Konvensional
1.	Agama	1	2
2.	Keuntungan	1	2
3.	Pekerjaan	2	1
4.	Kemudahan Bertransaksi	2	1
5.	Pelayanan	1	2

Sumber: Data primer diolah 2016

2) Tanggapan Responden Terhadap Indikator Produk Bank

Rangking tanggapan responden terhadap indikator Produk Bank berdasarkan hasil perhitungan di atas dijabarkan pada jadual 3 berikut:

Jadual 3: Rangking Tanggapan Responden Terhadap Indikator Produk Bank

No.	Produk Bank	Rangking	
		Bank Syariah	Bank Konvensional
1.	Tabungan/Giro/Deposito	2	1
2.	Kredit/Pembiayaan Usaha	2	1
3.	Kredit Kepemilikan Rumah (KPR)	1	2
4.	ATM	2	1
5.	Credit Card	2	1
6.	Mobile/Internet Banking	2	1

Sumber: Data primer diolah 2016

3) Tanggapan Responden Terhadap Indikator Loyalitas Nasabah

Rangking tanggapan responden terhadap indikator Loyalitas Nasabah berdasarkan hasil perhitungan diatas dijabarkan pada jadual 4 berikut:

Jadual 4: Rangking Tanggapan Responden Terhadap Indikator Loyalitas Nasabah

No.	Loyalitas Nasabah	Rangking	
		Bank Syariah	Bank Konvensional
1.	Merekomendasikan	1	2
2.	Loyalitas	2	1
3.	Menceritakan	1	2

Sumber: Data primer diolah 2016

4) Tanggapan Responden Terhadap Ketiga Indikator Variabel Disonansi Kognitif Secara Keseluruhan.

Perhitungan secara keseluruhan dari ketiga indikator variabel disonansi kognitif nasabah Bank Syariah adalah sebagai berikut:

Rumus perbandingan:

$$\begin{aligned}
 1. \text{ Bank Syariah} &= \frac{\text{Total B.S1.}}{\text{Total B.S2.}} \times 100\% \\
 2. \text{ Bank Kovenisional} &= \frac{\text{Total B.K1.}}{\text{Total B.K2.}} \times 100\%
 \end{aligned}$$

Ket:

Total B.S₁. : total pilihan responden terhadap Bank Syariah (dari 1 indikator yang diuji)

Total B.S₂. : total pilihan responden terhadap Bank Syariah (dari ke-3 indikator variabel disonansi kognitif nasabah Bank Syariah)

Total B.K₁. : total pilihan responden terhadap Bank Konvensional (dari 1 indikator yang diuji)

Total B.K₂. : total pilihan responden terhadap Bank Konvensional (dari ke-3 indikator variabel disonansi kognitif nasabah Bank Konvensional)

Sehingga semakin besar persentasenya menandakan semakin banyak responden yang memilih baik itu Bank Syariah ataupun Bank Konvensional.

Indikator Motif Nasabah

Tanggapan responden terhadap indikator motif nasabah dibandingkan dengan indikator produk bank dan loyalitas nasabah adalah sebagai berikut:

$$\begin{aligned}
 1) \text{ Bank Syariah} &= \frac{277}{277 + 274 + 178} \times 100\% \\
 &= 38\% \\
 2) \text{ Bank Konvensional} &= \frac{223}{223 + 326 + 122} \times 100\% \\
 &= 33,2\%
 \end{aligned}$$

Indikator Produk Bank

Tanggapan responden terhadap indikator produk bank dibandingkan dengan indikator motif nasabah dan loyalitas nasabah adalah sebagai berikut:

$$\begin{aligned}
 1) \text{ Bank Syariah} &= \frac{274}{277 + 274 + 178} \times 100\% \\
 &= 37,6\% \\
 2) \text{ Bank Konvensional} &= \frac{326}{223 + 326 + 122} \times 100\% \\
 &= 48,6\%
 \end{aligned}$$

Indikator Loyalitas Nasabah

Tanggapan responden terhadap indikator loyalitas nasabah dibandingkan dengan indikator motif nasabah dan produk bank adalah sebagai berikut:

$$\begin{aligned}
 1) \text{ Bank Syariah} &= \frac{178}{277 + 274 + 178} \times 100\% \\
 &= 24,4\% \\
 2) \text{ Bank Konvensional} &= \frac{122}{223 + 326 + 122} \times 100\% \\
 &= 18,2\%
 \end{aligned}$$

Sehingga dapat disimpulkan bahwa dari ketiga indikator disonansi kognitif nasabah Bank Syariah tersebut, indikator yang paling menentukan terbentuknya disonansi kognitif nasabah adalah indikator produk bank. Kemudian diikuti indikator motif nasabah dan indikator loyalitas nasabah.

Berdasarkan hasil perhitungan diatas, maka rangking tanggapan responden terhadap ketiga indikator variabel disonansi kognitif nasabah Bank Syariah secara keseluruhan akan dijabarkan pada jadual 5 berikut:

Jadual 5: Rangking Tanggapan Responden Terhadap Ketiga Indikator Variabel Disonansi Kognitif

No.	Indikator	Rangking	
		Bank Syariah	Bank Konvensional
1.	Motif Nasabah	1	2
2.	Produk Bank	2	1
3.	Loyalitas Nasabah	1	2

Sumber: Data primer diolah 2016

Perbahasan

Motif nasabah merupakan alasan atau motivasi nasabah dalam bertransaksi baik di Perbankan Syariah maupun di Perbankan Konvensional yang terdiri dari motif agama, motif keuntungan, motif pekerjaan, motif kemudahan bertransaksi dan motif pelayanan. Produk bank adalah produk dan fasilitas produk yang ditawarkan atau diberikan oleh bank baik Bank Syariah maupun Bank Konvensional, seperti tabungan/giro/deposito, kredit/pembiayaan usaha, kredit kepemilikan rumah (KPR), ATM, *credit card* dan *mobile/internet banking*. Sedangkan loyalitas nasabah adalah perilaku nasabah dalam merekomendasikan dan menceritakan bank kepada orang lain serta sikap loyalitas atau tetap setia untuk menggunakan produk dan jasa yang ditawarkan bank baik Bank Syariah maupun Bank Konvensional.

Berdasarkan hasil uji ketiga faktor variabel disonansi kognitif nasabah Bank Syariah secara keseluruhan menunjukkan bahwa faktor dengan rangking yang lebih tinggi di Bank Konvensional dapat menyebabkan terbentuknya disonansi kognitif nasabah Bank Syariah.

Motif nasabah dalam bertransaksi diperbankan memperoleh rangking yang lebih tinggi di Bank Syariah. Hal ini dikarenakan motif agama dan pelayanan memang lebih kuat kepada Bank Syariah. Kemudian untuk motif kemudahan bertransaksi dan pekerjaan lebih didominasi kepada Bank Konvensional. Sedangkan motif keuntungan tidak terlalu diperhatikan oleh nasabah.

Sedangkan pada produk bank memperoleh rangking yang lebih tinggi di Bank Konvensional. Dengan alasan Bank Syariah yang masih baru dan belum terlalu dikenal oleh masyarakat serta

kurangnya pemahaman masyarakat terhadap produk-produk Perbankan Syariah. Pernyataan tersebut didukung oleh hasil penelitian Adawiyah (2010:8), yaitu pengetahuan konsumen terhadap bank syariah masih terbatas, sebagian besar konsumen hanya mengetahui tentang riba dan syariah. Sedangkan istilah-istilah dalam perbankan seperti *ijarah*, *mudharabah*, *musyarakah* dan *murabahah* masih belum diketahui dan dimengerti oleh konsumen. Sehingga responden memang cenderung lebih memilih menggunakan bank dengan produk yang sudah lebih dikenal. Hal ini juga berkaitan dengan keinginan kemudahan bertransaksi bagi nasabah yang diwujudkan dalam bentuk kebutuhan akan produk yang memberikan fasilitas kemudahan (fasilitas produk yang diberikan oleh bank), seperti ATM, fasilitas debit rekening otomatis untuk cicilan pinjaman, dll. Sebagaimana yang diketahui bahwa jumlah fasilitas produk Perbankan Syariah, seperti ATM masih terbatas. Pernyataan ini didukung hasil penelitian yang dilakukan oleh Husadatama (2015:13) yang mengatakan bahwa tidak berpengaruhnya pemahaman mengenai produk bank terhadap pemilihan jenis bank dipengaruhi oleh fasilitas Bank Syariah yang masih terbatas, sehingga responden menggunakan Bank Syariah sekaligus Bank Konvensional untuk mempermudah transaksi perbankannya.

Kemudian loyalitas nasabah terhadap bank memperoleh ranking yang lebih tinggi di Bank Syariah. Hal ini dikarenakan Bank Syariah yang masih baru dan belum terlalu dikenal masyarakat. Sehingga nasabah cenderung untuk merekomendasikan dan menceritakan perihal Perbankan Syariah dibandingkan Perbankan Konvensional yang sudah lebih dikenal dan umum digunakan oleh Masyarakat. Namun demikian, mayoritas nasabah tetap memilih untuk loyal atau setia kepada Bank Konvensional karena sudah lebih lama berhubungan dengan Bank Konvensional.

Hasil penelitian ini mendukung penelitian yang dilakukan oleh Agus Daniar (2012) tentang Persepsi dan Motif menjadi Nasabah Bank Konvensional bagi Nasabah Muslim yang menunjukkan bahwa seluruh informan memiliki motif tujuan (*in order motive*) yang sama untuk menjadi nasabah Bank Konvensional, namun memiliki motif alasan (*because motive*) yang berbeda. Sehingga terdapat sebagian informan yang tidak konsisten karena disatu sisi mempersepsikan bunga bank sama dengan riba, namun tetap menjadi nasabah Bank Konvensional dengan alasan “Keterpaksaan” dan motif ekonomi serta karena adanya ketergantungan dengan pihak ke tiga atau produk Bank Syariah yang masih belum sesuai dengan kebutuhannya, maka informan akhirnya memilih Bank Konvensional sebagai tujuan pengganti.

Sedangkan penelitian yang dilakukan oleh Rivai, dkk (2006) menjelaskan bahwa faktor lamanya berhubungan dengan Bank Konvensional (Loyalitas Nasabah) ikut memberikan kontribusi kecenderungan responden yang memahami bahwa bunga bank bertentangan dengan ajaran agama namun tetap memilih untuk memakai produk atau jasa Bank Konvensional.

Jadi, dapat disimpulkan bahwa dari ketiga faktor variabel disonansi kognitif nasabah Bank Syariah, faktor produk bank memiliki rangking yang lebih tinggi di Bank Konvensional. Sedangkan faktor motif dan loyalitas nasabah memiliki rangking yang lebih tinggi di Bank Syariah. Sehingga faktor produk bank memiliki kemungkinan yang lebih tinggi untuk menyebabkan terbentuknya disonansi kognitif nasabah Bank Syariah, yaitu ketidaksesuaian antara perilaku nasabah dengan persepsi atau keyakinannya yang menimbulkan ketidaknyamanan psikologis nasabah.

KESIMPULAN

Berdasarkan hasil penelitian dan pembahasan dapat diambil kesimpulan bahwa dari ketiga faktor variabel disonansi kognitif nasabah Bank Syariah, faktor yang paling menyebabkan terbentuknya disonansi kognitif nasabah adalah faktor produk bank. Kemudian diikuti faktor motif nasabah dan loyalitas nasabah.

Sehingga, lembaga keuangan syariah dalam memasarkan produk dan jasa-nya perlu memperhatikan faktor-faktor tersebut. Saran yang diajukan penyusun dalam penelitian ini adalah:

- 1) Untuk meminimalisir terbentuknya disonansi kognitif nasabah Bank Syariah. Bank Syariah diharapkan dapat mengubah persepsi/pandangan masyarakat terkait dengan produk dan jasa Perbankan Syariah yang masih sering dipersepsikan sama dengan produk dan jasa Perbankan Konvensional. Sehingga dapat meningkatkan kepercayaan dan loyalitas nasabah terhadap Bank Syariah.
- 2) Perbankan Syariah juga diharapkan untuk meningkatkan mutu dan kualitas produk-produk yang ditawarkan serta memperhatikan strategi pemasaran produk-produk tersebut. Sehingga loyalitas nasabah terhadap Bank Syariah dapat meningkat dan dapat meminimalisir terbentuknya kondisi disonansi kognitif nasabah.
- 3) Bank Syariah juga diharapkan dapat menambah fasilitas produk yang diberikan sehingga dapat memenuhi keinginan kemudahan bertransaksi bagi nasabah yang diwujudkan dalam bentuk kebutuhan akan produk yang memberikan fasilitas kemudahan dikarenakan salah satu alasan nasabah tidak konsisten dalam menggunakan produk dan jasa Perbankan Syariah adalah masih terbatasnya fasilitas produk Perbankan Syariah. Sehingga nasabah tidak perlu beralih ke Bank Konvensional dengan alasan tersebut.

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OJK melaporkan bahwa pangsa pasar perbankan syariah di Indonesia per Juli 2016 kini mencapai 4,86%. <http://bisniskeuangan.kompas.com>

www.ojk.go.id

BW070: OPTIMALISASI PENGELOLAAN WAKAF UANGDALAM BENTUK PEMBANGUNAN SEKOLAH

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Abstrak

Paper ini bertujuan untuk menjelaskan terkait optimalisasi pengelolaan wakaf uang yang dilakukan oleh lembaga sosial, dalam hal ini adalah Mandiri Amal Insani Foundation. Menurut UU No. 41 Tahun 2004 dan PP No. 42 Tahun 2006 bahwa satu diantara tiga jenis harta wakaf adalah benda bergerak berupa uang. Namun, warga Muslim di Indonesia belum terlalu memahami dan sadar akan jenis-jenis dan bagaimana pengelolaan harta wakaf itu sendiri. Padahal, seperti yang telah diketahui bersama bahwa potensi untuk pengumpulan dana wakaf tunai atau wakaf uang tersebut adalah sebesar 120 Triliyun. Maka saat ini, lembaga-lembaga sosial atau filantropi saling berlomba dalam kebaikan untuk mengadakan program wakaf tunai. Adapun cara yang digunakan adalah dengan menghimpun dana masyarakat untuk wakaf yang akan dikelola sesuai syariat, dan nantinya disalurkan atau diinvestasikan dalam bentuk sarana fisik. Sebagai contoh yaitu wakaf uang untuk pembangunan sekolah yang telah dilakukan oleh MAI Foundation di Pamijahan, Bogor. Salah satu tujuan dilakukannya hal tersebut adalah untuk mengenalkan produk wakaf secara lebih massive kepada masyarakat, sehingga harapannya dapat menimbulkan kepekaan warga Muslim untuk bersama-sama memberikan manfaat bagi orang-orang yang membutuhkan, bahkan bagi kemaslahatan umat.

Kata Kunci: wakaf uang, bentuk wakaf uang, pengelolaan wakaf, penerima manfaat wakaf

PENDAHULUAN

Secara etimologi, wakaf adalah *al-habs* (Manzur.1954) yang artinya menahan. Ia merupakan kata yang berbentuk masdar (*gerund*) dari ungkapan *waqfu al-syai'* yang arti dasarnya adalah menahan sesuatu. Dengan demikian, pengertian wakaf secara bahasa adalah menyerahkan tanah untuk ditahan dan diperuntukkan oleh orang-orang miskin. Dapat diartikan demikian karena barang milik itu dipegang dan ditahan orang lain, seperti menahan hewan ternak, tanah dan segala sesuatu.

Para ulama memiliki beberapa pendapat yang berbeda dalam memberikan pengertian arti wakaf, dan hal tersebut menimbulkan berbagai-bagai hukum yang mengenainya, diantaranya iaitu adalah:

1. Hanafiyah mengartikan wakaf sebagai menahan materi benda (*al-'ain*) milik wakif dan menyedekahkan atau mewakafkan manfaatnya kepada siapapun yang diinginkan

- untuk tujuan kebajikan. (al-Din. 1970) Definisi wakaf tersebut menjelaskan bahwa kedudukan harta wakaf masih tetap tertahan atau terhenti di tangan wakif itu sendiri. Dengan artian, wakif masih menjadi pemilik harta yang diwakafkannya, manakala perwakafan hanya terjadi ke atas manfaat harta tersebut, bukan termasuk asset hartanya.
2. Malikiyah berpendapat bahwa wakaf adalah menjadikan manfaat suatu harta yang dimiliki (walaupun pemilikannya dengan cara sewa) untuk diberikan kepada orang yang berhak dengan satu akad (*shighat*) dalam jangka waktu tertentu sesuai dengan keinginan wakif. (al-Dasuqi) Definisi wakaf tersebut hanya menentukan pemberian wakaf kepada orang atau tempat yang berhak saja.
 3. Syafi'iyah mengartikan wakaf dengan menahan harta yang bisa memberi manfaat serta kekal materi bendanya (*al-'ain*) dengan cara memutuskan hak pengelolaan yang dimiliki oleh wakif untuk diserahkan kepada Nazhir yang dibolehkan oleh syariah. (al-Syarbini. 1958). Menurut Syaikh Syihabuddin al-Qalyubi, wakaf adalah *habsul mali yumkinu al-intifa'u bihi ma'a baqa'I ainihi 'ala mashrafin mubahin* (menahan harta yang bisa diambil manfaatnya dengan menjaga bentuk aslinya untuk disalurkan kepada jalan yang dibolehkan). (al-Kabisi. 1977). Golongan ini mensyaratkan harta yang diwakafkan harus harta yang kekal materi bendanya (*al-'ain*), dalam arti harta yang tidak mudah rusak atau musnah serta dapat diambil manfaatnya secara berterusan.
 4. Hanabilah mendefinisikan wakaf dengan bahasa yang sederhana, yaitu menahan asal harta (tanah) dan menyedekahkan manfaat yang dihasilkan. (Qudamah. 1972). Demikianlah pengertian wakaf menurut para ulama ahli fiqh.

Dalam Islam, wakaf merupakan salah satu amalan yang diajarkan oleh Rasulullah SAW. Sesuai dengan hadist yang diriwayatkan oleh Umar bin Syabah dari 'Amr bin Sa'ad bin Mu'ad, ia berkata : "*Kami bertanya tentang mula-mula wakaf dalam Islam? Orang Muhajirin mengatakan adalah wakaf Umar, sedangkan orang-orang Ansor mengatakan adalah wakaf Rasulullah SAW.*"

(Asy-Syaukani. 129)

Selain itu, sebagian dari para ulama berpendapat bahwa orang pertama yang melaksanakan wakaf adalah Umar bin Khatab. Pendapat ini berdasarkan hadits yang diriwayatkan Ibnu Umar ra, ia berkata: "Bahwa sahabat Umar ra, memperoleh sebidang tanah di Khaibar, kemudian Umar RA, menghadap Rasulullah SAW untuk meminta petunjuk, Umar berkata :

"Hai Rasulullah SAW., saya mendapat sebidang tanah di Khaibar, saya belum mendapat harta sebaik itu, maka apakah yang engkau perintahkan kepadaku?" Rasulullah SAW. Bersabda : "Bila engkau suka, kau tahan (pokoknya) tanah itu, dan engkau sedekahkan (hasilnya), tidak dijual, tidak dihibahkan dan tidak diwariskan. Ibnu Umar berkata :

“Umar menyedekahkannya (hasil pengelolaan tanah) kepada orang-rang fakir, kaum kerabat, hamba sahaya, sabilillah, Ibnu sabil dan tamu. Dan tidak dilarang bagi yang mengelola (nazhir) wakaf makan dari hasilnya dengan cara yang baik (sepantasnya) atau memberi makan orang lain dengan tidak bermaksud menumpuk harta”

(HR.Muslim).

Dengan riwayat-riwayat hadist yang ada, dapat menjadi contoh bahwa Rasul dan para sahabat telah mengamalkan berbagai macam bentuk wakaf, salah satu diantaranya adalah mewakafkan tanah yang dimiliki untuk digunakan kepada mereka yang membutuhkan. Namun, dengan seiring berjalannya waktu dan jaman, para penerima manfaat dari pengelolaan wakaf itu tidak hanya mereka yang termasuk dalam *ashnaf* (orang yang berhak menerima bantuan), namun juga dapat digunakan oleh masyarakat umum. Sebagai contoh adalah masjid, bahwa pengguna tempat ibadah tersebut tidak hanya orang fakir atau miskin, melainkan orang yang berkecukupan juga dapat menggunakan fasilitas tersebut.

Wakaf Di Indonesia

Di Indonesia, pengelolaan dana wakaf saat ini masih dalam tahap perkembangan. Dengan adanya berbagai lembaga sosial yang memiliki fokus utama dalam dunia perwakafan, diharapkan bahwa para masyarakat dapat lebih peka terkait dengan pengadaan dan pengelolaan wakaf tersebut. Sebagai Negara yang warganya bermayoritaskan Muslim, maka potensi dari dana wakaf pastinya besar. Sesuai dengan data yang diperoleh dari Badan Wakaf Indonesia tahun 2016 bahwa potensi yang dimiliki Indonesia untuk menghimpun wakaf dapat mencapai 120 Triliyun Rupiah, karena 85% dari penduduk Indonesia memeluk agama Islam. (BWI. 2016). Namun, dikarenakan masih kurangnya literasi atau pengetahuan terkait wakaf itu sendiri, penghimpunan serta pengelolaan dana wakaf di Indonesia belum maksimal.

Banyak dari warga Muslim di Indonesia memahami wakaf hanya dengan sekedar menyerahkan tanah atau bangunan yang mereka miliki untuk kepentingan bersama, padahal, menurut UU No 41 Tahun 2004 Pasal 16 bahwa harta benda yang dapat diwakafkan dapat berbentuk benda yang bergerak maupun tidak bergerak.

Adapun, benda yang tidak bergerak adalah tanah, bangunan, tanaman dan benda lain yang berhubungan dengan tanah, dan sejenisnya. Sedangkan benda yang bergerak adalah harta benda yang tidak habis karena dikonsumsi, meliputi uang, logam mulia, surat berharga, kendaraan, hak atas kekayaan intelektual, hak sewa dan benda bergerak lain sesuai dengan ketentuan syariah dan peraturan perundang-undangan yang berlaku. Oleh karena itu, selain berwakaf melalui tanah atau bangunan, masyarakat juga dapat mewakafkan uang yang dimilikinya, baik berupa tunai, maupun surat berharga.

Saat ini, di Indonesia kedua jenis harta wakaf tersebut baik harta bergerak maupun tidak bergerak dapat digunakan secara produktif. Dimana pengertian dari wakaf produktif itu

sendiri adalah harta benda yang diwakafkan dalam rangka untuk pelaksanaan kegiatan produksi, yang hasilnya disalurkan sesuai dengan tujuan wakaf.

Dikarenakan *mind-set* sebagian masyarakat di Indonesia masih menganggap bahwa wakaf hanyalah menyerahkan sebidang tanah atau bangunan untuk keperluan kegiatan keagamaan, pemerintah dalam hal ini yaitu BWI dan lembaga wakaf lainnya harus benar-benar bisa mengenalkan dan mensosialisasikan terkait wakaf produktif secara *massive*. Mengingat terdapat lebih banyak keunggulan wakaf produktif dibandingkan dengan wakaf non-produktif. Meskipun kita tahu bahwa keunggulan dari wakaf non-produktif adalah dapat digunakan secara langsung, namun kebermanfaatannya dari wakaf tersebut hanya untuk kegiatan yang diperuntukannya saja. Berbeda dengan wakaf non-produktif, meskipun membutuhkan waktu untuk akhirnya dapat digunakan, bahwa wakaf produktif dapat dikembangkan dan diterapkan di berbagai sektor, seperti sektor untuk pengembangan properti, pendidikan, pertanian, pesantren, fasilitas kesehatan, keuangan, korporasi, dan lainnya.

Wakaf Wang Di Indonesia

Selain menggunakan jenis harta yang tidak bergerak seperti tanah dan bangunan, wakaf produktif juga dapat menggunakan harta bergerak. Salah satunya yaitu wakaf wang yang saat ini menjadi program unggulan dari berbagai lembaga wakaf di Indonesia untuk menghimpun dana dari masyarakat. Walaupun salah satu kekurangan dari wakaf uang adalah harus mencari tenaga profesional untuk mengelola dana tersebut, terdapat banyak keunggulan dari wakaf uang (Antonio. 2004) itu sendiri antara lain sebagai berikut:

1. Jumlah wakaf uang dapat bervariasi, sehingga orang yang dananya terbatas dapat berwakaf tanpa harus menunggu memiliki asset yang besar. Berbeda dengan wakaf non-produktif yang mengharuskan orang tersebut memiliki tanah atau bangunan terlebih dahulu.
2. Asset wakaf yang sudah ada dan berupa tanah kosong dapat dimanfaatkan untuk pengembangan berbagai sektor dengan menggunakan dana wakaf uang.
3. Dana wakaf uang juga tidak hanya dapat digunakan untuk pengadaan asset saja, melainkan dapat digunakan untuk operasional kegiatan di dalamnya. Sebagai contoh adalah untuk menggaji para civitas akademika yang mengajar di sekolah atau pesantren berbasis wakaf.
4. Jaringan untuk pembayaran wakaf uang sangat luas. Masyarakat dapat menyetorkan dana wakafnya kapan saja dan dimana saja. Karena lembaga wakaf di Indonesia juga memiliki banyak fasilitas pembayaran yang canggih, salah satunya bekerja sama dengan lembaga-lembaga keuangan yang ada.
5. Dana atau uang yang diwakafkan tersebut tidak akan berkurang jumlahnya, melainkan akan bertambah karena diinvestasikan dengan aman, dikelola secara amanah, bertanggungjawab, transparan, dan profesional.

6. Manfaat yang muncul dari pengadaan wakaf dari dana masyarakat itu dapat digunakan untuk fasilitas umum guna mencapai masalah.
7. Wakaf merupakan investasi akhirat, karena manfaatnya terus berjalan dan digunakan oleh masyarakat luas. Pahala wakif tersebut terus mengalir meskipun yang bersangkutan sudah meninggal, hal tersebut menjadi amal *jariyah* sebagai bekal di akhirat.

Wakaf uang juga diharapkan dapat menjadi sarana pembangunan dan kegiatan rekonstruksi sosial, tidak hanya beberapa elemen saja yang dapat terlibat, melainkan seluruh mayoritas penduduk dapat ikut berpartisipasi. Lembaga-lembaga sosial khususnya lembaga wakaf memiliki tugas besar untuk mensosialisasikan terkait dana wakaf dan pengelolaannya tersebut kepada masyarakat. Saat inipun, sudah ada beberapa dari lembaga-lembaga sosial di Indonesia yang saling berlomba-lomba dalam mensyi'arkan amalan dari wakaf kepada masyarakat.

Optimalisasi Pengelolaan Wakaf Uang

Dengan adanya potensi jumlah wakaf yang besar mengharuskan dibentuknya badan profesional untuk mengelola dana wakaf tersebut secara baik dan sesuai syariah. Di Indonesia, BWI atau Badan Wakaf Indonesia bertugas untuk mengkoordinasi seluruh dana wakaf dan peruntukannya, baik tunai maupun non tunai, secara nasional maupun yang berskala internasional.

Adapun selain BWI, terdapat lembaga-lembaga negeri ataupun swasta yang memiliki izin untuk membantu mengelola dana wakaf. Salah satunya adalah Mandiri Amal Insani Foundation, yang telah mendapatkan surat tanda bukti pendaftaran Nazhir Nomor 3.3.00133 dari Badan Wakaf Indonesia. Dengan adanya surat bukti menjadi Nazhir (pihak yang mengelola wakaf) tersebut, MAI Foundation secara resmi dapat menghimpun dan mengelola dana wakaf masyarakat. Surat bukti dari BWI dikeluarkan sejak bulan Maret 2016, dan sejak saat itu juga MAI Foundation mulai mengoptimalkan kegiatan wakaf.

Salah satu program yang diusung oleh MAI Foundation adalah Wakaf Terus Sekolah. Sesuai dengan visi MAI yaitu menjadi lembaga yang Modern, Terpercaya, dan Rahmatan lil 'Alamin, maka turunan dari seluruh kegiatan yang dilakukan oleh MAI harus sesuai dengan visi yang dimiliki. Sehingga, dalam proses pencapaian visi yaitu Rahmatan lil 'Alamin tersebut diharapkan dapat memberikan kebermanfaatannya kepada seluruh umat. Wakaf Terus Sekolah merupakan salah satu program sebagai bentuk kepedulian terkait keadaan dan keberlangsungan umat, khususnya adalah anak-anak yang merupakan masa depan penerus bangsa Indonesia.

Adapun latar belakang pengadaan program Wakaf Terus Sekolah tersebut yaitu karena MAI merasa bahwa pendidikan merupakan salah satu kunci kesuksesan untuk menyongsong masa

depan yang cerah. Tidak hanya itu, dengan mengenyam pendidikan, maka jalan pikir seseorang juga dapat terbentuk. Saat ini, sesuai dengan realita di Indonesia, bahwa untuk mendapatkan fasilitas dan pendidikan yang layak tidaklah mudah, khususnya bagi anak-anak generasi penerus bangsa. Hal tersebut banyak terjadi di pedesaan maupun kawasan pinggiran dikarenakan berbagai faktor, diantaranya yaitu ekonomi ataupun sarana pendukung lainnya.

Namun, sebelum menentukan sekolah yang akan dibantu, maka dibutuhkan standarisasi kelayakan pemberian bantuan. Pada hal ini, Mandiri Amal Insani memberlakukan skoring kelayakan, meliputi jenis sekolah, karakteristik murid, keadaan lingkungan sekitar, dan lokasi sekolah. Hal tersebut dilakukan untuk mengetahui apakah sekolah tersebut memang layak dan perlu dibantu atau tidak.

Salah satu dari sekian banyak sekolah yang mengajukan proposal melalui MAI Foundation dan masih memiliki kekurangan serta membutuhkan bantuan fasilitas belajar mengajar adalah MI Al-Bayan yang berada di Kampung Cipatat, Desa Cibunian, Kecamatan Pamijahan, Kabupaten Bogor. MI Al-Bayan telah berhasil melewati fase skoring standarisasi kelayakan pemberian bantuan dari tim MAI Foundation.

Sebelumnya, MI Al-Bayan telah berdiri di atas tanah wakaf yang merupakan tanah milik keluarga Fatimah Khatib yang tinggal di sekitar tempat didirikannya sekolah tersebut. Fatimah Khatib merupakan seorang buruh migran Indonesia yang bekerja di Hongkong. Beliau rela menyisihkan seluruh gaji dan menjual sawah yang dimiliki untuk membangun sekolah. Kegiatan yang beliau lakukan disana tidak hanya melulu terkait tentang pekerjaan, namun juga aktif dalam kegiatan *fundraising* dana bersama teman-teman buruh migran lainnya untuk pengembangan MI Al Bayan. Disanalah tempat Ibu Fatimah atau biasa disapa dengan Teh Ghinda, mengenal MAI Foundation. Kegiatan untuk menghimpun dana wakaf di Hongkong tersebut juga menjadi salah satu media dakwah serta salah satu cara untuk mempertahankan akidah para buruh migran yang tinggal di negara berminoritas Islam dan jauh dari tanah air.

Seiring dengan berjalannya waktu, di MI Al-Bayan terdapat 120 murid yang mayoritas adalah dhuafa dan dibantu oleh tenaga pengajar sebanyak 7 guru. Karena dengan keterbatasan dana, MI Al-Bayan hanya memiliki dua buah bangunan kelas untuk kegiatan belajar mengajar. Seluruh pengadaan fasilitas yang ada sebelumnya menggunakan dana pribadi milik keluarga Teh Ghinda yang telah berwakaf di tanah tersebut. Dikarenakan masih banyak terdapat kekurangan infrastruktur sekolah dalam pelaksanaannya, maka dilakukan pembagian jadwal untuk murid yaitu jadwal pagi dan siang. Terlebih, jarak sekolah dengan rumah para murid cukup jauh sehingga pihak keluarga tidak bisa membiayai biaya transport sekolah setiap harinya. Dan yang sangat disayangkan adalah banyak dari mereka yang memutuskan untuk putus sekolah. Mayoritas orang tua murid adalah buruh petani, dan dengan keberadaan

sekolah MI Al-Bayan tersebut diharapkan dapat meringankan beban pengeluaran atau ekonomi mereka.

Hingga saat ini MI Al-Bayan sudah mendapatkan izin operasional, akan tetapi izin tersebut tidak permanen dan memiliki waktu tenggang sampai pihak sekolah dapat memenuhi persyaratan dari pemerintah yaitu pemenuhan fasilitas ruang kelas, yang mana saat ini hanya terdapat dua ruang kelas dan masih belum sesuai dengan standar Dinas Pendidikan. Oleh karena itu, Mandiri Amal Insani berencana untuk membantu pembangunan kelas sekolah MI Al-Bayan melalui program Wakaf Terus Sekolah.

Meskipun sebelum diadakannya program Wakaf Terus Sekolah ini banyak dari masyarakat yang menganggap bahwa wakaf hanya dapat dilakukan dengan memberikan tanah atau bangunan saja, tetapi dengan potensi 3.000 donatur yang dimiliki, MAI Foundation terus berupaya untuk memberikan informasi terkait wakaf uang melalui program pembangunan kelas di MI Al-Bayan ini dengan berbagai macam jenis media promosi, seperti pamflet, brosur, *e-mail blast*, *sms blast*, sosial media dan yang lainnya.

Mengingat bantuan pendirian ruang kelas di MI Al-Bayan membutuhkan dana sekitar 500 juta rupiah, dan program ini merupakan program wakaf pertama yang dilakukan oleh MAI, maka perlu sekiranya dilakukan penghimpunan dana secara optimal dan maksimal. Sesuai dengan visi MAI yaitu menjadi lembaga yang modern, maka salah satu media pemasaran produk Wakaf Terus Sekolah yang paling digemari oleh masyarakat adalah melalui media. Karena saat ini kita hidup di jaman yang tidak dapat dipisahkan dari teknologi dan digital. Hampir semua perusahaan, baik profit maupun non profit memanfaatkan kemudahan teknologi. Harapannya, dengan keberadaan media promosi yang bersifat digital dapat lebih memudahkan masyarakat untuk sekedar memperoleh informasi atau berwakaf.

Pada akhirnya, dana wakaf yang terkumpul untuk program sekolah ini terdiri atas dana wakaf peruntukan yang berasal dari donatur potensial MAI dan dana CSR Bank Mandiri. Selain itu juga berasal dari dana yang disumbangkan donatur yang berada di luar negeri khususnya Hongkong, melalui ATM atau transfer, serta melalui gerai yang dibuka oleh MAI setiap satu bulan sekali di perkantoran sekitar Jakarta dan mall-mall tertentu.

Meskipun membutuhkan waktu yang tidak sebentar dan mengharuskan pencarian tenaga profesional untuk membangun ruang kelas di sekolah MI Al Bayan, *alhamdulillah* pada tanggal 14 Januari 2017, sekolah tersebut telah diresmikan oleh pihak MAI Foundation, para donatur, dan aparat setempat. Tidak berhenti sampai proses pengadaan ruang kelas saja, setelah membangun asset wakaf tersebut, MAI Foundation memiliki tantangan agar selalu peka terhadap perkembangan sekolah MI Al-Bayan. Terdapat dua pilihan untuk terus melakukan *monitoring* di MI Al-Bayan, yaitu merekrut tenaga profesional guna melakukan

pekerjaan tersebut atau menunjuk beberapa perwakilan dari pihak internal untuk menjadi komite di sekolah. Hal ini dirasa perlu dilakukan, selain menjadi bentuk tanggungjawab terhadap masyarakat, juga berkaca dari kejadian-kejadian sebelumnya bahwa pemberian bantuan pembangunan sekolah biasanya hanya terhenti sampai pendiriannya saja dan tidak ada tindak lanjut untuk mengikuti perkembangannya.

Dalam hal ini, MAI Foundation berupaya untuk mengikut sertakan diri sebagai komite di sekolah tersebut, karena jika menggunakan tenaga profesional dirasa akan menambah biaya operasional dan memakan waktu untuk mempelajari terkait latar belakang dan perkembangan MI Al-Bayan. Sedangkan jika menggunakan pihak internal sendiri, maka hanya perlu mengembangkan ide-ide yang lebih kreatif dan inovatif agar perkembangan sekolah ini terus maju dan signifikan.

Selain menggunakan standar kurikulum dari dinas pendidikan, MAI Foundation juga berencana untuk menetapkan kurikulum baru yang bersifat Islami guna diberlakukan dalam kegiatan belajar mengajar di MI Al-Bayan. Pembuatan tambahan kurikulum tersebut juga disesuaikan dengan visi misi serta tujuan sekolah. Sehingga, nantinya menjadi sebuah keunggulan atau kelebihan dari MI Al-Bayan jika dibandingkan dengan sekolah yang lain. MAI Foundation juga telah melakukan koordinasi kerja sama dengan Pusat Pengembangan Pendidikan dan Pesantren BAZNAS RI yang memiliki sekolah binaan di wilayah sekitar Pamijahan, Bogor. Sekolah tersebut adalah MTS atau setingkat Sekolah Menengah Pertama, yang mayoritas muridnya juga dhuafa dan memiliki kurikulum Islami. Nantinya, jika murid-murid MI Al Bayan sudah lulus dari sekolah tingkat dasar, diharapkan tidak putus sekolah dan dapat diarahkan untuk meneruskan ke jenjang yang lebih tinggi di MTS binaan BAZNAS tersebut karena merupakan sekolah dhuafa dan wilayahnya masih terjangkau oleh warga sekitar.

KESIMPULAN

Banyak dari masyarakat Indonesia yang belum terlalu mengenal dan mengetahui bentuk pengelolaan dana wakaf serta bagaimana peruntukannya. Dengan adanya program yang dicanangkan beberapa lembaga sosial dan salah satunya adalah Wakaf Terus Sekolah oleh MAI Foundation, maka dapat dijadikan salah satu contoh proses maupun usaha pengenalan wakaf, khususnya wakaf produktif berbentuk wakaf uang kepada masyarakat karena memiliki banyak keunggulan, diantaranya yaitu tidak mengharuskan wakif untuk memiliki dana atau asset yang besar, dapat dibayarkan kapan saja dan dimana saja, jumlah atau nilai wakaf tidak berkurang malah akan bertambah, manfaatnya dapat digunakan oleh banyak orang, dan menjadi amal *jariyah* wakif itu sendiri.

Selain itu, proses skoring standarisasi pemberian bantuan harus disertakan untuk menentukan kelayakan pihak yang akan menerima manfaat. Sedangkan pada proses *fundraising* juga harus

melakukan kedekatan dengan donatur melalui promosi program dengan sosial media, ataupun edukasi serta sosialisasi langsung yang merupakan kunci penting keberhasilan akan pengenalan wakaf uang kepada masyarakat.

Jika dana wakaf tersebut telah terkumpul, harus dikelola dengan baik, tidak hanya berhenti pada pemberian bantuan saja namun harus dikelola dengan profesional, amanah, dan optimal sehingga dirasakan kemaslahatannya oleh masyarakat. Sebagai contoh adalah menyertakan diri sebagai komite pengurus sekolah.

Adapun jika sudah diperuntukkan dalam sebuah asset, sebaiknya dilakukan pelaporan yang bersifat transparansi terkait penghimpunan, proses pengelolaan dan hasil akhirnya kepada publik khususnya para donatur, sehingga dapat menimbulkan kredibilitas lembaga dan kepercayaan masyarakat luas akan program tersebut. Sesuai dengan salah satu visi MAI, yaitu menjadi lembaga yang terpercaya.

Apabila kepercayaan masyarakat sudah terbentuk, mereka akan dengan suka rela menyisihkan hartanya yang berupa uang untuk dapat diwakafkan seperti halnya zakat, infak atau lainnya.

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**BS071:
SENGKETA EKONOMI SYARIAH DAN PENYELESAIANNYA DI
INDONESIA**

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Abstrak

Sengketa pada hakekatnya merupakan bentuk aktualisasi dari suatu perbedaan dan atau pertentangan antara dua pihak atau lebih. Sengketa muncul sebagai akibat dari terjadinya tindakan-tindakan yang melanggar kesepakatan, adanya wanprestasi. Ekonomi Syariah (Islamic Economics) diartikan sebagai ilmu yang mempelajari tata kehidupan masyarakat dalam memenuhi kebutuhan hidupnya untuk mencapai ridha Allah, dengan kata lain merupakan perbuatan atau kegiatan usaha yang dilaksanakan menurut prinsip syariah. Istilah ekonomi syari'ah hanya dikenal di Indonesia, dan di negara-negara lain dikenal dengan nama ekonomi Islam (Islamic Economy, al-Iqtishad al-Islami) dan sebagai ilmu disebut ilmu ekonomi Islam (Islamic Economics 'Ilm al-Iqtishad al-Islami). Ilmu ekonomi Islam berbeda dengan ilmu ekonomi konvensional yang berkembang di dunia dewasa ini, ilmu ekonomi Islam berbeda dengan ilmu ekonomi konvensional yang berkembang di dunia dewasa ini, karena yang ilmu ekonomi Islam terikat kepada nilai-nilai Islam sedangkan ilmu ekonomi konvensional memisahkan diri dari agama sejak negara-negara Barat menganut paham sekularisme dan menjalankan politik sekularisasi. Mekanisme penyelesaian sengketa ekonomi syariah di Indonesia terbagi atas 2 yaitu: jalur litigasi dan non litigasi. Jalur litigasi merupakan mekanisme penyelesaian perkara melalui jalur peradilan dengan menggunakan pendekatan hukum. Sedangkan jalur non litigasi adalah mekanisme penyelesaian sengketa diluar pengadilan.

Kata kunci : ekonomi syariah, penyelesaian sengketa, litigasi, non litigasi

PENDAHULUAN

Ekonomi berdasarkan syariah tumbuh dan berkembang bersamaan dengan berkembangnya Agama Islam. Istilah ekonomi syari'ah atau perekonomian syari'ah hanya dikenal di Indonesia sedangkan di negara-negara lain dikenal dengan nama ekonomi Islam (*Islamic Economy, al-Iqtishad al-Islami*) dan sebagai ilmu disebut ilmu ekonomi Islam (*Islamic Economics 'Ilm al-Iqtishad al-Islami*). Ekonomi atau ilmu ekonomi Islam berbeda dengan ekonomi atau ilmu ekonomi konvensional yang berkembang di dunia dewasa ini, karena yang pertama terikat kepada nilai-nilai Islam dan yang kedua memisahkan diri dari agama sejak negara-negara Barat berpegang kepada sekularisme dan menjalankan politik sekularisasi.

Ekonomi Syariah (*Islamic Economics*) diartikan sebagai ilmu yang mempelajari tata kehidupan masyarakat dalam memenuhi kebutuhan hidupnya untuk mencapai ridha Allah, dengan kata lain merupakan perbuatan atau kegiatan usaha yang dilaksanakan menurut prinsip syariah. Muhammad Abdul Mannan dalam Abdul Manan memberikan definisi dari ekonomi Islam yaitu “*Islamic economics was social science which studies the economics problems of people imbued with the value of Islam*”. Sedangkan Kursyid Ahmad memberikan definisi ekonomi Islam adalah sebuah usaha sistematis untuk memahami masalah-masalah ekonomi dan tingkah laku manusia secara relasional dalam perspektif Islam. Sedangkan menurut Umer Chapra Ekonomi syariah adalah cabang ilmu pengetahuan yang membantu mewujudkan kesejahteraan manusia melalui alokasi dan distribusi sumber-sumber daya langka sesuai dengan al-uqtisad al-syariah atau tujuan ditetapkannya syariah tanpa mengekang kebebasan individu secara berlebihan yang menimbulkan ketidak-seimbangan makro ekonomi dan ekologi, atau melemahkan keluarga, solidaritas sosial, dan jalinan moral dari masyarakat.

Ilmu ekonomi dalam pandangan Islam mempunyai tujuan antara lain : memenuhi kebutuhan hidup seseorang secara sederhana, memenuhi kebutuhan keluarga, memenuhi kebutuhan jangka panjang, menyediakan kebutuhan keluarga yang ditinggalkan, memberi bantuan sosial dan sumbangan bagi yang memerlukan dan menerapkan ilmu ekonomi dalam praktek sehari-hari bagi individu, keluarga, kelompok masyarakat dan pengusaha dalam rangka mengorganisasi faktor produksi, distribusi dan pemanfaatan barang dan jasa yang di hasilkan berdasarkan prinsip syariah.

Perkembangan ekonomi syariah di Indonesia semakin menunjukkan kemajuannya, sehingga tidak tertutup kemungkinan terjadi perselisihan atau sengketa dalam pelaksanaan ekonomi syariah. Oleh karena itu kebutuhan akan lembaga penyelesaian sengketa yang terjadi dalam pelaksanaan ekonomi syariah sangat diperlukan. Indonesia mengenal beberapa mekanisme penyelesaian sengketa ekonomi syariah, yaitu melalui jalur pengadilan atau lebih dikenal dengan jalur litigasi dan melalui jalur diluar pengadilan atau non litigasi. Berkenaan dengan hal tersebut, tulisan ini mencoba memaparkan model penyelesaian sengketa ekonomi syariah di Indonesia.

Perbahasan

Sengketa ekonomi syariah adalah sengketa didalam pemenuhan hak dan kewajiban bagi pihak-pihak yang terikat dalam akad aktivitas ekonomi syari'ah. Sengketa pada hakekatnya merupakan bentuk aktualisasi dari suatu perbedaan dan atau pertentangan antara dua pihak atau lebih. Sengketa muncul sebagai akibat dari terjadinya tindakan-tindakan yang melanggar kesepakatan, adanya wanprestasi, kecurangan, perbedaan interpretasi terhadap aturan hukum, persaingan tidak sehat, pemalsuan, penipuan dan sebagainya. Secara etimologi, menurut KBBI, sengketa adalah sesuatu yang menyebabkan perbedaan pendapat, pertengkaran, perbantahan, atau perselisihan.

Adapun secara istilah, sengketa adalah pertentangan antara dua pihak atau lebih yang berawal dari persepsi yang berbeda tentang suatu kepentingan atau hak milik yang dapat menimbulkan akibat hukum bagi keduanya dan dapat diberikan sanksi hukum terhadap salah satu diantara keduanya. Sedangkan Syariah (*Islamic Economics*) diartikan sebagai ilmu yang mempelajari tata kehidupan masyarakat dalam memenuhi kebutuhan hidupnya untuk mencapai ridha Allah, dengan kata lain merupakan perbuatan atau kegiatan usaha yang dilaksanakan menurut prinsip syariah, atau juga dapat diartikan sebagai suatu sistem ekonomi yang didasarkan pada ajaran dan nilai-nilai Islam. Jadi dapat disimpulkan bahwa sengketa ekonomi syariah adalah suatu pertentangan antara dua pihak atau lebih pelaku ekonomi yang kegiatan usahanya yang dilaksanakan menurut prinsip-prinsip dan asas hukum ekonomi syariah yang disebabkan persepsi yang berbeda tentang suatu kepentingan atau hak milik yang dapat menimbulkan akibat hukum dan mempunyai sanksi hukum.

Mekanisme penyelesaian sengketa ekonomi syariah di Indonesia terbagi atas 2 yaitu : jalur litigasi dan non litigasi. Jalur litigasi merupakan mekanisme penyelesaian perkara melalui jalur peradilan dengan menggunakan pendekatan hukum. Sedangkan jalur non litigasi adalah mekanisme penyelesaian sengketa diluar pengadilan ini umumnya juga dinamakan dengan *Alternative Dispute Resolution (ADR)*.

1. Jalur Litigasi (Pengadilan)

Penyelesaian sengketa ekonomi syariah melalui jalur litigasi di Indonesia, diberi kewenangan kepada Pengadilan Agama. Semenjak tahun 2006 kewenangan Peradilan Agama diperluas, dengan diamendemuannya Undang-Undang No. 7 Tahun 1989 dengan Undang-Undang No. 3 Tahun 2006 tentang Peradilan Agama. Menurut Pasal 49 ayat (i) Undang-Undang No. 3 Tahun 2006 Tentang Peradilan Agama, di samping berwenang memeriksa, memutus dan menyelesaikan sengketa di tingkat pertama antara orang-orang yang beragama Islam di bidang perkawinan, waris, wasiat, *hibah*, wakaf, zakat, infak, dan shadaqah, Pengadilan Agama juga berwenang untuk memeriksa, memutus, dan menyelesaikan sengketa di bidang ekonomi syariah.

Dalam penjelasannya, yang dimaksud dengan “ekonomi syariah” adalah ‘perbuatan atau kegiatan usaha yang dilaksanakan menurut prinsip syariah, antara lain meliputi: (a) bank syariah; (b) lembaga keuangan mikro syari’ah; (c) asuransi syariah; (d) reasuransi syariah; (e) reksa dana syariah; (f) obligasi syariah dan surat berharga berjangka menengah syariah; (g) sekuritas syariah; (h) pembiayaan syariah; (i) pegadaian syariah; (j) dana pensiunan lembaga keuangan syariah; dan (k) bisnis syariah yang tumbuh dan berkembang di Indonesia.’”

Para pihak yang ingin penyelesaian sengketa melalui jalur litigasi maka Pasal 49 UUPA menyatakan bahwa perkara ekonomi syariah sudah menjadi kewenangan absolut Pengadilan Agama. Sehubungan dengan itu Pasal 25 ayat (1) Undang-Undang No. 48 Tahun 2009 tentang Kekuasaan Kehakiman, secara eksplisit menyebutkan di Indonesia terdapat empat lingkungan

peradilan di bawah Mahkamah Agung yang melaksanakan fungsi dan kewenangan kekuasaan kehakiman, yaitu :

- a. Peradilan Umum, hanya kompeten memeriksa dan memutus perkara pidana umum, perdata adat dan perdata barat.
- b. Peradilan Tata Usaha Negara, hanya memeriksa dan memutus perkara tata usaha negara.
- c. Peradilan Militer, hanya menjangkau perkara tindak pidana militer dan tindak pidana umum yang dilakukan oknum anggota ABRI.
- d. Peradilan Agama, hanya memeriksa dan memutus perkara bidang perdata tertentu sebagaimana yang diamanatkan oleh undang-undang.

Dalam konteks ekonomi syariah, lembaga peradilan agama melalui Pasal 49 Undang-Undang Nomor 7 Tahun 1989 yang telah dirubah dengan Undang-Undang Nomor 3 Tahun 2006 dirubah kedua kali dengan Undang-Undang Nomor 50 Tahun 2009 Tentang Peradilan Agama telah memberikan landasan hukum yang kuat terhadap kewenangan peradilan agama untuk menyelesaikan sengketa ekonomi syariah.

2. Jalur Non Litigasi

Terdapat tiga alternatif penyelesaian sengketa diluar pengadilan atau non litigasi yaitu:

- a. Alternatif Penyelesaian Sengketa Ekonomi Syariah melalui Lembaga Perdamaian
Pemikiran kebutuhan akan lembaga *al-shulhu* (perdamaian) pada zaman modern ini tentunya bukanlah suatu wacana atau hanya cita-cita melainkan sudah masuk ke wilayah praktis. Hal ini dapat dilihat dengan marak dan populernya *Alternative Dispute Resolution (ADR)*. Di Indonesia perdamaian telah didukung keberadaannya dalam hukum positif yakni Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase dan Alternatif Penyelesaian Sengketa. Alternatif Penyelesaian Sengketa adalah penyelesaian sengketa atau beda pendapat melalui prosedur yang disepakati para pihak, yakni penyelesaian di luar pengadilan dengan cara konsultasi, negosiasi, mediasi, konsiliasi, atau penilaian ahli.

Adapun dasar hukum penyelesaian sengketa ekonomi syariah diluar pengadilan secara damai adalah:

- 1) Pasal 10 ayat (2) Undang-Undang No. 48 Tahun 2009 tentang Kekuasaan Kehakiman yang menyatakan “Ketentuan sebagaimana dimaksud pada ayat (1) tidak menutup usaha penyelesaian perkaraperdata secara perdamaian”
- 2) Pasal 1851, 1855 dan 1858 Kitab Undang-Undang Hukum Perdata.
Pasal 1851 KUH Perdata “*Perdamaian adalah suatu perjanjian dengan mana kedua belah pihak, dengan menyerahkan, menjanjikan atau menahan suatu barang, mengakhiri suatu perkara yang sedang bergantung ataupun mencegah timbulnya suatu. Persetujuan ini tidaklah sah, melainkan jika dibuat secara tertulis*”.

Pasal 1855 KUH Perdata : “*Setiap perdamaian hanya mengakhiri perselisihan-perselisihan yang termaktub didalamnya, baik para pihak merumuskan maksud mereka dalam perkara khusus atau umum, maupun maksud itu dapat di sampaikan sebagai akibat mutlak satu-satunya dari apa yang dituliskan*”.

Pasal 1858 KUH Perdata : “*Segala perdamaian mempunyai diantara para pihak suatu kekuatan seperti suatu putusan hakim dalam tingkat yang penghabisan. Tidak dapatlah perdamaian itu dibantah dengan alasan kekhilafan mengenai hukum atau dengan alasan bahwa salah satu pihak di rugikan*”.

b. Alternatif Penyelesaian Sengketa Ekonomi Syariah melalui Arbitrase (*Tahkim*)

Dalam perspektif Islam juga dikenal penyelesaian sengketa melalui arbitrase yang biasa disebut dengan istilah *Tahkim*. Tahkim secara harfiah berartimenjadikan seseorang sebagai penengah bagi suatu sengketa. Tahkim adalah suatu metode penyelesaian sengketa diluar pengadilan melalui *hakam* yang dipercaya untuk mengakhiri sengketa para pihak yang dipilih secara sukarela dengan konsekuensi para pihak harus melaksanakan hasil keputusan *hakam* tersebut. Penyelesaian sengketa yang dilakukan oleh *hakam* di abad modern dikenal dengan *arbitrase*. Di Indonesia, lembaga tahkim ini dikenal dengan nama Badan Arbitrase Syariah Nasional (BASYARNAS). Terbentuknya lembaga arbitrase Islam (Basyarnas) memiliki landasan hukum yang kuat, baik dari tinjauan hukum positif maupun dari hukum Islam.

Badan Arbitrase Syariah Nasional (BASYARNAS) merupakan lembaga penyelesaian sengketa diluar pengadilan yang menyelesaikan sengketa ekonomi syariah melalui perantaraan *hakam* atau arbiter, sesuai dengan SK MUI No. 09/MUI/XII/2003 tanggal 24 Desember 2003 tentang BASYARNAS. Dasar hukum keberlakuan arbitrase dalam penyelesaian sengketa ekonomi syariah adalah Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase dan Alternatif Penyelesaian Sengketa.

Gagasan berdirinya lembaga arbitrase Islam di Indonesia, diawali dengan bertemunya para pakar, cendekiawan muslim, praktisi hukum, para kyai dan ulama untuk bertukar pikiran tentang perlunya lembaga arbitrase Islam di Indonesia. Pertemuan ini dimotori Dewan Pimpinan MUI pada tanggal 22 April 1992. Setelah mengadakan beberapa kali rapat dan setelah diadakan beberapa kali penyempurnaan terhadap rancangan struktur organisasi dan prosedur beracara akhirnya pada tanggal 23 Oktober 1993 telah diresmikan Badan Arbitrase Muamalat Indonesia (BAMUI), sekarang telah berganti nama menjadi Badan Arbitrase Syariah Nasional (BASYARNAS) yang diputuskan dalam Rakernas MUI tahun 2002. Perubahan bentuk dan pengurus BAMUI dituangkan dalam SK MUI No. Kep-09/MUI/XII/2003 tanggal 24 Desember 2003 sebagai lembaga arbiter yang menangani penyelesaian perselisihan sengketa di bidang ekonomi syariah.

Penyelesaian melalui BASYARNAS dapat dilakukan apabila terjadi kesepakatan dan dicantumkan dalam akta atau akad sejak awal sebelum terjadi sengketa (*pactum compromittendo*), atau dibuat ketika terjadi sengketa dalam suatu akta (*acta compromis*). Pada awalnya BASYARNAS bernama Badan Arbitrase Muamalat Indonesia (BAMUI), yang didirikan pada tanggal 21 Oktober 1993, berbadan hukum yayasan.

BASYARNAS mempunyai lingkup kewenangan sebagai berikut :

- 1) Menyelesaikan secara adil dan cepat sengketa muamalah (perdata) yang timbul dalam bidang perdagangan, keuangan, industri, jasa dan lain-lain yang menurut hukum dan peraturan perundang-undangan dikuasai sepenuhnya oleh pihak yang bersengketa, dan para pihak sepakat secara tertulis untuk menyerahkan penyelesaiannya kepada Basyarnas sesuai dengan prosedur Basyarnas.
- 2) Memberikan pendapat yang mengikat para pihak tanpa adanya suatu sengketa mengenai persoalan berkenaan dengan suatu perjanjian.

c. Alternatif Penyelesaian Sengketa Ekonomi Syariah melalui Mediasi Syariah.

Mediasi adalah penyelesaian sengketa melalui perundingan atau musyawarah mufakat di antara para pihak yang bersengketa dengan bantuan seorang atau lebih penengah (mediator) yang disetujui para pihak dan tidak memiliki kewenangan memutus. Mediasi merupakan proses penyelesaian sengketa melalui perundingan atau musyawarah dan mufakat para pihak dengan dibantu oleh mediator yang tidak memiliki kewenangan memutus atau memaksakan sebuah penyelesaian. Jadi ciri utama proses mediasi adalah kesepakatan yang esensinya sama dengan musyawarah untuk mufakat. Secara terminologi pengertian mediasi adalah proses pengambilan keputusan yang dilakukan oleh para pihak dengan dibantu oleh pihak ketiga sebagai mediator untuk menyelesaikan suatu perkara.

Dari beberapa pengertian mediasi tersebut di atas dapat di kemukakan unsur-unsur dari mediasi yaitu: merupakan proses penyelesaian sengketa berdasarkan perundingan,

- 1) Adanya keterlibatan pihak ketiga (mediator) yang netral dan diterima oleh para pihak
- 2) Mediator bertugas unruk membantu para pihak mencari penyelesaian sengketa yang dapat mereka sepakati
- 3) Mediator tidak mempunyai kewajiban untuk membuat keputusan selama perundingan berlangsung.

Di samping unsur-unsur, mediasi juga memiliki prinsip-prinsip dalam proses pelaksanaan mediasi itu sendiri, yaitu: prinsip kerahasiaan, sukarela, pemberdayaan, netralitas dan solusi. Di Indonesia penyelesaian sengketa ekonomi syariah melalui mediasi syariah diluar pengadilan, merupakan keinginan untuk menegakkan sistem syariah. Oleh sebab itu pada 17 Desember 2012 didirikanlah Badan Mediasi Ekonomi Syariah (selanjutnya di singkat BaMES) oleh Masyarakat

Ekonomi Syariah di Jakarta. BaMES ini adalah badan semi otonom dan berfungsi melengkapi fungsi BASYARNAS. Jadi tidak akan ada tumpang tindih fungsi antara BASYARNAS dan BaMES. BaMES akan berperan sebelum sengketa masuk ke pengadilan. BaMES akan memainkan perannya ketika kedua belah pihak yang bersengketa diberikan waktu untuk mediasi.

Selanjutnya proses mediasi pada tahap awal tetap merujuk kepada Perma No. 1 Tahun 2008 tentang Proses Mediasi di Pengadilan. Proses mediasi pada tahap awal ada lima tahap yaitu : sepakat untuk menempuh proses mediasi, memahami masalah, mencari pilihan-pilihan pemecahan masalah, mencapai kesepakatan dan melaksanakan kesepakatan.

KESIMPULAN

Sengketa ekonomi syariah adalah sengketa yang terjadi dalam pemenuhan hak dan kewajiban bagi pihak-pihak yang terikat dalam akad aktivitas ekonomi syariah. Sengketa muncul sebagai akibat dari terjadinya tindakan-tindakan yang melanggar kesepakatan, adanya wanprestasi, kecurangan, perbedaan interpretasi terhadap aturan hukum, persaingan tidak sehat, pemalsuan, penipuan dan sebagainya. Jadi dapat disimpulkan bahwa sengketa ekonomi syariah adalah suatu pertentangan antara dua pihak atau lebih pelaku ekonomi yang kegiatan usahanya yang dilaksanakan menurut prinsip-prinsip dan asas hukum ekonomi syariah yang disebabkan persepsi yang berbeda tentang suatu kepentingan atau hak milik yang dapat menimbulkan akibat hukum dan mempunyai sanksi hukum.

Di Indonesia penyelesaian sengketa ekonomi syariah terdiri atas 2 jalur yaitu : jalur litigasi dan non litigasi. Jalur litigasi merupakan jalur penyelesaian sengketa ekonomi syariah melalui pengadilan. Di Indonesia kewenangan itu diberikan kepada Pengadilan Agama dengan dikeluarkannya Undang - Undang No. 3 Tahun 2006 Tentang perubahan pertama Undang-Undang Nomor 7 tahun 1989 Tentang Peradilan Agama.

Sedangkan penyelesaian sengketa ekonomi syariah melalui jalur non litigasi ada beberapa cara : perdamaian, melalui Badan Arbitrase Syariah Nasional (BASYARNAS) dan BaMES (Badan Mediasi Syariah).

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**EP072:
PESANTREN AS A PHILANTHROPY ORGANIZATION IN INDONESIA**

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Abstract

This study aims to provide an overview Pesantren as one philanthropic organization in Indonesia. Pesantren is educational institution which has different characteristics with social and economic impacts on the environment and surrounding communities. The development of philanthropic organizations can provide various social policies to reach social welfare. This study used a descriptive approach of many sources of literature review to provide an overview of some philanthropic activities undertaken by the Pesantren or Islamic boarding schools in Indonesia. Pesantren has religious characteristics with the figure of Kyai, students, and the pesantren environment which contribute philanthropic impact on social aspects of society. Some Pesantrens also have several philanthropic programs that is diverse and able to compete with other philanthropic organizations program. Examples of charitable activities of pesantren in Indonesia encompass such as the attention to women's rights, the drug rehabilitation, and the management development of small and medium enterprises among the villagers. One scheme Islamic philanthropy that is commonly used by Pesantren is waqf. Some Pesantrens have done a good approach in managing waqf as the Pondok Pesantren Gontor practiced in the field of collecting waqf from donor.

Keyword: Pesantren, Philanthropy, Philanthropic Activities, Indonesia

INTRODUCTION

Indonesia is one of largest country in Indonesia. Indonesia is also home for about 300 million people. Indonesia is largest moslem country with hundreds Islamic organizations. Indonesia has potential growth in philanthropy. Philanthropy in Indonesia grows rapidly.

According to a 2000 APPC survey, almost all of the adult population in Indonesia reported giving to family and friends, and 80% gave to voluntary organisations. Individual philanthropy is based on the Muslim tradition of Zakah, which amounts to 2.5% of annual savings. According to one source, ninety per cent of the income of religious organizations comes from individual philanthropy. The annual amounts collected by some of these organisations range from \$20,000 – \$100,000 (Development Assistance Committee, 2003).

For a long time, social scientists and policy-makers paid little attention to concepts like philanthropy, voluntarism, social capital, civil society or non-profit organizations. But today, the non-profit sector has become a major economic and social force. Parallel to the increase in

economic importance's the greater policy recognition non-profit organizations enjoy at local, national and international levels.

There is clearly a strong public policy interest in philanthropy. First, private philanthropy can substitute for public sector provision of goods and services. With individuals to provide poverty relief or support for the arts, there is less need for the government to do so.

Some governments see in non-profit and community organizations an alternative to welfare services provided by the public sector. This is seen most clearly in the USA in the so-called 'faith-based initiative' in providing services and relief to the poor, or the school voucher programme for both private and public schools. Many developing countries are searching for a balance between state-led and market-led approaches to development, and are allocating more responsibility to non-governmental organizations, commonly referred to as NGOs.(K.Anheier & A.List, 2005).

Inequalities of power require greater justification at times of economic crisis, when social competition and the potential for social conflict are accentuated. Engaging in philanthropy enables wealthy actors to play a part in maintaining social harmony.(Maclean, Harvey, Gordon, Shaw, & L, 2012).

Community-based philanthropic organizations have begun to play an increasingly important role in serving the needs of communities throughout the world. One such organization is the community foundation, a grant-making public charity that gets support from diverse funding sources and in return provides grants to organizations who serve a defined geographic area. It is one of the fastest growing forms of organized philanthropy across the globe.(Lili Wang, Graddy, & Morgan, 2010).

Philanthropy takes different forms in various countries, cultures and political contexts. Philanthropy is more related to the process of sharing personal resources for the public benefit. Private sources here does not necessarily mean money, but in the form of other resources, such as luggage, mind and energy. The meaning of philanthropy embodies humanity, solidarity, subsidiary companies, non-profit orientation, and voluntarism(Huda, 2009).

Pondok Pesantren nowadays has been holding the same position as educational institutions overseen by the government and possesses the right to implement its own forms and models of education. As a result, attention towards Pondok Pesantren has been increasing be it from the government or society. This institution, whose existence was hardly acknowledged in the past, has since become the largest and most stable institution in the centre of society and has rapidly expanded not only in villages but also in established cities, where it is known as Modern Pondok Pesantren. The educational curriculum at Pondok Pesantren has incorporated both religious and

academic knowledge in addition to the teaching of life skills for students to become self-sufficient; both areas of knowledge receive the same emphasis and attention.(Abdul & Zakaria, 2010)

There is relation between Pesantren and Philanthropy because Pesantren has important position in developing education and social life of society. Pesantren has been built because of Islamic values and social culture of Indonesia. Pesantren has long history in Indonesia as a community organization which care about educational and social aspect in Indonesia. No doubt that many philanthropy activities has been done by this traditional institution to provide prosperity in Indonesian society.

This research try to give several examples of description of philanthropy activities that have been done in Indonesia pesantrens. Using descriptive approach from literature review and some studies about philanthropy and pesantren, this research try to encourage researcher to do more deep research on Islamic philanthropy phenomenon in pesantren.

DEFINITION OF PHILANTHROPY

Philanthropy refers to the use of personal wealth and skills for the benefit of specific public causes and is typically applied to philanthropic foundations and similar institutions. Philanthropy, derived from Greek, means love for humankind. Therefore, philanthropic acts are intended to enhance the well-being of humanity, relieve misery, or improve the quality of life through personal acts of kindness, compassion, or financial support.(K.Anheier & A.List, 2005).

Philanthropy is one of society's mechanisms for addressing both the acute and chronic challenges that emerge in the world around us. It is an ancient practice, honored by every religious tradition. It is voluntary and independent, and to the degree it is rooted in our basic willingness to help others, it is timeless. Indeed, the word philanthropy literally means "love of humankind".(Fulton & Blau, 2005).

Charity is often thought to be helping someone or something right now by giving directly to solve the problem, not necessarily through financial contributions. It could be direct aid and is generally aimed toward the needy or suffering. Philanthropy, on the other hand, is love of humankind, the act of improving the situation of others through charitable aid or donations. Individuals also state that philanthropy in their opinion is long term, whereas charity is immediate and often short term in focus. I think all of us have heard the adage that if you give a person a fish, he will eat for a day. If you teach him to fish, he will eat for his entire life. Charity at its basic sense is giving the person a fish, whereas philanthropy is teaching the person to fish.

A major distinction is made between charity, as the alleviation of suffering, and philanthropy, which refers to a longer term, deeper commitment to public benefit that seeks to address the roots of social problems.(K.Anheier & A.List, 2005).

PESANTREN IN INDONESIA

The position of Pondok Pesantren was always at the forefront in Islamic society history in Indonesia. Pondok Pesantren also played a significant role in Indonesia's struggle for independence from colonial rule and the nation's eventual attainment of independence.

Nowadays, there are 27.218 pesantrens in Indonesia. Pesantren or Islamic boarding school is an educational institution that has its roots on the Hinduism-Islamic educational system which was founded by Ki Hajar Dewantara as the indigenous education system of Indonesia since 1.062. The word 'Pesantren' derived from the word 'Santri' with preffix -pe and suffix -an means a place where a santri/student lives.(Saidna Zulfiqar Bin Tahir, 2015).

There are two conceptions of the word 'Santri' regarding to its origin. Firstly, the word 'Santri' derived from Sanskrit language 'Shastri'. It means literate or able to read and write. Therefore, Santri is a literary person because of his knowledge concerning to the Holy Scripture. Secondly, the word 'Santri' came from Javanese language 'cantrik' which means a person who go a long with a teacher wherever he goes and stays to acquire knowledge and skill from him or a person who pursues a course from a teacher.(Saidna Zulfiqar Bin Tahir, 2015).

Islamic Research Institution defines Pondok Pesantren as the place that provide Islamic teaching subjects to the students and it also became the place to congregate and stay (Rahman, 2010). Some scholars argue that an institution could be classified as pesantren when it complies with some conditions or some basic elements of pesantren, they are; Kyai/Ustadz/teacher, santri/students, mosque, pondok/dormitory, and religious teaching or teaching the Holy Scripture (Saidna Zulfiqar Bin Tahir, 2015). Pondok Pesantren (boarding school) which has the highest number of students are located in West Java province, East Java province, Central Java province, and Banten, approximately 78.6% of the total boarding school in Indonesia.(Rina & Indriani, 2015).

PESANTREN AND PHILANTHROPY

A pesantren can be said to be an entity that has a complete enough resources, from natural resources, human resources, infrastructure and facilities, as well as the values contained in the norms, rules and exemplary figures.(Pradini, Hasim, & Tri Pranadji, 2016). Regarding the size and the growth of the pesantren, it is clear that each pesantren has its own potentials to give economic impact on the society. The bigger the pesantren the more job opportunities will be available to the community. There will always be more additional rooms, beds, school buildings, etc.

Nowdays the changes happen in the pesantren world in order to adapt the development of science and to meet the demands and needs of common society. There are three changes first, the system of pesantren education not only teach the classical Islamic lesson but also teach modern science. Second, the establishment of pesantren usual grows and thrives in rural communities but now many pesantrens grow and thrive in urban communities. Third, because of the rapid development of pesantren growth in urban community, the terms of headmaster of pesantren change from “descent kyai” which refers to family member of pesantren founder to “destiny kyai” which explain the skilled person in the religion field and has managerial ability to organize pesantren...(Shodiq, 2011).

Pesantren as Philanthropic institutions, non-profit organizations especially, strongly depend on the public's trust since their major sources of funding come from public donations. Trust is an important element of charitable giving and is part of all accountability relationships. The significance of trust in an accountability relationship is the fact that the agent may react spontaneously according to the principal's interest rather than responding to contractual obligation and incentive. (Basri, 2010)

To maintain philanthropy organization is not easy as to distribute philanthropy funds to needy person. It needs more comprehension valuation of the way of distributing and characteristic of recipient. According to (Duncan, 2004) opinion when the good that a philanthropist finances is a person rather than a production process, valuing the impact of one's gift can affect the relationship between the donor and recipient. For example, consider a situation in which a philanthropist cares about the well being of a group of needy children. A public good philanthropist would rather see the children become self sufficient because then he or she would enjoy the higher welfare of the children without having to pay for it. Ironically, the children themselves may be more likely to remain dependent because of the philanthropist's altruism.

Pesantren which based on Islamic values and social culture root in the community is expected to manage philanthropy well and consider many aspects for the benefit or *maslahah* . Philanthropy involves the donor and pesantren community with social activities target. This involvement needs and requires a professional responsibility of the pesantren.

KEY ROLE OF KYAI IN PESANTREN

Role of Kyai in some pesantrens colored the most pesantren policy. Kyai is described as a central figure whose every word and his actions always be a the pattern model for all students. Kyai speech can be role models and guidance while his actions can always be emulated by those who feel as a part of a pesantren. Even the wider community is not uncommon to make Kyai as major role model. Kyai has so much influence in the midst of the society, especially in pesantren, the place where Kyai devote himself to the interests of *santri* or students.(Zuhriy, 2011).

A kyai who earned a reputation as a person of great wisdom and high moral standing would attract santri from the local area as well as from further field. Certain kyai were also considered to be experts in particular traditional religious texts, and students would often move from pesantren to pesantren seeking specific knowledge of the texts these kyai had mastered. Because of this knowledge and high moral standing, kyai were highly respected not only within the pesantren but also within the community more broadly. In many rural communities, the local pesantren was the centre of religious life and the kyai had significant authority on religious matters.

Kyai has the vision in directing activities in Pesantren. This becomes an unique aspect of the dynamics of pesantren philanthropy to deliver social benefits for the community. Kyai decision contains a lot of wisdom in the form of social activity. Philanthropic activities cannot be separated from Kyai role. Kyai has different way to see and value the importance or the philosophy of certain philanthropic activity.

Some literature states that the desire of individual philanthropy have influence in choosing philanthropy scheme. Yet philanthropy is often hard to separate from self-interested behaviour, however subtle and however pecuniary. It is equally difficult to distinguish between genuinely philanthropic and selfless organizations and those advocating philanthropy for the common good with some form of self-interest or lobbying on behalf of members or third parties. (K. Anheier & A. List, 2005)

Role of Kyai is so central in determining the direction of the pesantren development in Indonesia. Kyai who did not do the needed changes due to the challenges of era will be quite difficult to develop further the pesantren. Philanthropic activities influenced by the interest or the willingness of Kyai as manager involving pesantren community. Their duty to reach the goal of society welfare indeed in need of donor inputs and participation. It needs development to improve the management of philanthropy to consolidate all involved element in pesantren

PESANTREN AND PHILANTHROPY ACTIVITIES IN DEVELOPING SOCIAL ASPECT OF RURAL AND COMMON SOCIETY

Philanthropy is more associated with the process of sharing private resources for public benefit. Private resources here are not always meant the money, but the other form of resources, such as goods, mind and energy. The elaboration of the philanthropy definition can be concluded that the meaning of philanthropy embodied humanity, solidarity, subsidiary, a non-profit orientation, and voluntarism. Filantropi lebih dikaitkan dengan proses sharing private resources untuk publik benefit. Private. (Huda, 2009).

Philanthropy activity can be motivated from character. Pesantren can fulfill its role to develop students' characters. Using its system, students can involve themselves to make their characters

noble. Students may learn diversity and respect from each other. Then they also get responsibility upon a certain thing and accomplish it as well as possible. The rules are very strict and enforced well (Darmawan, 2015). When Pesantren build good character of students, hopefully students can spread it among society.

Every Pesantren has its own character in educating student and influencing society with Islamic values. It means each Pesantren has different characteristic from other. This thing enrich values and various of Philanthropy activities in Indonesia.

There is Pesantren that has big attention in women rights and movements. Such as Pesantren Dar al-Tauhid Cirebon and Pesantren Cipasung. Both pesantren have Women Crisis Centers (WCC), which are not only concerned with the issue of violence against women, but also challenge the patriarchal religious interpretation within the pesantren community. This organization has the duty to advocate such women's issues in the Muslim community, as domestic violence, rape and trafficking. (Khariroh, 2010)

Several pesantrens has been observed in Tasikmalaya. The results show the big role of pesantren in developing many aspects of rural society life. Pesantrens are also social institutions. For social development, pesantrens had struggle for the orphans and elderly people; performed mass circumcision; scholarship for the unfortunate students; gave hands to the least advantage; gave health services; provided rehabilitation of drug addicts; cooperated with the society for societal needs such as providing irrigation, bathroom, toilet; doing cleanliness (Mustari, 2009).

Drug rehabilitation is one of special programs that exist in certain Pesantren in Tasikmalaya, West Java. In 1971 Pesantren Suryalaya helped government's program in rehabilitating drug addicts and juvenile delinquency. That effort was in line with government's code of Bakolak Inpres No 6 year 1971. The rehabilitation was through praying with the method of sufi order of Tariqat Naqshabandiyah Qadiriyyah (TNQ) in order to get the youth back to the true way. This program was institutionalized in 1986 named as Youth House of "Inabah" (meaning 'getting back'). The continuation and extensivication of the doctrine were done through Suryalaya's branches of sufi orders and through the preachers coordinated by the branches. (Huda, 2009)

Other application in developing rural society life can be seen in Pondok Pesantren Sidogiri, Jawa Timur. This Pesantren is well-known Islamic boarding school that develop entrepreneurial activities. The concept of social care based on the faith in God's call has an important role in encourage action in the form of the development of entrepreneurial in the pondok pesantren in order to improve the social environment

One study tried to express the entrepreneurial motivation in the Pondok Pesantren Sidogiri. This research indicates external and internal environment. The miserable moneylenders practice as

external environment had been trapping small businesses and the village community. The practice of moneylenders had triggered pondok pesantren to cope with and handle it. This research also concluded three reasons as internal environment, first the desire to Provide for Santri and Society Requirement, second the desire to acquire the halal consumption sources, and the third the desire to maintain the character based on education system.(Siswanto, Armanu, Setiawan, & Nimran, 2013).

PESANTREN AND ISLAMIC PHILANTHROPY SCHEME

Waqf is The most well known Islamic philanthropy schemes and often attached to the pesantren. Pesantren needs endowment from waqf donor or *waqif* to emphasize education dormitories or boarding school for its students. The most of Pesantren building is established on waqf land.. This paper will reveal some waqf practice in some Indonesian pesantrens primarily on endowments collection strategy.

It is essential to link waqf development activities with pesantren institution. Role of the *nazhir* of pesantren waqf is truly needed. As it is known that pesantren as social institution that has a Muslim community education patterns and the typical management characteristics, the pesantren should emphasize self-reliance waqf management (Huda, 2009).

Pondok Pesantren Tebuireng, Jombang

There are 12 Nazhir in Pesantren Tebuireng, Jombang, East Java. They are seemed to be passive and await the arrival of the waqif or waqf donor. They increase further the internal capacity of Nazhir to manage the existing waqf property as well as possible. God willing, if managed well, the new wakif coming himself. The philosophy of Tebuireng waqf management is how to be honest and trustworthy as nazhir, and waqf donor would come himself. In exploring sources of funding in the new endowments form, nazhir of Tebuireng always improve management by establishing cooperation with various parties and its Limited Company to the develop waqf property in order to create a new endowment fund.

Nazhir have been tried to approach big family of Pesantren Tebuireng and some state officials who eventually want to give their property to be waqf for pesantren. However Nazhir of Tebuireng waqf have not tried to explore the potential of pesantren graduates who are successful and rich. Indeed the potential of these graduates are large. Nazhir of waqf also offer various parties like big family of KH. Hayim Ash'ari the founder of Nahdlatul Ulama (biggest moslem mass organization) to participate in waqf pesantren. Nazhir of waqf used certain events when many guests who come as officials and businessmen to voluntarily give their sources as waqf endowment.

Nazhir of waqf in Tebuireng has implemented programs such as the empowerment of waqf assets form of paddy field and land and doing some improvements with different models of to

produce waqf productivity. Pesantren Tebuireng also has sengonisasi program means to plant a type of tree and build limited company on behalf of Pesantren Tebuireng which basically develop endowment fund resources of pesantren.

Pondok Pesantren Darussalam Gontor Ponorogo

The need for eternal fund in order to foster the independence of pesantren Darussalam Gontor already started when the transferring waqf property and the appearing of waqf pledge since the inception of the pesantren. Including the establishment of khizanah (funding) section in 1931. The division was deliberately formed and designed for the purpose of expanding pesantren waqf. This Khizanah seeks fundraising of any form to be managed back to be productive and produce the efficiency. Such a model farming, cooperative economic enterprise for student, tuition, infaq and so on.

Waqif or waqf donor identification in the Gontor waqf institution seems to be more complete and active, with various ways such as approaching to various graduates and pesantren stakeholders. Moreover, the successful graduates as employers, domestic state and foreign officials. Pesantren Gontor always does the research and graduates identification especially for spreading graduates in several moslem countries which majority in the Middle East. Waqf donors often come with their own desire to Gontor waqf agency to cede their waqf. The *waqif* who provide their assistance or donating their wealth come from domestic and foreign countries. The principle of gontor fundraising is to prove the advancement and the donors will support and not vice versa, only ask for endowment for the advancement project.

Lots of project have been made to waqf of Pesantren Gontor like breaking the agricultural fields with the sharing system, investment through the productive business units of and fundraising with direct pattern. Waqf agency in Pesantren Gontor seems do not stop to try new thing for activating their waqf resources to be more productive. Until 2009 Pesantren Gontor has already empower 30 varieties of business.

STRATEGY TO DEVELOPE PHILANTHROPY IN PESANTREN

Strategy in philanthropy is even more difficult to generalize about, but in general the situation is almost the reverse. Usually there are internal drivers of strategy rather than external. In other words, for most foundations the starting point is not supporting national development priorities, or filling gaps in aid, but rather the interests of the founders, the living donors, Board members, or company and given those interests, themes and grantees are chosen accordingly. (Grady, 2014)

Pesantren has many advantages as a philanthropic organization and be able to develop better service for the public. Pesantren also needs to change the view that any donation that goes from the donor is pesantren property right that can be freely used and no reporting to the donors.

The community foundations with a shorter history are more likely to focus on developing a philanthropic culture. Additionally, community foundations in a country/region with less-developed NGOs are more engaged in direct service provision while maintaining less focus on grantmaking. The lack of legally-required accountability mechanisms influences the public's perception of community foundations' autonomy and impact in the community. (Lili Wang et al., 2010).

Some pesantren donors come from urban cities and precisely have knowledge to evaluate their way for contributing the waqf endowment to philanthropic organization. It means they can change their preference to donate a certain pesantren to other pesantren.

Some donors are highly successful business people who assume they have the skills to give their own money away. Indeed, some donors come to philanthropy knowing exactly what cause or issue they want to support, and are savvy enough to figure out how and whom they want to fund on their own. Some donors who come from urban areas have sufficient knowledge to be able to evaluate how they donate their money to philanthropic institutions. Some are highly successful business people who assume they have the skills to give Reviews their own money away. Indeed, some donors come to philanthropy knowing exactly what cause or issue they want to support, and are savvy enough to figure out how and Whom they want to fund on their own.(Siegel & Yancey, 2003)

One thing needs to be developed by pesantren as a philanthropic organization is the relationship with donors. Pesantren needs to set up the place and awareness-raising programs and improvement of donor knowledge about Pesantren.

Donor relations is the comprehensive effort of any nonprofit that seeks philanthropic support to ensure that donors experience high-quality interactions with the organization that foster long-term engagement and investment. This effort is commonly thought to have four elements.

The way to strengthen donor relation to pesantren as philanthropy organization is through donor Education. There is undoubtedly a movement toward better informed and more strategic philanthropy; however, this is complicated by a basic fact: there is no tried and true formula for good giving. Some of the most powerful generosity and social care realize how much is born out of natural wisdom, good instincts and inspired imagination. .(Siegel & Yancey, 2003)

It should also be noted that in some cases donor education can be harmful if it makes so-called "strategic giving" seem too complicated, time consuming and overwhelming. It can make a would-be donor jump through too many hoops to master the craft of giving. Donor educators need to acknowledge up front the vital role that personal passion, deep values, and gut-level instincts play in any good giving. The notion and role of craft should not trump good intentions

and natural inspiration. Donors do have the option to add varying degrees of planning, strategy and focus to their giving, but the presentation of those options should not create barriers to taking the initial steps forward. (Siegel & Yancey, 2003)

Pesantren also has to think how to increase the donor participation in philanthropy activities. Pesantren can interview its donor about the reason which keep them on contributing for program or social philanthropy activities. Bekkers & Wiepking (2007) make some conclusions from literature review about why people give. It reviewed this literature and identify eight mechanisms as the key mechanisms that have been studied as determinants of philanthropy. They are: (1) awareness of need; (2) solicitation; (3) costs and benefits; (4) altruism; (5) reputation; (6) psychological benefits; (7) values; (8) efficacy.

ALTERNATIVE STEPS TO INCREASE DONOR PARTICIPATION

Many of today's most interesting experiments focus on redefining the way that funders think about their giving and the relationships that they establish with recipients (Fulton, Blau, & Kasper, 2005). It is because of lack of donor knowledge or weak relation between donor and the philanthropy organization.

Pesantren needs also to build good image as professional philanthropy organization in order to encourage donor to support organizations, not just programs. Concerned that the bias toward project support (that itself emerged from an earlier call for focus and accountability in philanthropy) often leaves grant recipients without resources to operate and respond effectively, some funders have moved to providing core operating support. In cases where the interests of the funder are well aligned with the aims of the nonprofit grantee, general operating support can advance the grantmaker's goals while offering the grant recipient reliable and flexible financing that allows the organization to respond quickly and effectively to new challenges and opportunities.

Pesantren has to be more focused and persistent in offering projects or social philanthropy activities. The alignment of interests between the funder and recipient is also reinforced by an emphasis on becoming more focused and persistent, thereby creating a lasting and collaborative relationship between a donor or collection of donors and an organization or group of organizations devoted to a shared set of goals and objectives.

Pesantren also can make high-engagement giving to donor. It can increase Pesantren consciousness to do better operating philanthropy. This effort can bring the donor and the grantee into a partnership in which the donor's money is allied with other assistance, and where the achievement of measurable goals is carefully tracked.

Pesantren educate and facilitate the donor or funder as initiator and operator. Some grantmakers are no longer waiting for ideas from the field, but are initiating their own projects, identifying strategies, and soliciting organizations to pursue those strategies. In an extreme application of this approach, the funder does away with giving grants to others altogether and becomes an operating foundation.

All the steps above hopefully can increase donor participation to develop funding and philanthropy activities in Pesantren. Kyai as principle chief of Pesantren also can use his influence and popularity to persuade people for contributing their giving to Pesantren.

CONCLUSION

Pesantren is a philanthropic organization and have helped much to change society to be better. Philanthropy is not only the activities of donation distribution. Philanthropy needs social and cultural values to provide the expected social impact. Pesantren is a philanthropic organization that emphasizes the noble values of Islam and the local culture surrounding communities.

Indonesia has thousands of pesantren scattered throughout the Indonesia provinces. Some pesantrens already have certain philanthropic program in improving the social aspect of society. Examples such as special attention on the role of women, drug rehabilitation, empowerment of small and medium enterprises, and so forth. Some pesantrens also have developed the management of islamic philanthropy scheme like waqf endowments. As it is practiced by Pondok Modern Darussalam Gontor Ponorogo. Peran Kyai in pesantren is expected to direct and boost the development of the advancing pesantren. Pesantren is expected to and enable active citizens, civil society and donors to develop philanthropy. There are many ways to increase philanthropy quality, one of them is collaboration with donors through an improvement of their knowledge of the pesantren and facilitate their active role in philanthropic activities.

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**BS073:
KONSEP ASURANSI BERBASIS INVESTASI PADA ASURANSI
SYARIAH DI INDONESIA**

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Abstract

The Indonesian people are Muslim majority, the development of life has led to Islamic principles. Indonesia's population considers the existing conventional insurance is not in accordance with Islamic law, as it contains ambiguities (gharar), containing elements of gambling (gambling), and contains elements of interest (usury). This makes Muslims feel free to participate in insurance. Finally, through the unity of opinion of Islamic scholars born the concept of Takaful. Law No. 40 of 2014 on the Insurance have acknowledged the existence of Takaful. Takaful is a collection agreement, which consists of an agreement between the Islamic insurance company and the policyholder and the agreement between the policyholder, in the management of contribution based on Islamic principles in order to help each other and protect. Enterprises mutual protection and mutual help among persons or parties through investments in assets tabarru 'that provide a refund to face certain risks through contract or engagement in accordance with certain sharia through contract (engagement) in accordance with sharia. Insurance-based investments (Unitlink) Sharia is Islamic insurance protection through mutual protection and mutual help among persons or parties through investment in assets. Unitlink which is a combination of insurance and investment gives the pattern returns to face certain risks through contract (engagement) in accordance with sharia. Insurance investments based on Islamic insurance is very clear financial mechanism. Where premiums are used for the investment will be taken by the participants of the insurance if the participant resigned. Clarity financial mechanisms Takaful insurance is because in essence are based on Islamic law is the provision of the Lord of the Worlds creator Allah. This is very different from the laws.

Keywords: investment-based insurance, Sharia Insurance, Indonesia

PENDAHULUAN

Bangsa Indonesia mayoritas adalah beragama Islam, perkembangan kehidupan sudah mengarah kepada prinsip syariah. Penduduk Indonesia menganggap asuransi konvensional yang sudah ada tidak sesuai dengan hukum Islam, karena mengandung ketidakjelasan (*gharar*), mengandung unsur perjudian (*maisir*), dan mengandung unsur bunga (*riba*). Hal ini membuat ragu umat Islam untuk ikut serta dalam asuransi. Akhirnya melalui kesatuan pendapat para ulama Islam lahir lah konsep asuransi syariah (Abdik Kadir :2011: 258). Asuransi diatur dalam Pasal 1774 Kitab Undang-Undang Hukum Perdata (KUHPerdata) menentukan bahwa : Suatu perjanjian untung-untungan adalah suatu perbuatan yang hasilnya, mengenai untung ruginya, baik bagi semua

pihak maupun bagi sementara pihak bergantung pada suatu kejadian yang belum tentu. Demikian adalah perjanjian asuransi, bunga cigak hidup, perjudian dan pertaruhan (Emmy dalam Man Suparman :2013: 38).

Sistem hukum Indonesia berasal dari hokum perdata yang dibawa oleh pemerintah kerajaan Belanda ke Indonesia pada masa penjajahan. Hukum perdata tersebut dapat ditelusuri akarnya ke hukum perdata Perancis sampai ke hukum Romawi. Keberadaan hukum asuransi di Indonesia berakar dari kodifikasi hukum perdata (*code Civil*) dan hukum dagang (*Code de commerce*) pada permulaan abad ke sembilan belas semasa pemerintahan Kaisar Napoleon di Perancis. Pada waktu itu, hukum dagang Belanda hanya memuat pasal-pasal mengenai asuransi laut sampai di undangkannya rancangan Kitab Undang-Undang Hukum Dagang (*Wet Boek Van koophandel*) Tahun 1838 yang memuat peraturan mengenai asuransi kebakaran, asuransi hasil bumi dan asuransi jiwa. Sistem ini yang dianut untuk Hindia Belanda dahulu sampai sekarang masih berlaku di Indonesia. Asuransi sebagai gejala hukum di Indonesia baik dalam pengertian maupun dalam bentuknya yang terlihat sekarang berasal dari hukum Barat, pemerintah Belanda yang mengimpor asuransi sebagai bentuk hukum (*rechtfiguur*) di Indonesia dengan cara mengundang *Burgelijk Wetboek* dan *Wetboek Van Koophandel* dengan satu pengumuman pada tanggal 30 April 1847, kedua undang-undang tersebut mengatur asuransi sebagai sebuah perjanjian.

Perjanjian asuransi berarti bahwa orang bersedia membayar uang sedikit untuk membayar kerugian yang besar. Indonesia yang mayoritas Islam akan mempertanyakan keabsahan asuransi, apakah halal atau haram dilihat dari agamanya. (Maryanto : 2004)Sebagian besar rakyat Indonesia terdiri dari pemeluk agama Islam. Agama Islam mempunyai hukum secara substansi, terdiri dari bidang ibadah dan muamalah. Pengaturan hukum mengenai ibadah bersifat rinci. Sedangkan mengenai muamalah atau mengenai segala aspek kehidupan masyarakat tidak bersifat rinci, hanya prinsip-prinsipnya saja, pengembangan dan aplikasi prinsip-prinsip tersebut diserahkan sepenuhnya pada penyelenggara negara dan pemerintahan yakni para ulil amri. Oleh karena hukum Islam mempunyai peranan penting dalam membentuk dan membina ketertiban sosial umat Islam dan mempengaruhi segala segi kehidupannya, maka jalan terbaik yang dapat ditempuh ialah mengusahakan secara ilmiah adanya transformasi norma-norma hukum Islam ke dalam hukum nasional sepanjang sesuai dengan Pancasila dan UUD 1945 dan relevan dengan kebutuhan hukum khusus umat Islam (Muhammad Daud:1998). Tidak dapat disangkal bahwa keberadaan asuransi syariah tidak dapaat dilepaskan dari keberadaan asuransi konvensional yang rata-rata dikendalikan oleh non muslim. Jika ditinjau dari segi perikatan Islam , asuransi konvensional hukumnya haram. Hal ini dikarenakan dalam operasional asuransi konvensional mengandung gharar, maisir dan riba.

Perumusan Masalah

1. Bagaimanakah Konsep Asuransi berbasis Investasi Pada Asuransi Syariah Di Indonesia?

2. Apa saja Jenis dan Instrumen Investasi dalam Unitlink syariah?
3. Apakah Perbedaan Asuransi Konvensional dan syariah di Indonesia?
4. Apakah Dampak Perkembangan dan Pertumbuhan Asuransi Syariah di Indonesia?
5. Bagaimana Mekanisme Pengelolaan Dana Asuransi Syariah?

METODE PENELITIAN

Penelitian yang dilakukan ini untuk menjawab permasalahan hukum yang diuraikan di atas, untuk itu penelitian ini menggunakan pendekatan masalah pendekatan penyelesaian masalah, yakni pendekatan undang-undang (*statutory approach*) dan pendekatan konseptual (*conceptual approach*), Pendekatan berdasarkan perundang-undangan (*statute approach*) tersebut bertujuan untuk menganalisa bentuk maupun substansi peraturan perundang-undangan yang berkaitan dengan asuransi. Pendekatan ini menggunakan peraturan perundang-undangan sebagai bahan hukum primer. Pertama kali yang diperlukan dilakukan dengan mengadakan inventarisasi terhadap peraturan perundang-undangan, kemudian dilanjutkan dengan kategorisasi serta analisa terhadap substansi masing-masing. Melalui analisa substansi peraturan perundang-undangan diharapkan dapat diketahui harmonisasi dan disharmonisasi antara peraturan perundang-undangan yang satu dengan yang lain. Pendekatan konseptual (*conceptual approach*) digunakan untuk memperoleh kejelasan dan pembenaran ilmiah berdasarkan konsep-konsep hukum yang terkandung dalam prinsip hukum. Hal ini dilakukan manakala peneliti tidak beranjak dari aturan hukum yang ada, serta dilakukan karena belum atau tidak ada aturan hukum atau tidak diatur secara tegas aturan hukum tersebut untuk masalah yang dihadapi.

PERBAHASAN

Konsep Asuransi Berbasis Investasi Pada Asuransi Syariah Di Indonesia

Dewan Syariah Nasional menyatakan bahwa yang dimaksud dengan asuransi syariah (*ta'mîn, takâful* atau *tadhâmun*) adalah usaha saling melindungi dan tolong-menolong di antara sejumlah orang/pihak melalui investasi dalam bentuk aset dan/atau *tabarru'* yang memberikan pola pengembalian untuk menghadapi risiko tertentu melalui akad (perikatan) yang sesuai dengan syariah. (DSN-MUI:2006: 127). Unitlink Syariah adalah perlindungan asuransi syariah melalui saling melindungi dan tolong menolong diantara sejumlah orang atau pihak melalui investasi dalam bentuk aset. Unitlink yang merupakan gabungan asuransi sekaligus investasi ini memberikan pola pengembalian untuk menghadapi risiko tertentu melalui akad (perikatan) yang sesuai dengan syariah (takafulnet :akses 2016). Konsep fundamental asuransi syariah dan asuransi konvensional adalah berbeda. Konsep tersebut perlu dikaji di awal karena jika tidak dipahami konsep fundamental asuransi syariah maka konsep fundamental asuransi syariah dianggap sama dengan asuransi konvensional. Dewan Syariah Nasional MUI menetapkan pengertian asuransi syariah (*ta'mîn, takâful*, atau *tadhâmun*) sebagai usaha saling melindungi dan tolong-menolong di antara sejumlah orang/pihak melalui dana investasi dalam bentuk aset atau *tabarru'* yang memberikan pola pengembalian untuk menghadapi risiko tertentu melalui *akad* (perikatan) yang sesuai dengan syariah (fatwa DSN MUI No. 21/DSN-MUI/X/2001 tentang

Pedoman Umum Asuransi Syariah). Berdasarkan fatwa DSN MUI tersebut dapat diartikan bahwa konsep fundamental asuransi syariah adalah kegiatan tolong menolong diantara peserta asuransi syariah dan tidak bertujuan komersil. Sementara itu, konsep dasar asuransi konvensional adalah jual beli antara peserta dan perusahaan (Novi Puspita :39).

Investasi dalam syariah bisa dilihat dari tiga sudut. Pertama, bagi individu investasi merupakan kebutuhan fitrawi, dimana setiap individu, pemilik modal (uang) selalu berkeinginan untuk menikmati kekayaannya dalam waktu dan bidang seluas mungkin bukan hanya pribadinya bahkan keturunannya (Indah Yuliana :2013:104). Seorang muslim boleh memilih tiga alternatif atas dananya, yaitu: a) memegang kekayaannya dalam bentuk uang kas (*idle cash*), b) memegang tabungannya dalam bentuk asset tanpa berproduksi seperti deposito bank, pinjaman real estate, permata, dan c) menginvestasikan tabungannya (seperti memiliki proyek-proyek yang menambah persediaan kapital nasional). Kedua bagi masyarakat, investasi merupakan kegiatan muamalah yang sangat dianjurkan sekaligus bagian penting dalam kegiatan perekonomian sebagai sarana untuk meningkatkan kesejahteraan di masa sekarang dan masa depan, dengan berinvestasi harta yang dimiliki menjadi produktif dan mendatangkan manfaat bagi orang lain. Contoh konkrit dari berinvestasi yang dimulai dengan sebutir benih menjadi tujuh bulir dan akhirnya menjadi tujuh ratus biji. Alquran telah memberikan panduan berinvestasi (walaupun dalam hal ini adalah infak, yang berdimensi ukhrawi), namun bila banyak orang berinjak akan menolong ratusan bahkan ribuan orang yang miskin untuk berproduktivitas ke arah yang lebih baik sehingga *multiplier effect* dari infak bukan hanya berpengaruh pada akhirat saja namun juga mempengaruhi dimensi *duniawiyah*. Ketiga bagi agama, investasi merupakan jembatan dalam rangka memenuhi kebutuhan fitrah bagi muslimin untuk mempersiapkan hari esok yang lebih baik agar tidak meninggalkan keturunan yang lemah baik moril maupun materiil (dalam hal ini secara ekonomi). Harta atau modal tidak boleh menghasilkan dari dirinya sendiri, tetapi harus dengan usaha manusia. Pada dasarnya praktek investasi menurut prinsip syariah harus dilakukan tanpa ada ridha (paksaan), adil dan transaksinya berpijak pada kegiatan produksi dan jasa yang tidak dilarang oleh Islam termasuk bebas manipulasi dan spekulasi. Transaksi non syariah adalah utilitas (asas kegunaan) sedangkan transaksi syariah berdasarkan asas manfaat(Novi Puspita:104) Disamping investasi syariah secara mandiri juga dapat dilakukan melalui pihak lain yaitu melalui asuransi syariah. Ahli fiqh kontemporer Wahbah az-Zuhaili mendefinisikan asuransi berdasarkan pembagiannya. Asuransi dibagi dalam dua bentuk, asuransi tolong menolong adalah kesepakatan sejumlah uang untuk membayar sejumlah uang sebagai ganti rugi ketika salah seorang diantara mereka mendapat kemudharatan dan asuransi pembagian tetap adalah akad yang mewajibkan seseorang membayar sejumlah uang dengan perjanjian apabila peserta asuransi mendapat kecelakaan, ia diberi ganti rugi (Wirnyaningsih:2005:177).

Konsep asuransi syariah didasarkan pada Alquran Surat Alma'idah ayat 2 yang artinya:“Tolong menolonglah kamu dalam mengerjakan kebajikan dan takwa, dan janganlah tolong menolong dalam berbuat dosa dan pelanggaran (Abdul Kadir a :2011 :263). Berdasarkan konsep tersebut,

Dewan Syariah Nasional Majelis Ulama Indonesia (MUI) memberikan pengertian asuransi syariah Pasal 1 ayat 1 Fatwa Dewan Syariah Nasional MUI No 21/DSN-MUI/X/2001, menetapkan bahwa : Asuransi syariah adalah usaha saling melindungi dan tolong menolong di antara sejumlah orang/pihak melalui investasi dalam bentuk aset dan/atau tabarru' yang memberikan pola pengembalian untuk menghadapi risiko tertentu melalui akad perikatan yang sesuai syariah.(Fatwa DSN)

Konsep takafuli (tolong-menolong) Konsep tolong-menolong atau saling melindungi dalam kebenaran sebagaimana bermuamalat dalam surah al-Maa'idah ayat 2. Dalam hadits riwayat Bukhari dan Muslim, Rasulullah bersabda.” Mukmin terhadap mukmin yang lainnya seperti bangunan memperkuat satu sama lain.” Pada hadits riwayat Bukhari yang lain, “Orang-orang mukmin dalam kecintaan dan kasih sayang mereka seperti satu badan. Apabila salah satu anggota badan itu menderita sakit, maka seluruh badan merasakannya” (Sula:2004:225). Konsep asuransi syariah tolong menolong dalam kebajikan ini dimuat dalam hukum positif dengan model perundang-undangan. Sebagaimana sudah dirumuskan dalam Undang-Undang Nomor 14 Tahun 2014 tentang Perasuransian, diatur pada Pasal 1 Bab 1 angka 2 :

Asuransi Syariah adalah kumpulan perjanjian, yang terdiri atas perjanjian antara perusahaan asuransi syariah dan pemegang polis dan perjanjian diantara pemegang polis, dalam rangka pengelolaan kontribusi berdasarkan prinsip syariah guna saling menolong dan melindungi dengan cara:

- a. Memberikan penggantian kepada peserta atau pemegang polis karena kerugian, kerusakan, biaya yang timbul, kehilangan keuntungan, atau tanggungjawab hukum kepada pihak ketiga yang mungkin diderita peserta atau pemegang polis karena terjadinya suatu peristiwa tidak pasti, atau
- b. Memberikan pembayaran yang didasarkan pada meninggalnya peserta atau pembayaran yang didasarkan pada hidupnya peserta dengan manfaat yang besarnya telah ditetapkan dan/atau didasarkan pada hasil pengelolaan dana.

Pengelolaan kontribusi didasarkan pada prinsip syariah. Prinsip syariah adalah prinsip hukum Islam dalam kegiatan perasuransian berdasarkan fatwa yang dikeluarkan oleh lembaga yang memiliki kewenangan dalam penetapan fatwa di bidang syariah(Pasal 1 Angka 2 UU 40 Th 2014) Al-quran maupun hadis, memang tidak menyebutkan secara nyata apa dan bagaimana berasuransi, hal ini dikarenakan hukum- hukum yang mengatur hubungan manusia dengan tuhan (*hablu minallah*) bersifat limitatif artinya tidak dimungkinkan lagi dikembangkan oleh manusia. Sementara hukum-hukum yang mengatur hubungan manusia dengan sesamanya dan lingkungannya (*hablum minannaas*) adalah bersifat terbuka yang artinya Allah SWT dalam Al-quran hanya memberikan aturan yang garis besarnya saja. Selebihnya terbuka bagi mujtahid untuk mengembangkan melalui pemikirannya (Gemala Dewi :2007:135).

Pada dasarnya, pelaksanaan asuransi syariah sebagai salah satu prinsip tolong menolong antara sesama umat Islam, agar terhindar dari segala sesuatu yang diharamkan dalam Islam, asuransi syariah menghapuskan ketidakpastian (gharar), unsur perjudian (maisir) dan unsur bunga (riba) dalam kegiatan bisnis, sehingga tertanggung merasa terbebas dari praktik kezaliman yang merugikannya (Abdul Kadir:2006:9). Asuransi syariah dilaksanakan oleh seseorang atau lebih untuk memperkuat ikatan solidaritas dan tanggungjawab kaum muslimin melalui mekanisme saling menolong untuk menciptakan keharmonisan dan stabilitas dalam kehidupan sosial masyarakat (Zainuddin:2008:6).

Pada asuransi syariah, perjanjian yang terjadi adalah perjanjian tolong menolong bukan tukar menukar. Di sini bukan untung rugi yang difikirkan. Jadi, peserta asuransi yang berhenti sebelum pertanggungannya berakhir, peserta dapat menarik kembali seluruh iuran yang telah dibayarkan. Bahkan jumlah tersebut masih ditambah dengan keuntungan yang diperoleh selama uangnya dikelola perusahaan. Sedangkan asuransi pada KUHP, asuransi dipersamakan dengan perjanjian tukar menukar dengan pertimbangan untung rugi. Berdasarkan KUHD tertanggung yang memutuskan kontrak sebelum habis waktunya akan kehilangan seluruh atau sebagian besar premi yang telah dibayarkan. Hal ini dirasakan sebagai suatu kerugian bagi tertanggung dan di lain pihak menjadi keuntungan bagi penanggung. Dengan perbedaan ini, Maka KUHD sebatas pengertian asuransi tidak dapat diterapkan atau disesuaikan dengan konsep asuransi syariah, sementara ketentuan lainnya yang mengatur tentang teknis pelaksanaan kegiatan asuransi dapat diterapkan dalam asuransi syariah (Gemala :197).

Jenis dan Instrumen Investasi dalam Unitlink syariah

Berdasarkan angka 8 dan 9 Pasal 1 Undang-Undang No. 40 Tahun 2014 tentang Perasuransian, maka dapat dirumuskan jenis asuransi syariah:

Usaha Asuransi umum syariah adalah usaha pengelolaan risiko berdasarkan prinsip syariah guna saling menolong dan melindungi dengan memberikan penggantian kepada peserta atau pemegang polis karena kerugian, kerusakan, biaya yang timbul, kehilangan keuntungan, atau tanggungjawab hukum kepada pihak ketiga yang mungkin diderita peserta atau pemegang polis karena terjadinya peristiwa tidak pasti.

Usaha Asuransi Jiwa Syariah adalah Usaha pengelolaan risiko berdasarkan prinsip syariah guna saling menolong dan melindungi dengan memberikan pembayaran yang didasarkan pada meninggal atau hidupnya peserta, atau pembayaran lain kepada peserta atau pihak lain yang berhak pada waktu tertentu yang diatur dalam perjanjian, yang besarnya telah ditetapkan dan/atau didasarkan pada hasil pengelolaan dana.

Sebagaimana yang diatur undang-undang perasuransian di atas bahwa usaha asuransi syariah terbagi usaha umum syariah dan asuransi jiwa syariah, hal ini sejalan dengan asuransi konvensional secara ilmu pengetahuan terbagi atas asuransi kerugian dan asuransi sejumlah uang, asuransi kerugian ini tergolong ke dalam jenis asuransi umum dan asuransi sejumlah uang adalah asuransi jiwa. Asuransi syariah disebut dengan istilah lain yaitu asuransi takaful.

Asuransi syariah atau takaful terdiri dari dua jenis yaitu:

1. Takaful Keluarga (Asuransi jiwa), adalah bentuk asuransi syariah yang memberikan perlindungan dalam menghadapi musibah kematian dan kecelakaan atas diri peserta asuransi takaful. Meliputi takaful berencana, pembiayaan, pendidikan dana haji, berjangka, kecelakaan diri (Antonio dalam Gemala:162).
2. Takaful Umum (Asuransi kerugian), adalah bentuk asuransi syariah yang memberikan perlindungan finansial dalam menghadapi bencana atau kecelakaan atas benda milik peserta takaful, seperti rumah bangunan dan sebagainya. Meliputi: takaful kendaraan bermotor, takaful kebakaran, kecelakaan diri, pengangkutan laut, rekayasa, dll (Gemala) Dalam hal menginvestasikan dana, perusahaan asuransi akan memberikan pilihan instrumen investasi yang dapat diambil oleh peserta, antara lain:
 - i. *Cash flow* merupakan investasi sebagian besar pada instrumen pasar uang syariah
 - ii. *Fixed Income* merupakan investasi sebagian besar dalam instrumen obligasi syariah
 - iii. *Balance Fund* merupakan investasi sebagian besar pada saham dan obligasi syariah
3. *Equity Fund* merupakan investasi sebagian besar dalam saham yang sesuai dengan prinsip syariah (Nina Mudrikah:2016).

Perbedaan Asuransi Konvensional dan Syariah

Perbedaan konsep dasar asuransi syariah dengan asuransi konvensional ini berakibat pada perbedaan prinsip pengelolaan risiko. Prinsip pengelolaan risiko asuransi syariah adalah berbagi risiko (*risk sharing*), yaitu risiko ditanggung bersama sesama peserta asuransi. Hal ini bisa dimaknai dari fatwa DSN MUI bahwa asuransi syariah adalah kegiatan melindungi dan tolong-menolong di antara sejumlah orang/pihak yang berarti risiko yang terjadi juga akan dibagi kepada semua peserta asuransi syariah. Sementara itu prinsip pengelolaan risiko asuransi konvensional adalah transfer risiko (*risk transfer*) yaitu prinsip risiko dengan cara mentransfer atau memindahkan risiko peserta asuransi ke perusahaan asuransi. Asuransi konvensional pada dasarnya merupakan konsep pengelolaan risiko dengan cara mengalihkan risiko yang mungkin timbul dari peristiwa tertentu yang tidak diharapkan kepada orang lain yang sanggup mengganti kerugian yang diderita dengan imbalan premi. (Sumanto:2009) Perbedaan konsep asuransi syariah dan asuransi konvensional dirumuskan pula sebagai berikut : (Zainuddin:68)

- a. Dewan Syariah Nasional Majelis Ulama Indonesia (DSN MUI) mengeluarkan fatwa tentang pedoman umum *asuransi syariah, memberi definisi tentang asuransi syariah. Asuransi*

syariah (ta'min, takaful, tadhamun) adalah usaha saling melindungi dan tolong menolong diantara sejumlah orang atau pihak melalui investasi dalam bentuk asset tabarru' yang memberikan pengembalian untuk menghadapi risiko tertentu melalui akad atau perikatan yang sesuai dengan syariah. (Fatwa DSN No 21)

- b. Pengertian asuransi konvensional sudah sebagaimana yang diuraikan sebelumnya. Secara etimologi disebut dengan nama pertanggungan, dalam bahasa Belanda dikenal dengan istilah *verzekering*, yang melahirkan istilah *assurantie*, *assuradeur* bagi penanggung dan *geassureeder* bagi tertanggung. (Zainuddin:66)
- c. Asuransi syariah mempunyai akad yang di dalamnya dikenal dengan istilah tabarru' yang bertujuan kebaikan untuk menolong diantara sesama manusia, bukan semata-mata untuk komersial dan akad tijarah. Akad *tijaraah* adalah akad atau transaksi yang bertujuan komersial, misalnya *mudharabah*, *wadhi'ah*, *wakalah* dan sebagainya. Dalam bentuk akad tabarru', mutabarri mewujudkan usaha untuk membantu seseorang dan hal ini dianjurkan oleh syariat islam, Penderma yang ikhlas akan mendapatkan ganjaran pahala yang besar sebagaimana dalam qs.Al Baqarah (2) ayat 261(Zainuddin:69). Sedangkan perjanjian asuransi secara konvensional diatur dalam Pasal 1774 KUHPerdara yang memasukan asuransi atau pertanggungan sebagai perjanjian untung-untungan yang disamakan dengan perjudian. Konsep perjanjian asuransi secara konvensional sebagaimana yang diatur dalam Pasal 1313 KUHPerdara. Kedua pihak yaitu penanggung dan tertanggung melakukan perikatan yang melahirkan hubungan hukum yang konsekuensinya melahirkan hak dan kewajiban saling timbal balik. Asuransi secara konvensional ini menimbulkan kritikan dimana mengandung gharar, maysir dan riba yang merupakan hal yang sangat bertentangan dengan prinsip hukum Islam atau syariah. Karena itu alternatifnya di tengah masyarakat muncul praktik asuransi syariah. Asuransi syariah ini pada mulanya hanya diatur dalam Surat Keputusan dewan Syariah Nasional. Namun baru diatur semenjak keluarnya UU Nomor 40 tahun 2014 tentang Perasuransian.
- d. Sumber hukum asuransi syariah tentunya berpedoman kepada sumber hukum Islam seperti alquran, sunnah, ijma', fatwa sahabat, qiyass, dan fatwa DSN-MUI. Sementara itu asuransi konvensional mempunyai sumber hukum yang berasal dari pikiran manusia, falsafah dan kebudayaan.(Zainuddin:69)

Perbedaan utama dari asuransi syariah dan konvensional terletak pada tujuan dan landasan operasional. Dari sisi tujuan, asuransi syariah bertujuan saling menolong (*ta'awuni*) sedangkan dalam asuransi konvensional tujuannya penggantian (*tabâduli*). Dari aspek landasan operasional, asuransi konvensional melandaskan pada peraturan perundangan, sementara asuransi syariah melandaskan pada peraturan perundangan dan ketentuan syariah. Dari kedua perbedaan ini muncul perbedaan lainnya, mengenai hubungan perusahaan dan nasabah, keuntungan, memperhatikan larangan syariah, dan pengawasan. Berkaitan dengan hubungan perusahaan–nasabah, ini terkait dengan masalah kontrak (akad), di mana dalam asuransi syariah perusahaan adalah pemegang amanah (*wakîl*), sementara dalam asuransi konvensional perusahaan adalah

pemilik dana asuransi. Karena itu, keuntungan asuransi syariah adalah sebagiannya milik nasabah, sedangkan keuntungan asuransi konvensional seluruhnya menjadi milik perusahaan. (Maksum:37)

Keberadaan usaha asuransi syariah tidak lepas dari keberadaan usaha asuransi konvensional yang telah ada sejak lama. Sebelum terwujud usaha perasuransian syariah sudah terdapat berbagai macam perusahaan asuransi konvensional yang telah lama berkembang. Atas dasar keyakinan umat Islam dunia dan manfaat yang diperoleh melalui konsep asuransi syariah, maka lahirlah berbagai perusahaan asuransi yang menjalankan usaha perasuransian berlandaskan prinsip syariah. Perusahaan ini bukan saja dimiliki orang Islam, namun juga berbagai perusahaan milik non muslim. Selain itu juga terdapat perusahaan induk dengan konsep konvensional ikut memberikan layanan asuransi syariah dengan membuka kantor cabang atau unit usaha syariah (UUS). (Novi Puspita:38)

Banyak pihak menyatakan bahwa ekonomi syariah dapat berkembang pesat di tengah krisis ekonomi saat ini, karena sistem ekonomi kapitalis atau sosialis yang diagung-agungkan dan diperkirakan mampu mensejahterakan masyarakat ternyata tidak terbukti. Bahkan sebaliknya menimbulkan keserakahan, ketidakadilan, dan bersifat merusak tatanan kehidupan manusia. Sebab, sistem ekonomi kapitalis mengandung beberapa unsur yang bertentangan dengan syariah Islam. Dalam menghadapi kondisi saat ini tentu masyarakat membutuhkan solusi dalam berekonomi sehingga mampu mandiri secara ekonomi serta dapat mewujudkan kesejahteraan yang hakiki.

Para pakar ekonomi Islam mengemukakan bahwa asuransi syariah atau asuransi takaful ditegakkan atas tiga prinsip utama: (Gemala Dewi:146)

- a) Saling bertanggungjawab yang berarti bahwa takaful memiliki rasa tanggungjawab bersama untuk membantu dan menolong peserta lain yang mengalami musibah atau kerugian dengan niat ikhlas karena memikul tanggungjawab dengan ikhlas adalah ibadah.
- b) Saling bekerjasama dan saling membantu yang berarti diantara peserta asuransi takaful yang satu dengan yang lainnya saling bekerja sama dan saling tolong menolong dalam mengatasi kesulitan yang dialami karena sebab musibah yang diderita.
- c) Saling melindungi penderitanya satu sama lain., yang berarti para peserta asuransi takaful akan berperan sebagai pelindung bagi peserta lain yang mengalami gangguan keselamatan yang dideritanya.

Dampak Perkembangan dan Pertumbuhan Asuransi Syariah di Indonesia

Munculnya asuransi syariah memberikan alternatif baru bagi umat Islam di Indonesia. Faktor gharar, maisir, dan riba yang meragukan umat Islam akan tereliminasi dengan sistem syariah.

Dengan semakin berkembangnya usaha asuransi syariah di Indonesia, dengan sendirinya akan berdampak pada perkembangan perekonomian di Indonesia.

Adapun beberapa dampak perkembangan dan pertumbuhan asuransi syariah terhadap perekonomian umat di Indonesia yaitu:

- a. Berkembangnya unit usaha kecil dan menengah, serta pembangunan karena adanya asupan dana investasi dari perusahaan asuransi syariah yang terkait.
- b. Secara otomatis akan mengurangi angka pengangguran, karena banyak perekrutan agen asuransi.
- c. Meningkatkan pendapatan setiap individu.
- d. Bertambahnya kemampuan belanja setiap individu, yang berdampak pula pada peningkatan pada angka pertumbuhan produksi.
- e. Dengan perkembangan dan pertumbuhan tersebut, baik bagi individu maupun perusahaan, akan berdampak pula penambahan pemasukan bagi Negara.

(Muhammad Nizar)

Banyak pihak menyatakan bahwa ekonomi syariah dapat berkembang pesat di tengah krisis ekonomi saat ini, karena sistem ekonomi kapitalis atau sosialis yang diagung-agungkan dan diperkirakan mampu mensejahterakan masyarakat ternyata tidak terbukti. Bahkan sebaliknya menimbulkan keserakahan, ketidakadilan, dan bersifat merusak tatanan kehidupan manusia. Sebab, sistem ekonomi kapitalis mengandung beberapa unsur yang bertentangan dengan syariah Islam. Dalam menghadapi kondisi saat ini tentu masyarakat membutuhkan solusi dalam berekonomi sehingga mampu mandiri secara ekonomi serta dapat mewujudkan kesejahteraan yang hakiki. Peranan asuransi syariah di dalam negeri selama ini belum besar. Ini juga dialami oleh perbankan syariah yang baru menyumbang 3 persen dari market share perbankan nasional meskipun telah berjalan terlebih dahulu dibandingkan asuransi syariah. Melihat hal itu, jelas asuransi syariah memiliki potensi yang besar dikemudian hari, paling tidak dapat menguasai market share hingga 97 persen dengan cara mensyariahkan unsur-unsur yang belum syariah. (Muhammad Nizar)

Mekanisme Pengelolaan Dana Asuransi Syariah

Dalam hal ketentuan syariah, asuransi syariah dibatasi dalam kegiatannya oleh larangan-larangan syariah, di antaranya larangan mempraktikkan riba dalam bentuk apapun, menghindari praktik perjudian, ketidakpastian, dan ketidakjelasan (*maysir, gharar, jahâlah*), dan berinvestasi dalam bidang yang halal. Selain itu, dalam konteks Indonesia, asuransi syariah wajib memiliki dewan pengawas syariah yang bertugas mengawasi kesesuaian praktik perusahaan asuransi dengan ketentuan syariah. (Ahmad Salim :2002:293)

Kehalalan asuransi didasarkan pada pertimbangan praktiknya menjauhkan dari sistem riba, *gharar, jahâlah*, dan *qimâr*. Asuransi syariah menggunakan sistem persekutuan dan pertolongan

(*syirkah wa ta'âwuniyyah*). Praktik ini dibenarkan menurut agama, bahkan didorong untuk saling menolong dalam takwa dan kebaikan.(Ahmad Salim)

Asuransi berbasis investasi pada asuransi syariah ini sangat jelas mekanisme keuangannya. Dimana premi yang digunakan untuk investasi akan bisa di ambil oleh pesertaasuransi jika peserta mengundurkan diri. Kejelasan mekanisme keuangan asuransi syariah ini karena pada hakekatnya asuransi ini berlandaskan pada hukum Islam yang merupakan Ketentuan dari Penguasa Alam Sang pencipta Allah SWT. Hal ini sangat berbeda dengan produk hukum.

Pada hakekatnya hokum merupakan produk manusia dalam membangun dunianya, yang bisa ditelaah melalui interaksi yang berlangsung dimasyarakat. Dalam artian, hukum tu dilahirkan oleh manusia dan untuk menjamin kepentingan dan hak-hak manusia. Hukum cermin dari manusia yang hidup (Sudjono:1983) Hukum secara positif sudah mengakui keberadaan asuransi syariah yang memakai prinsip hukum Islam.Sebagian besar rakyat Indonesia terdiri dari pemeluk agama Islam. Agama Islam mempunyai hukum secara substansi, terdiri dari bidang ibadah dan muamalah. Oleh karena hukum Islam mempunyai peranan penting dalam membentuk dan membina ketertiban sosial umat Islam dan mempengaruhi segala segi kehidupannya, maka jalan terbaik yang dapat ditempuh ialah mengusahakan secara ilmiah adanya transformasi norma-norma hukum Islam ke dalam hukum nasional sepanjang sesuai dengan pancasila dan UUD 1945 dan relevan dengan kebutuhan hukum khusus umat islam. (M Daud Ali :1998:271-272).Hakikat asuransi secara islami adalah saling tanggungjawab, saling bekerja sama atau bantu-membantu dan melindungi satu sama lain (Gemala Dewi) UU No 40 Tahun 2014 telah mengakui keberadaan asuransi syariah. Pengaturannya masih disatukan dengan asuransi secara umum. Sebagai suatu perbandingan di Malaysia Pengaturan Asuransi Islam sudah dibedakan dengan asuransi konvensional.

KESIMPULAN

Dari uraian di atas dapat disimpulkan bahwa Asuransi syariah adalah usaha saling melindungi dan tolong-menolong di antara sejumlah orang/pihak melalui investasi dalam bentuk aset dan/atau *tabarru'* yang memberikan pola pengembalian untuk menghadapi risiko tertentu melalui akad (perikatan) yang sesuai dengan syariah. hakikat asuransi secara Islami adalah saling tanggungjawab, saling bekerja sama atau bantu-membantu dan melindungi satu sama lain. UU No 40 Tahun 2014 telah mengakui keberadaan asuransi syariah. Asuransi syariah ini pada mulanya hanya diatur dalam Surat Keputusan dewan Syariah Nasional. Namun baru diatur semenjak keluarnya UU Nomor 40 tahun 2014 Tentang Perasuransian. Asuransi berbasis investasi pada asuransi syariah mengandung kejelasan dan kepastian yang sesuai dengan bangsa Indonesia mayoritas beragama Islam. Pengaturan terhadap asuransi berbasis investasi pada asuransi syariah perlu diatur secara khusus karena asuransi syariah ini perkembangannya begitu pesat karena Indonesia mayoritas penduduknya beragama Islam.

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BZ074:
**IDENTIFIKASI DAN PENGEMBANGAN NILAI-NILAI LOCAL WISDOM
DALAM OPTIMALISASI POTENSI ZAKAT
DI TANA LUWU: STUDI INTERPRETIF**

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Abstrak

Bangsa Indonesia mayoritas adalah beragama Islam, perkembangan kehidupan sudah mengarah kepada prinsip syariah. Penduduk Indonesia menganggap asuransi konvensional yang sudah ada tidak sesuai dengan hukum Islam, karena mengandung ketidakjelasan (gharar), mengandung unsur perjudian(maisir), dan mengandung unsur bunga (riba). Hal ini membuat ragu umat Islam untuk ikut serta dalam asuransi. Akhirnya melalui kesatuan pendapat para ulama Islam lahirlah konsep asuransi syariah. Asuransi diatur dalam Pasal 1774 Kitab Undang-Undang Hukum Perdata (KUHPerdata) menentukan bahwa :Suatu perjanjian untung-untungan adalah suatu perbuatan yang hasilnya, mengenai untung ruginya, baik bagi semua pihak maupun bagi sementara pihak bergantung pada suatu kejadian yang belum tentu. Demikian adalah perjanjian asuransi, bunga cigak hidup, perjudian dan pertaruhan. Menurut data yang dirilis oleh Asosiasi Syariah Indonesia (AASI) hingga akhir Juni 2014 total asset perusahaan asuransi syariah dan unit usaha syariah di Indonesia mengalami kenaikan sebesar 22, 71 % dari tahun sebelumnya dan total asset mencapai 16, 69 triliun Rupiah. UU No 40 Tahun 2014 tentang Perasuransian sudah mengakui keberadaan asuransi syariah, apakah undang-undang ini sudah sesuai dengan jiwa Islam mayoritas rakyat Indonesia ataukah masih tertuju kepada jiwa Eropah. Asuransi Syariah adalah kumpulan perjanjian, yang terdiri atas perjanjian antara perusahaan asuransi syariah dan pemegang polis dan perjanjian diantara pemegang polis, dalam rangka pengelolaan kontribusi berdasarkan prinsip syariah guna saling menolong dan melindungi. Prinsip dasar asuransi syariah mendorong orang atau badan untuk saling tolong menolong sesama dengan bantuan operator asuransi syaria sangat berbeda dengan prinsip dasar asuransi konvensional yang memposisikan nasabah sebagai tertanggung dan perusahaan asuransi sebagai penanggung, asuransi syariah memberikan kepastian kehalalan bagi para pesertanya.

Kata Kunci: Konsep, Asuransi Syariah, Indonesia

PENDAHULUAN

Filantropi Islam (kedermawanan dalam Islam) kian hari semakin menarik untuk dikaji. Lebih lagi, di saat krisis ekonomi global yang terus menghantui perekonomian nasional kita. Apalagi, fluktuasi jumlah angka kemiskinan dari tahun ke-tahun menunjukkan ketidakmampuan negara, pemerintah mensejahterakan rakyatnya. Rendahnya nilai perilaku ekonomi baik personal lebih-lebih moral dan tak adanya pengawasan akan membawa kerusakan ekonomi masyarakat.

Pesatnya pertumbuhan lembaga pengelola zakat, masih belum diiringi dengan upaya penguatan kapasitas keorganisasian, sehingga disparitas kapasitas masih cukup tinggi. Publik secara umum masih melihat kinerja lembaga amil zakat belum optimal. Kebanyakan lembaga pengelola zakat ini belum efektif dalam menghimpun dan menyalurkan zakat. Kultur sebahagian besar organisasi pengelola zakat belum berorientasi pada penguatan institusi dan sistem, Padahal, hal ini mutlak jika sebuah lembaga mengambil peran signifikan dalam penanganan masalah kemiskinan. Berdasarkan realitas di lapangan, ada tiga masalah besar yang dihadapi oleh lembaga pengelola zakat yaitu, *Pertama*, problem kelembagaan. Sebagian besar lembaga pengelola zakat tergolong pemain baru, yang masih mencari bentuk dan struktur kelembagaan, *Kedua*, problem sumberdaya manusia. Kualitas sumberdaya manusia pengelola zakat masih rendah karena kebanyakan tidak menjadikan pekerjaan amil sebagai profesi atau pilihan karir, tapi sebagai pekerjaan sampingan atau pekerjaan paruh waktu, *Ketiga*, masalah sistem. Kebanyakan lembaga pengelola zakat belum memiliki atau tidak memahami pentingnya sebuah sistem dalam kinerja organisasinya (Kementerian Agama RI, 2012, pp. 1-5).

Kearifan setempat (*local wisdom*) yang dapat dipahami sebagai gagasan-gagasan lokal yang bersifat bijaksana, penuh kearifan, bernilai yang tertanam dan diikuti oleh warga masyarakatnya. Dalam konsep antropologi, kearifan lokal dikenal pula sebagai pengetahuan setempat (*indigenous or local knowledge*), atau kecerdasan setempat (*local genius*), yang menjadi dasar identitas kebudayaan (*cultural identity*).

Nilai nilai yang terkandung di dalam kearifan lokal itu, sebagai sebuah konsepsi eksplisit dan implisit yang khas milik seseorang, suatu kelompok atau masyarakat. Suatu nilai yang diinginkan yang dapat mempengaruhi pilihan yang tersedia dari bentuk-bentuk, cara-cara, dan tujuan-tujuan tindakan secara berkelanjutan. Nilai yang hanya dapat disimpulkan dan ditafsirkan dari ucapan, perbuatan dan materi yang dibuat manusia yang diturunkan melalui suatu aktivitas ritual atau pendidikan. Karena itu, fungsi langsung nilai adalah untuk mengarahkan tingkah laku individu dalam situasi sehari-hari, sedangkan fungsi tidak langsung adalah untuk mengekspresikan kebutuhan dasar yang berupa motivasional (Nasruddin, 2011, p. vi).

Nilai-nilai sosio-kultural dalam disertasi Sattu Alang menguraikan sebagai berikut: *alempureng* (Kejujuran), *amaccang* (kearifan), *asitinajang* (kepatutan), *aggettengeng* (keteguhan), *reso* (usaha) dan *siri* (harga diri) sudah menjadi nilai normatif yang mengatur tata kehidupan sosial masyarakat luwu (Alang, 2000, p. 21). Kemudian dalam budaya bugis dikenal sifat yang turun menurun dipinggangi dan diamalkan dalam kehidupan sehari-hari adapun sifat itu sebagai berikut: *sipakatau*, *sipakalebbi*, dan *sipakainge* .

Institusi *sara* ' untuk pertama kali didirikan pada tahun 1641 di Kerajaan Gowa yang berpusat di Bontoala. Sumber Lontarak Bilang Qhadi, menyebutkan bahwa institusi *sara* ' dibentuk dengan tugas pada bidang keagamaan di samping raja. Institusi *sara* ' melengkapi unsur-unsur

pangaderreng atau *pangngadakkang* yang semula hanya 4 (empat) menjadi 5 (lima) yaitu *ade' bicara, rapang, wari* dan *sara'*, yang telah menjadi pedoman masyarakat dalam bertingkah laku dan dalam mengatur kehidupan bersama. (Balai Penelitian Lektor Keagamaan Ujung Pandang, 1991, p. 24) (Jumadi, 2016, p. 9)

Sara' dalam perkembangannya mengurus dan bertanggungjawab dalam soal ibadat, zakat, pengurusan masjid-masjid, pernikahan dan warisan, walaupun masalah-masalah lain yang masih sisa dari aspek *pangaderreng* atau *pangngadakkang* lainnya, seperti tingkat sosial masih dipertahankan juga (Mattulada, Latoa; Satu Lukisan Analitis terhadap Antropologi Politik Orang Bugis, 1985, pp. 384-385) (Jumadi, 2016, p. 8). Kelima unsur ini dijalin sebagai satu kesatuan organis dalam alam pikiran, rasa dan identitas sosial kemasyarakatan yang disebut dengan *siri* (Mattulada, Bugis-Makassar, Manusia dan Kebudayaannya, 1974, p. 4). Adat bagi orang Bugis Makassar tidaklah berarti hanya sekedar kebiasaan kebiasaan (*gewooten*), melainkan merupakan konsep kunci dalam memahami manusia Bugis Makassar. Adat adalah pribadi dari kebudayaan mereka. Lebih dari itu adat adalah pandangan hidup bagi masyarakat, sebagai pandangan hidup dan pribadi kebudayaan adat bagi orang Bugis Makassar dianggap sama dengan syarat-syarat kehidupan manusia.

Beberapa permasalahan pengelolaan zakat yang ada dalam lembaga pengelola zakat di atas yang menimbulkan efek terhadap pengumpulan, pengelolaan, pendistribusian yang tidak maksimal dan rendahnya kepercayaan masyarakat kepada Amil Zakat. Setiap daerah memiliki kearifan lokal yang sangat dipengangi oleh masyarakat setempat. Kearifan lokal menjadi harapan bagi sistem pengelolaan zakat, disadari bahwa aturan dan peraturan tentang zakat sudah banyak, akan tetapi pada tingkat kabupaten dan kota masih mengalami banyak problem terkait dalam pengelolaan zakat, maka dalam penelitian ini berupaya untuk menggali potensi zakat dan kearifan lokal sebagai instrumen dalam memaksimalkan pengelolaan zakat dan menemukan model pengelolaan zakat yang berbasis pada kearifan lokal, sehingga potensi-potensi zakat yang ada dapat dimaksimalkan. Adapun rumusan masalah dalam penelitian ini adalah; Bagaimana Pola Pengelolaan Zakat Infak dan Shadaqah di Tana Luwu? Bagaimana BAZ mengelolah Zakat Infak dan Shadaqah?. Bagaimana Pengembangan Nilai-Nilai Kearifan Lokal Dalam Maksimalisasi Potensi Zakat?

KAJIAN PUSTAKA

Local Wisdom

Kearifan lokal merupakan nilai-nilai yang menjadi acuan masyarakat dalam mencegah dan menangani suatu persoalan di tengah masyarakat. Kearifan lokal yang masih hidup di tengah masyarakat, oleh sebagian anggota masyarakat tetap dipertahankan dan dipraktikan dalam kehidupan sehari-hari. Warga masyarakat juga tetap mendengar, menghargai serta menghormati pemimpin adat, agama, dan masyarakat. Nilai – nilai budaya Bugis lainnya yang dapat dijadikan sebagai pedoman dalam aktivitas kelembagaan, diantaranya: *lempu* (kejujuran), *ada tongeng ri*

gaukna (kebenaran), *adele temmapasilaingeng* (keadilan), *sipakatau sipakelebbi- siporennu* (saling menghormati- saling menghargai saling tolong menolong), *Obbi* (seruan/sikap komunikatif), *getting* (tegas), *Naisseng pangaderrenge* (taat aturan), *Sitinajamappasitinaja* (sewajarnya) dan *madeceng pangampena* (Panutan).

Ada beberapa indikator yang memberikan apresiasi nilai positif terhadap budaya Bugis sebagai kristalisasi dari *local wisdom*, diantaranya :

- a. Dapat menciptakan persatuan dan kesatuan dengan berbagai kegiatan yang bernilai positif.
- b. Dapat menciptakan suasana yang saling menghormati antara satu dengan lainnya.
- c. Cukup berperan dalam mengatasi terjadinya praktek *trafficking* karena dipahami dan dilaksanakan secara individu sehingga mereka hidup berdampingan dengan penuh kedamaian.
- d. Budaya lokal masih mendapat perhatian dan kehormatan dalam masyarakat.

Nilai tersebut memberikan kontribusi positif dalam mengkristalisasi nilai-nilai lokal budaya masyarakat Bugis Makassar. Salah satu konsep pemikiran cendekiawan Bugis adalah Pemikiran *Maccae ri Luwu* mengarah pada penciptaan Negara kesejahteraan, yang bersifat moralistik religius. Pandangannya mengenai '*ati macinnong*' berdasar pada pandangan makrifat Bugis, *pappejeppu* yang beranggapan bahwa inti manusia adalah pada *ati-macinnong*, hati nurani manusia yang satu dan menyatukan umat manusia. Pandangan moralitas religius *Maccaeri Luwu* (Deputi Bidang Perlindungan Perempuan, 2011, p. 49)

Optimalisasi Potensi ZIS

Abu Hasan Muhammad Sadeq (Sadeq, 1991, pp. 61-62) mengemukakan; setiap muslim dengan kekayaannya harus membayar zakat dan pembayaran ini harus melalui negara. Kenyataan bahwa zakat harus dikumpulkan melalui negara karena Negara memiliki tanggungjawab untuk mengumpulkan zakat dan menyediakan pembayaran gaji para administrator zakat dari hasil zakat, oleh karena itu, semangat Islam adalah bahwa pemerintah akan menerapkan semua kekuatan negara untuk mengumpulkan zakat dari orang kaya dan kemudian mendistribusikan ke miskin dan membutuhkan. Zakat dapat dibayar secara individual hanya bila tidak ada ketentuan untuk mengumpulkan zakat melalui negara.

Undang-Undang RI Nomor 38 Tahun 1999 menjelaskan tentang Pemanfaatan zakat dapat dikatakan optimal ketika tujuan dari pengelolaan zakat itu dapat tercapai yakni:

- a. Meningkatkan pelayanan bagi masyarakat dalam menunaikan zakat sesuai dengan tuntunan Agama

- b. Meningkatkan fungsi dan peranan pranata keagamaan dalam upaya mewujudkan kesejahteraan masyarakat dan keadilan sosial
- c. Meningkatkan hasil guna dan guna zakat

Undang-Undang RI Nomor 38 Tahun 1999 juga menjelaskan Tujuan zakat ini dapat diwujudkan dengan melaksanakan pengelolaan zakat secara maksimal yakni:

- a. Menyelenggarakan tugas administrasi dan teknis pengumpulan, pendistribusian dan pendayagunaan zakat
- b. Mengumpulkan dan mengelolah data yang diperlukan untuk penyusunan rencana pengelolaan zakat
- c. Menyelenggarakan bimbingan di bidang pengelolaan, pengumpulan, pendistribusian dan pendayagunaan zakat
- d. Melaksanakan pengumpulan, pendistribusian dan pendayagunaan zakat, menyusun rencana dan program pelaksana pengumpulan, pendistribusian, pendayagunaan zakat, serta penelitian dan pengembangan pengelolaan zakat.

Idealnya pengelolaan zakat mesti menerapkan prinsip-prinsip kelembagaan sebagaimana yang tertuang dalam manajemen pengelolaan zakat sebagai berikut; Prinsip kerja, amanah, profesional dan transparan (Departemen Agama RI, 2005, pp. 24-35).

METODE PENELITIAN

Penelitian ini adalah penelitian kualitatif dengan studi interpretif, pemilihan paradigma interpretif dalam penelitian ini didasarkan pada suatu pemahaman bahwa paradigma interpretif bertujuan memahami (*to understand*) dan untuk menginterpretif (*to interpret*) sehingga tujuan penelitian dimaksud untuk mengidentifikasi dan mengembangkan nilai-nilai kearifan lokal dalam optimalisasi potensi zakat dapat dicapai. Pendekatan ini memandang bahwa realitas sebagai suatu yang bersifat subjektif, diciptakan, ditemukan dan ditafsirkan. Paradigma ini memahami hakikat manusia sebagai pencipta dunianya, dan pencipta makna. Ilmu pengetahuan yang dibangun dengan paradigma ini sifatnya *common sense*, induktif, ideografis, menekankan pada pemaknaan dan tidak bebas nilai. Paradigma ini untuk menginterpretasi dan memahami fenomena sosial (Sarantakos, 1993, p. 37). Penelitian ini dilakukan di Badan Amil Zakat, di empat kabupaten yakni Kabupaten Luwu, Palopo, Luwu Utara dan Luwu Timur Sumber data dalam penelitian ini diperoleh dari kajian-kajian literatur, dan informasi dari lapangan (Tokoh Ormas Islam, MUI, ahli ZIS, ahli sejarah, ahli budaya). Pengumpulan data dengan menggunakan dokumentasi, observasi, wawancara. Untuk melengkapi data kualitatif dilakukan FGD dengan pengelola zakat dan *brainstorming* dengan pakar. Data dianalisis dengan cara kualitatif. Data dianalisis secara deskriptif naturalistic dan deskriptif analitik.

HASIL PENELITIAN

Pola Pengelolaan Zakat Infak dan Shadaqah di Tana Luwu

Zakat Infak Shadaqah dalam Masyarakat Luwu.

Masyarakat Tana Luwu dalam mengeluarkan zakat masih dipengaruhi oleh tradisi yang dibentuk dari pemahaman bahwa menunaikan zakat pada bulan Ramadhan lebih afdal (Azis, 2016) sehingga pemahaman tersebut membentuk sebuah tradisi pembayaran zakat pada bulan Ramadhan. zakat yang dikeluarkan dibayarkan mulai dari zakat fitrah dan zakat maal, bukan hanya masyarakat akan tetapi perusahaan pun terpengaruh pada pemahaman tersebut, sehingga perusahaan membayar, mengeluarkan zakat juga pada bulan ramadhan. Masyarakat Tana Luwu juga masih meragukan pola pengelolaan zakat yang di kelolah oleh Badan Amil Zakat hal ini di sampaikan oleh K.H. Asnawi (Ketua MUI Kab. Luwu) beliau menyampaikan sebagai berikut (Asnawi, 2016); *Kadang mereka itu ragu-ragu, kalau mereka serahkan ke Kabupaten, sedangkan mereka juga membutuhkannya di desa kita, kecuali infak rumah tangga sampai dikabupaten, sekian banyak masjid saya jejak hanya Murante saja yang ada zakat padinya.*

Apa yang disampaikan oleh K.H. Asmawi menunjukkan bahwa adanya keraguan masyarakat terhadap pengelolaan zakat yang ada di Badan Amil Zakat pada tingkat Kabupaten, kondisi tersebut membentuk tradisi pembayaran zakat langsung kepada masyarakat, tradisi ini yang terbangun dalam masyarakat sehingga menjadi budaya yang sulit tergeser oleh system pengelolaan zakat yang ada di Badan Amil Zakat. Masyarakat Luwu memiliki potensi zakat seperti pertanian akan tetapi dari penjelasan ketua MUI Kab. Luwu menggambarkan bahwa hanya satu kelurahan di Luwu yang masih melakukan tradisi mengeluarkan zakat di masjid, tradisi ini sudah menjadi budaya pada setiap panen di kelurahan Murante Senada dengan Ketua MUI Kabupaten Luwu Timur beliau menjelaskan bahwa (Azis, 2016) ; *biasanya masyarakat mengeluarkan semauanya, zakatnya langsung diberikan yang bersangkutan, biasa petani sawah, cengke yang mengeluarkan zakat, ada beberapa desa yang masih tradisi mengeluarkan zakatnya ke masjid seperti desa Karabollu, sebagian disimpan di masjid sebagian masuk di madrasah dan dikelolah zakatnya sendiri.*

Tradisi pembayaran zakat masyarakat di Tana luwu masih mengikuti tradisi lama seperti yang telah disampaikan oleh ketua BAZ Kabupaten Luwu Timur, tradisi yang dijelaskan oleh beliau menggambarkan bahwa masyarakat mengelola zakatnya masing-masing, masjid dan madrasah menjadi amil zakat yang dapat mengelola zakat yang dikeluarkan oleh masyarakat, budaya tersebut turun menurun diwariskan oleh masyarakat

Penjelasan senada dengan Ketua BAZ kabupaten Luwu menyatakan bahwa ;

“Dalam pembayaran zakat masyarakat masih pradikma lama, membayar zakat langsung kepada yang membutuhkan, seperti zakat jamaah Haji, pada hal sudah di atur toh, pada tahun 2016 ada 217 jamaah haji tapi tidak pernah utuh 100% yang bayar”

Pembayaran zakat fitrah dalam masyarakat juga terbagi dua; pertama pembayaran zakat fitrah yang diserahkan langsung dan kedua pembayaran zakat fitrah dengan keterlibatan pegawai syara. Pembayaran atau penyetoran zakat fitrah terdapat teradisi yang menarik untuk disimak sebagaimana yang diutarakan oleh Ketua NU kota Palopo sebagai berikut (Samide, 2016); *Ada dua model, ada yang di-doakan, ada juga tidak didoakan secara langsung, yang dulu itu ada penyerahan zakat langsung di-doakan, sekarang saya lihat ada yang menyerahkan ta sepuluh orang tidak dibacakan mi langsung diterima, dulu itu tiap orang di bacakan doa, biasa ada kerta di atas beras yang tertulis nama orang yang ingin dibacakan doa, jadi dulu ada bertugas menerima zakat kemudian didoakan, naa dimasjid jami' itu masih seperti itu, di beberapa masjid sudah tidak diberlakukan lagi, hanya menyampaikan berapa orang. Na itu mi nilai-nilai lokal, banyak orang tua yang lari ke masjid jami karena dibaca I doa toh, biasa di masjid jami orang antri tau we ma baja zakka, itu sana banyak dari songka, rampoang ada juga dari salu bulo kesana toh.*

Pola Pengelolaan Zakat pada Badan Amil Zakat di Tana Luwu

Pengelolaan zakat di Tana Luwu, terdapat 2 Kabupaten/Kota yang telah mengatur pelaksanaan pengelolaan zakat dalam Peraturan Daerah adalah Kota Palopo dengan Peraturan Daerah Nomor 6 Tahun 2006 tentang Pengelolaan Zakat, dan Kabupaten Luwu Timur dengan Peraturan Daerah Nomor 05 Tahun 2007 tentang Pengelolaan Zakat, sedangkan dua kabupaten yaitu Luwu Utara dan Luwu pengelolaan zakat diatur dengan surat edaran Bupati dan tetap merujuk pada Undang-undang Nomor 23 tahun 2014 dan peraturan lain yang mengikat pengelolaan zakat. Berikut Beberapa Pandangan responden terhadap Pengelolaan Zakat di Badan Amil Zakat

Jadual 1; Pandangan Responden terhadap Pengelolaan Zakat di BAZ Luwu Raya

No	Gambaran Pengelolaan Zakat	
1	Luwu Timur	<p>a. Nanti Ramadhan Baru Muncul i, saya lihat begitu modelnya, saya kan di dudukkan sebagai pangawas, kalau pada masa nabi langsung di bagi, kalau pengumpulan zakat dari masyarakat belum ada pi baru dari pegawai, nanti ramadhan ada zakat fitrah dengan infak rumah tangga.</p> <p>b. Zakat dikelolah hanya zakat profesi, infak haji</p> <p>c. Belum ada kantor BAZ</p> <p>d. Kita sifatnya menempel karena berkaitan anggaran, akhirnya nyambung mi dengan pemerintah, karena itu dana diperoleh dari pegawai 7500/ orang, itu sudah di SK kan , hasil keputusan rapat, zakat 2,5% baru sebatas wacana, pernah yang jabatan eselon itu 50,000 langsung masuk rekening, jadi kita tidak jempot lagi, kita lihat langsung di rekening korang saja, belum ada dari masyarakat, cumin kemarin ada kerja sama dengan KUA semacam infqa kalau ramadhan, dimasukkan 5000 ke BAZ, jadi kita ramadhan</p>

		e. Pendistribusian zakat tahunan
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2	Luwu Utara	<p>a. Mengenai zakat yang dikelola disini adalah zakat profesi sedangkan zakat maal masih 1, 2 orang ji dari masyarakat, zakat profesi dari PNS ji, sedangkan pegawai swasta belum pi. Mengenai hitungan zakat profesi belum ada pi 2,5% yang ada 50 ribu, 30 ribu maunya disetor, ada juga disini SKPD yang sudah sara bahwa dia layak jadi banyar sesuai, masih 1, 2 orang, kecuali Kemenag sudah menerapkan 2,5 sudah 2 tahun mi, sebenarnya kalau kita lihat slip gaji, sebenarnya kita sudah kena mi 2,5% dengan pendapatan yang ada. Yang berlaku kalau golongan IV di banyar 50 rb/ bulan, jadi pembayarannya potongan gaji saja, jadi setiap SKPD kita anggap sebagai UPZ</p> <p>b. Dari masyarakat belum Nampak kita baru pungut zakat profesi ji, ada satu orang yang banyar zakat maal yaitu. Pak. Zakaruddin dan minta tolong dihitung zakatnya, kalau zakat profesi bisa sampai 300 juta perbulan, sekarang ini kita bisa kelola hanya 120 juta perbulan kalau di kumpul satu tahun sekitar 1,8 milyar pertahun, kalau bisa 300 juta perbulan, maka kita bisa mengumpulkan 3 milyar pertahun</p> <p>c. Pernah ada pak. Bantuan pengusaha sayur, bantuan paruk kelapa, mesin jahid, pernah mi kita bantu 100 orang pinjam tanpa bunga, orang tidak ada yang kembalikan jadi kita kasi jadi bantuan. ada yang dikasi sampai 1 juta atau 200 rb tapi tidak ada yang kembalikan, seandainya program ini berlanjut itu bagus dan seandainya lancer maka bisa diputar lagi kepada orang lain. Sekarang ini program pendidikan hafal qur'an sudah ada 20 orang disini yang menghafal mi, ada guru hafal 3 orang dibiaya oleh BAZ satu dari Jakarta STIQ, Alhamdulillah sudah ada hasilnya mudahan bisa berkelanjutan</p> <p>d. Permohonan disini tiap bulan, mulai kegiatan keagamaan, musafir dan macam-macam, jadi kita salurkan tiap bulan, tidak menunggu satu tahun</p> <p>e. Disini adaji laporan bulanan tapi dilapor pertriwulan, kita melapor ke bupati, ke DPRS dan SKPD pertriwulan dan laporan tahunannya kita lapor</p> <p>f.</p>
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3	Palopo	<p>a. Pelaksanaan Pengelolaan Zakat diatur dalam PERDA Kota palopo</p> <p>b. Zakat yang kelolah adalah zakat profesi ada yang banyar zakat maal 1 2 orang saja termasuk dr Iqra</p> <p>c. Distribusi zakat dilakukan tiap bulan</p> <p>d. Belum ada pendistribusian zakat secara produktif</p> <p>e. Pendistribusian masih pada berkaitan dengan keagamaan</p>
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- 4 Luwu
- a. Kalau pengumpulannya kami gunakan sk bupati supaya seragamkan itu infak, seragamnya maksudnya bukan seragam sekian, seragam untuk dikumpul sebagaimana berdasarkan petunjuk bupati sehingga kita juga melihat potensi pegawai dari golongannya, supaya kita mudah mengambil, kalau bicara ki infak na tidak ada aturannya untuk melihat kekuatan itukan susah, yang 5 rupiah saja sulitnya apalagi, pemerintah daerah membantu kita melihat golongan pegawai disitu mi kita ambil. Golongan 1, 2, 3, 4 sampai eselon
 - b. selama adanya badan amil zakat mulai memungut infak jama'ah Haji pemerintah juga sudah ditetapkan pada tahun 2012 zakat mall 2,5% dari ONH termasuk Hartanya, kalau besarnya kan, kalau disimpan selama 5 tahun dikeluarkan infaknya pada saat berangkat dicukupkan di lunasi. Tahun lalu dari jamaah haji 1 kurang lebih 1 juta perorang yang baru ini 900 ribu lebih
 - c. setiap tahun selesai kita rampungkan sekarang sudah selesaimi, tinggal kita distribusikan, kalau bicara asbab ada delapan, kita belum sampai ke delapan karena bukan zakat maal, ini hanya infak ji. Kita sampaikan boleh delapan boleh kurang karena infak ji. Kalau dipalopo kan zakat profesi di palopo mutlak itu 8 asbab, mulai fakir miskin, muallaf, amil dan lainnya. Kami hanya melihat saja mana yang prioritas yang mendesak itu mi kita kasi, seperti fakir miskin untuk muallaf, ibnu sabil itu juga banyak seperti menagakkan ajaran Islam, bukan hanya orang yang berjuang seperti yang kita kenal seperti perang, orang yang mengajarkan al-qur'an di masyarakat juga itu jihad, yaaa begitulah kami. Ada istilahnya kami berikan ke pegawai syara' guru mengaji, itu juga membantu program pemerintah untuk mengentaskan buta baca al-qur'an, membantu yang mengajarkan al-qur'an, pegawai syara, pengurus masjid, seperti bilal termasuk adek-adek dari mahasiswa STAIN yaaa dikasi ala kadarnya
 - d. pernah lakukan produktif sekali, dapat sorotan, kadang salah teknis yang di ujung tombak di bawah, saya kasi bantuan produkti ada dua produkti uang mati sekali diberikan tidak ada pengembalian dan produktif bergulir, kalau yang bergulir belum pernah saya lakukan itu karena keterbatasan.

Jadual 2; Pelaksanaan Zakat Profesi/ Infak PNS

No	Kabupaten	Jenis			Nisab	Haul	Ket
1	Palopo	Zakat Profesi	Profesi/ Infak	50.000 150,000	s/d	Bulanan	Tergantung Golongan
2	Luwu	Zakat Profesi	Profesi/ Infak	5000 100,000	s/d	Bulanan	Tergantung Golongan
3	Luwu Utara	Zakat Profesi	Profesi/ Infak	50.000 150,000	s/d	Bulanan	Tergantung Golongan

4	Luwu Timur	Zakat Profesi/ Profesi	Profesi/ Infak	7500	Bulanan	Rata
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Data Primer diolah

Data di atas menunjukkan bahwa penentuan jumlah nisabnya tidak ditentukan dengan menggunakan hitungan nisab 2,5% untuk zakat profesi, akan tetapi ditetapkan atas kesepakatan PNS dan surat edaran Pemerintah Kota/ Kabupaten sehingga penamaan zakat profesi merupakan kesalahan penamaan yang cocok adalah infak PNS.

Permasalahan Dalam Pengelolaan Zakat Oleh BAZ

Kabupaten/ Kota di Tana luwu sudah terbentuk Badan Amil Zakat (BAZ) dengan mengacu pada Undang-Undang, Peraturan Pemerintah, apa lagi didukung oleh Peraturan Daerah (PERDA) dan Surat Edaran yang mengikat, tapi ironis pengelolaan zakat yang dilakukan oleh Badan Amil Zakat menyimpang banyak persoalan, hambatan, tantangan yang menghambat efektifitas, dan maksimalisasi pengelolaan zakat. Adapun beberapa permasalahan yang dapat diperoleh dari responden sebagai berikut:

Jadual 3; Permasalahan Pengelolaan Zakat

No	BAZNAS	Uraian Permasalahan	Ket
1	Luwu Timur	<ol style="list-style-type: none"> 1. Kantor BAZ yang belum permanen 2. Transparansi yang masih diragukan 3. Program yang Tidak Jelas 4. Kurangnya keteguhan Amil dalam pengelolaan BAZ 5. Profesionalisme dalam pengelolaan 6. Pengelolaan Dana Zakat belum efektif 7. Belum mengelolah zakat profesi hanya Infak PNS 8. Pendistribusian belum tepat sasaran 9. Sosialisasi yang kurang 10. Aktifitas BAZ sifatnya Tahunan 11. Masyarakat belum sepenuhnya memahi BAZ 12. Masyarakat Menyalurkan secara langsung 13. Kurangnya Kejujuran 14. Kesadaran Masyarakat 15. Potensi Lokal belum di maksimalkan 	
2	Luwu Utara	<ol style="list-style-type: none"> 1. Kurangnya Pemahaman Masyarakat 2. Keterbatasan personil yang aktif 3. Banyaknya Masyarakat yang menyalurkan langsung 4. Kurangnya Kepercayaan Masyarakat kepada BAZ 5. Belum melirik potensi lokal 6. Ketergantungan pada Infak Profesi 7. Kurangnya Zakat Maal, Usaha, Pertanian 8. Sosialisasi yang masih kurang 9. Tradisi pembayaran zakat 10. Minimnya Dana zakat yang dikelolah 11. Kesadaran Masyarakat 	

3	Luwu	<ol style="list-style-type: none"> 1. BAZ belum turun sosialisasi ke Masyarakat 2. Pengetahuan Masyarakat 3. Kesadaran Masyarakat 4. Amil kurang Amanah 5. Dai Kurang menda'wakan Zakat 6. Kurangnya Kepercayaan Masyarakat kepada BAZ 7. Potensi Lokal baru wacana 8. Kurangnya respon tokoh masyarakat 9. Sosialisasi belum menyentuh toko masyarakat dan masyarakat 10. Laporan kurang di publikasi ke masyarakat
4	Palopo	<ol style="list-style-type: none"> 1. Kurangnya Pemahaman Masyarakat 2. Kurangnya sosialisasi 3. Pengelolaan hanya terbatas Infak PNS 4. Kurangnya keterlibatan pemerintah 5. Kurangnya kepercayaan masyarakat 6. Kurangnya kesadaran masyarakat untuk membayar zakat ke BAZ 7. Program BAZ masih kurang 8. Pendekatan Potensi Lokal belum dilakukan 9. Kurangnya Keaktifan pengurus 10. Kurangnya ketegasan dalam pemungutan zakat

Data diolah dari Data Primer

Potret Potensi Zakat, Infak Dan Shadaqah

Tana Luwu “*Wanua Mappatuo Naewai Alena*” yang diartikan Tana Luwu adalah menghidupkan dan mampu mengatasi dirinya sendiri. merupakan percikan kalimat Datu Luwu Andi Djemma saat berdialog dengan Presiden Bung Karno. Percikan kalimat ini bagi orang Luwu sungguh sangat mengandung nilai historis (Halim, 2016). Kalimat tersebut mengandung banyak arti penting termasuk bahwa Tana Luwu akan mampu memenuhi kebutuhan hidup masyarakatnya. Tana Luwu yang memiliki potensi Sumber Daya Alam yang melimpah.

Tana Luwu merupakan kawasan di Jazirah Utara Sulawesi Selatan yang terdiri dari satu Kotamadya yaitu kota Palopo dan tiga kabupaten yaitu kabupaten Luwu, Kabupaten Luwu Utara dan Kabupaten Luwu Timur dengan Sumber Daya Alam (SDA) yang melimpah Meliputi pertanian, Perkebunan, perikanan dan Pertambangan dan mampu memberikan 30 % Pendapatan asli Daerah untuk Sulawesi Selatan. Tana Luwu merupakan wilayah penghasil biji kakao di Sulawesi Selatan dengan produksinya mencapai 61.000 ton pertahun.

Thoriq (Bupati Luwu Timur) juga menjelaskan bahwa kabupeten Luwu Timur saat ini memiliki nilai ekspor tertinggi untuk Provinsi Sulawesi Selatan dengan menumbang 45% dari total nilai ekspor tertinggi Sulawesi Selatan. Thoriq menjabarkan bahwa angka tersebut diluar dari sector pertambangan yang lebih massif. “ini untuk sektor pertanian seperti komoditi kakao, lada, serta, serta perikanan. Tentunya itu menjadi kelebihan kami yang juga berperan penting untuk Sulawesi Selatan, Kabupaten Luwu Timur meraih penghargaan sebagai Kabupaten Potensial

dengan indeks 66.29 serta Kabupaten Potensial kategori investasi dengan indeks 80.54 (Thoriq, 2016).

Peraturan Daerah sebenarnya telah menuangkan beberapa potensi zakat dalam PERDA, sebagaimana dalam PERDA Luwu Timur 05 tahun 2007 sebagai berikut: BAB II pasal 5 menjelaskan tentang sumber zakat sebagai berikut Orang Islam, Badan atau Usaha dan Zakat terdiri atas zakat mal dan zakat fitrah. Zakat mal terdiri atas, Emas, Perak, Uang, Harta perusahaan dan perdagangan, Hasil, pertanian, Hasil perkebunan, Hasil perikanan, Hasil pertambangan, Hasil peternakan, Penghasilan dan jasa dan Rikaz. PERDA Kota Palopo Nomor 6 Tahun 2006 juga menjelaskan tentang potensi zakat BAB VII Pasal 22 Zakat pendapatan dikeluarkan atau disisihkan dari pendapatan/penghasilan seorang muslim, sebelum dikeluarkan pajak, yang bekerja/berprofesi sebagai : 1). Pegawai Negeri dan Swasta; 2). Pejabat Negara; 3). Pengusaha/pedagang; 4). Petani dan nelayan; 4). Dokter Praktek; 5). Pengacara; dan 6). Profesi lainnya.

Pola Pengelolaan BAZNAS berbasis Kearifan Lokal

Arus budaya global yang tidak dapat dihindari, seiring waktu akan berdampak pada budaya lokal masyarakat luwu. Pergeseran cara pandang dari orientasi kehidupan social menjadi materialis. Sifat materialis semakin masuk ke dalam paradigma berfikir masyarakat. Hal ini tampak nyata ketika masyarakat sudah tidak tertarik lagi pada persoalan sosial manusia modern lebih bersentuhan dengan persoalan materi sedangkan masyarakat lokal lebih bersentuhan dengan persoalan sosial. Bukan tidak mungkin kedua persoalan tersebut berjalan searah, karena manusia tidak dapat bertahan tanpa kehidupan social dan kehidupan materi. Kehidupan social dan materialis sangat menentukan karakter individu maupun kelompok masyarakat. Kelompok masyarakat modern cenderung mengabaikan dan sangat lambat merespon persoalan agama dan sosial. Kondisi ini membentuk masyarakat modern yang materialis dan individual.

Pada hakikatnya semua suku atau kelompok masyarakat memiliki nilai-nilai yang senantiasa menjadi warisan dan diaplikasikan dalam kehidupan bermasyarakat, nilai-nilai yang terdapat dalam tradisi setempat sering digali seiring dengan proses perubahan sosial kemasyarakatan. Eksistensi adanya budaya dalam suatu kelompok masyarakat ditandai dengan pelaksanaan nilai-nilai budaya dalam kehidupan masyarakat dan penerapan nilai-nilai tersebut merupakan manifestasi, dan legitimasi masyarakat terhadap budayanya. Berikut beberapa tanggapan responden tentang kearifan lokal dalam pengelolaan zakat:

K.H. Azis mengemukakan (Azis, 2016); Ada banyak tradisi masyarakat berkaitan dengan zakat, biasanya masyarakat mengeluarkan zakatnya langsung diberikan yang bersangkutan, biasa petani sawah, cengkeh. Ada beberapa desa yang masih tradisi mengeluarkan zakatnya ke masjid seperti Desa Karabollu, sebagian disimpan mesjid sebagian masuk dimadrasahnyanya, dikelola sendiri zakatnya. Ada nilai kearifan lokal seperti Sipakatau, sipakainge, banyak lagi yang bisa

dalam pengelolaan zakat, yang kurang sekali adalah kejujuran, kayanya tidak ingat nilai budaya ta, ia manen mi palasa lasai ki, Ma kuttu mi tau, budaya juga hilang.

Ketua MUI Luwu Utara menjelaskan bahwa *kearifan lokal itu belum Nampak seperti itu, yang kita pungut baru zakat profesi ji, ada beberapa orang-orang tiap tahun yang membanyar zakat maalnya salah satunya p. zakaruddin minta tolong untuk di hitung zakatnya, Ketua MUI Kabupaten Luwu mengatakan Adaji banyak seperti Sipakatau, Sipakalebi, sipakainge banyak lagi.*

Nilai *sipakatau*, *sipakalebbi* dan *sipakainge* merupakan salah satu falsafah yang memiliki arti luas dan makna yang esensi. *Sipakatau* memiliki arti saling menghargai, saling menopang, saling mengayomi, saling menuntun, saling membagi, saling member, sedangkan *sipakalebbi* yaitu saling menghargai, menghormati, dan *sepakainge* dimaknai saling meningkatkan.

Dalam hal hubungan sesama manusia, suku Bugis memegang prinsip-prinsip: *rebba sipatokkong, mali siparappe, Sirui menre' tessirui no', malilu sipakainge'-mainge'pi mupaja* (saling mendukung, mendorong satu sama lain, saling mencintai, dan mengingatkan satu sama lain). Prinsip-prinsip lain yang terkait dengan ini adalah (Moen, 1988, p. 25);

TauE ri Dewata (Takut Allah).

Siri'E ri watakkaleta (Menghormati Diri)

Siri'E ri padatta rupa tau (Menghormati Lainnya)

Pengelolaan zakat melalui kearifan lokal sangatlah dibutuhkan. Pengelolaan zakat dapat ditempuh dengan cara mentransformasi nilai-nilai keraifan lokal sebagai salah satu sarana untuk membentuk karakter masyarakat untuk berzakat. Pentingnya transformasi nilai-nilai keraifan lokal sebagai salah satu sarana untuk membangun system pengelolaan zakat adalah sebagai berikut: 1) Secara filosofis, zakat merupakan sebuah kebutuhan asasi dalam proses pemberdayaan ekonomi umat karena dengan zakat manusia memasuki dua dimensi sosial dan materi; 2) Secara ideologis, pengelolaan zakat merupakan upaya mengejewantahan ideologi Islam dalam kehidupan umat.

Agama Islam yang masuk dan diterima di Sulawesi Selatan telah berhasil menanamkan nilai-nilai ajaran Islam terhadap masyarakat yang di-integrasi dengan adat, Tana Luwu merupakan salah satu bagian dari Sulawesi Selatan yang menerima ajaran Islam dalam ketaatan masyarakat Luwu terhadap adat. Pengamalan syariah lebih mantap ketika diterapkan dalam intraksi social (sara'). Sara' menjadi bagian dari "*panngaderreng*", *ade', ade*, bicara, rapang', *wari*' dan sara. Sara' menjiwai adat istiadat (*panggadereng*) sebagai hasil dari trnasformasi budaya sebelum Islam, suatu tranformasi kebudayaan yang berlangsung secara damai antara tradisi dengan syariah Islam. Disini terletak konfigurasi antara tradisi dengan Islam yang telah meresap dalam

pengetahuan, gagasan, dan kepercayaan masyarakat yang tampak pada pola tingkah laku dan dalam relasi-relasi sosial (Baki, 2005).

Badan Amil Zakat dengan berbagai macam persoalan dalam pengelolaan zakat, mulai dari penentuan pengurus BAZNAS, pengumpulan zakat, pengelolaan zakat, pendistribusian zakat dan pengawasan zakat, kasus tersebut menunjukkan rapuhnya sistem pengelolaan zakat khususnya di Tana Luwu, merosotnya kepatuhan syariah, kepatuhan Undang-Undang, dan terjadinya fatalism kebudayaan yaitu kebudayaan yang telah dibangun oleh masyarakat sebelumnya telah mengalami kemerosotan peran dalam mengatur masyarakat.

Badan Amil Zakat sebagai lembaga yang mengelolah dana umat, masyarakat seharusnya mempertimbangkan terhadap kepatuhan syariah, hukum dan adat, sehingga pola pengelolaan zakat dapat maksimal. Pola pengelolaan zakat di BAZNAS di Tana Luwu dengan memperhatikan berbagai macam persoalan baik persoalan dalam internal pengurusan BAZNAS maupun dari eksternal pengelolaan zakat atau dari penentu kebijakan di kabupaten kota.

Adat pada posisinya sebagai pengatur masyarakat setempat dapat difungsikan atau difungsikan kembali sehingga dapat mengatur masyarakat, badan dan pemerintah, dengan cara menggali dan menanamkan kembali nilai-nilai kearifan lokal dalam setiap individu masyarakat. Pola pengelolaan zakat harus memperkuat kelembagaan Badan Amil Zakat, memberikan pola pengelolaan zakat secara sistimatis, menanamkan nilai-nilai kearifan yang bersandar pada moralitas, profesionalitas, akuntabilitas dalam pengelolaan zakat pada Badan Amil Zakat.

Berikut table pengembangan nilai-nilai kearifan lokal dalam pengelolaan zakat sebagai berikut:

Jadual 4; Pengembangan Nilai-Nilai Kearifan Lokal Tana Luwu Dalam Pengelolaan Badan Amil Zakat

No (1)	Sistem Pengelolaan (2)	Nilai Kearifan Lokal (3)
1	Amil Zakat	<ul style="list-style-type: none"> a. <i>adele'</i> (Adil) b. <i>alempureng</i> (Kejujuran), c. <i>amaccang</i> (Kepintaran), d. <i>asitinajang</i> (kepatutan), e. <i>aggettengeng</i>(keteguhan), f. <i>reso</i> (usaha) dan g. <i>siri</i> (harga diri)
2	Pengumpulan ZIS	<ul style="list-style-type: none"> a. <i>Ade'</i> (Pranata Sosial) b. <i>Bicara</i> (Peradilan) c. <i>Rapang</i> (Undang-Undang) d. <i>Wari'</i> (Hubungan Kekkerabatan) e. <i>Sara'</i> (Syariah)
3	Pengelolaan Kelembagaan ZIS	<ul style="list-style-type: none"> a. <i>Ade'</i> (Pranata Sosial) b. <i>Bicara</i> (Peradilan) c. <i>Rapang</i> (Undang-Undang)

		d. <i>Wari'</i> (<i>Hubungan Kekerabatan</i>) e. <i>Sara'</i> (<i>Syariah</i>)
4	Pendistribusian ZIS	a. <i>Ade'</i> (<i>Pranata Sosial</i>) b. <i>Bicara</i> (<i>Peradilan</i>) c. <i>Rapang</i> (<i>Undang-Undang</i>) d. <i>Wari'</i> (<i>Hubungan Kekerabatan</i>) e. <i>Sara'</i> (<i>Syariah</i>)
5	Pengawasan	a. <i>Ade'</i> (<i>Pranata Sosial</i>) b. <i>Bicara</i> (<i>Peradilan</i>) c. <i>Rapang</i> (<i>Undang-Undang</i>) d. <i>Wari'</i> (<i>Hubungan Kekerabatan</i>) e. <i>Sara'</i> (<i>Syariah</i>)
6	Muzakki	a. <i>adele'</i> (<i>Adil</i>) b. <i>alempureng</i> (<i>Kejujuran</i>), c. <i>amaccang</i> (<i>Kepintaran</i>), d. <i>asitinajang</i> (<i>kepatutan</i>), e. <i>aggettengeng</i> (<i>keteguhan</i>), f. <i>reso</i> (<i>usaha</i>) dan g. <i>siri</i> (<i>harga diri</i>)

Jadual di atas menjelaskan bahwa setiap aktivitas dalam pengelolaan zakat dapat ditanamkan nilai-nilai kearifan lokal. Penerapan, penanaman nilai-nilai kearifan lokal akan memberikan solusi dari permasalahan yang ada dalam pengelolaan zakat di Tana Luwu. Amil Zakat dengan beberapa permasalahan seperti kurang amanah, kurang jujur, kurang usaha dan lainnya maka nilai kearifan lokal dapat berperan untuk mengubah karakter amil dengan menanamkan nilai *adele'* (*Adil*), *alempureng* (*Kejujuran*), *amaccang* (*Kepintaran*), *asitinajang* (*kepatutan*), *aggettengeng* (*keteguhan*), *reso* (*usaha*) dan *siri* (*harga diri*).

Pengelolaan kelembagaan Zakat, Pengumpulan dan Pendistribusian Zakat juga memiliki banyak persoalan yang dihadapi baik internal maupun dari eksternal, maka nilai-nilai kearifan lokal dapat berperan dalam mengatasi sejumlah persoalan adapun nilai-nilai kearifan lokal yang dimaksud adalah *Ade'* (*Pranata Sosial*), *Bicara* (*Peradilan*), *Rapang* (*Undang-Undang*), *Wari'* (*Hubungan Kekerabatan*), *Sara'* (*Syariah*). Nilai kearifan lokal tersebut ketika diimplentasikan dalam system tata kelolah kelembagaan, pengumpulan dan pendistribusia maka akan berdampak positif terhadap optimalisasi pengelolaan zakat Badan Amil Zakat di Tana Luwu.

Muzakki merupakan penentu keberhasilan pengelolaan zakat, muzakki diharapkan berperan aktif dalam program agama, pemerintah dan Badan Amil Zakat dalam pendistribusia pendapatan yang nantinya berdampak pada kesejahteraan umat, pengurangan pengangguran dan kemiskinan, demikian itu dapat terlaksana ketikan Muzakki ditanamkan nilai-nilai kearifan lokal yaitu *adele'* (*Adil*), *alempureng* (*Kejujuran*), *amaccang* (*Kepintaran*), *asitinajang* (*kepatutan*), *aggettengeng* (*keteguhan*), *reso* (*usaha*) dan *siri* (*harga diri*), dengan penanaman nilai kearifan lokal tersebut kepada Muzakki diharapkan dapat mengubah pola pikir Muzakki dari yang tidak

taat terhadap zakat menjadi taat membayarkan zakat, terutama Muzakki menjadi penggerak optimalisasi Pengelolaan ZIS di Badan Amil Zakat di Tana Luwu.

KESIMPULAN

Pola pembayaran penyaluran zakat dimasyarakat masih terpengaruh pada tradisi atau budaya, masyarakat masih dominan menyalurkan langsung kepada yang berhak. Bulan Ramadhan menjadi bulan menyalurkan zakat fitrah, infak dan shadaqah. Pola pengelolaan zakat di Badan Amil Zakat masih statnan dari tahun-ketahun, zakat yang dikelolah masih zakat profesi yang ternyata hanya Infak profesi, sedangkan penyalurannya belum mampu memberikan solusi pengurang kemiskinan karena hanya membiayai pegawai syara', dan penyalurannya masih sifatnya konsumtif.

Instrumen Pengelolaan Zakat di BAZ adalah Al-Qur'an, As Sunnah, Pancasila, UUD, UU, Peraturan yang berkaitan dengan Zakat, Sistem Pengelolaan, dan Kearifan Lokal. Instrument tersebut ketika dimaksimalkan dan diberikan peran dan fungsi maka instrument tersebut dapat meningkatkan optimalisasi pemanfaatan potensi zakat dan akan berdampak pada optimalisasi pengelolaan zakat. Nilai kearifan lokal yang dapat ditanamkan sebagai berikut; *adele'* (Adil), *alempureng* (Kejujuran), *amaccang* (Kepintaran), *asitinajang* (kepatutan), *aggettengeng* (keteguhan), *reso* (usaha), *siri* (harga diri), sedangkan nilai yang dapat diterapkan dalam pengelolaan BAZ adalah *Ade'* (*Pranata Sosial*), *Bicara* (*Peradilan*), *Rampang* (*Undang-Undang*), *Wari'* (*Hubungan Kekeabatan*), *Sara'* (*Syariah*)

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BZ076:
STRATA HAD KIFAYAH ZAKAT DI MALAYSIAMENURUT MAQASID SYARIAH

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Abstrak

Had kifayah zakat merupakan mekanisme penentuan tahap keupayaan ekonomi seseorang individu yang berpendapatan samada layak dikategorikan sebagai muzakki ataupun asnaf. Penetapan had kifayah zakat melibatkan item-item yang diiktiraf oleh syarak sebagai keperluan asasi bagi setiap individu agar dapat menjalani kehidupan yang normal. Namun, sehingga kini belum terdapat satu garis panduan yang digunapakai oleh institusi-institusi zakat di Malaysia membawa kepada kepelbagaian kaedah pentaksiran had kifayah zakat di setiap negeri khususnya di Lembaga Zakat Selangor. Penetapan had kifayah zakat seharusnya dilihat berdasarkan kepada kehendak syarak (maqasid syariah) agar objektif yang hendak dicapai melalui pensyariatan zakat dapat direalisasikan secara menyeluruh. Justeru, kajian ini adalah bertujuan untuk mengenalpasti konsep had kifayah dan maqasid syariah dalam konteks zakat. Kajian ini turut menganalisis item-item had kifayah zakat di Lembaga Zakat Selangor serta peranan maqasid syariah sebagai instrument menentukan item-item yang terlibat dalam pentaksiran had kifayah zakat. Kajian ini menggunakan pendekatan kualitatif melibatkan kaedah dokumentasi dan data terkumpul akan dianalisis menggunakan kaedah induktif. Penulis mendapati bahawa strata had kifayah zakat menurut maqasid syariah dapat dijadikan garis panduan yang komprehensif melalui ontologi keperluan asas (daruriyyat), keperluan tambahan (hajiyyat) dan keperluan pelengkap (tahsiniiyyat). Implikasi kajian ini boleh dijadikan panduan kepada institusi-institusi zakat khususnya Lembaga Zakat Selangor dalam kajian yang lebih mendalam berkenaan taksiran had kifayah zakat di setiap negeri. Kajian lanjutan dapat dilakukan bagi mengenalpasti keperluan-keperluan asasi individu melalui strata had kifayah zakat menurut maqasid syariah dengan mengambilkira faktor sosiologi dan ekonomi masyarakat setempat.

Kata kunci: Strata Had Kifayah Zakat, Lembaga Zakat Selangor, Maqasid Syariah, Had Kifayah, Zakat

PENDAHULUAN

Had kifayah merupakan ukuran bagi tahap kecukupan ekonomi seseorang yang membolehkannya menjalani kehidupan secara normal. Dalam konteks zakat, had kifayah merupakan garis pemisah antara mereka yang perlu membayar zakat (*muzakki*) dan mereka yang berhak menerima zakat (*asnaf*). Pemahaman konsep had kifayah zakat amat penting umumnya di kalangan masyarakat dan khususnya kepada pihak-pihak yang berkuasa dalam bidang

pentadbiran zakat. Institusi zakat dan Majlis Agama Islam Negeri berperanan penting dalam menentukan had kifayah zakat di negeri masing-masing berdasarkan pendekatan dan metodologi yang tertentu dengan mengambil kira keperluan masyarakat pada masa kini. Penetapan had kifayah zakat berkait rapat dengan item-item yang dibenarkan oleh institusi-institusi zakat negeri sebagai keperluan asasi yang diperlukan oleh setiap individu.

Walau bagaimanapun, item-item yang disenaraikan oleh setiap institusi zakat negeri adalah berbeza. Hal ini kerana kebanyakan negeri masih menggunakan pendekatan yang sedia ada digunapakai oleh Lembaga Hasil Dalam Negeri (LHDN) dalam taksiran cukai pendapatan. Hanya beberapa buah negeri yang telah melakukan kajian semula terhadap taksiran had kifayah antaranya Lembaga Zakat Selangor (LZS), Pusat Kutipan Zakat Pahang, Pusat Zakat Negeri Sembilan (PZNS) dan Pusat Pungutan Zakat Wilayah Persekutuan (PPZ-MAIWP). Sehingga kini belum terdapat satu garis panduan yang dipersetujui secara bersama oleh setiap institusi zakat di Malaysia dalam penetapan taksiran had kifayah zakat ini.

Penetapan had kifayah zakat seharusnya dilihat berdasarkan kepada kehendak syarak maqasid syariah khususnya dalam menjaga agama, nyawa, akal, keturunan dan harta, agar objektif yang hendak dicapai melalui pensyariatian zakat dapat direalisasikan secara menyeluruh. Item-item had kifayah zakat perlu mengambil kira faktor ekonomi dan sosial masyarakat melalui ontologi *daruriyyat* (keperluan asas), *hajiyyat* (keperluan tambahan) dan *tahsiniyyat* (keperluan pelengkap).

Definisi Had Kifayah

Al-kifayah adalah daripada perkataan *kifayahyakfikafaa* dalam *Lisan al-Arab* yang bermaksud cukup atau mencukupi apa yang paling penting kepadanya, atau apa yang mencukupi untuk hidup (Ibn Manzur, 1992). Manakala dari segi istilah, 'had kifayah' bermaksud perbelanjaan yang perlu bagi memenuhi keperluan sara hidup dengan mengambil kira tahap purata kehidupan dalam masyarakat. (al-Fanjari, 2010).

Had Kifayah secara umumnya adalah kadar (keupayaan ekonomi) yang selayaknya bagi menjamin kelangsungan kehidupan seorang individu serta mereka yang di dalam tanggungannya. Ia bukan sekadar penentuan had minimum semata-mata tetapi menjangkaui persoalan tahap yang selayaknya bagi memastikan kelangsungan kehidupan seseorang serta tanggungannya (Uwais, 2004). Allah SWT menjelaskan mengenai kadar keperluan manusia kepada Nabi Adam dengan firman-Nya bermaksud:

Sesungguhnya telah dikurniakan berbagai nikmat bagimu, bahawa engkau tidak akan lapar dalam syurga itu dan tidak akan bertelanjang. Dan sesungguhnya engkau juga tidak akan dahaga dalam Syurga itu, dan tidak akan merasa panas matahari

(Thaha: 118-119).

Sabda Rasulullah SAW maksudnya:

“Bukanlah miskin itu seorang yang datang-datangi manusia, lalu diberikan kepadanya sesuap dua makanan dan sebutir dua buah kurma, tetapi miskin itu ialah seorang yang tidak memiliki sesuatu yang mengayakannya dan dalam masa yang sama tidak melakukan sesuatu yang membuat orang bersedekah kepadanya, dan tidak juga dia bangun di hadapan orang dan meminta-minta daripada mereka”

(HR Bukhari & Muslim).

Kesimpulannya, had kifayah bukan hanya melihat kepada jumlah pendapatan seseorang semata-mata tetapi juga melihat kepada keperluan yang sepatutnya dimiliki seseorang atau sesebuah keluarga mengikut keperluan semasa. Islam memberi pelepasan zakat ke atas harta yang digunakan untuk keperluan sara diri dan orang-orang yang di bawah tanggungannya seperti isteri, anak-anak, ibu bapa dan adik-beradik.

Definisi Maqasid Syariah

Al-Raisuni (1992) telah mentakrifkan maqasid syariah sebagai tujuan (sebenar) yang ingin dihasilkan bagi ketetapan hukum syarak (dengan tujuan) untuk kemaslahatan manusia. Secara umumnya, maqasid syariah bermaksud segala tujuan di sebalik penciptaan syariat pada keseluruhannya dan di sebalik setiap hukum di dalamnya secara satu persatu (Mahmood Zuhdi et al., 2012). Allah SWT menjelaskan dalam al-Quran bahawa perutusan Nabi Muhammad SAW adalah untuk kebaikan dan rahmat bagi sekalian alam, sebagaimana firman-Nya:

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

Maksudnya: *Dan tiadalah Kami mengutuskan engkau (Wahai Muhammad), melainkan untuk menjadi rahmat bagi sekalian alam.*

(al-Anbiya': 107)

Maqasid syariah yang ingin dicapai perlu menjadi tonggak dan hala tuju dalam pensyariatan hukum-hakam dan ajaran Islam. Pemahaman dan penggunaan kaedah maqasid syariah merupakan unsur penting bagi setiap mujtahid dalam proses berijtihad dan pengaplikasian hukum syarak ke alam realiti dan kehidupan semasa, seiring dengan kehendak dan tujuan pensyariatan ajaran Islam yang diturunkan (Ahmad Wifaq, 2016b).

Tinjauan terhadap kedudukan maqasid syariah menurut perspektif syarak menunjukkan bahawa setiap dalil syariat Islam dan hukumnya mempunyai maqasid dan matlamat yang tertentu (al-Misawi, 1998). Justeru, tujuan pensyariatan hukum adalah untuk kemaslahatan manusia di dunia hingga ke akhirat (al-Zuhaili, 1986). Maqasid syariah merupakan parameter dalam menilai sesuatu hukum yang difatwakan. Usaha memahami sesuatu hukum mestilah seiring dengan

kehendak syarak serta mencapai piawai maqasid yang selari dengan objektif syarak melalui sumber perundangan al-Quran dan sunah (Ahmad Wifaq, 2016a).

Ulama telah bersependapat bahawa hukum syarak mengandungi hikmah dan maqasid yang tersendiri. Hukumnya berkisar tentang tatacara menjaga kemaslahatan manusia di dunia hinggalah ke akhirat (al-Qaradawi, 1993). Pengamatan terhadap hukum-hukum ini telah menghasilkan satu jalinan yang berkait rapat antara hukum syarak dengan maqasid yang disyariatkannya (al-Misawi, 1998).

Matlamat utama syariat Islam diciptakan adalah untuk menghasilkan kebaikan kepada manusia dan menolak keburukan daripada mereka (جلب المصالح ودرء المفاسد). Fuqaha mentafsirkan kebaikan (maslahah) dan keburukan (mafsadah) merangkumi aspek duniawi dan ukhrawi (al-Syatibi, 1996).

Konsep Maqasid Syariah

Al-Raisuni (1992) membahagikan maqasid kepada tiga kategori iaitu *al-maqasid al-'ammah* (maqasid umum), *al-maqasid al-khassah* (maqasid khusus) dan *al-maqasid al-juz'iyah* (maqasid cabang). *Al-Maqasid al-'ammah* merujuk kepada maqasid syariah yang lebih umum, iaitu keseluruhan syariah ini diturunkan adalah semata-mata bertujuan untuk menjaga dan memelihara keamanan dan keharmonian kehidupan manusia. Manakala *al-maqasid al-khassah* pula ialah hikmah-hikmah yang lebih khusus yang diambil kira oleh syarak dalam menentukan sesuatu atau beberapa kelompok hukum tertentu, contohnya hukum kekeluargaan. *Al-Maqasid al-juz'iyah* pula merupakan objektif pecahan yang lebih kecil seperti hukum sunat melangsungkan perkahwinan dan sebagainya (Mohd Fikri, 2012).

Ibn 'Asyur (1999) menjelaskan bahawa *al-maqasid al-'ammah* ialah pengertian dan hikmah yang dapat diperhatikan pada semua atau sebahagian besar daripada hal ehwal pensyariaan dan bukan khusus pada satu-satu jenis hukum sahaja. Terdapat dua formula yang dihimpuikan dalam *al-maqasid al-'ammah*. Pertama, ia dikenali sebagai *al-dharuriyat al-khams* (الضروريات الخمس), iaitu menjaga lima kepentingan hidup, iaitu memelihara agama, jiwa, keturunan, akal dan harta. Kedua, formula ataupun kaedah *raf'ul haraj* (رفع الحرج) yang bermaksud mengelakkan kesempitan dengan menegakkan keadilan sesama manusia. Keadilan ini mampu mengeluarkan manusia daripada runtunan hawa nafsu dan mengembalikannya kepada fitrah semula jadi manusia yang sentiasa menginginkan kebaikan.

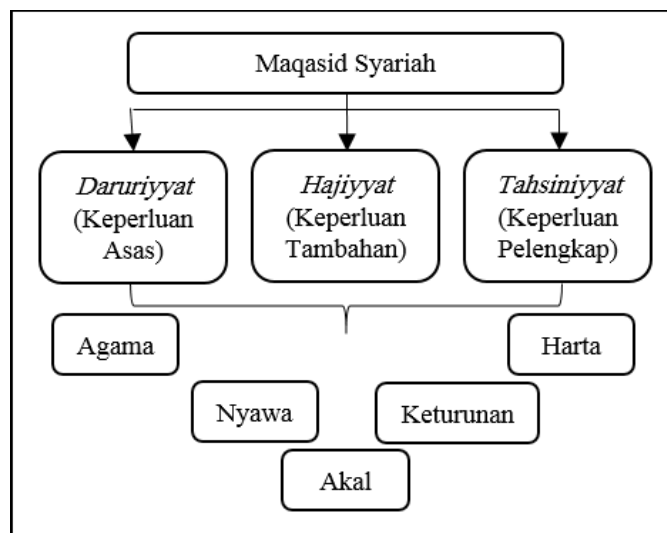
Manakala Imam al-Syatibi (1996) pula menyatakan bahawa tahap kepentingan manusia berbeza berdasarkan keperluan diri, sosio-ekonomi, latar belakang pendidikan dan sebagainya. Syariat Islam bersifat dinamis dan fleksibel menyusun objektif syariah selari dengan keperluan dan kepentingan manusia sejagat. Berdasarkan perspektif syarak, masalah tahap kepentingan yang perlu dijaga dikategorikan kepada tiga bahagian, iaitu *al-daruriyyat*, *al-hajiyyat* dan *al-*

tahsiniyyat (al-Syatibi, 1996), sebagaimana yang disepakati ulama seperti Imam al-Haramayn, al-Ghazali, al’Izz al-Din ‘Abd al-Salam, al-Qarafi, Ibn Taymiyyah dan Ibn Qayyim.

Perbincangan Dan Dapatan Kajian

Penetapan had kifayah zakat melibatkan dua komponen utama iaitu item yang terlibat dalam pentaksiran had kifayah zakat dan kadar tolakan yang dibenarkan. Penetapan item had kifayah zakat khususnya perlu dinilai berdasarkan kepada pendekatan maqasid syariah yang secara umumnya melibatkan penjagaan dan pemeliharaan agama, nyawa, akal, harta dan keturunan. Melalui pendekatan ini, Strata Had Kifayah Zakat menurut maqasid syariah telah dirangka sebagai platform untuk menilai item-item had kifayah zakat menggunakan ontologi *daruriyyat* (keperluan asas), *hajiyyat* (keperluan tambahan) dan *tahsiniyyat* (keperluan pelengkap) (rujuk Rajah 1)

Rajah 1: Strata Had Kifayah Zakat Pendapatan Berasaskan Maqasid Syariah



Daruriyyat (Keperluan Asas)

Daruriyyat didefinisikan sebagai keperluan asas yang perlu dipenuhi oleh seseorang individu sama ada dalam perkara berbentuk keagamaan (akhirat) ataupun keduniaan. Kegagalan untuk memenuhi tuntutan *daruriyyat* ini akan mengakibatkan kecelakaan atau kemudaratan yang besar kepada kehidupan individu tersebut *waima* kesusahan di dunia ataupun mendapat azab di akhirat.

Dalam konteks had kifayah zakat, ialah keperluan untuk memastikan seseorang individu tersebut boleh menjalani kehidupan secara normal termasuklah keperluan terhadap makanan, pakaian, tempat tinggal, pengangkutan dan pendidikan (Azman Ab Rahman et.al, 2016). Makanan dan tempat tinggal sebagai contoh amat penting bagi pemeliharaan agama dan nyawa seseorang

individu, manakala pendidikan sangat penting untuk memelihara akal. Demikian juga pakaian dan pengangkutan penting bagi memelihara keturunan dan harta.

Hajiyyat (Keperluan Tambahan)

Menurut al-Syatibi (1996), *hajiyyat* bermaksud sebuah objektif atau tujuan yang diperlukan untuk mencapai kelapangan dalam kehidupan, sekaligus menghilangkan kesempitan yang pada kebiasaannya membawa kesusahan. Sekiranya perkara *hajiyyat* ini tidak diberikan perhatian, maka terdapat kesukaran yang perlu dihadapi tetapi tidaklah membawa kepada keadaan darurat yang menghancurkan kehidupan manusia secara keseluruhannya.

Perubatan, utiliti dan komunikasi merupakan item yang dikategorikan sebagai keperluan tambahan kepada seseorang individu (Azman Ab Rahman et.al, 2016). Kehidupan pada zaman moden sekarang ini memerlukan kepada kemudahan utiliti dan komunikasi seperti bekalan air, elektrik, telefon dan jaringan internet. Kemudahan-kemudahan ini diperlukan dalam banyak perkara sama ada untuk kehidupan harian ataupun pekerjaan. Manakala keperluan terhadap perubatan juga dilihat sebagai keperluan tambahan kerana masyarakat disuruh untuk memelihara kesihatan tubuh badan sebelum dihadapi dengan penyakit-penyakit kritikal yang memerlukan kepada ubat-ubatan.

Tahsiniyyat (Keperluan Pelengkap)

Tahsiniyyat pula ditakrifkan sebagai perbuatan melakukan sesuatu amalan atau adat yang baik dan terpuji serta menjauhi perkara-perkara yang dianggap tidak baik oleh akal yang sempurna (al-Syatibi, 1996). Al-Ghazali berpendapat bahawa kepentingan *tahsiniyyat* ialah membantu dan menampung dalam usaha mencapai keperluan biasa dan kepentingan asas, iaitu bersifat pelengkap kepada pencapaian *hajiyyat* dan *daruriyyat* (Al-Ghazali, 1993).

Dalam konteks had kifayah zakat, individu yang menanggung hutang kerana ditimpa musibah, membantu menjaga kemaslahatan ummah atau perkara-perkara yang dibenarkan oleh syarak boleh dikategorikan sebagai keperluan pelengkap kepada seseorang individu. Hal ini adalah kerana Islam tidak menggalakkan umatnya berhutang kecuali atas faktor-faktor yang tidak dapat dielakkan (Azman Ab Rahman et.al, 2016).

Jadual 1: Pembahagian Item Had Kifayah Zakat Mengikut Tahap Keperluan

Bil	Item Had Kifayah	Tahap Keperluan
1	- Makanan - Pakaian - Tempat Tinggal - Pengangkutan - Pendidikan	Daruriyyat
2	- Perubatan - Utiliti - Komunikasi	Hajiyyat

Sumber: Azman Ab Rahman, 2016

Jadual 1 menunjukkan pembahagian item-item had kifayah zakat mengikut strata dan ontologi daruriyyat, hajiyyat dan tahsiniyyat. Item-item yang disusun adalah berdasarkan kepada pemahaman terhadap hadis-hadis Nabi SAW. Namun, kedudukan item-item tersebut mengikut tahap keperluan mungkin berbeza dari masa ke semasa bergantung kepada keadaan sosial dan ekonomi masyarakat setempat.

Strata Had Kifayah Zakat Menurut Maqasid Syariah

Di Lembaga Zakat Selangor (LZS)

Lembaga Zakat Selangor dipilih sebagai model kajian kerana merupakan satu daripada negeri yang menjalankan kajian semula terhadap taksiran had kifayah zakat. Berdasarkan kepada Prinsip Had Kifayah Zakat Negeri Selangor (Mohammad Farid, t.th) yang disediakan oleh Eksekutif Syariah, Lembaga Zakat Selangor, keperluan asasi hidup manusia dipecahkan kepada enam aspek secara umum iaitu perlindungan, makanan, pakaian, pendidikan, kesihatan dan pengangkutan.

Keenam-enam aspek ini merupakan tema utama yang gariskan oleh Lembaga Zakat Selangor dalam pengiraan had kifayah zakat. Perincian-perincian bagi setiap tema diterangkan secara jelas seperti berikut:

Perlindungan

Iaitu segala perbelanjaan asas bagi menyediakan perlindungan untuk isi rumah seperti bayaran sewa atau ansuran rumah, bayaran asas utiliti dan segala perkara yang bersangkutan dengan keperluan asas perlindungan isi rumah.

Makanan

Iaitu segala perbelanjaan asas bagi menyediakan keperluan makanan dan minuman isi rumah sama ada makanan di dalam atau di luar rumah.

Pakaian

Iaitu segala perbelanjaan asas bagi segala bentuk pakaian yang digunakan oleh ahli rumah seperti pakaian harian, pakaian sekolah, pakaian kerja dan seumpamanya yang dianggap sebagai asasi.

Pendidikan

Iaitu segala perbelanjaan asas bagi menyediakan pendidikan isi rumah seperti yuran asas sekolah/kolej/universiti, pembelian buku-buku asas, wang saku dan segala perkara asas yang berkaitan dengan pendidikan.

Kesihatan

Iaitu segala perbelanjaan asas bagi memelihara kesihatan isi rumah seperti belanja rawatan, pembelian ubat-ubatan sama ada di klinik awam ataupun swasta, rawatan di hospital awam atau pembelian ubat-ubatan di kedai ubat atau farmasi dan segala perbelanjaan bagi kesihatan yang dianggap sebagai asasi.

Pengangkutan

Iaitu segala perbelanjaan asas yang keperluan pengangkutan isi rumah seperti petrol, bayaran ansuran kenderaan, tambang pengangkutan awam dan segala bentuk pengangkutan berbayar. Berdasarkan kepada penerangan di atas, dapat disimpulkan bahawa keperluan asasi yang digariskan oleh Lembaga Zakat Selangor boleh diklasifikasikan secara lebih terperinci berdasarkan kepada Strata Had Kifayah Zakat Menurut maqasid syariah.

Jadual 2: Klasifikasi Item Had Kifayah LZS berdasarkan kepada Strata Had Kifayah Zakat Menurut Maqasid Syariah

Tahap Keperluan	Item Had Kifayah
Daruriyyat	Bayaran sewa rumah
	Bayaran ansuran rumah
	Makanan (dalam dan luar rumah)
	Pakaian
	Pendidikan (yuran dan buku asas)
	Tambang pengangkutan awam
	Petrol
Hajiyyat	Rawatan
	Ubat-ubatan
	Utiliti rumah
Tahsiniyyat	Ansuran kenderaan

Jadual 2 menunjukkan klasifikasi item had kifayah zakat di Lembaga Zakat Selangor berdasarkan kepada Strata Had Kifayah Zakat menurut maqasid syariah. Analisa yang dibuat membahagikan item perlindungan kepada beberapa bahagian iaitu sewa rumah, ansuran rumah dan utiliti rumah. Bagi bayaran sewa dan ansuran rumah diletakkan sebagai *daruriyyat* (keperluan asas) manakala utiliti rumah diletakkan sebagai *hajiyyat* (keperluan tambahan).

Item makanan, pakaian dan pendidikan diklasifikasikan sebagai *daruriyyat* (keperluan asas) yang perlu ada bagi setiap individu, manakala item kesihatan diklasifikasikan sebagai *hajiyyat* (keperluan tambahan). Item pengangkutan pula dibahagikan kepada tiga bahagian utama iaitu tambang pengangkutan awam dan petrol diklasifikasikan sebagai *daruriyyat* (keperluan asas) manakala ansuran kenderaan diklasifikasikan sebagai *tahsiniyyat* (keperluan pelengkap).

Berdasarkan kepada Prinsip Had Kifayah Zakat Negeri Selangor (Mohammad Farid, t.th) dan analisa item di Jadual 2 menunjukkan bahawa penetapan had kifayah Zakat oleh LZS telah

menepati kriteria had kifayah berdasarkan maqasid syariah. Walau bagaimanapun, masih terdapat beberapa ruang penambahbaikan yang boleh dilaksanakan. Sebagai contoh, keperluan tambahan seperti telekomunikasi dan jaringan internet pada masa kini dilihat sebagai perkara yang penting sama ada untuk kegunaan pekerjaan mahupun kehidupan seharian. Justeru, pelbagai keperluan semasa individu perlu dinilai berdasarkan strata yang dibina agar setiap individu diberikan hak sebagaimana ditetapkan oleh syarak.

KESIMPULAN

Penetapan item dalam taksiran had kifayah zakat perlu melihat kepada faktor keperluan individu, ekonomi, sosial dan menepati maqasid syariah. Taksiran had kifayah zakat di Lembaga Zakat Selangor dilihat telah menepati kriteria maqasid syariah, namun masih terdapat ruang penambahbaikan yang boleh dilaksanakan melihat kepada keperluan semasa masyarakat. Strata had kifayah zakat menurut maqasid syariah dilihat mampu untuk dijadikan garis panduan bagi mengkoordinasikan item-item had kifayah zakat di setiap negeri.

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EZ077:
HAD AL-KIFAYAH AND PAYMENT OF ZAKAT ON INCOME

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Abstract

Zakat is compulsory to all Muslims who have reached the required conditions to pay zakat. Ideally, with the obligations and the positive outcomes of zakat, it is expected that the Muslims would perform their zakat obligation. Nevertheless, this is not always the case. This could pose a question of the possible factors that influence the payment of zakat. The purpose of this study is to investigate the factors that encourage Muslim employees to pay zakat on income. The study employed a survey to gather the required data. Questionnaires were distributed to staffs of a selected institution that pay zakat on income. Five variables were tested to identify their relationship with zakat payment. The study found that knowledge of the payers has significant influence that motivates them to pay zakat on their income. It is recommended that the respective institutions that collect zakat to extensively disseminate the knowledge relating to zakat among the public.

Keywords: Had al-kifayah, Zakatability, Zakat on income

INTRODUCTION

Had al-kifayah is a general tool to measure the adequacy of expenditure of a family or an individual (Bayu, 2016). The adequacy often refers to the sufficiency of a person and his family in meeting the minimum requirement of living. Department of Awqaf, *Hajj and Zakat* Malaysia (JAWHAR) outlined minimum requirement to comprise food, shelter, clothing, education, health and transportation (JAWHAR, 2007). In the context of *zakat* recipients (asnaf), had *al-kifayah* would be used to identify whether a person is poor (miskin) or absolutely poor (fakir) that would enable them to receive *zakat*. One is therefore considered as poor whenever the household income per month is not able to meet the minimum basic requirements (had al-kifayah) of his life (Abdul Rashid et al., 2015). On the other hand, a person is considered rich and may be *zakatable* whenever his income surplus is over and above the necessary had al-kifayah expenses needed by the family.

As a Muslim, *zakat* is an obligation and it is compulsory to all Muslims who have reached the required conditions to pay *zakat*. *Zakat* is important particularly in today's society as it can help to bridge the gap between the rich and poor in a society. Through redistributive mechanism, *zakat* can contribute to economic development in term of poverty alleviation and reducing unemployment. By lessening the gap between poor and rich, *zakat* certainly can help maintaining economic stability and developed a nation to go forward.

Zakat collection will be used for a good cause that is the money collected will be distributed to the poor and needy. Contribution from *zakat* can help to balance the socio-economic inequality among Muslims, as the wealthy could help to increase quality of life of the poor (Azhana&Abd Halim, 2012). This indirectly will bring up the economy of a country, as poverty level can be reduced, which is a big factor to ensure a country to be a developed country.

The obligations of paying *zakat* have been clearly spelled out in the Al-Quran and it occupies the third position among the five pillars of Islam. *Zakat* will be collected from qualified *zakat* payers who have met the necessary conditions for *zakat*. The fundamental benefit of *zakat* is that every individual in a society is assured of minimum means of livelihood which would enable social justice to prevail (Patmawati, 2008).

In ensuring the mean of social justice to prevail, the flow of *zakat* payment needs to sustain. The issue arise when the *zakat* institution are facing with the difficulties in achieving the stability in the collection of *zakat*. Ideally, with the obligations and the positive outcomes of *zakat*, it is expected that the Muslims would perform their *zakat* obligation. Nevertheless, this is not always the case. As reported by Majlis Agama Islam Wilayah Persekutuan (MAIWP), they only managed to collect around 60 percent of *zakat* on income from 194,997 recorded Muslims that work in Kuala Lumpur. The rest of the working Muslims might be paying *zakat* on other states, or perhaps did not fulfill their *zakat* obligations at all (MAIWP, 2015).

Other states in Malaysia have shown an increase in *zakat* collection, albeit only a little. This could be due to the increasing number of Muslim workers each year. Although in general the number is increasing, there are states that record a drop in *zakat* collection year by year, and some states also has inconsistent collection of *zakat*. The statistics showed that only 7 states that records a stable *zakat* collection in term of increasing collection every year (JAWHAR, 2015). The said states are Kuala Lumpur, Selangor, Kedah, Kelantan, Negeri Sembilan, Pahang and Pulau Pinang. Other states have experienced a decrease in *zakat* collection, though ideally an increase is expected due to the growing number of Muslim workers.

The preceding discussion posed a question of how *zakat* institution could have a stable and consistent collection of *zakat*. Could there be factors that motivate a Muslim to pay *zakat*? By sorting out the most influencing factors, *zakat* institution may plan some necessary steps or

measures to increase the collection of *zakat* and to achieve the stability in *zakat* collection. This study would therefore aim to find out the significant factor that can influence a person to pay *zakat* obligation.

REVIEW OF LITERATURE

Though there are many *zakatable* properties in Islam, this study focused mainly on *zakat* enforceable to income earners. The following sub-sections deliberated on the concept of *zakat* on income and several possible determinants for the payment of the *zakat*.

Payment of *Zakat* on Income

Zakat on income includes all types of income or return of services return in the form of salaries, wages, bonuses, dividends, rental revenue, royalties, grants, allowances, compensation, pension, seasonal business, and other forms of revenue during life, retires or dies and any income based on a career or as professionals (PusatPungutan *Zakat* Majelis Agama IslamWilayahPersekutuan,2014). A Muslim needs to pay *zakat* on income when the excess over and above his had *al-kifayah* has reached the current *nisab* (current value of 85 gm. of gold). In other words, upon deduction of his necessary expenses from his income, a 2.5 percent would be given away for *zakat* when the surplus meets the *nisab*. *Zakat* can be paid monthly (Al-Qardawi, 2004) or yearly, and a person could pay the *zakat* directly to the asnaf though paying through *zakat* institution is highly recommended. The issue of *zakatability* of income has been a long debatable issue. Muslim scholars worldwide have various opinions with regards to it (NurBarizah, 2008). Some scholars agree on its *zakatability*, others object, while the rest remain silent. Among the reasons given by those who believed in the *zakatability* of earned income are the following (Kahf, 1999):

- i. Texts of *zakatability* are general and inclusive,
- ii. Excluding this category of income is not consistent with levying *zakat* on agricultural income as well as on other kinds of *zakatable* income,
- iii. Exempting this category results in relieving many of the rich persons while low income merchants and others are charged *zakat*
- iv. Charging this category *zakat* is consistent with the general principles of justice at large and its application to *zakat* is specific.

There are a number of scholars who argued that income is not liable for *zakat*. Among them who supported this opinion are Imam Abu Hanifa, Imam Malik and Imam Syafie (Al-Qardawi, 1999). However, according to Al-Qardawi, who is one of the proponents of *zakat* on income, Muslims are not obliged to follow any of these scholars' rulings. The argument provided by these scholars is that the Prophet never practiced nor charged *zakat* on income.

Factors Contributing To Zakat Payment

There could be many factors that contribute to the payment of *zakat* on income. Based on previous literature, this study focused on five factors that contribute to *zakat* payment on income namely income, factor of knowledge, attitude, religiosity, and roles of *zakat* institution.

Income

Income on employment is an earning that individual can obtain by working on behalf of other person/organization. There are also person who obtain personal income by doing their own work, business or invest into something profitable. All of these incomes are obliged by Islam to spendsmall part of it for *zakat*. Some employees agree that if they have higher level of income, they will be much more obliged to pay *zakat* (Mohamad Nizam, 2011). Higher level of income will mean that higher amount of *zakat* need to be paid.

Study by Shahiszan et al. (2012) showed that most government staff working in Melaka do not have problem to pay *zakat* on income, if their income exceeded nisab. Most of them also agreed that spending on *zakat* is not a waste of money, but rather an obligation towards Islam, and also combined with good attitude in trying to help other people who are in needs. Another point to look at is, most of the employees that higher income level is a factor that influence a Muslim to pay *zakat*.

The effect of income on payment of *zakat* is also supported by study by Hairunnizam, Sanep and Mohd Ali (2005), they found that two of the most developed states in Malaysia, which are Selangor and Kuala Lumpur always have the highest collection of *zakat* on income comparing to other states, which is RM52.05 million and RM63.74 million respectively on 2004. If the most developed states somehow have less collection of *zakat* compared to other states, then factor of level of income is not the main cause to influence people to pay *zakat*, rather other factors might have influenced them.

Knowledge

Knowledge means facts, information, and skills acquired through experience or education the theoretical or practical understanding of a subject. Furthermore it also brings the meaning of awareness or familiarity gained by experience of a fact or situation. Muslims should aware oftheir obligation in fulfilling *zakat* and they should have the knowledge in *zakat*, in terms of condition of *zakat*, categories of *zakat* distribution, the types of *zakat* and many more.

A study conduct by Shahiszan et al. (2012) found that the level of knowledge towards *zakat* on employment income provides highest mean score (4.8571) compared to other factors. This finding showed that the respondents strongly agree that level of knowledge is the major catalyst that influenced them to pay *zakat* on income. They also found a positive relationship between levels of knowledge of *zakat* on employment income (Kamil, 2005; Nurbarizah& Hafiz, 2010).

With proper education and knowledge imparted to the Muslims irrespective of whether they are government servants or private staffs, the *zakat* system in Malaysia can play a far greater role in empowering the economics of the Ummah (NurBarizah&Hafiz, 2010).

Attitude

Attitude of a person on paying *zakat* can also be said to have an influence in fulfilling *zakat*. If a person realizes the good cause that they can give if they fulfill *zakat* obligations, they would pay *zakat* on income, or at least will feel guilty if they did not pay *zakat*. But there are some Muslims who are aware of the importance of paying *zakat* but they just could not carelessly fulfill the obligations.

One of the attitudes of a person that can influence their decision to pay *zakat* is their religiosity. Findings by Teh, Aza &Suhaini (2015) explain that the respondents complied with the third pillar of Islam remained committed in performing the obligation of *zakat* on salary income and they considered awareness or information of *zakat* did not influence their decision in giving *zakat*. As long as someone knows that *zakat* is compulsory in Islam, they will try to find a way to fulfill it although there might be little information or limited way to pay *zakat* on income.

There are people who chose not to pay *zakat*, as they did not believe in *zakat* institution. They prefer to pay income tax rather than *zakat*. They give more priority to pay tax than the *zakat* because they feel the law enforcement and tax compliance are very clear and often publicized to the general public (Muhamad Muda, Marzuki&Shaharuddin, 2006). This factor is also closely related to religiosity of a person, as a religious person would still pay *zakat* as it is an obligation to Islam.

Other than that, some people feel more obliged to pay *zakat* because they feel the need to help the poor. They believe that *zakat* institution is honest in dealing with their money, and spread the wealth to the needy and poor. Furthermore, nowadays it is convenient to pay *zakat*, thus it is easier for a person to fulfill its obligation. Various technology systems have been developed and prepared for the convenience of *zakat* payer. Close cooperation between the agencies and various parties has been established to widen the *zakat* payment facilities such as banking institutions, statutory bodies, tertiary education institutions and others as *zakat* collection agencies. Thus, today the payment of *zakat* can be made easily and quickly (Teh, Aza &Suhaini, 2015).

Religiosity

Normally, a person who is involved with various religious activities would be more inclined to comply with *zakat* payment. This is because *zakat* is one of the pillars of Islam and adherence to this rule depends on the extent to which a person appreciates the values of Islam (Kamil, Zainol& Ram, 2012). In the *zakat* environment, Zainol (2008) found that religiosity is positively related to the intention to comply with *zakat* on employment income. Individuals who practice

Islam or highly religious individuals are more likely to pay *zakat* than their less religious counterparts (Kamil, Zainol& Ram, 2012).

The relationship between the factors of religiosity with *zakat* payment is support by NurBarizah (2010). Her study on motivation factors of paying *zakat* of income: evidence from Malaysia. The paper main objectives are to identify factors that may influence the Muslims behavior towards *zakat* on income. The finding of this study suggests that social, religious, and economic factor prevail over the other relatively 'self-centered' factors based on the main ranking those who pay *zakat*. The study suggests for the need to have proper education on *zakat* which may eventually help the ummah to benefit from the system of *zakat*.

Roles of Zakat Institution

There are several research journals focusing on the aspect of collection and distribution of *zakat* collection by *zakat* institution. Effectiveness of *zakat* distribution is important, and the attempt to privatize *zakat* institution in order to increase the effectiveness of *zakat* collection and distribution has been done. Among the states involved are Selangor, Wilayah Persekutuan Kuala Lumpur, and Negeri Sembilan. This privatization had influenced the level of effectiveness in *zakat* collection and distribution. For instance, Pusat Zakat Selangor (PZS) had successfully distributed 80% of its *zakat* collection, and is considered as the best in *zakat* distribution as compared to Negeri Sembilan, Kedah and Perak (Zulkefly, MohdAzlan&Hairunnizam, 2002)

Sanep, Hairunnizam and Adnan (2006) found out through their research, that people are prone to pay *zakat* through *zakat* institution, if they are satisfied with how the *zakat* institution handled their *zakat* collection. *Zakat* payers who feel their *zakat* was not distributed fairly and efficiently by the institution will prone to pay *zakat* straight to the *asnaf*. This is following the case of misuse of *zakat* collection and low efficiency in distributing it. Studies revealed that among the problem in *zakat* payment is because the payers were not satisfied with current management of *zakat* distribution (Sanep, 2006; Hairunnizam, 2009).

As for the people who pay their *zakat* through *zakat* institution, the convenience in paying *zakat* is important to attract them to pay. Muhamad Muda et al. (2006) found that, some respondents maintained to pay *zakat* because they are satisfied and rely on the services offered by the organization responsible in the collection of *zakat*. If there are many channels that offer the easiness on paying *zakat*, then it is much easier for busy workers to pay i.e. through the salary deduction. This method significantly influences more people to pay *zakat*.

RESEARCH METHOD

The purpose of this study is to investigate the factors that encourage Muslim employees to pay *zakat* on income. The study employed a survey to gather the required data. In conducting a research, the data collection process is one of the crucial aspects. The inaccurate data collection

will lead to an invalid result as this might ruin the entire research conducted. The data can be in many sources either literature review, questionnaires, focus groups, and others depend on the needs of the study. Primary data refer to any first-hand information obtained by the researcher on the variables of interest of the specific purpose of the study (Sekaran et al., 2010). For this study, primary data were collected using questionnaire. A total of 115 questionnaires were distributed among the employees of FeldaProdata Systems Sdn Bhd. The collected data were then analysed using descriptive analysis and correlation coefficient. The questionnaire consists of seven sections. Section A captured the demography of the respondent which consists of respondent's age, gender, marital status, education level, method of *zakat* payment, monthly income and designation. Section B, C, D, E, F, and G measured the dependent and independent variables using Likert scale. The respondents were asked based on level of agreement from 5=Strongly Agree, 4=Agree, 3=Quiet Agree, 2=Disagree, and lastly 1=Strongly Disagree.

Analysis of Findings

In attaining the objective of this study, a total of 115 sets of questionnaire have been distributed to employees who pay *zakat* for income. Nevertheless, only hundred are useful for analysis of this study.

Demography of Respondents

Many of the respondents (60 percent) are female staffs and they hold a position at all levels comprising of manager (5 percent), assistant manager (7 percent), senior executive (9 percent), and executive (53 percent) while the rest are other subordinates (21 percent). Of all the designations, executives encompassed more than fifty percent. This could imply that many of the staffs approached are Malay Muslim executives who involved directly in the running of the company.

Generally, the respondents are considered young as 80 percent of them aged below 40 years old. As for the respondents' marital status, 67 percent of them are married. The other 32 percent of respondents are still single and one respondent is widower. As far as the respondents' educational level is concerned, many of the surveyed staffs had either diplomas (24 percent) or bachelor's degree (69 percent), very few (3 percent) had completed secondary school and the rest of them had post-graduate degrees (4 percent).

The respondents were asked on the method of *zakat* payment. Not surprisingly, 56 percent of them pay *zakat* via salary deduction, 20 percent use internet banking, 10 percent pay at the counter while the rest of 14 percent pay *zakat* directly to the asnaf. A significant percentage of salary deduction as a mean to pay *zakat* could indicate the usefulness of the facility as payers do not have to go through the hassle of paying the *zakat* themselves.

Determinants of Zakat Payment

Pearson correlation can be used to measure relationship and direction of relationship between variables. For this study, the payment of *zakat* is tested with five independent variables which are attitude, income status, knowledge on *zakat*, religiosity and roles of *zakat* institution. The strength of the relationship could be measured based on the following table:

Table 1: Interpretation of Pearson Correlation Value

Pearson Correlation Value (r)	Interpretation
Less than .20	Slight, almost negligible relationship
.20 to .40	Low correlation, definite but small relationship
.40 to .70	Moderate correlation, substantial relationship
.70 to .90	High correlation, marked relationship
.90 to 1.00	Very high, very dependent relationship

Source: Sekaran&Bougie (2010)

Table 2 below displayed the outcome of Pearson correlation value (r) of all the variables. The value of r for all independent variables against dependent variable showed a significant positive relationship.

Table 2: Relationship between dependent and independent variables (Pearson Correlation)

		PoZ	Att	IncStat	KoZ	Relg	RoZI
PoZ	Pearson C	1	.367**	.375**	.476**	.217*	.329**
	Sig.(2-tailed)		.000	.000	.000	.030	.001
Att	Pearson C	.367**	1	.745**	.712**	.363**	.429**
	Sig.(2-tailed)	.000		.000	.000	.000	.000
IncStat	Pearson C	.375**	.745**	1	.719**	.494**	.342**
	Sig.(2-tailed)	.000	.000	.000	.000	.000	.000
KoZ	Pearson C	.476**	.712**	.719**	1	.518**	.520**
	Sig.(2-tailed)	.000	.000	.000		.000	.000
Relg	Pearson C	.217*	.363**	.494**	.518**	1	.230*
	Sig.(2-tailed)	.030	.000	.000	.000		.021
RoZI	Pearson C	.329**	.429**	.342**	.520**	.230*	1
	Sig.(2-tailed)	.001	.000	.000	.000	.021	

** Correlation is significant at the 0.01level (2-tailed).

* Correlation is significant at the 0.05 level (2-tailed).

Nevertheless, all independent variables except knowledge on *zakat* (KoZ) are showing weak relationship as the r value for each one of them is less than 0.4. Knowledge on *zakat* (KoZ) has a substantially moderate relationship with payment of *zakat* on income (PoZ). This could indicate that knowledge has substantial influence in driving the staffs to pay *zakat* on their monthly earnings. This could also imply that the respective *zakat* collection institutions should extensively embark on enhancing the knowledge among public on *zakat*.

CONCLUSION

The collection of *zakat* in many *zakat* institutions recorded an increase every year. The increase could have been motivated by various factors. This study examined the contributing factors for the payment of *zakat* on income. Findings of this study revealed that factors like attitude, knowledge, religiosity, income and role of *zakat* institution have significant relationship with *zakat* payment. Nevertheless, of the said factors, only knowledge has a much stronger relationship. The study concludes that the increase of knowledge among the public and employees in particular, is important in order to increase awareness and motivation to pay *zakat*.

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BZ078:
**KEPERLUAN PENYELIDIKAN HAD KIFAYAH INSTITUSI PENGAJIAN
TINGGI DI MALAYSIA**

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Abstrak

Kajian ini bertujuan untuk menghuraikan keperluan penyelidikan had kifayah institusi pengajian tinggi (IPT) di Malaysia bagi melahirkan modal insan. Amalan had kifayah zakat oleh institusi zakat kepada pelajar IPT sedia ada tidak mencerminkan keperluan ekonomi semasa lebih-lebih lagi dengan peningkatan kos sara hidup. Justeru itu IPT perlu melakukan penyelidikan had kifayah agar sesuai dan menepati dengan suasana, keperluan dan lokasi IPT berkenaan.

Kata Kunci: Had Kifayah, IPT Malaysia, Ekonomi

PENGENALAN

Penyelidikan merupakan satu proses berfikir, menyelidik, menganalisa dan meneroka ilmu yang sangat bermanfaat. Justeru itu, tugas menghasilkan kertas kerja merupakan medan latihan bagi mengasah kemahiran dan kepakaran dalam bidang penyelidikan. Menurut Kamus Dewan (2014), penyelidikan bermaksud memeriksa sesuatu yang belum terang, menyiasat untuk mendapat kesedaran dan sebagainya tentang sesuatu. Penyelidikan juga bermaksud mempelajari bersungguh-sungguh untuk mengetahui tentang sesuatu. Selain itu, penyelidikan dilakukan untuk tujuan memberi jawapan kepada ketidakpastian atau mencari kebenaran bagi menerangkan sesuatu perkara atau fenomena yang telah, sedang, atau belum berlaku (Mohd Ashrof Zaki Yaakob, 2013).

Universiti sebagai sebuah menara gading mempunyai tanggungjawab besar untuk memacu perkembangan ilmu demi kebaikan masyarakat dan negara. Bagi memastikan ilmu relevan dengan perkembangan semasa, pastinya usaha perlu digerakkan terutama melalui penyelidikan. Universiti terkemuka dunia seperti Harvard dan Cambridge menyediakan dana yang besar untuk mendapat hasil penyelidikan yang bermutu bagi tujuan kemajuan pendidikan tinggi dan industri (Utusan Malaysia 12 September 2011). Demi untuk mencapai kecemerlangan dalam penyelidikan, kerajaan Malaysia dalam bajet 2015 menyediakan peruntukan grant bernilai RM1.3 billion untuk kemudahan penyelidikan di universiti awam dan swasta tempatan (Berita Harian 22 Oktober 2014). Namun demikian, peruntukan ini tidak merangkumi institusi-institusi Islam di negeri-negeri kerana urusan agama adalah di bawah bidang kuasa kerajaan negeri.

Institusi Zakat Di Malaysia

Institusi pengurusan zakat di Malaysia adalah terletak di bawah bidang kuasa Majlis Agama Islam Negeri. Kebanyakan negeri di Malaysia mengasingkan urusan kutipan dan agihan zakat, dan ada juga negeri yang menggabungkan urusan kutipan dan agihan di bawah satu organisasi. Sebagai contoh Wilayah Persekutuan, ia mengasingkan urusan kutipan dan agihan zakat. Kutipan zakat dilakukan oleh Pusat Pungutan Zakat (PPZ), manakala urusan pengagihan zakat dilakukan oleh Majlis Agama Islam Wilayah Persekutuan (MAIWP). Berbeza dengan Negeri Selangor, urusan kutipan dan agihan zakat dilakukan oleh satu badan khas yang sama iaitu Lembaga Zakat Selangor (LZS).

Menurut persepsi awam, institusi zakat hanya bertujuan untuk melaksanakan urusan berkenaan zakat iaitu mengutip zakat dan mengagihkan zakat. Selain dari mengutip dan mengagihkan zakat, institusi zakat juga perlu melakukan penambahbaikan dari segi sistem pengurusan dan juga meningkatkan taraf hidup asnaf dari masa ke semasa. Perkara ini memerlukan penyelidikan secara mendalam dan berterusan. Penyelidikan mengenai zakat dikira penting pada hari ini kerana melalui penyelidikan dapat membantu institusi zakat mengetahui kelemahan institusi zakat itu sendiri dan melakukan penambahbaikan dalam pengurusan. Selain itu, melalui penyelidikan juga, institusi zakat dapat mengetahui mengenai keberkesanan agihan zakat terhadap asnaf dan cadangan pembangunan asnaf hasil daripada dapatan penyelidikan. Sesuatu penyelidikan yang dibuat berdasarkan kepada wujudnya jurang sesuatu masalah yang timbul dalam sesebuah institusi. Penyelidik harus mengenalpasti objektif-objektif yang tepat untuk menyelesaikan masalah dan menggunakan metodologi yang sesuai untuk menyelesaikan masalah tersebut. Pada akhir penyelidikan, penyelidik akan memberikan cadangan penyelesaian masalah atau model-model pengurusan yang terbaik.

Penyelidikan Had Kifayah Zakat

Had kifayah bermaksud suatu kadar keperluan asas minimum yang ditetapkan berdasarkan kos sara hidup semasa oleh institusi zakat (JAWHAR, 2007). Had kifayah ini juga digunakan bagi mengetahui berapakah kadar yang perlu dibantu untuk menepati kecukupan perbelanjaan asasi. Bagi mereka yang mempunyai pendapatan melebihi kadar had kifayah adalah tergolong dikalangan kaya dan wajib mengeluarkan zakat mengikut kelayakan. Meskipun komponen asas had kifayah telah diselaraskan oleh JAWHAR, namun dalam pelaksanaannya terdapat perbezaan kadar penilaian dari sudut kewangan ketika menentukan garis kemiskinan sesebuah keluarga. Perbezaan tersebut bukan hanya berlaku antara negeri-negeri, malah berlaku juga antara kawasan bandar dengan luar bandar dinegeri yang sama (Mohd Faisol et.al. 2014).

Kebanyakan institusi zakat belum mempunyai satu organisasi penyelidikan yang mantap tentang kajian zakat, kalau ada pun ia agak terhad peruntukan dan bilangan penyelidiknyanya. Sehubungan dengan itu, pihak Institusi Pengajian Tinggi turut menjadikan bidang penyelidikan zakat dan wakaf sebagai fokus utama kajian mereka. Ini membuktikan bahawa penyelidikan penting bagi

pembangunan institusi zakat itu sendiri. Sehingga bahan ini ditulis belum banyak penyelidikan mengenai had kifayah dihasilkan. Terdapat beberapa hasil kajian had kifayah yang telah dilakukan oleh para penyelidik antaranya:

Azman Ab. Rahman (2016) dalam kajiannya “Had Kifayah Zakat Di Malaysia: Isu dan Cabaran” menyatakan bahawa dalam konteks pengurusan zakat, had kifayah menjadi garis pemisah antara mereka yang perlu membayar zakat dan mereka yang berhak menerima zakat. Pemahaman konsep had kifayah zakat amat penting dikalangan masyarakat khususnya kepada pihak-pihak yang berkuasa dalam pentadbiran zakat. Perbincangan isu had kifayah perlu dilihat secara menyeluruh meliputi aspek syarak, perundangan, ekonomi, maqasid, cukai dan sebagainya. Beliau mencadangkan agar penentuan sesuatu perkara dalam had kifayah zakat terutamanya yang melibatkan item penolakan had kifayah termasuk kadar dan faedah pengiraan perlu diperincikan kerana ia akan menjadi kayu ukur dalam menentukan sama ada seseorang itu kaya mahupun miskin dan sebagainya.

Penulis, Baharuddin Sayin (2016) menerusi penelitian “Had Kifayah Zakat Di Malaysia: Satu Analisa Perbandingan” berpendapat meskipun komponen asas had kifayah telah diselaraskan oleh JAWHAR pada tahun 2007, namun dari segi perlaksanaannya terdapat perbezaan kadar nilai dari sudut kewangan ketika menentukan garis kemiskinan sesebuah keluarga. Perbezaan tersebut bukan hanya berlaku antara negeri-negeri di Malaysia, malah berlaku juga antara kawasan bandar dengan luar bandar dinegeri yang sama. Penelitian yang dilakukan mendapati antara punca perbezaan ini adalah disebabkan oleh jumlah kutipan zakat yang berbeza antara negeri-negeri dan juga disebabkan oleh perbezaan keperluan dan masalah bagi sesebuah negeri. Penulis mencadangkan agar perbezaan tersebut dapat diselaraskan.

Mansor Sulaiman et.al (2016) lewat kajiannya “Keperluan Terhadap Penentuan Had Kifayah Kepada Pembayar Zakat Pendapatan” menjelaskan keperluan paling besar terhadap penentuan had kifayah kepada pembayar zakat pendapatan adalah untuk mendapatkan garis yang dapat membezakan antara mereka yang dalam kalangan pembayar zakat dan juga penerima zakat berdasarkan panduan syarak. Bagi mendapatkan had ini, maka mengenalpasti item-item tertentu yang dikategorikan sebagai keperluan asas semasa masyarakat serta kadar nilainya adalah diperlukan. Kegunaan item-item serta kadar setiap satu item tersebut adalah untuk dijadikan pengiraan kepada had kifayah. Contoh kepada item-item tersebut dalam konteks hari ini adalah seperti makanan, pakaian, pengangkutan, pendidikan, kesihatan, penginapan, alat komunikasi dan sebagainya. Beliau mencadangkan agar perkara-perkara yang terkeluar daripada keperluan asas tidaklah diambil kira dalam pengiraan had kifayah. Sebagai contohnya pakej lawatan luar negara, pakej makan di hotel mewah dan sebagainya.

Manakala menurut Muhammad Ridhwan Ab. Aziz et.al (2016) dalam tulisannya “Perbelanjaan Makanan dan Bukan Makanan Bagi Menentukan Had Kifayah: Kajian Premilinari” menyatakan

keadaan ekonomi yang sentiasa berubah, memahami bagaimana perubahan tersebut terjadi dapat membantu bagi menyelesaikan masalah kemiskinan dengan lebih baik. Banyak kajian yang telah dilakukan menunjukkan bahawa terdapat banyak faktor yang mempengaruhi corak perbelanjaan sesuatu masyarakat yang sentiasa berubah dari masa kesemasa. Corak perbelanjaan makanan dan bukan makanan, isi rumah bandar dan luar bandar, ketua isi rumah lelaki dan ketua isi rumah wanita wajar diberi perhatian dalam menentukan had kifayah yang sebenar bagi memastikan golongan yang layak dibantu melalui bantuan zakat. Beliau mencadangkan agar pihak yang mengagihkan zakat disetiap negeri memahami corak perbelanjaan tersebut bagi menjamin pengagihan yang lebih adil dan berkesan dapat dilakukan kepada asnaf yang layak.

Terdapat dua kajian yang secara khususnya melihat kepada penentuan had kifayah bagi kalangan pelajar di peringkat universiti. Kajian oleh Nurul Afifah Hasan et.al (2015) iaitu “ Penentuan Haddul Kifayah Pelajar Instituis Pengajian Tinggi: Pelajar Siswazah Di Universiti Kebangsaan Malaysia”. Dalam kajiannya mendapati perbelanjaan sebenar pelajar siswazah IPT khususnya di UKM jauh lebih tinggi berbanding kadar had kifayah zakat yang ditentukan oleh institusi zakat. Sebagai contoh di Selangor, kadar dan jumlah bantuan anak belajar di IPT adalah sebanyak RM235 sebulan, sedangkan keperluan sebenar adalah antara RM1,254 hingga RM1,270 sebulan. Beliau mencadangkan agar bentuk perbelanjaan sebenar pelajar IPT digunakan ketika menentukan purata garis kemiskinan zakat bagi pelajar IPT. Ini kerana, bentuk perbelanjaan pelajar universiti sebenarnya berbeza dengan pelajar sekolah. Penentuan had kifayah yang betul akan membantu mengurangkan kemiskinan pelajar malah dengan adanya bantuan seperti ini para pelajar tidak perlu lagi mengikat perut dan makan makanan yang tidak memberi khasiat kepada tubuh badan pelajar dan seterusnya pelajar mampu memberi fokus yang baik dalam pelajaran mereka.

Manakala Sarah Athirah Saruchi et.al (2015) menerusi kajiannya iaitu “ Penentuan Haddul Kifayah Pelajar Institusi Pengajian Tinggi: Kajian Pelajar Prasiswazah Di Universiti Kebangsaan Malaysia”. Kajian terhadap pelajar pra siswazah UKM aliran sains tulen dan sains sosial yang dilakukannya mendapati purata perbelanjaan sebenar pelajar pra siswazah IPT khususnya di UKM adalah sebanyak RM975 sebulan. Selain itu, tiada perbezaan signifikan yang ditunjukkan oleh corak perbelanjaan pelajar aliran sains tulen dan sains sosial di mana pihak institusi zakat tidak perlu membezakan kadar had kifayah berdasarkan aliran pengajian. Hasil kajian juga menunjukkan faktor-faktor demografi yang diuji iaitu pendapatan, umur, kategori fakulti dan lokasi kediaman tidak mempengaruhi perbelanjaan pelajar ke atas makanan manakala faktor umur dan lokasi kediaman mempengaruhi perbelanjaan pelajar ke atas bukan makanan. Oleh itu, beliau mencadangkan agar pihak institusi zakat perlu mengambil kira faktor tersebut bagi menentukan had kifayah bagi keperluan asas perbelanjaan bukan makanan. Kajian lanjut berkenaan corak perbelanjaan pelajar perlu dilaksanakan di IPT lain supaya had kifayah dapat ditentukan dengan mengambil kira perbezaan sebenar antara kos sara hidup antara universiti yang berada di bandar dan luar bandar.

Kepentingan Penyelidikan Mengenai Had Kifayah Untuk Pembangunan Modal Insan

Setiap tahun peruntukan dana zakat disediakan untuk membantu para pelajar melanjutkan pengajian di beberapa buah universiti di dalam dan luar negara. Di Singapura contohnya, pihak berkuasa Majlis Ugama Islam Singapura (MUIS) telah mengenakan potongan wajib pada setiap pekerja Muslim yang kini berjumlah lebih daripada 200,000 orang untuk membiayai pembinaan modal insan dan prasarana sesebuah masjid. Adalah dianggarkan bahawa setiap tahun, sebanyak SGD 7 juta diperlukan. Dengan dana itu, MUIS telah berjaya membina 23 masjid besar pada kos SGD 140 juta (Zaini Osman, 2012).

Di Indonesia, sebahagian daripada zakat, wakaf dan dana infak (ZISWAF) digunakan bagi tujuan pembangunan modal insan. Pertubuhan bukan kerajaan seperti Dompot Dhuafa (DD), sebuah entiti yang berpangkalan di Jakarta, dengan jayanya telah menubuhkan sebuah institusi pendidikan menengah percuma untuk pelajar keluarga berpendapatan rendah yang datang dari seluruh Indonesia. Ia juga mengendalikan sebuah sekolah yang dikenali sebagai SMART Ekselensia Indonesia, terletak di Daerah Bogor. Sekolah ini hanya menerima pelajar-pelajar yang mempunyai rekod akademik yang baik dan datang dari kalangan keluarga berpendapatan rendah dan mereka yang menerima zakat. Profil yang ketat dan terperinci diperlukan bagi pemohonan untuk kemasukan ke sekolah ini jelas menunjukkan bahawa DD adalah sangat komited dan bertanggungjawab dalam melaksanakan tugas-tugas yang diamanahkan kepadanya untuk mengagihkan dana sosial seperti zakat, wakaf dan infak kepada yang memerlukan (Ahmad Che Yaacob, et.al, 2013).

Melalui SMART, pelajar yang dipilih dari 18 daerah di seluruh Indonesia akan dibiayai sepenuhnya menggunakan dana zakat. Dana-dana ini yang berjumlah kira-kira Rp.2.5 juta setiap tahun untuk menampung pelajar, termasuk tambang pulang tahunan pelajar ke kampung halaman mereka. Hasil daripada ini, SMART berjaya menghasilkan pelajar-pelajar Islam yang kompeten, berdaya saing dan mempunyai pencapaian akademik yang cemerlang. DD mengasaskan klinik 'cuma-cuma' di Bogor bersumberkan dana zakat. Seterusnya klinik ini berkembang menjadi Rumah Sehat Terpadu.

Di Malaysia contohnya pada tahun 2015, Majlis Agama Islam Johor (MAIJ) menyediakan tajaan dermasiswa/biasisiwa berjumlah RM7.5 juta daripada dana zakat untuk seramai 480 orang pelajar terutama dalam bidang perubatan. MAIJ juga membina bangunan asrama pelajar al-Azhar bernilai RM 6 juta daripada dana wakaf yang boleh menampung 80 orang pelajar (Temubual Azlan Abdullah. Penolong Pengarah Zakat Majlis Agama Islam Johor. 9 Ogos 2016). Lembaga Zakat Selangor (LZS) juga menyediakan peruntukan khas dana zakat untuk membantu para pelajar yang miskin bagi membolehkan mereka melanjutkan pengajian di peringkat yang lebih tinggi (Lembaga Zakat Selangor: Modul Agihan Zakat (bahan tidak diterbitkan).

Universiti-universiti juga mengambil dana dari dana zakat untuk tujuan pembangunan modal insan. Seperti Universiti Teknologi MARA (UiTM), sebanyak RM5,629,640.30 juta telah dikutip pada tahun 2012 melalui potongan gaji 4,714 orang pembayar zakat. Manakala tahun 2013, sejumlah RM6,634,499.99 telah diperoleh daripada 4,978 orang yang membayar zakat di UiTM. Melalui dana sumbangan ini, tahun 2012 UiTM berjaya mengagihkan sejumlah RM2,479,245.00 kepada 4,033 penerima dan tahun 2013 RM3,759,533.56 diagihkan kepada 6,444 penerima yang terdiri daripada golongan fakir, miskin, yang memerlukan, mualaf, fisabilillah, yang termasuk bantuan pendidikan kepada penerima yang terlibat (Baharuddin Sayin et.al, 2014). Sudah sampai masa UiTM sebagai peneraju kutipan dan agihan zakat di IPT membuat kajian secara menyeluruh mengenai had kifayah penerima zakat di kalanganarganya. Melalui pengamatan penulis agihan zakat di UiTM sebenarnya masih belum menepati kadar had kifayah yang sewajarnya.

KESIMPULAN

Hasil dari tulisan ini jelas membuktikan bahawa terdapat beberapa kajian telah dibuat mengenai cadangan penelitian semula nilai bantuan zakat melalui had kifayah kerana nilai bantuan yang diberi tidak berdasarkan keperluan ekonomi semasa (Ahmad Zaki Abdul Latiff, et.al, 2014). Namun, kajian khusus mengenai penelitian semula had kifayah yang memfokuskan kepada golongan pelajar khususnya pelajar IPT masih belum dibuat. Setakat ini hanya UKM satu-satu IPT yang pernah membuat kajian berkenaan. Kajian ini penting dijalankan berdasarkan kepada keperluan jumlah bantuan pendidikan yang perlu dipertingkatkan disamping membantu kerajaan menampung kos bantuan pendidikan yang diberi kepada pelajar.

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ISU DOKUMEN HAK MILIK TANAH WAKAF: SATU ANALISA

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Abstrak

Dokumen hakmilik merupakan perkara yang penting dalam pembuktian pemilikan seseorang di atas tanah yang dimiliki. Tanpa dokumen hakmilik yang dikeluarkan maka tiada sesiapa yang berhak untuk mengambil manfaat di atas tanah sebagaimana yang telah dinyatakan dalam seksyen 340(1) Kanun Tanah Negara 1965. Seksyen ini terpakai ke atas semua jenis tanah termasuklah tanah wakaf. Oleh itu, kertas kerja ini akan memberi fokus kepada isu dokumen hak milik tanah wakaf yang dikeluarkan oleh Pejabat Tanah. Perkara ini penting bagi memastikan tanah wakaf itu berkekalan dan seterusnya manfaat wakaf itu dapat dinikmati oleh masyarakat Islam.

Kata Kunci: Dokumen, Hakmilik, Wakaf, Pemilikan, Pendaftaran.

PENDAHULUAN

Wakaf merupakan salah satu bentuk kehartaan Islam yang begitu unik berbanding bentuk-bentuk kehartaan Islam yang lain seperti zakat, sedekah dan sebagainya. Salah satu keunikan yang terkandung dalam amalan wakaf ialah bersifat kekal. Sifat kekal ini memberi manfaat yang berkekalan kepada pewakaf iaitu pahala yang akan diperolehi dan kepada penerima manfaat wakaf memperolehi manfaatnya untuk selama-lamanya. Oleh itu, dalam memastikan pengekalan tanah wakaf itu berkekalan ialah menerusi dokumen hak milik yang dikeluarkan di atas tanah wakaf mesti berlaku. Tanpa dokumen hak milik yang dikeluarkan, maka tanah itu adalah hak milik Pihak Berkuasa Negeri walaupun terdapat bentuk-bentuk wakaf seperti terdapatnya kubur, masjid, surau dan sebagainya. Perkara ini adalah bertepatan dengan Kanun Tanah Negara dalam perkara 340(1) yang meletakkan pendaftaran adalah segalanya.

Peruntukan Pendaftaran Dalam Kanun Tanah Negara

KTN telah menekankan elemen pendaftaran sesuatu perkara penting yang menekankan “Daftar adalah segala-galanya” . Peruntukan ini telah menjadi unsur utama dalam pelaksanaan undang-undang harta tanah di Malaysia. Perkara ini terbukti di dalam kes T.Damodaran lwn Choe Kuan Him, Lord Diplock telah memberi pandangan bahawa;

”Di Malaysia KTN mengamalkan sistem Torrens bagi pendaftaran hak milik tanah. Tujuan sistem ini, pada keseluruhannya adalah untuk mengelakkan

kesulitan sistem peraturan yang terdapat di England berhubung dengan urusan niaga tanah, terutama sekali mengenai perkara-perkara seperti notis bebanan dan amanah”(Salleh Buang,1993).

Walau bagaimanapun, penekanan pendaftaran hak milik dalam sistem *Torrens* tersebut boleh disangkal hanya atas alasan tertentu seperti yang diperuntukkan dalam seksyen lain yang memperuntukannya:

- (1) Hak milik atau kepentingan mana-mana orang atau badan sedemikian hendaklah tidak menjadi tak boleh disangkal-
 - (a) dalam mana-mana ke penipuan atau salahnyata yang kepadanya orang atau badan itu, atau mana-mana ejen orang atau badan itu, adalah suatu pihak atau privy; atau
 - (b) jika sekiranya pendaftaran diperolehi secara pemalsuan, atau dengan cara suatu instrument yang tidak mencukupi atau tak sah; atau
 - (c) jika sekiranya hak milik atau kepentingan itu adalah diperolehi secara tidak sah oleh orang atau badan dalam penggunaan berupa apa-apa kuasa atau autoriti yang diberi oleh mana-mana undang-undang bertulis.

Peruntukan ini memperlihatkan hak milik tak boleh disangkal boleh disangkal sekiranya terdapat bukti yang menjejaskan seperti penipuan, salah nyataan, pemalsuan, suratcara yang tidak lengkap atau batal atau perolehan hak milik atau kepentingan yang menyalahi undang-undang. Kedudukan kenyataan hak milik yang boleh disangkal ini dibuktikan dalam kes *The Bee Lwn. K. Marathamuthu*. Mahkamah memutuskan bahawa ‘pendaftaran adalah segala-galanya’ bermaksud, maklumat yang tercatat dalam dokumen pendaftaran menunjukkan segala-galanya berkaitan dengan tanah tersebut. Maklumat-maklumat yang lain adalah lemah dan tidak boleh menyangkal kekuatan bukti yang terdapat dalam daftaran hak milik.

Di sini dinyatakan beberapa kesan negatif pemakaian Sistem *Torrens* terhadap individu dan negara, di antaranya ialah: (Ridzuan Awang, 1994).

- 1) Sistem ini menjadi alat kepada kerajaan-kerajaan negeri seperti menyalahgunakan kuasa yang diberikan kepadanya, perbuatan rasuah, pilih kasih dan sebagainya.
- 2) Penyelesaian terhadap harta pusaka apabila berlaku kematian terlalu rumit dan mengambil masa yang lama. Tanah atau hartanah itu didapati sukar untuk membahagikannya dan proses penukaran hak milik agak memakan masa yang lama.
- 3) Pembangunan tanah dan seterusnya pembangunan Negara menjadi lambat kerana masalah yang berhubung dengan tanah belum diselesaikan seperti pecah sempadan, pecah bahagian, penyatuan, tukar milik dan sebagainya.
- 4) Wujudnya had masa tertentu tentang kegunaan tanah.

- 5) Sistem ini boleh menimbulkan masalah pecah sempadan, di mana ia membolehkan beberapa orang didaftarkan sebagai pemunya tanah yang kecil dan bahagian-bahagian yang belum dipecahkan dan membolehkan mereka memperniagakan bahagian-bahagian tertentu.
- 6) Kemasukan sistem pendaftaran hak milik telah mengubah cara memiliki tanah adat Melayu dan undang-undang Islam. Mengikut adat Melayu dan undang-undang Islam, hak milik tanah terpulang kepada sesiapa yang mengerjakan tanah itu.
- 7) Pelaksanaan sistem ini telah mengakibatkan berlakunya pelanggaran syarat nyata dan sekatan kepentingan terhadap tanah itu, seperti membuat bangunan (rumah) atas sebidang tanah yang dikategorikan sebagai tanah pertanaian atau sebaliknya.
- 8) Penguatkuasaan dan pelaksanaan undang-undang dan sistem ini berlainan dan tidak sama dengan peruntukan-peruntukan yang dinyatakan di dalamnya.
- 9) Agak sukar bagi pemungut hasil tanah untuk mengesan orang yang bertanggungjawab bagi membayar cukai sewa tanah, sekiranya pindah milik terhadap sesuatu bidang tanah itu tidak didaftarkan.

Isu Dokumen Hak Milik Tanah Wakaf

Dokumen hak milik adalah perkara utama pembuktian pemilikan di atas tanah. Tiada sesiapa yang berhak ke atas tanah dengan tanpa dokumen hak milik yang dikeluarkan walupun tanah wakaf sebagaimana yang telah dinyatakan dalam KTN 1965, seksyen 340(1) di atas. Apa yang ingin dinyatakan dalam kertas kerja ini ialah isu ketiadaan perkataan wakaf tercatat di atas dokumen hak milik pendaftaran yang dikeluarkan. Perkara ini boleh menimbulkan perbagai kemungkinan iaitu antaranya ialah ianya membuktikan tanah wakaf adalah sama dengan taraf tanah-tanah yang lain. Ini bermakna perkataan wakaf amat diperlukan dalam dokumen hak milik yang dikeluarkan bagi membezakan tanah wakaf adalah tanah yang istimewa serta mempunyai hukumnya yang tersendiri berbanding tanah-tanah yang lain.

Apabila selesai pendaftaran melalui pindahmilik maka satu pendaftaran hak milik akan dikeluarkan oleh Pejabat Tanah atau Pejabat Pendaftar yang mencatatkan pemilik tanah (pewakaf) kepada badan dipindahmilik Majlis Agama Islam Negeri (MAIN) di atas dokumen hak milik yang dikeluarkan. Perkara ini adalah selaras dengan peruntukan KTN yang menyenaraikan individu-individu tertentu serta badan-badan tertentu yang berhak memiliki tanah. Oleh kerana penumpuan kertas kerja ini terhadap tanah wakaf, maka penyelidik mendapati MAIN merupakan sebuah badan yang sah serta termasuk di dalam senarai di antara badan yang berhak memiliki tanah, seperti mana subseksyen yang menyatakan:

“perbadanan yang mempunyaikuasa di bawah perlembagaan mereka untuk memegang tanah”

Setelah diamati di atas dokumen hak milik yang telah dikeluarkan hanya tercatat perkataan MAIN sebagai penerima pindah milik terhadap tanah yang diwakafkan dan tiada perkataan wakaf serta tujuan wakaf dicatatkan di atas dokumen hak milik. Isu ketiadaan perkataan nama wakaf dan tujuannya di dalam dokumen hak milik yang dikeluarkan itu merupakan satu isu besar dalam wakaf kerana tanah wakaf tidak sama dengan penggunaannya dengan tanah-tanah yang lain. Apabila persoalan ini diajukan kepada pegawai-pegawai MAIN, rata-rata mereka mahu kepada penyelesaian segera agar terdapat perkataan wakaf dan tujuannya dicatatkan di atas dokumen hak milik yang dikeluarkan.

Antara panduan yang dilakukan oleh MAIN dalam membangunkan sesuatu tanah wakaf bagi tujuan am atau khas yang telah ditentukan oleh pewakaf ialah berpandukan kepada rekod pendaftaran MAIN yang diisi oleh pewakaf bagi mengelakkan daripada berlakunya penyalahgunaan pembangunan tanah wakaf oleh MAIN.

Sebenarnya isu yang dibangkitkan ini telah diperakui akan kepentingannya serta ianya merupakan cadangan oleh penyelidik-penyelidik terdahulu supaya diendoskan ‘tanah wakaf’ di atas geran hak milik. (Ridzuan, 2005) Perkara ini boleh mengundang bahaya kepada status tanah wakaf berkenaan memandangkan tanah-tanah di bawah MAIN bukanlah hanya terdiri tanah wakaf semata-mata, (Siti Mashitoh et al., 2005) contohnya MAIWP membahagikan tanah kepada dua iaitu tanah wakaf dan tanah ekonomi, begitu juga MAIDAM yang mengendalikan tanah wakaf dan terdapat tanah baitulmal yang dikendalikan oleh Pesuruhjaya Hal Ehwal Agama. Berdasarkan laporan, satu Mesyuarat Jawatankuasa Tanah Pulau Pinang telah pun membincangkan perkara ini di dalam Kertas Cadangan Penyelarasan Pentadbiran Tanah Wakaf Negeri Pulau Pinang dengan Peruntukan KTN serta Peraturan Tanah Negeri Pulau Pinang di mana telah dicadangkan oleh mereka agar kesemua tanah wakaf dicatatkan sebagai “*diwakafkan oleh...*” di dalam suratan hak miliknya supaya dapat disedari bahawa ianya adalah tanah wakaf. (Siti Mashitoh et al., 2005) Sementara itu juga, pihak MAIDAM pula telah mendapat kebenaran dan kelulusan Majlis Mesyuarat Kerajaan Negeri Terengganu (MMK) dalam mesyuarat kali ke 26 tahun 1986 bertarikh 16 November 1986 supaya tanah wakafnya didaftarkan atas nama “Majlis Agama Islam dan Adat Melayu Terengganu (wakaf) bagi membezakan tanah-tanah *waqf* nya dengan tanah-tanah MAIDAM lain. (Siti Mashitoh et al., 2005) Dicapadangkan agar perkataan “*waqf*” dimasukkan sebagai salah satu tujuan pelupusan tanah oleh Pihak Berkuasa Negeri ke dalam Seksyen 43 KTN sebagaimana yang telah diperuntukkan di bawah;

Tertakluk kepada peruntukan-peruntukan Bahagian Tiga Puluh Tiga (A), kuasa pelupusan yang diberikan kepada Pihak Berkuasa Negeri oleh seksyen 42 bolehlah dijalankan hanya bagi memihak, dan permohonan untuk menjalankan kuasa bolehlah diterima hanya daripada, orang-orang atau badan-badan berikut-

- (a) orang-orang benar selain daripada remaja;
- (b) perbadanan-perbadanan yang mempunyai kuasa di bawah perlembagaan mereka untuk memegang tanah;
- (c) raja-raja pemerintah, kerajaan, organisasi dan lain-lain orang yang diberi kuasa untuk memegang tanah di bawah peruntukan-peruntukan Ordinan Keistimewaan Diplomatik dan Konsular, 1957;
- (d) badan-badan yang diberikuasakan secara nyata untuk memegang tanah di bawah mana-mana undang-undang bertulis lain;

Isu ketiadaan perkataan wakaf di atas dokumen hak milik tidak dapat dielakkan jika proses pendaftaran melalui pindah milik yang menggunakan Borang 14A digunakan. Oleh itu dicadangkan bagi mengelakkan perkara ini tidak berlaku maka MAIN tidak boleh menggunakan proses pendaftaran melalui pindah milik yang telah ditetapkan peraturannya dalam KTN. Ini kerana proses pendaftaran melalui pindah milik mengikut apa yang tercatat dalam Borang 14A yang tidak boleh berkurang ataupun berlebih. Oleh itu dicadangkan supaya MAIN menggunakan proses pendaftaran tanah wakaf melalui perletakan berkanun sebagaimana yang diperuntukkan dalam seksyen 416C KTN. Pada hakikatnya juga perkataan wakaf tidak dapat diendoskan di atas dokumen hak milik yang dikeluarkan kerana wakaf dan baitulmal dikecualikan oleh KTN di bawah seksyen 4(2) KTN. Oleh itu, dalam membolehkan perkataan wakaf boleh diendoskan di atas dokumen hak milik yang dikeluarkan ialah melalui pembentukan peruntukan undang-undang wakaf di dalam KTN atau wujudkan peruntukan dalam Enakmen Wakaf atau Enakmen Pentadbiran Agama Islam Negeri, sepertimana Enakmen Rizab Melayu (ERM) yang mengkehendaki dokumen diendoskan dengan perkataan 'rizab melayu' sebagaimana yang telah diperuntukkan ERM. Oleh itu Bab Khas perlu diwujudkan dalam KTN, supaya peraturan mengenai cara pendaftaran harta wakaf di bawah KTN lebih mudah cepat dan murah. Seperti halnya dengan Pemegangan Amanah (*trust*), walaupun ada undang-undang khas mengenainya tetapi diwujudkan juga satu bab khas dalam KTN (NikMohd. Zain, 1999).

KESIMPULAN

Pada keseluruhannya isu yang dibangkitkan di atas atas isu yang penting yang perlu diselesaikan bagi memastikan institusi wakaf di negara ini kekal berterusan buat selama-lamanya. KTN merupakan asas utama semua perundangan tanah di negara ini termasuklah tanah wakaf, maka sebarang pengurusan dan pentadbiran tanah wakaf di negara ini tidak boleh menyalahi peruntukan-peruntukan yang terkandung dalam KTN 1965. Oleh itu, bagi memantapkan lagi pentadbiran tanah wakaf di negara ini pengmurnian dan penambahbaikan di atas peruntukan-peruntukan KTN yang bertentangan dengan perundangan wakaf Islam perlu dilakukan agar institusi wakaf di Malaysia terus berkembang.

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EZ080:
**DISCLOSURE OF WEB-BASED ACCOUNTABILITY: EVIDENCE FROM
ZAKAT INSTITUTIONS IN MALAYSIA**

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Abstract

This study aims to examine the disclosure of web-based accountability of zakat institutions in Malaysia. This study examines 14 zakat institutions which covers all states in Malaysia. The website of the zakat institutions are analyzed based on content analysis. The levels of disclosure in the websites are examined using binomial logic. This study finds that there are limited web-based accountability practices of zakat institutions in Malaysia. The limited disclosure is observed at all the three accountability dimensions' disclosures, namely financial accountability, performance accountability and political accountability. The findings suggest that there is a need for zakat institutions in Malaysia to enhance its accountability disclosure especially via websites.

Keywords: Disclosure, Web-based accountability, Zakat institution

INTRODUCTION

During his keynote address at the World Islamic Economic Forum in November 2015, His Royal Highness (HRM) Sultan Nazrin Muizzudin Shah, Sultan of Perak has highlighted the humanitarian crisis and humanitarian financing. These issue consistent with method in current media reports regarding millions of people who immigrants due to conflicts and crises. As the co-chair of the United Nation (UN) high level panel on humanitarian financing, HRM Sultan Nazrin Muizzudin Shah stressed that Islamic social finance, namely *zakat*, *sukuk*, *waqf* or *sadaqah*, has the potential to play its role in financing the needs of people in crises.

Alterman et al. (2005) estimated that Muslims contribution in term of Islamic social funds are within USD250 billion to USD1 trillion per year. Meanwhile, Obaidullah and Shirazi (2015) in the Islamic Social Finance Report 1436H stated that there are excess about \$600 billion of *zakat* from Organization of Islamic Cooperation (OIC) members countries, which may be annually distributable for humanitarian action. Even though the amount of funds are large, humanitarian funding are still shortfall. Looking at the potential of Islamic social finance, the organisations that handle these tools need to communicate their accountability so that the collected funds can be increased. However, Islamic non-profit organisations, who mostly handle the Islamic social finance for philanthropic and humanitarian aid in third world Muslim countries have been accused of being involved in terrorism financing (Othman and Ameer, 2014). The accusations raise the question of accountability and thus, may cause the organisations' are in risk. Therefore,

these organisations need to be transparent and communicate their accountability to overcome the accusation and thus may please the potential to attract donors and funders.

Published reports, such as websites are widely regarded as an important means of discharging accountability in the corporate and government sectors. These reports may be one of the means by which Islamic non-profit organisations can improve stakeholders' perceptions of their accountability. Empirical evidence shows that high level of transparency and disclosure can increase confidence among decision-makers such as donors. Buchheit and Parsons (2006), Trussel and Parsons (2008) and Christensen and Mohr (2003) have found positive relationships between the extent of disclosure and the amount of future donations received.

In the absence of shareholders, accountability practices in *zakat* institutions are determined by the strengths of stakeholders. As part of Islamic non-profit organisations, *zakat* institutions have more complicated ownership status compared to public and private sectors which are larger stakeholders' needs to be accountable with differentiated interests (Hull and Lio, 2006). Recent advancement in internet-based technologies among *zakat* institutions has led to a considerable enhancement in organisation's accountability. It is common especially for public to access and the same time for *zakat* institutions to address their accountability. This study examines the web-based accountability practices of *zakat* institutions in Malaysia. This includes identifying and analysing disclosure practices for financial accountability, performance accountability and political accountability.

LITERATURE REVIEW

Accountability

Generally, accountability can be defined as a relationship between two parties. In this relationship, one party is given responsibilities while another party received those responsibilities. These two parties relationship covers two main major aspects which are: (1) accountable to answer all actions made; and (2) an obligation to ensure all activities and operations are conducted as required (Shafritz, 1992). Osman (2012) highlighted two major aspects of responsibilities which are: (1) responsibility to made actions; and (2) responsibility to accountable for those actions made. It can be concluded that accountability involves of two parties which one party is to give such accountability and another party is to receive such accountability. Accountability also concerns about answerability, blameworthiness, liability and the expectation of account-giving (Dykstra, 1939). Bakker (2002) stated that accountability relates to kind of action with transparency, responsiveness, ethic, legitimacy and regulation, whether in relation to public, private, non-profit and even other types of organisation.

An organisation has an institution accountability to communicate information about social reality for the interest of current shareholders and other stakeholders. However, Islamic accountability extends these scope of answerability to Allah. This *Tawhid* paradigm implies changes in

accountability concept (Hasan, 2001). This accountability concept will affect the way of reporting in Islamic accounting. There are two important criteria for disclosure in Islamic accounting as identified by Baydoun and Willett (2000); the precept of social accountability and a rule of full disclosures. In Islamic perspective, accountability to Allah involves accountability to His fellow men (*habluminallah* and *habluminannaas*). *Habluminannaas* (relationship among human beings) should reveal his *habluminallah* (relationship between human and God). If a man is accountable to God, his acts automatically prove that he is accountable to other people and his society. Muslim says:

“To Allah belongs all that is in the heavens and all that is on the earth, and whether you disclose what is in your own selves or conceal it, Allah will call you to account for it. Then He forgives whom He wills and punishes whom he wills. And Allah is able to do all things” (Al Baqarah: 284).

Zakat Institutions

Zakat institutions received funds from public (larger stakeholders) and therefore the *zakat* obligation is entrusted to amil on behalf of *zakat* institutions to manage and distribute toward *asnaf* (*zakat* beneficiaries). The obligation of *zakat* is based on the following Quranic verses which are:

"And establish prayer and give zakat and bow with those who bow [in worship and obedience]" (Al-Baqarah 2:43)

"And establish prayer and give zakat and obey the Messenger - that you may receive mercy" (An-Nur 24:56)

For Malaysia practices, *zakat* management are solely authorised by state governments. This due to the Federal Constitution (Malaysia) No.3 stated that Islamic affairs including *zakat* collection and distribution are under the jurisdiction of the state government. Thus, under the state, poverty is established. State Religious Islamic Council (SRIC) administrates Islamic affairs including *zakat* management. Therefore, the collection and distribution is controlled by the state rules and government. This practice is agreed by Al Qardawi (2000) as he stated few reasons on why the authority of *zakat* collection and distribution must be under government control. Those reasons are:

1. There are Muslims who do not paying *zakat*. Therefore, without government intervention, there are possibilities for *zakat* funds do not being receive by *asnaf*;
2. *Zakat* that distributed by government could preserve the dignity of *asnaf* to individual who pay it directly.
3. Muslims who directly paying *zakat* may be designed by his personal interests, and not to the concepts of distribution as intended by religion.

4. Several *asnaf* categories such as *muallaf* (people who new convert into Islam) and *fi sabilillah* (people who performing Islamic objectives) are well recognised by the government; and
5. *Zakat* is known as source of income for Islamic government.

At the first place, all state government in Malaysia place *zakat* management operations for both collection and distribution under their SIRC. However, in 1990s, with the advancement of technologies and organisational environment, several state governments corporatized *zakat* collection process into separate entity under SIRC (indirect) while for *zakat* distribution remain directly under their management. Meanwhile, several other state governments corporatized both *zakat* collection and distribution management into corporatisation entity that still indirectly bound under SIRC. The rest state governments are remaining with traditional *zakat* management where both *zakat* collection and distribution are directly operates under SIRC (Ahmad et al., 2006).

Zakat institution is an organisation with wide stakeholders. It is not only accountable with the board and the government; it also bound to accountable with *zakat* payers and *asnaf* as well. Besides, several other related stakeholders such as media, *amil* (*zakat* institution's staff) and also *ummah* (public) at large also have interests with *zakat* institutions. Coupled with the advancement of *zakat* institutions under corporatisation reformation, delivery on information needed as part of accountability obligation on *zakat* management must also be enhanced.

Web-Based Accountability

Web-based accountability is suggested as one of the accountability tools to discharge accountability especially for wider stakeholders. This is because internet-based technologies are providing public with the increasing abilities and interest to gain access to information they deem important. Besides, internet-based technologies also have led to an increased ability of an organisation to disclose information needed by stakeholders with more efficient and low cost (Saxton and Guo, 2011). By having both demand and supply of information advantage, web-based accountability is an important tool to be considered by an organisation with wide stakeholders including *zakat* institutions. Figure 1 illustrates on web based-accountability model that shows relationship between demand and supply of information between *zakat* institutions and its stakeholders.

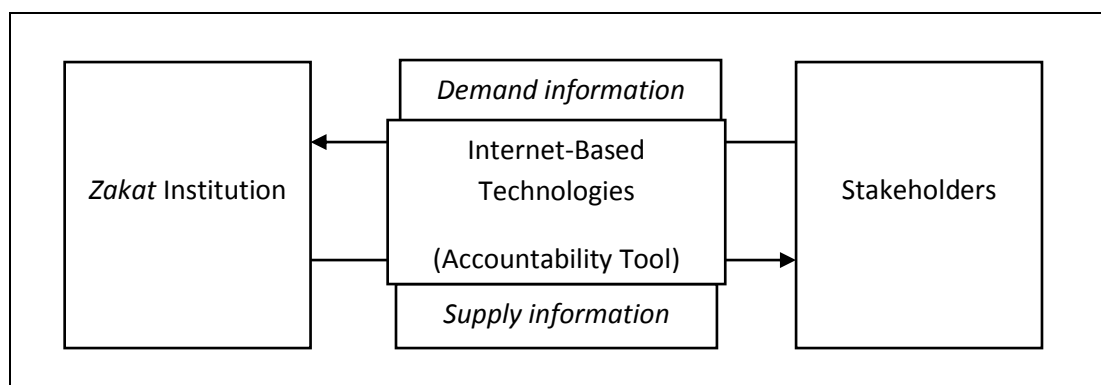


Figure 1: Web-Based Accountability Model in Zakat Institution

Several previous studies on web-based accountability such as Dainelli et al. (2013) and Sarman et al. (2015) suggest on the information disclosure covering three dimensions of accountability which are: (1) financial accountability; (2) performance accountability; and (3) political accountability. Financial accountability covers the usage and recordkeeping of financial, while performance accountability covers on output, consequences and results and political accountability covers on bureaucratic and mechanisms used to gain public trust (Behn, 2001; Brinkerhoff, 2001; Brinkerhoff, 2004; Jordan and Van Tuijl, 2006).

RESEARCH METHODOLOGY

This research aims the web-based accountability examination practices of *zakat* institutions in Malaysia. This study focuses on total *zakat* institutions located at all 14 states in Malaysia which consist of 18 institutions. The number of *zakat* institutions and states in Malaysia are due to separation between collection and distribution functions which are separated into two entities for several states. Table 1 represent the list of 18 *zakat* institutions in Malaysia.

Table 1: Zakat Institutions in Malaysia

No	State	Zakat Institution	Function
1	Perlis	Majlis Agama Islam Perlis (MAIPs)	Collection and Distribution
2	Kedah	Lembaga Zakat Negeri Kedah (LZNK)	Collection and Distribution
3	Perak	Majlis Agama Islam dan Adat Istiadat Melayu Perak (MAIPk)	Collection and Distribution
4	Terengganu	Majlis Agama Islam dan Adat Istiadat Melayu Terengganu (MAIDAM)	Collection and Distribution
5	Kelantan	Majlis Agama Islam Kelantan (MAIK)	Collection and Distribution
6	Johor	Majlis Agama Islam Johor (MAIJ)	Collection and Distribution
7	Wilayah Persekutuan	Majlis Agama Islam Wilayah Persekutuan (MAIWP)	Distribution
8	Negeri Sembilan	Majlis Agama Islam Negeri Sembilan (MAINS)	Distribution
9	Melaka	Majlis Agama Islam Melaka (MAIM)	Distribution
10	Pahang	Majlis Ugama Islam dan Adat Resam Melayu Pahang (MUIP)	Distribution

11	Penang	Zakat Pulau Pinang	Collection and Distribution
12	Selangor	Lembaga Zakat Selangor (LZS)	Collection and Distribution
13	Sarawak	Tabung Baitulmal Sarawak (TBS)	Collection and Distribution
14	Sabah	Pusat Zakat Sabah MUIS (PZS-MUIS)	Collection and Distribution
15	Wilayah Persekutuan	Pusat Pungutan Zakat MAIWP (PPZ-MAIWP)	Collection
16	Negeri Sembilan	Pusat Zakat Negeri Sembilan (PZNS)	Collection
17	Melaka	Pusat Zakat Melaka (PZM)	Collection
18	Pahang	Pusat Kutipan Zakat Pahang (PKZP)	Collection

In order to examine the level of information disclosed by *zakat* institutions, a web disclosure index on accountability is used. This index is adapted from previous studies done by Dainelli et al. (2013) and Sarman et al. (2015). Based on the web disclosure index on accountability, each *zakat* institutions' website information related to accountability is analysed by measuring the level of disclosed information. The level of disclosed information are categorised into three accountability dimensions which are: (1) financial accountability; (2) performance accountability; and (3) political accountability (Behn, 2001; Brinkerhoff, 2004; Jordan and Van Tuijl, 2006). 18 items from these three accountability dimensions have been identified to be used into this study. Table 2 lists all the items and dimensions for the web-accountability index that been adapted in this study.

Table 2: Items of Web-Based Accountability Index

Dimensions	Items
Financial Accountability	Financial statements
	Account notes
	Management commentary
	Auditor report
Performance Accountability	Vision/Mission statement
	Organisational/Governance structure
	Human resource organisation
	Strategic plan
	Result of research activities
	Key performance indicators
	Result of <i>zakat</i> collection or/and distribution
	Organisational recognition/award
Political Accountability	Visitor survey
	Chairman/Yang Dipertua/CEO statement
	List of board members
	Voluntary work report
	<i>Amil</i> (management) remunerations
	Report on donations and donors

Sources: Adapted from Dainelli et al. (2013) and Sarman et al. (2015)

Following Dainelli et al. (2013) and Sarman et al. (2015), binomial logic is used to evaluate the level of accountability information disclosed by *zakat* institution through website. For recording

process, a code of one (1) will be assigned if the item is disclosed, while a code of zero (0) will be assigned if the item is not disclosed. The total score for each dimension are then calculated at the end of the process to identify the total score of the web-based accountability index for *zakat* institution in Malaysia.

The total score for an institution that disclosed all dimensions, namely financial accountability, performance accountability and political accountability will be 18 score. This is sum of all items contributed in these three dimensions consist of financial accountability (four items), performance accountability (9 items) and political accountability (five items) respectively. Financial accountability items covers on tracking and reporting on allocation and utilisation of *zakat* funds by using management control and auditing. Meanwhile, performance accountability items covers on demonstrating and reporting performance of *zakat* institution based on input, output and results (consequences). Finally, political accountability items covers on procedures and mechanisms to fulfil public trust, engages and involves stakeholders and operates according to standards, professional and ethics.

FINDINGS AND DISCUSSIONS

In this section, discussions on web-based accountability practices of *zakat* institutions in Malaysia are divided into three dimensions of accountability. Each dimension of accountability is elaborated on the score results.

Analysis of Financial Accountability

Financial accountability items listed for this study includes: (1) financial statements; (2) account notes; (3) management commentary; and (4) auditor report. Of these four financial indicators, all items were reported. The result shows there are same results for each financial accountability items when it scores 22.2% (4) out of 18 *zakat* institutions. The same scores for each financial accountability items are due to compilation of all these items into single documentation which known as annual report and attached at the website. If there is an attachment for annual report, these four items are attached together and vice versa. Figure 1 shows the result of analysis on financial accountability of *zakat* institutions in Malaysia based on web-based accountability.

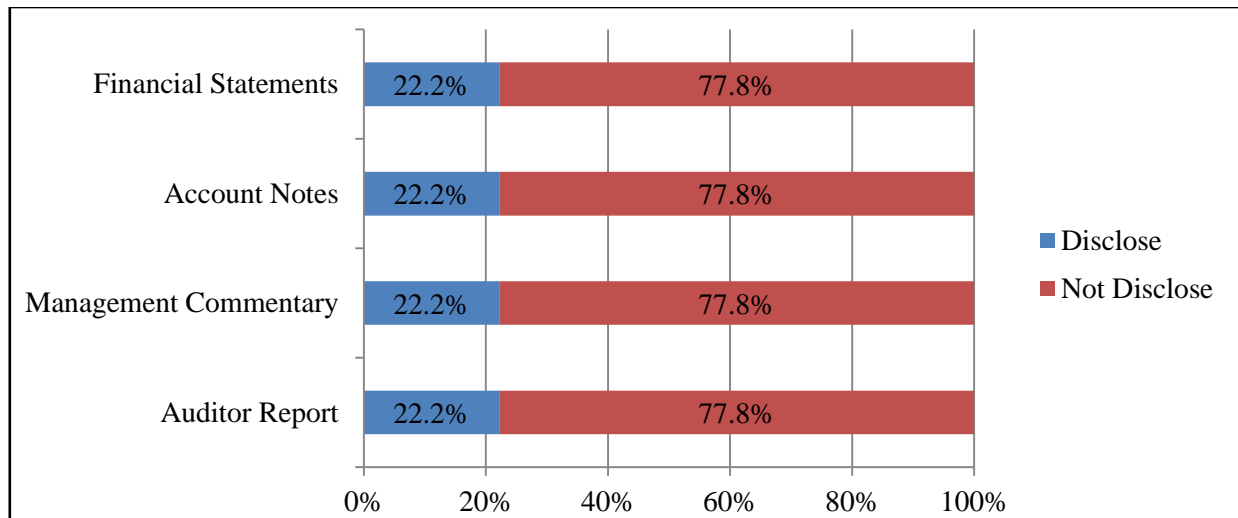


Figure 1: Financial Accountability of Zakat Institutions in Malaysia based on Web-Based Accountability

Analysis of Performance Accountability

Performance accountability items listed for this study includes: (1) vision/mission statement; (2) organisational/governance structure; (3) human resource organisation; (4) strategic plan; (5) result of research activities; (6) key performance indicators; (7) result of *zakat* collection or/and distribution; (8) organisational recognition/awards; and (9) visitor survey. Of these nine performance indicators, strategic plan is the only performance accountability item that had not been disclosed by any of *zakat* institutions in their websites. Out of 18 *zakat* institutions, both vision/mission statement and organisational/governance structure scores the highest which are 94.4% (17) and the lowest score on both key performance indicators and organisational recognition/awards which are 16.7% (3). Other items' scores are result of *zakat* collection or/and distribution 55.6% (10), human resource organisation 50% (9), result of research activities 38.9% (7) and visitor survey 22.2% (4). Figure 2 shows the result of analysis on performance accountability of *zakat* institutions in Malaysia based on web-based accountability.

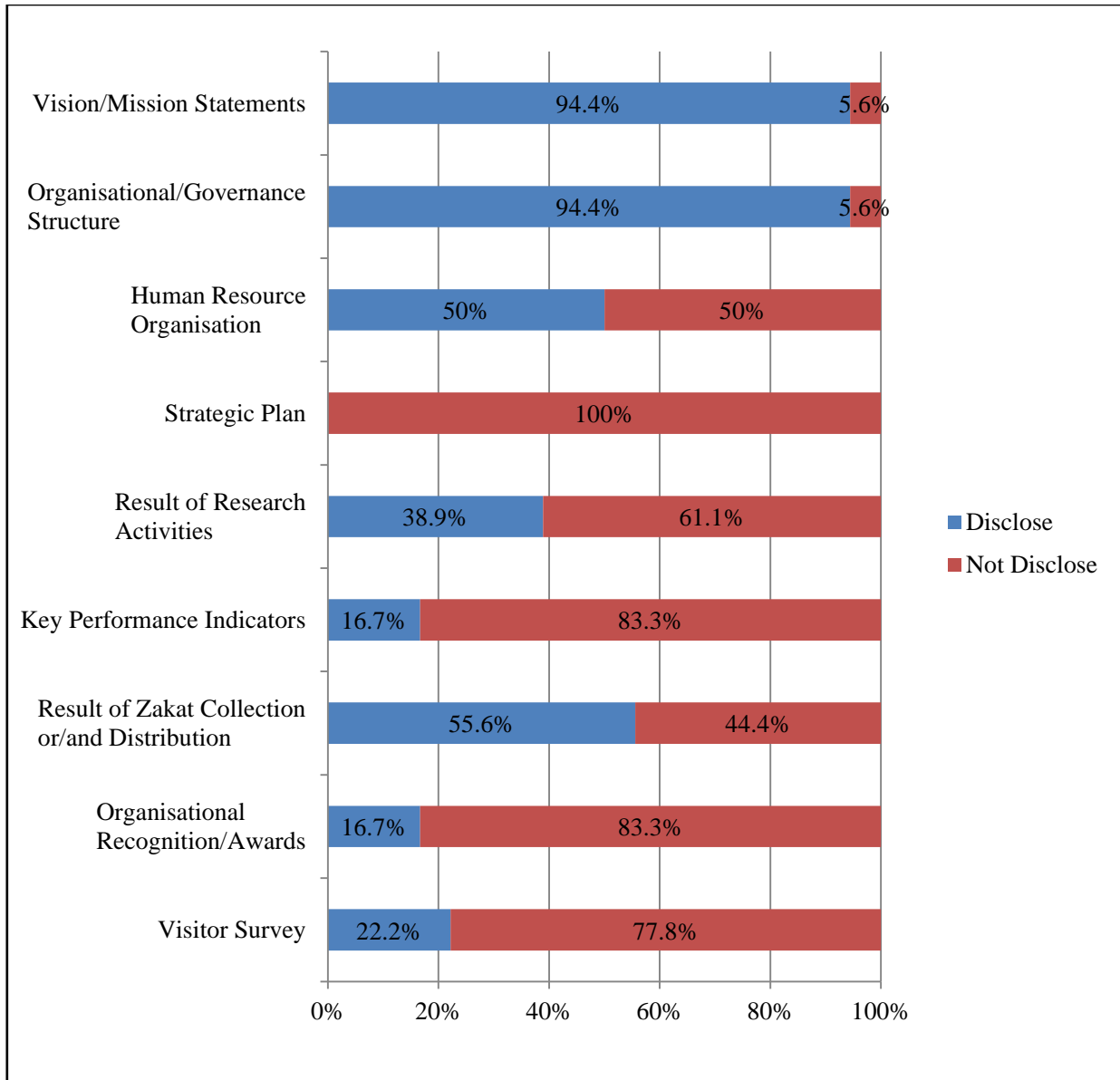


Figure 2: Performance Accountability based on Web-Based Accountability

Analysis of Political Accountability

Political accountability items listed for this study includes: (1) Chairman/Yang Dipertua/CEO statement; (2) list of board members; (3) voluntary work report; (4) *amil* (management remunerations; and (5) report on donation and donors. Of these five political indicators, *amil* (management) remuneration is the only political accountability item that had not been disclosed by any of *zakat* institutions in their websites. Out of 18 *zakat* institutions, both voluntary work report and report on donation and donors scores the highest which are 94.4% (17), followed by list board members 61.1% (11) and the lowest score on Chairman/Yang Dipertua/CEO statement which is 44.4% (8). The same scores for voluntary work report and report on donation and donors are due to compilation of these two political accountability items together into single

documentation at the website. Figure 3 shows the result of analysis on political accountability of *zakat* institutions in Malaysia based on web-based accountability practices.

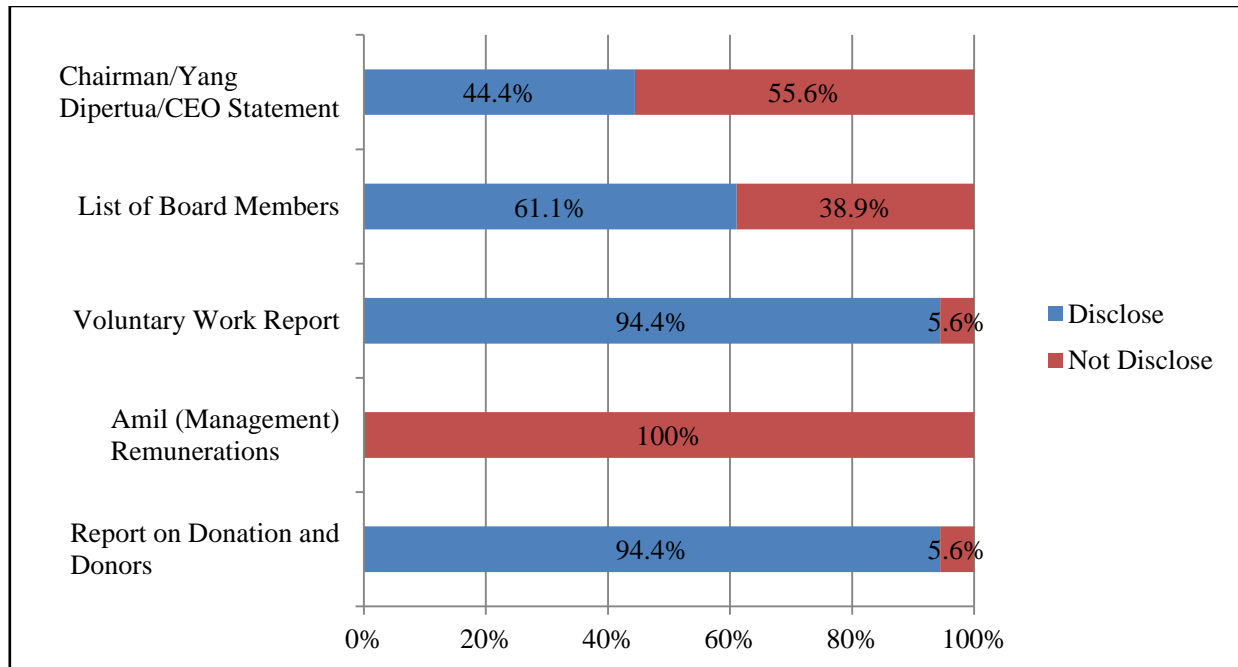


Figure 3: Political Accountability based on Web-Based Accountability Practices

Analysis of Web-Based Accountability Disclosure

The overall analysis of web-based accountability of the *zakat* institutions are summarised in Figure 4. Figure 4 shows the result of analysis accountability disclosure based on three accountability dimensions for this study which are financial accountability, performance accountability and political accountability. The figure shows political accountability was the highest disclosure practice by *zakat* institutions in Malaysia when it scores 58.9% (53), followed by performance accountability 43.2% (70) and the lowest is financial accountability 22.2% (16). Overall, this mean that 42.9% of the *zakat* institutions in Malaysia provided accountability disclosure and other 57.1% of the accountability of *zakat* institutions in Malaysia are remains undisclosed. This shows that more than half *zakat* institutions do not disclosed dimension related to accountability. This can be further summarised in the Table 3.

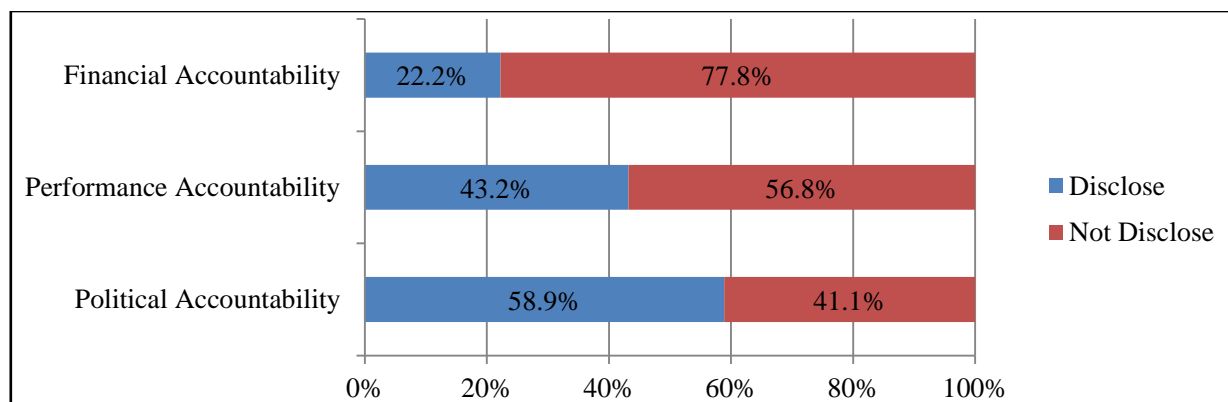


Figure 4: Accountability Disclosure on Web-Based Accountability Practices

Table 3: Tabulation of Accountability Disclosure based on Web-Based Accountability Practices

Accountability Disclosure	Total No. of Disclosed Information	%	Total No. of Not Disclosed Information	%
Financial Accountability	16	22.2%	56	77.8%
Performance Accountability	70	43.2%	92	56.8%
Political Accountability	53	58.9%	37	41.1%
Total	139	42.9%	185	57.1%

Therefore, it can be concluded that current web-based accountability practices in *zakat* institutions in Malaysia still not achieved dual accountability from Islamic perspective especially for *hablum minannas* (accountability to other people). By not fulfil *hablum minannas*, it also indirectly reflect *hablum minallah* (accountability to Allah) as claimed by previous studies (Shahul, 2000;Shahul and Rizal, 2005; Lewis, 2006; Iqmal and Nathasa, 2015; Nathasa et al., 2016; Nurul et al., 2016). This is because to be accountable to Allah, *zakat* institutions need to perform *hablum minannas* including via web-based accountability at the first stage as suggested (Saad et al., 2014).

CONCLUSION

The issues of multiple accountability to multiple stakeholders is not only happens to *zakat* institutions, but also to other non-profit organisations as whole. *Zakat* institutions have various stakeholders and faced accountability from both internal parties such as board, staffs, *zakat* payers and *asnaf* and also from external stakeholders such as government, media, communities and other non-profit organisations. This paper evaluates the web-based accountability disclosed by *zakat* institutions in Malaysia. Based on the findings of this study, it can be concluded that the tendency of accountability disclosure via website information is generally low. Among three accountability dimensions, financial accountability was the lowest disclosed even though *zakat* institutions are heavily deals with *zakat* funds. Performance accountability and political accountability disclosure also shows the same low practices' patterns. There are needs for *zakat* institutions in Malaysia to enhance its accountability disclosure especially via websites.

Future research should extend this study by analyzing the formation of the *zakat* institutions, i.e. whether there are differences on the web-based accountability disclosure between the corporatized *zakat* institutions and the traditional based *zakat* institutions. Future research should also extend in using the index to analyze other Islamic non-profit organizations' in Malaysia and other Islamic countries. In addition, future research could also analyze the perception of stakeholders on the web-based accountability disclosed by the *zakat* institutions. It would be very interesting should the results of this study can be compared with the actual operation of *zakat* institutions, especially relating to discharging accountability. This can be done by conducting questionnaire or interviews with the key organs in *zakat* institutions.

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**EZ081:
NEW MEDIA FRAMEWORK IN ZAKAT COLLECTION**

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Abstract

This paper focuses on the influence of New Media on Behavioural Intentions among zakat payers which subsequently increases the amount of zakat collected in Malaysia. Using an online survey, responses from 200 zakat payers were collected and analyzed. Qualitative method was utilized in this research in order to analyze the impact of New Media on the Behavioural Intention to pay zakat among the zakat payers. The findings indicate that new media has a strong effect in increasing intentions of zakat payers in fulfilling their duties to pay zakat. A Framework of New Media dimensions towards Zakat Payers' Behavioural Intentions to pay zakat was also developed in this study.

Keywords: New Media, New Media Framework, Behavioral Intentions, Zakat collection

INTRODUCTION

New Media is a borderless technology using computer networking and internet. It is always refers as an emerging communication technologies and application (Tomasello, Lee, & Baer, 2010). Specifically, the term 'New Media' is related to the internet and related digital technologies (Bakar, Amin, & Noor, 2016). Rapid growth of internet, on the other hand, will increase a society's dependence on information technology (Eveleth & Stone, 2008) where verbal exchanges in social network will spread the communication among consumers (Marcos, Mesquita, Farias, Beatriz, & Dornas, 2014).

REVIEW OF LITERATURES

People are shaped by media where these media have transformed into the most enticing force in embellishment people's point of view and qualities (Cheung, 2006). Cheung further argues that the utilization of media in religious lesson is valuable. With the advance in internet and technologies, the inclination to compare innovative engagement with religious interests has been further fortified (Campbell & La Pastina, 2010).

Paizin, (2014) concurs with the ideas by saying that as Muslims get ascent with internet environment, they are likely to share their faith and beliefs at the click of the mouse. His review on the *Zakat* Collection Centre (PPZ), Federal Territory of Malaysia has found that an existence of websites of the centre permits the users to get much faster and easier services. Society can easily get information regarding *zakat* by using social media such as Facebook and Twitter.

Behavioural intention on the other hand, has crucial impact on usage behaviour (Zarco, 2015). He argues that online surveys do create manner change by growing the striking nature of product relevant bits of knowledge that effect the way a customer sees an item. Online reviews have appeared to significantly impact consumer dispositions and behavioural intentions.

Kamtarin, (2012) agrees with the finding by saying that perceived value, trust and New Media confirmed to forming behavioural intention. Align with the findings, Jalilvand, Ebrahimi, & Samiei, (2013) concur that New Media has a strong direct effect on people intention. Therefore, social media is seen as an influential tool in encouraging and influencing behavioural intentions of *zakat* payers in fulfilling their duties to pay *zakat* (Amin, Bakar, & Noor, 2016).

RESEARCH FRAMEWORK AND HYPOTHESES

The research framework as shown in Figure 1 below is adapted from extended TAM model by Bakar, Amin, and Noor, (2016) with some modifications to serve the purpose of this study.

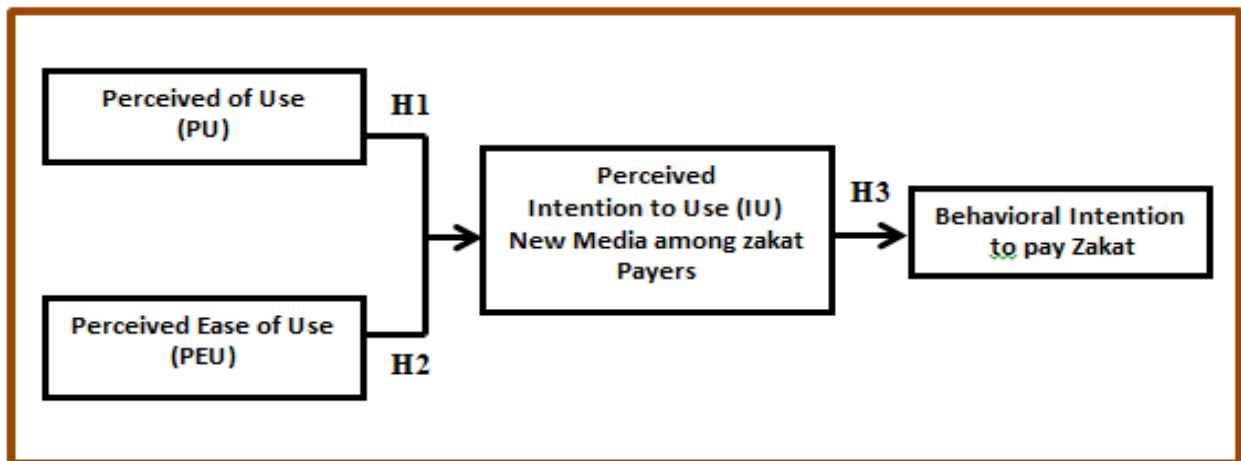


Figure 1: A Framework of New Media Dimensions towards Zakat Payers' Behavioral Intentions to Pay Zakat

This research has identified three hypotheses need to be tested:

H1: Perceived of use has a positive effect on intention to use of New Media among *zakat* payers.

H2: Perceived ease of use has a positive effect on intention to use of New Media among *zakat* payers.

H3: Perceived Intention to use of New Media has a positive effect on Behavioral Intention to pay zakat among *zakat* payers.

RESEARCH METHODOLOGY

This research applied a convenience sampling method when selecting the sample. In order to reach the study population, an online survey questionnaire was distributed using email to the *zakat* payers who have by personal and professional contacts of the authors, who accessed the link to the google docs on social networks. A total of 200 questionnaires were answered.

The questionnaire consisted of five parts; Demographic, Perceived of Use (PU), Perceived Ease of Use (PEU), Intention to Use (IU), and Behavioral Intention (BI) to pay *zakat*. As for demographic section, the respondents had to choose from the given items. On the other hand, for PU, PEU, IU and BI sections, respondents were given options to choose between 1 to 4 where 1 stands for strongly disagree, 2 for disagree, 3 for agree and 4 for strongly agree.

Based on several literatures, the study identified three items pertaining to Perceived of Use (PU), three items for Perceived Ease of Use (PEU), three items for Intention to Use (IU) and three items for Behavioral Intention (BI) among *zakat* payers in paying *zakat* as summarized in the Table 1 below.

Table 1: Items Pertaining to Perceived of Use (PU), Perceived Ease of Use (PEU), Intention to Use (IU) and Behavioral Intention (BI)

Items	
	<u>Perceived of Use (PU):</u>
(PU1)	more convenient to get information through social media
(PU2)	more efficient and save time to get information through social media
(PU3)	easier to download information through social media compare to visiting the institutions
	<u>Perceived Ease of Use (PEU):</u>
(PEU1)	get information through social media can be done at any time and any place
(PEU2)	easier and faster to get information through the websites of the <i>zakat</i> institutions
(PEU3)	easier to do <i>zakat</i> transactions through social media applications
	<u>Intention to Use (IU):</u>
(IU1)	willing to use websites to download information regarding <i>zakat</i>
(IU2)	want to use social media in getting information regarding <i>zakat</i>
(IU3)	want to use applications in the websites to pay <i>zakat</i>
	<u>Behavioral Intention:</u>
(BI1)	<i>Zakat</i> institutions management performance is important when want to choose which <i>zakat</i> institutions to pay <i>zakat</i>
(BI2)	Always refer reviews regarding <i>zakat</i> institutions before continue paying <i>zakat</i> to the institutions
(BI3)	Satisfied with <i>zakat</i> institutions performance from reviews downloaded from social media

DATA ANALYSIS

Reliability test has been conducted and the result is shown in Table 2 below. Cronbach Alpha reliability for all variables indicated a good and very good internal consistency with reading ranged from 0.670 – 0.864 with the overall reliability 0.883. The result indicates that the data obtained in this study are reliable since the widely accepted cut-off is that alpha should be 0.6 or higher (Hair et al. 2010).

Table 2: Reliability Analysis Cronbach Alpha

Scale	No. of Items	Cronbach Alpha
Perceived of Use (PU)	3	0.864
Perceived Ease of Use (PEU)	3	0.823
Intention to Use (IU)	3	0.861
Behavioral Intention (BI)	3	0.670
Overall Reliability	12	0.883

Demographic

The summarized of respondents' profile is shown in the Table 3 below. Items measured in the demographic part were gender dispersion, as well as respondents' age, monthly income and the length of experience in paying *zakat*.

Table 3: Respondents 'profile

Variables	Frequency	Percentage
Gender		
Male	69	34.5
Female	131	65.5
Total	200	100.0
Age		
Below 20 years	-	-
20 – 29 years	51	25.5
30 – 39 years	84	42.0
40 – 49 years	33	16.5
50 years and above	32	16.0
Total	200	100.0
Monthly Income		
Less than RM3000	50	25.0
RM3001 – RM6000	100	50.0
RM6001 – RM9000	38	19.0
RM9001 – RM12000	10	5.0
More than RM12000	2	1.0
Total	200	100.0

Experience in Paying Zakat		
Less than 1 year	26	13.0
1 – 5 years	80	40.0
6 – 10 years	46	23.0
More than 10 years	48	24.0
Total	200	100.0

Linear and Multiple Regression Analysis were used to test the research hypotheses and to examine the effects of independent variables perceived of use (PU) and perceived ease of use (PEU) on the dependent variable intention to use (IU) new media and subsequently the effect on Behavioral Intentions on paying zakat by the *zakat* payers.

H1: Perceived of use has a positive effect on intention to use of New Media among *zakat* payers.

As shown in table 4 below, ($R^2 = 0.381$) is significant at 0.000, and (beta = 0.617) is significant at 0.000. Hence, there is a significant and has a positive effect of perceived of use on intention to use of new media among *zakat* payers. Thus, H1 is accepted.

Table 4: Regression summary for H1

R	R²	Adjusted R²	Std. Error of the Estimate	F	Sig.	H1 Result
.617 ^a	.381	.378	.41684	121.880	.000 ^b	Accepted
			Coefficient			
Unstandardized Coefficients		Standardized Coefficients				
B	Std. Error	B	T	Sig.		
1.165	.204		5.720	.000		
.638	.058	.617	11.040	.000		

H2: Perceived ease of use has a positive effect on intention to use of New Media among *zakat* payers.

As shown in table 5 below, ($R^2 = 0.410$) is significant at 0.000, and (beta = 0.640) is significant at 0.000. Hence, there is a significant and has a positive effect of perceived ease of use on intention to use of new media among *zakat* payers. Thus, H2 is accepted.

Table 5: Regression summary for H2

R	R²	Adjusted R²	Std. Error of the Estimate	F	Sig.	H2 Result
.640 ^a	.410	.401	.40914	45.345	.000 ^b	Accepted
			Coefficient			
Unstandardized Coefficients		Standardized Coefficients				
B	Std. Error	B	T	Sig.		
1.502	.193		7.778	.000		
.571	.058	.575	9.898	.000		

H3: Perceived Intention to use of New Media has a positive effect on Behavioral Intention to pay *zakat* among *zakat* payers.

As shown in table 6 below, ($R^2 = 0.130$) is significant at 0.000, and ($\beta = 0.360$) is significant at 0.000. Hence, there is a significant and has a positive effect of intention to use of new media on behavioral intention to pay *zakat* among *zakat* payers. Thus, H3 is accepted.

Table 6: Regression summary for H3

R	R²	Adjusted R²	Std. Error of the Estimate	F	Sig.	H3 Result
.360 ^a	.130	.115	.50035	8.756	.000 ^b	Accepted
			Coefficient			
Unstandardized Coefficients		Standardized Coefficients				
B	Std. Error	B	T	Sig.		
2.702	.161		6.735	.000		
.110	.047	.164	2.337	.000		

CONCLUSION AND IMPLICATION

The findings reveal that new media has a strong effects on behavioral intention to pay *zakat* among *zakat* payers. Subsequently, this can leads to more *zakat* can be collected. Hence, it is a strong recommendation to *zakat* institutions to make useful of social media in their operations and continuously updating information in their websites because it has the significant potential in influencing *zakat* payers to pay *zakat*.

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EP082:
MARKETING PRACTICE OF ISLAMIC SOCIAL ENTERPRISE (ISE):
THE CASE OF IMANINA CHARITY SHOP

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Abstract

Islamic Social Enterprise (ISE) is one of the arms of Islamic third sectors that is being run by individuals, partnerships and non-profit organizations. Given with their current growth, in Malaysia and worldwide, studies on ISE specifically that is established by individuals are not yet getting emphasis. As well, no discussion on the marketing aspects of ISE can be found in the past literature. Despite all these limitation, marketing elements yet are very crucial for the development of the sustainable ISE. The elements of marketing are expected as comparatively important for ISE, even though they are targeted to achieve other objectives, then merely the profit making. The purpose of this study is to explore the marketing practices by an individual ISE in Malaysia, Imanina Charity Shop. This is due to the objective of Islamic social enterprise (ISE) that is directed to serve beneficiaries as well as customers, no matter in which level they are. This study adopts the single case study approach and involves structured and open ended interview as data collection method to explore the adoption of marketing practices in ISE. An interview has been made by an owner of an individual owned ISE that is operated in Negeri Sembilan. Results showed that not all elements of the marketing mix are adopted by the owner. Results expand the literature on ISE. In addition, the study highlights some rooms to find the way to sustain the ISE by implementing the right marketing elements.

Keywords: Islamic social enterprise, marketing strategy of non-profit organization, marketing mix.

INTRODUCTION

Islamic social enterprise (ISE) is seen as one of the arm of the Islamic third economic sector. (Muhamed et al. 2016) define ISE as an Islamic-based entity that gained funding (in the forms of monetary, goods and assets) from Islamic charitable sources (waqf, *sadaqah*, *hibah*, and *qard*) and channel them into businesses for the purpose to sustain the contribution to the needy in long term while at the same time contribute to customers. However, its existence is not much being paid attention, in comparison to other non-governmental institutions (NGOs) and government

agency bodies that administer and distribute funds from Islamic charitable sources such as *zakat*, *waqf* and *sadaqah*. The brand names such as Kedai Amal (under Aman Palestine) and Islamic Relief Shoppe (under the Islamic Relief Malaysia) are examples of ISE. Instead of these ISEs, there are some of them are owned and run by the individuals. The ISE funds come from monetary and non-monetary donation. However, not much attention is given on these entities.

However, other institutions (such as large NGOs and government agencies) gained full support by the government and community, most probably due to their large scale of activities as well as potential and contributions (Anheier, 2005). For example, *waqf* instrument together with *zakat* institutions and *baitulmal* have been included as part of the National Economic Plan to reduce poverty in Ninth Malaysian Plan 2006-2010 (EPU 2006-2010). While ISE especially owned by individuals and partnership seems left behind although they may share the same objectives and have some potential to reach community as well.

There are many important reasons for ISE to practice marketing in its operation. Many studies on non-profit business mentioned the need of marketing for ISE. Therefore, this study's objective is to set forth the marketing practices in ISE. It is because that marketing practice can boost the existence of ISE to serve the beneficiaries as well as customers, no matter in which level they are. Another reason is the nature of non-profit business that needs to compete with either commercial business or another non-profit business. The marketing practice can be useful to the ISE to give more impact in its efficiencies and sustainability.

CONCEPT OF ISE

Islam promotes the idea of justice, brotherhood, and distribution of wealth. This basis is reflected in its encouragement on the responsibility of Muslims towards their brothers and sisters. From the private ownership perspective, there is no barrier for Muslims to own property and accumulate their wealth. However, there is requirement for them to distribute their wealth to the poor and needy after spending part of it for their living. For Muslims, their benevolence activities to humanity are part of their obedience to Allah SWT. There are a few types of Islamic charity funds can be found in Islam as a channel of distribution. Sheila, Salman and Ilyas (2012) stated that each of these mechanisms, ie. *zakat*, *waqf* and *sadaqah* had their own unique characteristics. Besides that, there also few more Islamic charity funds such as *hibah*, *infaq* and *qard hasan* as stated by (ISRA, 2011). These sources of funding are the main mechanisms for fair distribution of wealth in Islamic society and reducing the gap between the poor and rich.

Sadaqah, *waqf*, *qard* and *hibah* can be utilized by ISE to generate continuous income through businesses, rather than being distributed directly to recipients, due to their flexibility nature. There are only several papers discussed about the definition of ISEs as mentioned before. Despite this, there is a study mentioned about definition of ISE. A study by Hati and Idris (2014) about the antecedents of customers' intention to support ISEs in Indonesia. This study defines

ISE as non-profit organizations that collect Islamic almsgiving such as *zakat*, *infaq*, *sadaqah*, and waqf and fulfil social enterprise criteria. Adopting entrepreneurial approaches as suggested by (Haugh, 2005) on social enterprise (SE), the ISE should direct action to earn income, achieving its social mission, and creating a larger multiplier effect (Martin and Osberg, 2007), but limited profit distribution.

Other than that, the characteristics of ISE should embed *syariah* principles such as '*adalah* (justice), *ihsan* (benevolence) and *khilafah* (viceregency) in all its operations (Ibrahim & Yaya, 2005). Therefore, the possible characteristics for ISE are as follow (Muhamed et al. 2016):

1. *Syariah* compliance – ISE should operate according to *syariah* principles and avoid prohibited activities such as *riba*, *gharar* (uncertainty) and *maysir* (gambling) and prohibited goods.
2. Supported by Islamic charity funds – ISE can utilize Islamic charity funds such as waqf, *sadaqah*, *hibah*, *infaq* and *qard hasan* as operation funds.
3. Runs by Muslim – Normally ISE are driven by a group composed of Muslims. However, non-Muslim also can participate and have interest with ISE.
4. Revenues generate from social business – ISE should implement *muamalah* (business from Islam point of view) concepts.
5. Generate additional benefits – Such as reward and pleasure from Allah, decrease inequality among community, social capital and community cohesion.

The definition of ISE by (Muhamed et al. 2016) also comprises four main elements; Islamic-based entity, Islamic charitable sources, activities and contributions of ISE. This definition excludes other Islamic-based entities that accept charities and distribute them to the needy, without accumulating those funds.

THE NEEDS FOR MARKETING FOR ISE

The implementation of marketing strategies is very crucial to non-profit business like ISE (Dolnicar and Lazarevski, 2009). Although researchers appear to largely agree that the adoption of a market oriented perspective as well as marketing tools are important for non-profit organizations (Andreasen & Kotler, 2003; Gonzalez et al., 2002; Kara et al., 2004; Macedo & Pinho, 2006; Padanyi & Gainer, 2004; Sargeant et al., 2002), it can be argued that market orientation is not a relevant concept for non-profit organizations because their mission (product) is defined in advance and cannot be changed due to market needs. However, there is a wide range of other marketing strategies and instruments available to NPOs that can be implemented without changing or denying their exact mission. Such strategies include the identification of customers who are most interested in supporting their mission (market segmentation), ensuring an image is built that is attractive to the customers (product positioning), the development of communication messages most attractive to these people (advertising) and communicating with them through channels these people regularly use (place). Consequently, the assumption underlying the present study is that – despite the fact that non-profit organizations are distinctly

different from for-profit organizations – market orientation can significantly increase the effectiveness of non-profit organizations in achieving their mission.

Brace-Govan et al. (2011) also agreed with the research of market orientation and marketing in non-profit organizations. Using a modified replication study of 401 nonprofit organizations from Victoria, this research took some initial steps to assess fundraising and marketing activities. Results suggest that nonprofit organizations should have knowledge generating systems that evaluate their performance as this will improve outcomes for them. Even though organizational size is strongly linked to fundraising performance, there are key drivers that can aid even small organizations in their efforts.

A research by Bull and Crompton (2006) observed that in some sectors the market environment was changing. For some organizations, the markets they served were becoming more competitive. Changes in the finance stream, from funding awards to contracting, together with the statutory withdrawal of services (particularly in the health sector), have stimulated more socially aware competition. The changes have attracted both for-profit and not-for-profit businesses. This study shows that an organization is now beginning to think in terms of marketing strategies: conducting competitor analysis, market segmentation and developing their unique selling point. Hence, competition was making them more ‘business-like’ and serious about it.

Liu and Ko (2011) also suggested in their findings that charity retailers should adopt a more sophisticated operations procedure similar to commercial retailers, such as focusing more on branding, consumer segmentation, and location strategy to face the increasingly competitive market environment. This is due to the rapid expansion and development of charity retailing stimulates competition in this sector.

The needs of marketing are important to help ISE in achieving financial self-sufficiency. Financial self-sufficiency refers to the ability of a social enterprise (SE) to gain financial autonomy through generating profits from income generating activities. Madill et al., (2010) argue that adoption of commercial marketing strategies in social enterprises is necessary for them to achieve financial self-sufficiency.

Another concern about the SE dualities for social marketing implications is been discussed in a research by Mitchell, Madill, and Chreim (2016) where the purpose of their study is to understand the tensions that marketing practitioners in social enterprise (SEs) experience, and to explore how these tensions impact the development and implementation of marketing activities. The analysis shows tensions and dualities inform the social and commercial strategic marketing activities of the SEs. These tensions and dualities are linked to how the organization obtains

financial resources, the nature of the organization's growth, working with myriad stakeholders and competitive versus cooperative pressures.

The role of marketing as a route to sustainability for social enterprises providing public services has been explored by Powell and Osborne (2015). This paper examines the tensions between the economic and social objectives, both of SEs and of marketing. It also concludes by offering a new model of the role of marketing for sustainable SEs. The paper demonstrates that while marketing potentially has much to offer in terms of organizational resilience for SEs, its application is currently undermined by its misunderstanding in practice within a "product-dominant" business logic. Despite this, the study finds a strong element of the unconscious application of marketing by SEs.

A study about the strategic marketing practices used by SEs was done by Mitchell, Madill, and Chreim (2015) who proposed the strategic marketing practices used by SEs are shaped by moral, pragmatic and cognitive legitimacy influences stemming from imperatives to achieve congruence with institutional norms. This study exposes the challenges SEs face in developing strategic marketing activities that address business needs, while balancing stakeholder interests linked to the social missions of such organizations.

MARKETING PRACTICES AMONG ISE

Marketing strategy is important for both SE and perhaps the ISE. This paper uses earlier work in the field of marketing for not-for-profit organizations, such as Andreasen and Kotler (2003). A paper by Dolnicar and Lazarevski (2009) found that NGOs managers have not yet developed strong knowledge and skills concerning the marketing approach. The managers of the NGOs only recognize promotion as the important aspect which related to their organizations. Only few of them acknowledged the importance of market research and strategic marketing. Dolnicar and Lazarevski (2009) highlighted that NGOs typically still have an organization centric rather than a customer-centric mindset. This marketing oriented organization takes its marching orders from its customers; it produces products and services based on its customers' needs, wants and levels of satisfaction (Hejase & Orfali, 2012).

As mentioned by (Hejase & Orfali, 2012), marketing mix refers to variables that a marketer can control to influence a brand's sales or market share. There are four variables summarized as the 4Ps of marketing: product, price, place and promotion. This marketing mix strategy is also being discussed in many areas such as in Islamic banking sector. However, there is no research of this marketing mix strategy in SE as well as ISE. This paper will discuss the marketing mix strategy from the perspective of non-profit as well as Islamic perspective that gives more value added to the ISE.

Based on a study by Goi (2006) on review of marketing mix, (Borden, 1964) claims to be the first to have used the term marketing mix and it was suggested to him by (Culliton, 1948). Marketing mix is originating from the single P (price) of microeconomic theory (Chong, 2003). (McCarthy, 1964) offered the “marketing mix”, often referred to as the “4Ps”, as a means of translating marketing planning into practice (Bennett, 1997). Marketing mix is not a scientific theory, but merely a conceptual framework that identifies the principal decision making managers make in configuring their offerings to suit consumers’ needs. The tools can be used to develop both long-term strategies and short-term tactical programs (Palmer, 2004).

Generally, marketing mix is the set of controllable, tactical, marketing tools that the firm blends to produce the response it wants in the target market. Kotler and Armstrong (2006) explained “an effective marketing program blends all of the marketing mix elements into marketing program designed to achieve the company’s marketing objectives by delivering value to customers’. The marketing mix consists of everything the firm can do to influence demand for its products.

Hejase and Orfali (2012) also discovered the expansions of marketing mix which been added more four Ps, namely, people, physical presence, process and physical evidence. Another view by Kotler and Armstrong (2006) adds political power and public opinion formation to the Ps concept. Häger and Waller (2008) believed that the traditional 4Ps for the marketing products as suggested by McCarthy (1964) are not enough for marketing in a service-based industry. Instead three more Ps, which he considered to be "vital marketing elements" that would occupy management's attention, must be added to the marketing mix; these are Personnel, Physical Facilities and Process Management.

Despite all these debates, the advantages of this marketing mix strategy are indisputable. A study by Singh (2012) was described the importance of relationship of various components of marketing mix for attaining competitive advantage in market. Furthermore, a study of Chumaidiyah (2014) relates marketing mix to the importance and contribution of the elements on the marketing mix that shows how these elements can provide a source of competitive advantage. Marketing mix strategy has high impact to the competitive advantage but each elements of marketing mix have different contribution. The result of the study show that the elements of marketing mix strategy increasing to the competitive advantage simultaneously and significantly. Marketing mix also claimed as an important of internal capabilities in factor resources to influence the competitive advantage in a company.

As a public service providers, it is important to ISE to reformulates the marketing task not as one of selling a product but rather as one of building and sustaining key relationships to achieve its strategic objectives. Although a vast amount of work on SE has been produced, little is known about the marketing practice in SEs (Powell & Osborne, 2015). This study will focus on marketing mix elements that been highlighted in a study of marketing capabilities development

of charity retailing which is also give some reflect to marketing practice in SE. The study of organizational learning and marketing capability development has been done for the charity retailing operations of British SE by Liu and Ko (2011). It can be one of the parameter for the marketing practice that be embedded in ISEs.

There are several types of marketing capability that have been mentioned in the study of Liu and Ko (2011) which fall into eight interdependent dimensions: pricing, product development, channel management, selling, market information management, marketing communication, marketing planning, and marketing implementation. Liu and Ko (2011) investigated the learning mechanisms through which social enterprises develop a marketing capability to deploy their resources in the marketplace as the drivers of competitive advantage in their commercial practice. From the marketing capabilities literature, Morgan et al. (2009); Vorhies and Morgan (2005) provided a useful starting point for understanding the classifications of marketing capabilities, such as pricing, product development, channel management, selling, market information management, marketing communication, marketing planning, and marketing implementation. They found that the codification process of marketing capabilities can be divided into two groups: new marketing capabilities' development and existing marketing capabilities' modification. The former refers to the types of marketing capability that are relatively "new" to the non-profit organization (NPO) when engaging in charity retailing, such as pricing (i.e., product retailing), product development, channel management, and selling.

From the literature, a high percentage of products that the SEs carry are donated, second-hand goods (Horne & Broadbridge, 1995), and almost all SEs offer a similar product range (Hibbert, Horne, & Tagg, 2005). The combination of these factors intensifies the price competition. Dutta et al. (2003) suggest that pricing capability can be divided into two dimensions of price setting: that within the organization and that vis-à-vis the customer. The former pricing capability involves systematically identifying and analysing the competitors' prices and using this knowledge to place the respond price. They found that the explicit knowledge about identifying what the competition is doing has been codified into the price guideline and used to develop the pricing capability. The price-setting capability vis-à-vis the customers refers to the ability to sell to customers without affecting the business–customer relationship Dutta et al. (2003), which also appears to be relevant to SEs, as it binds the organization from raising prices. Their findings suggest that this is because consumers are very price conscious and do not remain loyal to a particular charity retail store. As a result, the store managers need to be trained to have a sensitive awareness about the consequences about their pricing strategy.

Second, Liu and Ko (2011) show the data that the product development capability is associated with the introduction of a new product line or adding a service element to the product. They found that the SEs have made considerable efforts to introduce new products to the market by seeking professional advice and training to become familiar with the new product offer. For

example, the new product offers such as white goods (i.e. fridges, cookers, freezers) and small electrical items, which are different from the traditional product offers of SEs (i.e., books, clothes). Besides that, Liu and Ko (2011) also found that the SEs tend to compete via services such as installation and delivery services if the customer purchases white goods and furniture from the SEs. This result reflects on Lusch et al. (2007) suggestion that retailers' competitive advantage can be enhanced through service.

Thirdly, Liu and Ko (2011) found that there are two areas of channel management in the charity retail sector: the donor relationship and distribution channel management. The results in this study suggest that donated merchandise can be sold either in the charity retail store (roughly 20%-30%) or to recycling companies (roughly 70%-80%). In theory, as long as the donated merchandise keeps flowing in, SEs can remain better off, even without establishing contact with their customers. Therefore, SEs have established a standardized procedure for managing their relationship with their donors (i.e., keeping their contact information) to make them feel appreciated and help them to sense their contribution to society. In terms of distribution channel management, two major themes emerged from the results: warehouse establishment and store standardization. A warehouse operation with high-technology automation provides tremendous opportunities for retail companies to improve the effectiveness and efficiency of their distribution channels (Gu, Goetschalckx, & McGinnis, 2007). Although SEs may be unable to afford the installation of a big price tag automation system in their warehouse, they do leverage their ability to attract volunteers to work there. However, store standardization provides the benefits of quality control, cost minimization, and image uniformity (Kaufmann & Eroglu, 1999), and the study found that SEs also desire to capture these benefits. The existence of worker manuals on pricing, labels, and so on, or a project plan for store fit specification allows the store staff to place the products in the designated place. The product catalogue is produced to increase the product display capability beyond the physical limits of the store's shelves.

Finally, regarding selling capability, Shapiro et al. (1997) point out that an organization can capture a competitive advantage by strategically managing its sales force through the development of measurement, competency creation, and motivation systems. The uniqueness of SEs is that they must build all three systems primarily around their voluntary workforce, as all of the research participants suggest that a single charity retail store is often operated by one paid shop manager and several volunteer staff. For the measurement system, the results show that all of the cases have a performance measurement system in place for measuring the selling performance from the shop level to the individual level. There is a strong emphasis on improving service quality and consumer satisfaction. In terms of a competency creation system, they found that all of the cases provided some sales manuals or training for their voluntary staff.

MARKETING MIX FROM ISLAMIC PERSPECTIVES

There are four characteristics to the Islamic marketing concept contended by Sula and Kartajaya (2006). These are spiritualistic, ethical, realistic, and humanistic. Moreover, Hassan, Chachi, and Latiff (2008) found in their research of Islamic Marketing Ethics in Banking Sector that Islamic marketing ethics based on the principles of justice and equity in Islam. To the extend, there are three characteristics of market ethics from the Islamic perspective. Firstly, Islamic ethics are based on Qur'anic commandments and leave no room for ambiguous interpretation by marketing executives to suit their individual whims and desires. Secondly, the main difference is their transcendental aspect of absoluteness and non-malleable nature. Thirdly, the Islamic approach emphasizes value-maximization in view of the greater good of the society rather than the selfish pursuit of profit maximization. Therefore, this study will use 5Ps variables by Hassan, Chachi, and Latiff (2008) that attempted to analyse the 5Ps of marketing ethics within the context of 'marketing' as determined by Islamic ethics. The 5Ps are: product, price, promotion, place and people as Figure 1 below:

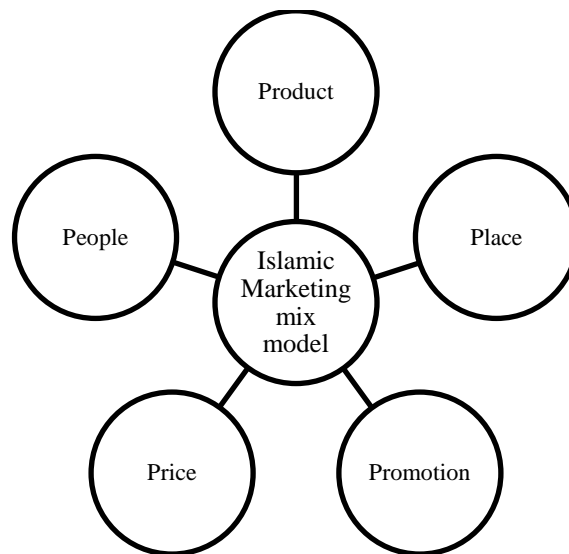


Figure 4: Islamic Marketing Mix Model

Source: (Damirchi & Shafai, 2011)

Product

Product is the goods and/or services offered by a company to its customers. It is either tangible or intangible service that is seem to meet a specific customer need and demand. The customers are paying not for the tangible product but for the benefit it will provide. So, product can be described as a bundle of benefits which a marketer offers to the consumer for a price. Product can also take the form of a service like an air travel, telecommunication, etc. Thus, the term product refers to goods and services offered by the organization for sale.

The Islamic perspective incorporates moral and transcendental elements within the production decision-making process in product development and is guided by the principles of Islamic business ethics such as the product should be lawful and not cause dullness of mind in any form;

should be asset backed; must be deliverable; need to identify extra cost-added features; and the transaction should be based on principle of justice, fairness and equity (Hassan et al., 2008). The production process also has to be guided by criteria of the value and the impact of the product upon the whole society (Hejase & Orfali, 2012). Furthermore, it encourages societal and welfare approach decisions rather than decisions based on the profit maximization.

From non-profit marketing, product is defined as anything, either tangible or intangible, offered by a firm; as a solution to the needs and wants of the consumer; is profitable or potentially profitable; and meets the requirements of the various publics governing or influencing society (Burnett, 2007). From social marketing perspective, major product elements include: (a) the benefit the target audience wants in exchange for performing the behavior, (b) any goods and services you will be promoting to your target audience, and (c) any additional product elements you will include to assist your target audience in performing the behavior. Therefore, there are three product levels that should be considered when developing product: core product, actual product, and augmented product. Briefly, core product is the benefit the target audience wants and expects in exchange for performing the behavior. The actual product is any goods or services you will be influencing the target audience to purchase. And the augmented product includes any additional product elements that you may develop, distribute, sell, or just promote (Lee & Kotler, 2011; Andreasen & Kotler, 2003; Burnett, 2007). As competition increases, organizations must carefully manage the length, width, and depth of their product offerings to compete. According to Andreasen & Kotler (2003) most nonprofit organizations are primarily in the service business and it can be delivered by people, place, and objects or equipment. It is synonyms with the people who deliver the services. Service marketers must vigorously pursue internal marketing to ensure that key frontline people have a customer-first attitude and must have internal systems to empower frontline people to take actions necessary to meet customer needs and wants.

Price

Price is the amount of money paid by customers to purchase the product. It involves list of price, discounts, allowance, payment period and credit terms. Many factors like demand for a product, cost involved, customer's ability to pay, prices charged by competitors for similar products, government restrictions have to be kept in mind while fixing the price.

In Islam, Muslims are prohibited to get something too easily without hard labor, or receiving a profit without working for it (Hejase & Orfali, 2012). Hassan et al. (2008) added two more illicit activities in pricing products (a) it is prohibited to change a price without altering the quality or quantity of the product; (b) it is prohibited to false propaganda or publicity on the part of marketers regarding the position of demand and supply. Nevertheless, Islam does not prohibit price controls to meet the needs of the market. That means the Islamic ethics allows some time in which to charge higher price as a result of natural scarcity of supply of a given commodity or setting price ceilings to curb opportunities tendencies among merchants. Noteworthy,

(Mortazavi, 2004) as cited in Hejase and Orfali (2012), manifests that Islamic social justice demands regulation of the market to guarantee that prices remain fair in the marketplace. Consequently, to guarantee the fairness in prices, Islam prohibits hoarding, black markets, and the concentration of market power in any form and fashion.

Based on study by Lee and Kotler (2011) the price of a social marketing product is the cost that the target audience associates with adopting the new behavior. There are two adoption cost in nature which is monetary or nonmonetary (Lee & Kotler, 2011; Andreasen & Kotler, 2003). Furthermore, monetary costs in a social marketing environment are most often related to goods and services associated with adopting the behavior such as buying a life vest or paying for a swim class for toddlers. In the other hand, the nonmonetary costs are more intangible but are just as real for the audience and often even more significant for social marketing products.

According to Burnett (2007), nonprofit may use synonyms for price, such as charge, donation, tuition, fee, or contribution, but in the end, they all help cover costs, and allow organization to survive. Unlike for-profits, nonprofits face some unique pricing problems. Most notably, the price charged may be less than costs, or price may not exist at all. As the designation suggests, nonprofits are not in business to make profits and satisfy stockholders. They often offer their services for free or on a sliding scale. They hope to make up the deficit through grants, donations, government's supplements, selling merchandise, and so forth (Burnett, 2007). The uncertainty associated with these funding sources remains a major problem faced by virtually all nonprofits. Yet, it does not diminish the need for nonprofit marketers to understand the principles of setting the price, despite the fact that many nonprofit organizations operate in nonprice markets. There are several reasons why nonprofits should charge for their goods and services, especially if its involves nonmonetary pricing. Due to difficulty of many nonprofits, it is appropriate to charge a fair price for products in order to remain an active organization. Secondly, it is to influence the clients'/stakeholders' attitudes, beliefs, opinions, and behavior. Sometimes, it seems as not worth the effort if the nonprofit services are too easy to come by. Lastly, the reason to charge the price is to keep track. As conclusion, Andreasen & Kotler (2003) highlighted that the nonprofit manager has a dual task in managing these costs. Some costs must be kept reasonably high to ensure continuing revenues to the organization. Other costs must be reduced as much as possible to lower barriers to customer action. It needs to know the relative responsiveness of target customers to each of the reduction of the costs. In developing a strategy for monetary prices, it could seek its objectives such as surplus maximization, cost recovery, market size maximization, social equity, or market disincentivization. The specific strategy that must meet these objectives may be primarily cost oriented, demand oriented, or competitive oriented.

Place

Place is the activities that make the product available to consumers. Distribution is a key element of placement. The placement strategy will help assess what channel is the most suited to a product. How a product is accessed by the end user also needs to compliment the rest of the product strategy. Another name for place is knowingly as channel distribution.

With respect to distribution of product, Islamic institutions adopt the following principles by Hejase and Orfali (2012):

- i. Not to manipulate the availability of a product for purpose of exploitation;
- ii. Not to use coercion in the marketing channel;
- iii. Not to exert undue influence over the re-sellers' choice to handle a product;
- iv. Use of packaging designs with adequate security and protection for the product;
- v. Appropriate packaging;
- vi. Not to transport dangerous and toxic products on public highways; and
- vii. Not to create a burden for the final customer in terms of higher prices and delays.

Within the Islamic ethical framework, the main aim of distribution channels should be to create value and uplift the standard of living by providing ethically satisfactory services (Hassan et al., 2008). Additionally, Andreasen and Kotler (2003) suggested that to achieve an effective and efficient channel strategy, the nonprofit marketer must decide what quality of service to offer and whether marketing will be direct or indirect. Then, the marketer must determine the length and breadth of the channel, recruit channel members, and assign functions. Finally, the marketer should put systems in place for effective coordination and control among the channel members.

Promotion

Promotion refers to a process of informing, persuading and influencing a consumer to make choice of the product to be bought. Promotion can be done through means of personal selling, advertising, publicity and sales promotion. In some marketing book, promotion is also known as “communication”.

Hassan et al. (2008) stress there are no room in Islam that justifies any cover up of deceptive promotional behavior. Therefore, there are three rules for product promotion in Islamic market ethics: (a) avoidance of false and misleading advertising; (b) rejection of high pressure manipulations or misleading sales tactics; and (c) avoidance of sales promotions that use deception or manipulation. Adding to the aforementioned conditions, in Islamic ethics, promotional techniques must not use sexual appeal, emotional appeal, fear appeal, false testimonies and pseudo research appeal, or contribute to the dullness of the mind or encourage extravagance (Hejase & Orfali, 2012). Besides, Samad (2008) stated that advertisement which provides the information of genuine product differentiation and helps increase moral values is welcome.

Like all marketing organizations, nonprofit must engage in strategic communications. All the same communication tools are available to both for-profits and nonprofits. According to Burnett (2007), tradition and limited resources however suggest that many of these communication tools are not part of the nonprofit arsenal. For example, mass marketing and public relations are requires heavy investment of cash, talent and time. On the other hand, sales promotions tactics are often employed by nonprofits. It is shown that price discounts and other special deals are common. Finally, personal selling is rarely considered. Nevertheless, Lee and Kotler (2011) suggest these constrain could be solved by managing the right communications such as advertising. It is non-personal communication conducted through paid media under clear sponsorship and must be planned strategically like any other element of the marketing mix. Objectives must be set, budgets determined, messages defined, media selected, and a system of evaluation established. Marketers should not make grand promises of what advertising can do and should be alert to ethical issues. Marketers also encouraged to consider new media and other nontraditional options that may be more successful in “catching your audience by surprise”. They may also allow the audience more time to consider the messages.

People

Islam emphasizes the importance of “free” and “independent judgement” on the part of the customer. Hassan et al. (2008) stress that the society at large should not be deprived of honest, free from coercion marketing information. Yet, this type of “P” is not being discuss in different way in nonprofit marketing. From the marketing mix, people can be categorized under target audience. Lee and Kotler (2011) give three step process in selecting target audience: (1) segment the market, (2) evaluate segments, and (3) choose one or more segments for targeting. Traditional variables used to describe consumer markets include demographics, geographic, psychographics, and behavior variables. Five additional models frequently used by social marketing practitioners include stage of change, diffusion of innovation, Healthstyles segmentation, environmental segmentation, and generational segmentation. target audiences are evaluated based on efficiency and effectiveness measures, using nine variables outlined by Anderson and presented in this text: segment size, problem incidence, problem severity, defenselessness, reachability, general responsiveness, incremental costs, responsiveness to marketing mix, and organizational capabilities (Lee & Kotler, 2011).

RESEARCH METHODOLOGY

This study adopts the single case study to explore the mix marketing approaches used by the individuals owned charity shops. The justification of using single case study is because not many ISEs owned by individuals, as most of them are owned by partnerships and NGOs. Structured and open ended interview was conducted to gain data, as the study deals with ‘how’ and ‘why’ rather than ‘what’ (Yin 2014). The interview session was conducted on December 2016 with the owner of Imanina Charity Shop. Two main research questions that are explored in the study are;

- i) How the mix marketing strategies are adopted by the owner?
- ii) Why the said approaches were taken by the owner?

The analysis was guided by the previous literature on SE as no studies have been conducted on ISE on this aspect. The answers are coded and grouped under the same theme that is previously identified through the literature. The different elements that are newly arising is highlighted as new themes.

CASE STUDY OF ISE: IMANINA CHARITY SHOP

Imanina Charity Shop is a registered “Enterprise” and operates a half and a year ago in Seremban, since September 2015. This charity shop collects preloved and excess clothes and children toys from the community and the goods later are sold to the community. Its owner is Mr NA, who has a full time job, which is unrelated with the ISE operation.

With the tagline, “from community to the needy”, the manager cum owner, Mr. NA operates this charity shop individually by himself with a help from a permanent staff that has been hired to help him to manage the shop during his absence. The objective of this charity shop is only to help the needy and there is no specific *asnaf* who will get the distributions. It is not like any other ISE which uses waqf or *zakat* as an instrument in gaining financial sources. There is no department formed in this charity shop because it is solely operated by an individual-owned structure.

For the manager, it is more than enough if he could achieve two things in this charity shop, first, it could help the needy, secondly, it could cover the break-even cost. Unfortunately, the sale does not contribute much to business leaving the owner to cover for all overhead expenses.

RESULT AND ANALYSIS

1. Products

Product is one element of mix marketing. The product that being sold here are second hand items that been given by the community or donors. The donation can come in the form of financial and non-financial sources. Based on Mr NA, some donated products were good quality, and in some cases, they received prelove original branded items from overseas such as handbags. Mr. NA try to get feedback regarding his products by asking directly to customers and also by observation which products they mostly like to purchase. Moreover, there is some limitation to get variety of items and to fulfill the needs of customers because its depend on the donation. Because of this reason, lots of stocks in the form of women clothes (such as *baju kurung*) are held at the back of the shop, leading him to sell at any price to reduce the stock.

From Islamic perspective, this result shows that the ISE is fulfill the moral and principles of Islamic business ethics which propose a societal and welfare approach decisions rather than decisions based on profit maximization (Hejase & Orfali, 2012).

For nonprofit marketing, the product of Imanina is tangible products only and it is can be categorized as actual products where it is any goods or services that will be influencing the target audience to purchase (Burnett, 2007). There is also another limitation where the quality, packaging and brand name are not being implemented. This is because they have to accept any products given by donors. This ISE also only sell products not services to the customers due to the charity shop concept which only serve tangible products.

2. Price

For the price setting, Imanina Charity Shop did not have any specific strategy for pricing of the products. The concept is “if it worth for that price” is being applied. The price is determined by comparing the goods to the market price in order to estimate the final price for the product. This is a strategy based on marketing which used competition-oriented pricing. And also, it’s all depend on their logic. However, he always advice the workers to identify the brand of the goods before setting the price. On the promotion day, they sell only RM1 for each item, mostly to reduce the stock. The problem is that, the income from the sales usually is unable to achieve break-even point. However, the owner is willing to cover all the cost as his main intention to form the shop is to help the community.

The result shows that ISE as a benchmark in Islamic social justice in setting price that guarantee that prices remain fair in the marketplace as stated by Mortazavi (2004). It is because of the ISE objective is only to do business activities that underlying with the social enterprise and also distribute the revenues on charity activities. However, in Islam, there is no prohibition in charging fair price to cover the minimum costs borned by merchants.

Literatures have shown that the need for nonprofit marketers to understand the principles of setting price (Burnett, 2007). It is important to ISE has a dual task in managing the monetary costs parallel with its objectives (Andreasen & Kotler, 2003). As if the objectives are to get surplus maximization and cost recovery, then it should deploy cost oriented and competitive oriented in pricing the products.

3. Place

For this time being, the shop has no other branches, even though the owner has some aim to expand its operation. The only channel distribution that the shop is operated is located at a residential area in Seremban. Due to insufficient fund or revenue, it could not manage to choose a more strategic place. The manager chooses to do pull marketing which serve the customers who live near with the charity shop. In the pull strategy, the manufacturer/producer takes primary responsibility for marketing to the ultimate consumer. This is done primarily through marketing

communication functions such as advertising, sales promotion, and personnel selling. Last time, Mr. NA told that they managed to do car boot sales activities to reach out the customer. He agreed that it is very an effective way to sustain this ISE.

In some limitations, this ISE could not fulfill the place strategy such as closer location, more accessible than the competition, and also be where the target audience shops or dines as suggested by (Lee & Kotler, 2011). This is because of insufficient fund or revenue and also focus on pull strategy only.

4. Promotion

According to Mr NA, several promotion approaches have been performed to attract the interest of the customers to visit and buy their products. Advertising has been done through online using Facebook account. Also, they use newspaper as a medium to promote the charity shop. Due to insufficient workforce, they could not actively promote their products outside by giving flyers. They also practice another promotion types such as advertisement, sales discount and public relation. Other promotions tools could not be utilized due to insufficient budget and volunteer for promotion.

This result shows that promotion strategy that been used by Imanina are mix of traditional and nontraditional ways which involved new media and other nontraditional options such as social media i.e., Facebook (Lee & Kotler, 2011). Furthermore, in Islamic perspective, Samad (n.d) as stated by (Hejase & Orfali, 2012), advertisement that provides the information of genuine product differentiation and helps increase moral values is welcome.

5. People

Most of the customers of Imanina are from poor and middle income individuals who want to shop their basic needs at reasonable prices. On the other side, the donors are also consist of Mr NA's colleague. This charity shop opens to all community who are from various background, local people, and foreigners.

From Islamic perspective, this "People" strategy should be adopted to give more efficiency on operation of ISE. This is due to the nature of ISE is to serve better for the beneficiaries. Islam encourages to compete in goodness as Allah SWT says in Quran:

So race to [all that is] good. Wherever you may be, Allah will bring you forth [for judgement] all together. Indeed, Allah is over all things competent. (2:148)

People who come to Imanina come from various background. These people come either to buy or to donate to the ISE. ISE should do the process of selecting their target audience as suggested by Lee and Kotler (2011) to serve the best they could.

Overall results shows that marketing mixed strategy is not fully adopted in Imanina. Despite the importance of the mixed marketing is heavily recognized by its owners, not all aspects of 5Ps is used due to some limitation. As such, this entity faces with some difficulties to sustain the operation, and need for injection form the owner. To ensure its continuity, the owner's needs to pay some expenses on the shop as the business income could not cover for all expenses. The results support some previous findings such as Andreasen and Kotler (2003) and Dolnicar and Lazarevski (2009) that the adoption of a market oriented perspective as well as marketing tools is important for non-profit organizations.

CONCLUSION

From the literature, it shows that the marketing mix strategy for ISE is newly develop and yet must be done accordingly. It is because of the important of marketing strategy in supporting the sustainability of ISE. As mentioned, many researchers agree that implementation of marketing strategy in not-for-profit business as well as in for-profit business. The practice of marketing in ISE that involves 5Ps elements such as product, price, place, promotion, and people have to be discover more for the sake of sustainability and efficiency of ISE. This paper presents a case study of an individual ISE in Malaysia. The Imanina Charity Shop is an infant charity shop that operated by having the charitable recycled and new goods that are donated by the contributors without any specific strategy for their products. Since in literature of marketing in SE do mentioned about the marketing capability to deploy their resources in the marketplace as the drivers of competitive advantage in their commercial practice, this development should be explored more and to be implemented by ISE. Future research of the marketing practice in ISE can be done by using the multiple cases.

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BZ083:
SATU ANALISA KUALITATIF TERHADAP FAKTOR PENDORONG
PEMBAYARAN ZAKAT OLEH SYARIKAT

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Abstract

This research is conducted to investigate factors that influenced zakat payment among companies or business entities. The study is based on qualitative analysis conducted on decision makers at 14 companies. This research uses semi structured interview format and use thematic technique for data analysis. The results show that, efforts done by zakat institutions, actions taken by government and internal initiatives are the three main factors. Excellent customer service, efficient disbursement and good governance are the three main component for zakat institutions. Tax rebate, tax deductions, fatwa rulings and enforcement are the elements for governments' role that can effect zakat payment. However internal motivation factors are the most dominant. It's consist of three element i.e Board Directors understanding, Muslim Board Directors composition and company financial status. Above all, Board Directors understanding is the most crucial. Therefore, marketing effort should be focusing on decision makers of the companies through understanding their behavior. This study contributes to the theory and gives insight on factors affecting zakat payment by business entity.

Keywords: Qualitative analysis, factors, zakat, companies, business entities

PENGENALAN

Zakat adalah satu rukun yang bercorak sosio ekonomi dari lima rukun Islam. Dengan menunaikan zakat, seseorang yang mengucap dua kalimah syahadah dan menunaikan solat, maka dia layak dan diperakui keIslamannya dan dikategorikan sebagai umat Islam yang sebenar sebagaimana firman Allah SWT:

فَإِنْ تَابُوا وَأَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ فَإِخْوَانُكُمْ فِي الدِّينِ ۗ وَنُفِصِلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ ﴿١١﴾

Terjemahan: Oleh itu, jika mereka bertaubat (dari kekufuran) dan mendirikan solat serta menunaikan zakat maka mereka itu adalah saudara kamu yang seagama dan kami menjelaskan ayat-ayat keterangan kami satu persatu bagi kaum yang mahu mengetahui.

Menurut M.A.Manan (1983) zakat boleh berperanan dalam mengatasi masalah ketidakseimbangan agihan kekayaan, memangkinkan aktiviti pengagihan semula kekayaan secara berperingkat dan membantu membendung kecenderungan inflasi. Zakat juga dapat membantu ekonomi bagi menyeimbangkan masalah peningkatan nilai wang, ketidakseimbangan harga barangan, ketinggian kadar kitaran mata wang, peningkatan inflasi dan ketidakseimbangan agihan kekayaan. Kerana itulah Islam meletakkan zakat sebagai pusat tumpu dalam polisi fiskal Islam dan operasi pelaksanaannya (Mohammad Yusof, 2006). Justeru itu, pengurusan zakat perlu ditadbir seiring dengan kemajuan teknologi untuk meningkatkan potensi kutipan.

Bagi meningkatkan lagi kutipan zakat, segmen syarikat atau entiti perniagaan perlu digarap dengan lebih baik. Gelagat pembuat keputusan yang terlibat dalam entiti perniagaan perlu dilakukan bagi mengenal pasti faktor yang mendorong kepada kepatuhan pembayaran zakat. Gelagat dan faktor sebenar yang mendorong pembayaran zakat perniagaan perlu diketahui dalam usaha memaksimumkan potensi kutipan zakat. Kajian ini memilih syarikat tersenarai awam (PLC) di Bursa Saham Kuala Lumpur (BSKL) sebagai subjek kajian. Hasil daripada kajian terhadap literatur banyak penyelidikan memberi fokus berkaitan faktor pembayaran zakat oleh individu berbanding kajian yang mengkaji gelagat syarikat atau entiti perniagaan. Oleh itu kajian mengenai faktor pembayaran zakat di kalangan entiti perniagaan amat diperlukan bagi membantu usaha memaksimumkan potensi kutipan zakat. Zakat perlu diuruskan secara dinamik supaya dapat disesuaikan dengan evolusi perubahan dan kemajuan tamadun manusia. Dapatan kajian ini adalah input dari lapangan yang terkini yang boleh memberikan idea dan penyelesaian alternatif kepada pihak kerajaan dan penggubal polisi dalam menilai semula insentif yang kepada syarikat Muslim bagi meringankan beban mereka yang menunaikan zakat. Oleh itu kajian ini memilih segmen syarikat tersenarai awam (PLC) yang telah membayar zakat sebagai objek kajian.

KAJIAN LITERATUR

Berdasarkan kepada pelbagai literatur tentang teori kepatuhan zakat pelbagai teori digunakan mengikut reka bentuk kajian masing-masing. Banyak kajian menggunakan asas psikologi mengambil Teori Gelagat Terancang (*Theory of Planned Behaviour-TPB*) (Icek Ajzen, 2005) sebagai asas kajian faktor pembayaran zakat (Kamil Md. Idris, 2002; A. Radzuan Ghazali, 2009; N. Adilah A. Shokori, 2011; Zainol Bidin & Kamil Md. Idris, 2009 dan R.A. Jefri Saad, 2010). Pendekatan lain adalah kajian yang menggunakan asas pandangan Islam (M. Ali M. Nor et al., 2004) dan tiga kajian lain menggunakan asas rasional prinsip zakat sebagai satu tuntutan ibadah (Sanep Ahmad et al, 2011; M. Rahim Kamis et al., 2011; Sanep Ahmad & Zulkifli (2010)). Selain itu, pendekatan lain yang digunakan dalam membuat kajian mengenai kepatuhan zakat adalah dengan membuat perbandingan di antara gelagat kepatuhan zakat dan cukai. Mereka mengambil kira teori kepatuhan cukai dan disesuaikan dengan kepatuhan zakat (Kamil Md. Idris, 2009; Sanep Ahmad & Zulkifli, 2010). Hasil kajian literatur oleh Kamil Md Idris mendapati antara faktor yang mempengaruhi kepatuhan cukai adalah demografi iaitu umur (ketua isi rumah

yang berumur melebihi 65 tahun lebih patuh), jantina (wanita lebih patuh), tahap pendapatan (golongan berpendapatan tinggi lebih patuh) dan beban tanggungan (golongan yang kurang beban tanggungan kewangan lebih patuh).

Selain itu, hasil kajian literatur mendapati topik mengenai zakat menarik ramai penyelidik dan kajian yang dibuat mengenai zakat adalah pelbagai, sama ada dalam konteks peranan zakat terhadap ekonomi mikro dan ekonomi makro (Pranam Dhar, 2013; Mohammad b. Yusof, 2006), peranan zakat dalam mengatasi masalah kemiskinan (Patmawati Ibrahim, 2006) sumbangan zakat terhadap pendidikan (Norfariza M.Radzi et al., 2012), zakat dan perundangan (Siti Mashitoh Mahmud, 2007), transformasi pengurusan zakat (A. Shahir Makhtar et al., 2016), akauntabiliti dalam pengurusan zakat (A. Halim M. Noor et al., 2012; R. A. Jaffri Saad; 2014), kepatuhan syarikat membayar zakat (Halizah M. Arif et al., 2011; M. Rizuan A. Kadir et al., 2014) dan pelbagai skop lagi. Berdasarkan kepada analisa yang dibuat terhadap kajian-kajian lalu gelagat kepatuhan zakat masih sangat minimum dan kajian terkini dan kontemporari terhadap zakat perniagaan sentiasa diperlukan. Ini merupakan satu jurang penyelidikan yang perlu ditangani dan kajian ini memilih segmen PLC sebagai fokus kajian.

METODOLOGI PENYELIDIKAN

Kajian Kualitatif ini dibuat dalam bentuk temu bual bersama responden yang berautoriti untuk mewakili syarikat bagi mendapat maklumat sebenar tentang pengalaman membayar zakat dan berkongsi pandangan tentang faktor yang mendorong pembuat keputusan di dalam syarikat membuat keputusan untuk membayar zakat. Populasi kajian ini adalah PLC yang membayar zakat dan melalui semakan data sekunder sebanyak 17 buah PLC telah dikenal pasti membayar zakat secara formal bagi tempoh 2009-2014 sebagaimana di lampiran. Pada peringkat pemilihan syarikat, kajian ini menggunakan teknik bancian di mana semua syarikat yang membayar zakat termasuk di dalam kerangka pensampelan. Bagi peringkat pemilihan responden kajian ini menggunakan kaedah persampelan pertimbangan (*judgemental*).

Kajian kualitatif ini dibuat berbentuk *Phenomenology* iaitu memahami pengalaman seseorang dalam satu-satu keadaan dari perspektif masing-masing. (Johnson, Burke & Christensen, Larry, 2008) Ia melibatkan proses mendapatkan perspektif atau pandangan pembuat keputusan di dalam PLC yang membayar zakat tentang pengalaman syarikat yang mereka wakili dalam membayar zakat khusus kepada faktor yang mendorong mereka untuk mencapai keputusan membayar zakat. Walaupun setiap individu adalah unik dan mempunyai perspektif masing-masing, namun perspektif setiap seorang itu mempunyai ciri lazim yang boleh dikenal pasti (Higgins. E. Tory, 2000). Ciri lazim ini dipanggil "*essence*" atau struktur yang tidak berbeza (Johnson, Burke & Christensen, Larry, 2008). Ini merupakan ciri penting dalam memahami sesuatu fenomena. Dengan itu kesamaan atau perbezaan yang wujud di antara responden akan dirumuskan menjadi hasil kajian.

Soalan untuk tujuan temu bual dibangunkan melalui kerangka konseptual kajian yang mengandungi enam komponen utama dan soalan terbuka yang diselaraskan (*standardized open ended interview*). Draf soalan dikemukakan pakar rujuk (2 ahli akademik dan 2 pengamal di dalam bidang zakat). Kajian rintis turut dibuat bagi memastikan soalan yang dibuat boleh disandari sebagai instrumen kajian.

ANALISA KAJIAN DAN DISKUSI

Analisa dibuat dengan mengenalpasti dan menganalisa kandungan temu bual menggunakan teknik Analisa Tema (*Thematic Analysis*) dengan melihat perbezaan atau kesamaan pandangan dan pengalaman responden dalam konteks membuat keputusan untuk membayar zakat. Kesamaan dan perbezaan ini dikategorikan dan dirumus menjadi hasil penemuan kajian. Kajian ini menilai pandangan responden dalam konteks enam tema iaitu (a) status penerima terhadap kewajipan membayar zakat, (b) kesan terhadap gerak kerja institusi zakat, (c) kesan terhadap usaha yang dibuat oleh kerajaan, (d) kesan dorongan dalaman syarikat dan (e) tahap kesediaan untuk membayar zakat. Kesemua 14 syarikat dikenali melalui nombor rujukan dan tidak menggunakan nama sebenar syarikat. Nombor rujukan yang diberikan kepada syarikat 1 adalah S1 sehingga kepada syarikat 14 yang dikenali dengan nama S14. Analisa dibuat tanpa mengetahui identiti sebenar syarikat bagi menjamin kerahsiaan maklumat yang diperolehi sebagaimana yang telah dipersetujui bersama.

Analisa Penerimaan Kewajipan Syarikat Menunaikan Zakat

Salah satu isu utama kajian ini adalah melihat penerimaan responden terhadap status kewajipan pembayaran zakat oleh syarikat. Hasil ini adalah penting bagi mengetahui tahap kesediaan mereka yang mengendalikan pembayaran zakat oleh syarikat melihat keperluan ini. Hasil temu bual mendapati 13 syarikat (93%) daripada 14 syarikat, menerima kewajipan syarikat untuk membayar zakat sebagaimana dinyatakan di dalam Jadual 1. Penemuan ini menunjukkan bahawa walaupun sesebuah syarikat itu telah membayar zakat, namun tidak semua berpandangan bahawa entiti perniagaan diwajibkan untuk membayar zakat.

Jadual 1: Penerimaan Kewajipan Berzakat ke atas Syarikat

	Menerima	Tidak Menerima	Jumlah
Bilangan syarikat	13	1	14
Peratusan	93%	7%	100%

Responden turut menjelaskan pelbagai sebab penerimaan kewajipan berzakat iaitu kerana wujud fatwa khas mengenai syarikat mereka wajib membayar zakat (S1), kerana diberi penerangan oleh institusi zakat (S3, S5, S9, S10, S11 dan S14) dan kerana kesedaran syarikat bahawa entiti perniagaan dikenakan zakat (S4 dan S7), kerana pembayaran zakat sejak wujud dalam dokumen penubuhan syarikat (S6) dan kerana merasakan pembayaran zakat adalah sebagai amanah yang perlu ditunaikan oleh pihak pengurusan kepada pemegang muslim /

bumiputra juga amanah kepada kakitangan (S8, S12 dan S13). Manakala bagi jurucakap syarikat yang berpandangan sebaliknya beliau mengatakan bahawa, “Zakat sepatutnya hanya dikenakan kepada individu dan tidak syarikat. Saya menerima keputusan membayar zakat ini sebagai keputusan secara kolektif oleh ahli lembaga pengarah syarikat dan pemegang saham terbesar syarikat ini”. Hasil kajian mendapati bahawa tidak semua pembuat keputusan memahami status kewajipan oleh syarikat untuk membayar zakat walaupun syarikat berkenaan telah membayar zakat.

Analisa Kesan Peranan Institusi Zakat

Kajian seterusnya melihat secara khusus mengenai kesan Peranan Institusi Zakat dan elemen yang wujud di dalamnya iaitu perkhidmatan, pemasaran, agihan dan urus tadbir. Majoriti syarikat iaitu 10 syarikat (71%) menyatakan bahawa institusi zakat mendorong mereka membuat pembayaran zakat manakala 4 syarikat lagi (28%) mengatakan tidak mendorong. 10 syarikat memaklumkan institusi zakat banyak membantu mereka menunaikan zakat bemula daripada memberi penerangan tentang kewajipan dan pengiraan zakat, mengadakan seminar / bengkel pengiraan zakat perniagaan, memberi kemahiran kepada kakitangan syarikat untuk mengira sendiri zakat syarikat, membuat pengiraan zakat dan menyemak pengiraan zakat oleh syarikat. memberikan perkhidmatan secara personal kepada syarikat, kerap memberikan cenderahatidan institusi zakat memberikan lain-lain khidmat rundingan.

Perkhidmatan yang sangat mendapat perhatian syarikat adalah pemulangan semula sebahagian wang zakat kepada syarikat untuk diagihkan sendiri oleh syarikat kerana “syarikat mempunyai tambahan dana untuk program kemasyarakatan dan membantu golongan yang memerlukan bantuan”. Terdapat 4 syarikat yang mendapati institusi zakat tidak mendorong pembayaran zakat mereka. Mereka menguruskan pembayaran zakat mereka atas inisiatif mereka sepenuhnya. Malah ada syarikat yang tidak berurusan langsung dengan institusi zakat dan mereka mengatur pembayaran zakat dengan Majlis Agama Islam negeri-negeri.

10 responden memberi kepercayaan kepada institusi zakat dan pihak berwajib dalam memastikan urus tadbir masing-masing di mana mereka menyerahkan sepenuhnya aktiviti dan pelaksanaan urus tadbir kepada institusi zakat, syarikat menghormati bidang kuasa negeri-negeri, syarikat percaya institusi zakat ada kaedah masing-masing dalam memikul amanah, syarikat serah tugas kepada institusi zakat. Manakala sebanyak 4 syarikat prihatin terhadap aktiviti agihan oleh institusi zakat. Merekajuga menghargai risalah dan maklumat-maklumat mengenai agihan. Mereka juga berharap agar keberkesanan agihan perlu dipastikan.

Analisa Kesan Tindakan Kerajaan

Kajian seterusnya melihat secara khusus mengenai kesan Tindakan Kerajaan dan elemen yang wujud di dalamnya iaitu rebat, insentif cukai, galakan Suruhanjaya Sekuriti Malaysia atau Bursa Malaysia, Fatwa dan Penguatkuasaan. Majoriti syarikat iaitu 10 syarikat (70%) menyatakan

bahawa tindakan kerajaan amat mendorong mereka membuat pembayaran zakat manakala 1 syarikat lagi (7%) mengatakan agak mendorong. Terdapat 3 syarikat (21%) yang mengatakan tindakan kerajaan tidak begitu mendorong. Majoriti (10 syarikat) berpandangan rebat cukai perniagaan yang diberikan ke atas pembayaran zakat amat mendorong pembayaran zakat kerana ia merupakan satu bonus kepada syarikat yang membayar zakat yang kini terpaksa membayar dua cukai. Bagi tolakan cukai ia memberi manfaat dan menarik minat untuk membayar zakat. Tolakan cukai juga dapat meringankan beban pembayaran cukai dan ia menjadi justifikasi di dalam kertas cadangan pembayaran zakat. Ia menjadi nilai tambah walaupun amat minima. Namun begitu, terdapat 2 syarikat berpandangan sebaliknya di mana syarikat tetap konsisten membayut zakat walau tiada apa-apa insentif cukai. Manakala 1 syarikat mendapati jumlah tolakan yang sedia ada tidak memberi impak langsung kerana jumlahnya sangat kecil. Bagi 3 syarikat lain, mereka akan terus membayar zakat walau tiada sebarang insentif daripada kerajaan.

Peranan Fatwa terhadap mendorong pembayaran zakat adalah dipersetujui oleh 10 syarikat. Malah ia merupakan faktor utama kepada 3 syarikat. Namun begitu, 2 syarikat mendapati “banyak syarikat yang tidak mengetahui tentang fatwa pembayaran zakat syarikat walaupun syarikat tersebut telah membayar zakat”. Bagi 4 syarikat lain mereka akan terus membayar zakat walau tiada fatwa khas mengenainya juga tanpa sebarang insentif daripada kerajaan. Bagi faktor galakan dari Bursa dan Suruhanjaya Sekuriti Malaysia, syarikat berbeza pandangan di mana 8 syarikat merasakan galakan ini memberikan impak kerana sebagai PLC kerana mereka perlu membina reputasi yang baik dengan penguasa dan galakan menjalankan aktiviti CSR adalah berjaya, Mereka juga berpendapat Bursa Malaysia dan Suruhanjaya Sekuriti Malaysia sepatutnya menjuarai usaha ke arah mendapat rebat cukai atau insentif yang lebih baik kepada pembayar zakat dan bukan setakat memberi galakan.

Bagi faktor penguatkuasaan, 6 syarikat mendapati ianya adalah tidak mendorong kerana mereka kini membayar secara sukarela. Penguatkuasaan boleh memberi kesan negatif kerana syarikat tidak menjalankan ibadah dalam suasana harmoni seperti sekarang. Bagi 8 syarikat lain mereka mendapati penguatkuasaan dapat mendorong malah syarikat yang tidak membayar sepatutnya dikenakan denda dan dipantau seupama pembayaran cukai.

Analisa Kesan Kesedaran Dalaman

Kajian seterusnya melihat secara khusus mengenai faktor dorongan dalaman dan elemen yang wujud di dalamnya iaitu kefahaman ahli lembaga pengarah, komposisi dan pemilikan Muslim dan prestasi kewangan. Semua faktor lain sebelum ini wujud percanggahan pendapat tentang kesan faktor tersebut ke atas pembayaran zakat tetapi tidak bagi faktor dorongan dalaman. Semua 14 responden (100%) mendapati faktor dorongan dalaman mempengaruhi pembayaran zakat dan komponen paling utama adalah kefahaman ahli lembaga pengarah juga juga menjadi pilihan semua. 10 daripada wakil syarikat mengatakan ia merupakan satu kemestian dan faktor utama. Manakala dari segi kesan komposisi ahli lembaga pengarah muslim dalam mendorong

pembayaran zakat, hasil kajian mendapati 11 syarikat menyatakan ianya adalah mendorong pembayaran zakat manakala 3 syarikat adalah sebaliknya. 4 responden menyatakan komposisi majoriti ahli lembaga pengarah muslim adalah amat penting. Seorang responden berpendapat faktor ini akan memudahkan keputusan untuk membuat pembayaran zakat dan satu pandangan lagi menyatakan bahawa faktor ini merupakan satu kelebihan untuk membuat keputusan menunaikan zakat. Namun begitu, kefahaman zakat tetap perlu diberikan juga kepada ALP yang bukan Islam. 3 responden menyatakan komposisi Muslim tidak menjamin kerana apa yang penting adalah kefahaman dalam kalangan ALP dan 1 syarikat mengatakan komposisi muslim tidak diperlukan kerana pembayaran zakat telah menjadi polisi syarikat.

Kedudukan kewangan adalah salah satu lagi aspek yang dikaji. 10 daripada syarikat mengatakan kedudukan kewangan adalah mendorong dengan 6 daripadanya mengatakan sangat penting. 1 syarikat mendapati prestasi kewangan tidak mempengaruhi kerana syarikat telah ada polisi khas dan manakala bagi 1 syarikat mengatakan mereka akan tetap membayar zakat walau dalam keadaan rugi. Bagi 2 syarikat, pembayaran adalah berdasarkan kepada kedudukan aset dan bukan atas prestasi keuntungan. Kajian ini turut menyelidik kewujudan polisi membayar zakat oleh syarikat. Terdapat 3 kategori polisi iaitu polisi bertulis, amalan dan kelulusan dari semasa ke semasa. 6 syarikat mempunyai polisi bertulis. Polisi yang dibuat adalah dalam bentuk pelbagai iaitu fatwa atau dalam dokumen penubuhan. Apabila telah ada polisi, kelulusan pembayaran zakat adalah di peringkat Ketua Pegawai Eksekutif atau Ketua Pegawai Kewangan. Bagi 3 syarikat lagi, tiada polisi bertulis tetapi dalam bentuk amalan lazim. Bagi 5 syarikat lagi pembayaran zakat memerlukan kelulusan ALP dari semasa ke semasa. Ketiadaan polisi menjadikan kelulusan membayar zakat dibuat dari semasa ke semasa dan ini mengundang risiko yang boleh menjejaskan kutipan zakat. Mewujudkan polisi membayar zakat dapat membantu mendorong pembayaran zakat yang konsisten setiap tahun.

Analisa Kesediaan Membuat Keputusan Membayar Zakat

Kajian ini turut menyelidiki tahap kesediaan pembuat untuk membuat keputusan membayar zakat. 12 syarikat mengatakan mereka yang berada di tahap yang sangat sedia membayar zakat dan akan memastikan syarikat konsisten untuk membayar zakat, terdapat seorang responden yang berada di tahap bersedia untuk membayar zakat.

- S2: Saya sentiasa memberikan keutamaan kepada pembayaran zakat atas syarikat. Zakat adalah kewajipan dan tiada sebarang persoalan lagi.
- S3: Saya sangat menyokong syarikat ini membuat pembayaran zakat.
- S4: Zakat adalah pekara asas (*fundamental*) kepada syarikat ini. Tiada istilah saya perlu memastikan syarikat ini membayar zakat.
- S5: Saya lebih daripada bersedia dalam menyokong usaha syarikat ini untuk terus membayar zakat.
- S6: Saya sentiasa membuat persediaan awal untuk syarikat membayar zakat. Saya bangga syarikat ini membayar zakat dan berasa gembira apabila para pembayar mendoakan

- kemajuan syarikat ini dalam sesi pembayaran zakat yang saya hadiri.
- S7: Saya sentiasa akan memastikan (atas kapasiti jawatan saya) syarikat ini akan meneruskan pembayaran zakat.
- S8: Saya berasa lebih dari bersedia untuk menguruskan pembayaran zakat syarikat ini atas rasa tanggungjawab.
- S9: Lembaga Pengarah syarikat di dalam mesyuarat telah meluluskan pembayaran zakat oleh syarikat. Lembaga Pengarah turut meluluskan pembayaran zakat pada masa hadapan dan telah memberi kuasa kepada pihak pengurusan syarikat untuk menguruskan pembayaran zakat syarikat pada masa hadapan.
- S10: Saya sangat bersedia dalam menguruskan pembayaran zakat syarikat ini.
- S11: Saya sentiasa sedia untuk menguruskan pembayaran zakat oleh syarikat.
- S12: Saya sentiasa bersedia menguruskan pembayaran zakat dan sedar amanah yang saya pikul.
- S13: Selaku orang yang diberi tanggungjawab saya bersedia setiap masa untuk syarikat menunaikan kewajipan berzakat bagi memenuhi amanah pemegang saham dan harapan kakitangan yang bekerja di sini untuk melihat syarikat ini membayar zakat.
- S14: Syarikat hanya bersedia membayar zakat apabila mencapai tahap yang ditetapkan iaitu keuntungan sebelum cukai dan kedudukan kewangan.

Namun begitu terdapat 1 syarikat mempunyai pandangan yang berbeza di mana dia tidak bersedia dan dia melaksanakan sebagaimana keputusan Ahli Lembaga Pengarah. Kajian ini menghargai perbezaan ini kerana beliau mewakili kelompok yang berpandangan sebaliknya. Ini juga memberikan maklumat tambahan kepada kajian ini bahawa pembayaran zakat adalah keputusan banyak pihak dan memang wujud pelbagai pandangan di dalam pelaksanaannya. Perbezaan pendapat adalah sesuatu yang lazim dalam pelaksanaan satu-satu ketetapan hukum. (Khalida Majid, 2015).

RUMUSAN KAJIAN

Hasil kajian mendapati tahap penerimaan terhadap kewajipan membayar zakat oleh syarikat tidak 100% walaupun syarikat tersebut telah membayar zakat. Ini bererti isu status kewajipan ini masih belum diterima sepenuhnya oleh masyarakat. Kajian ini merumuskan bahawa faktor yang mendorong pembayaran adalah rangkuman dari tiga sinergi utama iaitu gerak kerja oleh institusi zakat terutama perkhidmatan yang baik, program agihan yang dilakukan dan pelaksanaan urustadbir yang baik. Gerak kerja institusi zakat sahaja tidak memadai di mana pihak kerajaan perlu memainkan peranan terutama dalam aspek memberikan insentif cukai, galakan pembayaran zakat oleh para regulator seperti Suruhanjaya Sekuriti Malaysia dan Bursa Malaysia juga penguatkuasaan undang-undang. Namun begitu natijah daripada kedua faktor luaran syarikat, faktor dalaman syarikat didapati memainkan peranan yang paling dominan. Faktor dalaman ini termasuk ALP menganggap pembayaran zakat adalah selari dengan penubuhan syarikat iaitu untuk membangunkan sosio ekonomi masyarakat dan membasmi kemiskinan; ALP jelas

terhadap tanggungjawab dan amanah yang sepatutnya ditunaikan; ALP menganggap pembayaran zakat adalah bagi memenuhi amanah kepada pemegang saham muslim dan memenuhi tanggungjawab sosial syarikat; ALP berhasrat berkongsi keuntungan bersama masyarakat; membersihkan harta syarikat dari perkara yang haram; atau syarikat berhasrat untuk menjadi syarikat 100% patuh syariah; selain menjuarai seruan yang baik untuk membayar zakat. Persepsi bahawa pembayaran zakat dapat meningkatkan imej syarikat juga menjadi faktor dorongan selain pembayaran zakat telah menjadi polisi syarikat. Faktor lain adalah bilangan komposisi Muslim di dalam syarikat dan juga prestasi kewangan syarikat.

Implikasi Dasar

Hasil daripada dapatan kajian, Institusi zakat perlu merangka satu gerak kerja khusus bagi segmen PLC kerana hasil kajian mendapati gerak kerja institusi terutama dakwah dan perkhidmatan dapat mendorong syarikat untuk membayar zakat. Gerak kerja ini merangkumi satu pelan (*blue print*) dalam bentuk strategi yang mengariskan langkah demi langkah supaya satu demi satu PLC akhirnya dapat dijinakkan dan seterusnya membayar zakat.

Institusi zakat dicadangkan untuk menjadikan para pembuat keputusan terutama ALP syarikat sebagai kumpulan sasar yang perlu didekati secara khusus dengan memberikan pelbagai maklumat mengenai kewajipan membayar zakat, pelaksanaan urus tadbir yang diimplimentasikan oleh institusi zakat dan program agihan yang dilaksanakan supaya mereka yakin kepada institusi zakat. Merujuk kepada Teori Gelagat Terancang, gelagat seseorang itu adalah dipengaruhi oleh tiga elemen iaitu gelagat kepercayaan, norma kepercayaan dan kawalan kepercayaan (Icek Ajzen, 2005). Faktor yang menentukan kepercayaan ini adalah pelbagai faktor latar belakang termasuk ilmu, pengalaman dan pendedahan media. Jika institusi zakat berjaya memastikan mesej zakat sampai kepada elemen ini, kepercayaan seseorang itu boleh berubah dan kecenderungan membayar zakat dapat direalisasikan.

Hasil kajian mendapati, terdapat golongan yang berpegang kepada prinsip pembayaran zakat hanya dikenakan ke atas individu dan tidak ke atas syarikat. Oleh itu satu fatwa khusus mengenai perkara ini diperlukan bagi menjelaskan kekeliruan ini. Fatwa ini perlulah di peringkat fatwa kebangsaan dan disokong oleh fatwa negeri-negeri.

Institusi Zakat perlu bijak mengatur strategi memposisikan peranan institusi zakat supaya pihak kerajaan khususnya dapat melihat institusi zakat adalah bersatu, melaksanakan tugas dengan cemerlang dan mempunyai satu gerak kerja yang menyeluruh (*Grand Design*) dalam usaha meningkatkan tahap kualiti hidup rakyat. Suara besar ini amat diperlukan supaya pihak kerajaan akan berpihak kepada institusi zakat dalam membangunkan apa-apa dasar dan polisi negara sama ada dari aspek dasar fiskal (*fiscal policy*), dasar kewangan (*monetary policy*) atau lain-lain dasar.

KESIMPULAN

Kajian yang dijalankan ini telah berjaya memberikan sumbangan ilmu dan maklumat dalam konteks mengenal pasti faktor-faktor yang boleh mendorong pembuat keputusan di dalam sesebuah syarikat atau entiti perniagaan untuk menunaikan zakat. Adalah menjadi harapan supaya kajian ini bukan sahaja dapat menyumbang kepada penerokaan dan pengkayaan ilmu, tetapi apa yang lebih diharapkan dapatan kajian ini boleh dikongsikan dan diterjemahkan dalam bentuk aplikasi gerak kerja oleh mana-mana pihak. Kejayaan sebenar kajian ini adalah ia dapat diaplikasikan supaya natijah memperkasa ummah dapat direalisasikan.

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LAMPIRAN A

SENARAI TEMU BUAL PRAUJIAN DAN RESPONDEN

1. Ketua Pegawai Kewangan, Progressive Impact Corporations pada 5 Mei 2015.
2. Ketua Pegawai Syariah Bank Islam Malaysia Berhad pada 8 Mei 2015.
3. Ketua Pegawai Kewangan, TH Plantation Bhd pada 4 Jun 2015.
4. Ketua Pegawai Kewangan, Felda Global Ventures Berhad, pada 9 Jun 2015.
5. Timbalan Pengurus Besar Kewangan, Pharmaniaga Berhad pada 11 Jun 2015.
6. Pengurus (Bahagian Cukai), Tenaga Nasional Berhad pada 24 Jun 2015.
7. Ahli Lembaga Panel Syariah, Takaful Malaysia Berhad pada 26 Jun 2015.
8. Pengarah Eksekutif, Perkhidmatan Kewangan Kumpulan UMW Holdings Berhad pada 26 Jun 2015.
9. Ketua Kawasan Strategik dan Pengurusan Produk BIMB Holdings Berhad pada 23 Jun 2015.
10. Pengurus Kanan Kewangan, MMC Corporation Berhad pada 24 Jun 2015.
11. Penolong Pengurus Sumber Manusia dan Pentadbiran, Merge Energy Berhad pada 2 Julai 2015.
12. Eksekutif Kanan Kewangan, MSM Holdings Berhad pada 1 Julai 2015.
13. Akauntan (Kewangan), MSM Malaysia Holdings Berhad pada 1 Julai 2015.
14. Pengurus Kewangan, UEM Edgenta Berhad (Faber Group Berhad) pada 1 Julai 2015.
15. Ketua Pegawai Kewangan, UEM Edgenta Berhad (Faber Group Berhad) pada 1 Julai 2015.
16. Pengurus Kanan Kewangan, Telekom Malaysia Berhad pada 8 Julai 2015.
17. Pengurus Kewangan, Telekom Malaysia Berhad pada 8 Julai 2015.
18. Ketua Kumpulan Modal Insan (Head Group Human Capital), NCB Holdings Berhad pada 9 Julai 2015.
19. Pengurus Kanan Kewangan, Utusan Melayu (Malaysia) Berhad pada 8 Julai 2015
20. Pengurus Kewangan, Utusan Melayu (Malaysia) Berhad pada 8 Julai 2015

LAMPIRAN B**Senarai PLC Yang Menjadi Subjek Kajian**

Sektor	Syarikat	
Barangan Pengguna	1. MSM Malaysia Holdings Bhd	
Barangan Industri	2. UMW Holdings Bhd	
Permbinaan	3. Merge Energy Bhd	4. Axiata Group Bhd
	5. UEM Edgenta Berhad (Faber Group Bhd)	6. KPJ Healthcare Bhd
Dagangan/ Perkhidmatan	7. MMC Corporation Bhd	8. NCB Holdings Bhd
	9. Pharmaniaga Bhd	10. Telekom Malaysia Bhd
Perladangan	11. Tenaga Nasional Bhd	12. Utusan Melayu (M) Bhd
	13. Felda Global Ventures Holdings Bhd	14. TH Plantations Bhd
Teknologi	15. Mesiniaga Bhd	
Kewangan	16. BIMB Holdings Bhd	17. Sykt Takaful Malaysia Bhd

BS084:
PENERAPAN MARKETING SYARIAH: STUDI KASUSJASA BIRO
PERJALANAN WISATA UMRAH BHD.
JEJAK IMANI BERKAH BERSAMA

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Abstract

This investigation aims to analyze and describe the role of marketing in the implementation of sharia marketing at PT. Jejak Imani Berkah Bersama. This Rresearch approach is qualitative data derived from interviews, notes the document in the field, memos, and other official documents. Qualitative Methods used in this study is to use descriptive method. The survey results revealed that PT. Jejak Imani Berkah Bersama apply Islamic principles in marketing aspect very well. This is evident from the nine integrated marketing elements that include Segmentation, Targeting, Positioning, Differentiation, Marketing Mix, Selling, Brand, Service, and processes that reflect the nature of Sharia. Application of sharia good marketing gives the impression to customer satisfaction and improve sales results.

Keywords: Islamic Marketing, Segmentation, Targeting, Positioning, Service

PENDAHULUAN

Bancian penduduk yang dilaksanakan oleh BPS (Badan Pusat Statistik) pada tahun 2010 mencatat bahawa 87,18 peratus atau 207 juta jiwa penduduk Indonesia beragama Islam. Sebagai negara yang majoriti penduduknya beragama Islam membuat pasaran di Indonesia identik dengan kesan Islami. Perkembangan pasaran Islam di Indonesia boleh dilihat dari produk dan perkhidmatan yang semakin menonjolkan kesan syariah. Mulai dari sekolah, hotel, perbankan, hiburan, travel hingga busana semuanya berkesan *syar'i* sehingga mudah diterima oleh komuniti Islam di Indonesia. Pasar syariah ini berkembang tidak hanya kerana jumlah masyarakat beragama Islam yang jumlahnya majoriti di Indonesia, tetapi juga kerana disokong dengan meningkatnya daya beli masyarakat. BPS Indonesia mengeluarkan data bahawa telah berlaku peningkatan pendapatan per kapita dari tahun ke tahun sebagai acuan tahap kemakmuran masyarakat di sebuah negara. Berikut jadual yang menunjukkan pertumbuhan KDNK, PNB dan Pendapatan per kapita Indonesia.

Jadual 1: PDB , PNB dan Pendapatan Nasional Per Kapita

Deskripsi	Tahun				
	2009	2010	2011	2012	2013
Produk Domestik Bruto Per Kapita	23 880 878.38	27 028 695.01	30 658 976.15	33 531 354.56	36 508 486.32
Produk Nasional Bruto Per Kapita	23 045 037.30	26 269 975.42	29 762 690.91	32 540 449.99	35 378 758.40
Pendapatan Nasional Per Kapita	20 935 863.42	23 974 407.31	27 487 046.94	30 674 674.07	32 463 736.28

Sumber: Badan Pusat Statistik (BPS)

Fenomena ini yang menjadi latar belakang berkembangnya Industri pelancongan umrah di Indonesia. Berdasarkan data dari Kementerian agama, jumlah penyedia jasa umrah yang berdaftar sebanyak 646 agensi pelancongan umrah. Pertumbuhan permintaan umrah yang sangat menakjubkan memacu penyedia perkhidmatan umrah berlumba-lumba memperluaskan pasaran bahkan pengusaha jasa perjalanan biasa pun kemudian memilih menguruskan agensi pelancongan umrah. Hanya saja tidak semua agensi pelancongan tersebut menjalankan pemasarannya dengan cara yang jujur sesuai dengan tuntutan syariah terutama dalam aspek pemasarannya.

Termasuk syarikat pelancongan yang berjaya melaksanakan sistem pemasaran yang sesuai dengan kaidah syariah adalah "PT. Jejak Imani Berkah Bersama "yang tadinya hanya melayani perjalanan pelancongan dalam negeri akhirnya menambah produk pelancongan umrah. Keputusan untuk melayani Jamaah umrah ternyata menghasilkan peningkatan Omzet hingga 600 peratus, yang tadinya hanya 100 juta pertahun terus naik menjadi 600 juta pertahun.

Berdasarkan fenomena-fenomena yang telah dijelaskan diatas, kenaikan pendapatan per kapita dan perkembangan gaya hidup syariah di Indonesia telah melahirkan segmen pasaran khusus yang terus berkembang dengan barometer utamanya adalah perjalanan umrah. Salah satu syarikat yang berjaya berkembang dengan perkembangan gaya hidup ini adalah PT. Jejak Imani Berkah Bersama.

TINJAUAN PUSTAKA

Pemasaran Syariah

Alma dan Priansah sendiri (2014: 345) mendefinisikan pemasaran syariah adalah "pemasaran yang dijalankan berlandaskan syariah menganut keyakinan dan bersikap yang bersimpati kepada semua hubungan, bahkan terhadap pesaing, berlaku lemah lembut, sopan, jika perlu bekerjasama dengan pihak lawan". Pengertian ini berdasarkan sebuah *hadis* atau perkataan yang disampaikan oleh nabi Muhammad shallallahu alaihi wasallam yang berbunyi "Semoga Allah memberikan Rahmat-Nya kepada orang yang murah hati (sopan) pada saat dia menjual, membeli, atau saat dia menuntut haknya"

Ciri-ciri Pemasaran Syariah

Ada 4 ciri-ciri pemasaran syariah yang boleh menjadi panduan bagi para pemasar sebagai berikut Alma dan Priansa (2014: 350), (Hashim & Hamzah, 2014)

1. Teitis (*rabbaniyyah*)

Menurut Alma dan Priansa (2014: 350) *Theitis* atau ketuhanan atau *rabbaniyyah* adalah "satu keyakinan yang bulat, bahawa semua gerak-gerik manusia sentiasa berada di bawah pengawasan Allah subhanahu wa ta'ala". Alma dan Priansa (2014: 350) menerangkan kembali bahawa keadaan tersebut adalah pegangan hidup umat Muslim. Nilai *Rabbaniyyah* tersebut menjadi darah daging dalam peribadi setiap Muslim sehingga dapat mencegah perbuatan tercela dalam dunia pemasaran. Setiap pemasar syariah harus berkelakuan baik, tidak berkelakuan licik, tidak menipu, dan tidak memakan harta orang lain dengan cara yang tercela.

2. Beretika (*Akhlaqiyyah*)

Menurut Alma dan Priansa (2014: 350) Etika Akhlaqiyah bermaksud "semua perilaku berjalan di atas norma etika yang berlaku". Alma dan Priansa (2014: 350) menerangkan kembali bahawa Etika adalah kata hati dan menyebutnya sebagai *the will of God*. Pemasar syariah pantang berbuat curang yang melanggar peraturan yang melanggar etika. Pemasar syariah menjadikan etika sebagai pedoman, oleh kerana itu seorang pemasar syariah selalu memelihara setiap tutur kata, tingkah laku dalam berhubungan pemasaran dengan siapa saja, pelanggan, penjual, kedai, pembekal ataupun saingannya.

3. Realistik (*Al-waqi'iyah*)

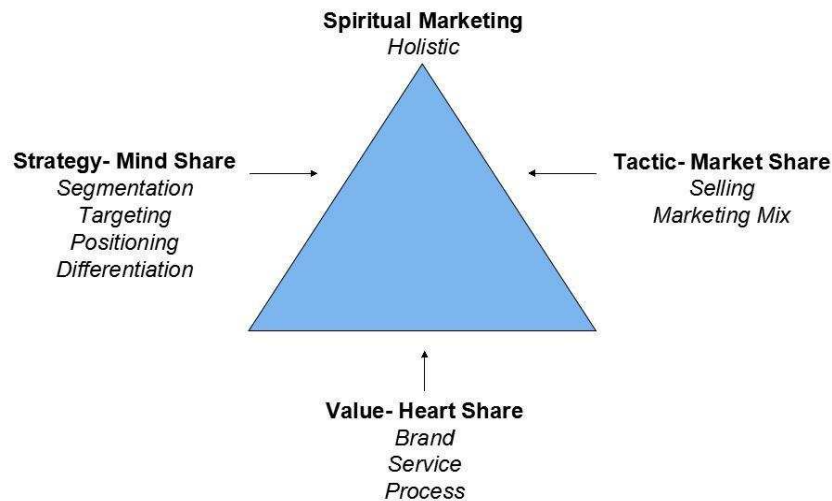
Menurut Alma dan Priansa (2014: 351) Realistik atau *al-waqi'iyah* artinya "sesuai dengan kenyataan, jangan mengada-ada, apalagi yang menjurus kepada kebohongan". Alma dan Priansa (2014: 351) menerangkan kembali bahawa pemasar syariah menjalankan semua transaksi berdasarkan pada realiti, tidak membeza-bezakan orang, suku, warna kulit, dan selalu menjaga kejujuran. Rasulullah SAW sebagai seorang pemasar mencontohkan untuk selalu menerangkan kelemahan dan kekurangan sebuah produk disamping menerangkan pula kelebihanannya. Rasulullah shallallahu alaihi wasallam menjaga profesionalitas dalam bekerja dan tidak sekalipun mengelabui orang lain.

4. Humanistik (*Al-insaniyyah*).

Menurut Alma dan Priansa (2014: 351) Humanistik atau *al-insaniyyah* artinya "berperilaku kemanusiaan, hormat menghormati sesama". Alma dan Priansa (2014: 351) menerangkan pemasar syariah harus membuat kehidupan menjadi lebih baik, jangan sampai kegiatan pemasaran justru membuat malah merosakkan tatanan kehidupan. Seorang pemasar jangan sampai menjadi manusia yang tamak, ingin menguasai segala-galanya, mendapatkan keuntungan sebesar-besarnya tetapi menindas dan merugikan orang lain.

Dimensi Pemasaran Syariah

Yang membezakan syariah marketing dengan konvensional ada pada watak yang mengedepankan nilai-nilai ketuhanan, etika, profesional dan memuliakan nilai-nilai kemanusiaan. Watak-watak inilah yang menjadi pedoman seorang pemasar dalam menjalankan kegiatan pemasaran yang dijalankan didalam sebuah syarikat yang terbagi menjadi tiga dimensi. Ketiga dimensi ini merupakan suatu sistem, yang artinya antara yang satu dengan yang lainnya saling berkaitan dan mempunyai pengaruh dalam kegiatan pemasaran syariah. Setiap dimensi ini mempunyai potensi yang merupakan faktor dominan dalam kegiatan strategi pemasaran syariah. Dimensi-dimensi yang dimaksudkan akan diterangkan dibawah ini:



Gambar 2: Dimensi Pemasaran Syariah

Sumber: Alma dan Priansa (2006:352)

Syariah Marketing Strategi

Dimensi pertama adalah strategi pemasaran yang bertujuan untuk memenangi mind-share atau menanamkan syarikat dan produknya di benak pelanggan.

1. Segmentasi

Hal pertama yang harus dilakukan dalam menyusun strategi pemasaran syariah adalah melakukan segmentasi. Didalam segmentasi pemasar sudah mempunyai definis pasaran dengan jelas, yang bermakna pengetahuan mengenai pelanggan dan pesaing memegang peranan penting dalam menentukan segmen mana yang akan dipilih. Segmentasi diertikan oleh Kartajaya dan Sula (2006: 165) (Berg, El-komi, & Kim, 2016) sebagai "seni mengenal pasti serta memanfaatkan peluang-peluang yang muncul di pasaran".

2. Targeting

Setelah mengetahui segmen yang akan dimasuki, pemasar syariah memilih target pasaran yang akan dijadikan keutamaan berdasarkan kompetensi dan peluang yang boleh diraih. Targeting

diertikan oleh Kertajaya dan Sula (2006: 169) sebagai "strategi mengalokasikan sumber-sumber syarikat secara berkesan, kerana sumber-sumber yang dimiliki terhad".

3. *Positioning*

Kejayaan pemasar melakukan *positioning* akan memunculkan minat atau awareness kuat terhadap sebuah produk. Positioning diperlukan untuk memunculkan imej sebuah produk atau syarikat. Alma dan Priansa (2014: 359) mengatakan bahawa kedudukan bererti "bagaimana membuat barang yang kita hasilkan atau kita jual memiliki keunggulan, disenangi, dan melekat di hati pelanggan dan boleh melekat dalam jangka waktu yang lama".

4. *Differentiation*

Setelah mempunyai kedudukan yang jelas di benak masyarakat, syarikat perlu membezakan diri syarikat yang sejenis dalam segi content (apa yang ditawarkan), konteks (bagaimana menawarkannya) dan infrastruktur (yang mencakup pekerja, kemudahan dan teknologi). Kertajaya dan Sula (2006: 175) mendefinisikan perbezaan sebagai "tindakan merancang satu set perbezaan yang bermakna dalam tawaran syarikat".

Teknik Pemasaran Syariah

Taktik merupakan teknik yang boleh digunakan untuk mendapatkan pelanggan baru. Setelah menyusun strategi, pemasar perlu menyusun taktik untuk memenangi *market-share*.

1. Marketing Mix

Santon (Dharmesta dan Hadoko 2008: 124) mendefinisikan *marketing mix* sebagai "gabungan daripada empat pembolehubah atau kegiatan inti dari sistem pemasaran syarikat, yaitu produk, harga kegiatan promosi dan sistem pengedaran.

2. Jualan

Menurut kertajaya dan sula (2006: 179) jualan adalah "bagaimana memaksimumkan aktiviti jualan sehingga dapat menciptakan situasi yang *win-win* bagi penjual dan pembeli".

Syariah Marketing Value

Membina value proposition bagi produk atau perkhidmatan sangatlah penting, kerana pelanggan biasanya mementingkan manfaat atau value apa yang didapat jika diharuskan berkorban sekian rupiah.

Jenama

Brand atau jenama mencerminkan nilai (value) yang diberikan syarikat kepada pelanggan. Jenama sendiri didefinisikan oleh kertajaya dan sula (2006: 180) sebagai "suatu identiti terhadap produk atau perkhidmatan syarikat".

Perkhidmatan

Alma dan Priansa (2014: 367) mengatakan bahawa "Inti dari kegiatan pemasaran adalah perkhidmatan". Bagi pemasar syariah, service harus menjadi sebuah panggilan, bukan hanya sebuah pekerjaan atau tugas semata. Berkhidmat kepada para pelanggan dengan tulus dan penuh empati kerana pelanggan pasti akan membawa kenangan positif dari pengalaman yang mereka dapatkan.

Proses

Pemasar harus meningkatkan kualiti, mengurangkan kos dan mempercepatkan penghantaran didalam proses pemasarannya. Seorang pemasar syariah harus menepati janji yang diberikan kepada pelanggan, pembekal dan pengedar.

PENDEKATAN DAN REKA BENTUK PENYELIDIKAN

Kaedah pendekatan penelitian ini adalah kualitatif. . Kaedah kualitatif yang digunakan dalam kajian ini adalah dengan menggunakan kaedah deskriptif berupa kata-kata tertulis atau lisan dari orang-orang dan perilaku yang diamati ". (Lexy J. Moleong, 2000: 3). Teknik yang dilakukan oleh penyelidik adalah dengan melakukan proses triangulasi sumber data Lexy J. Moleong (2000). Kajian ini, menggunakan teknik Analisa domain dengan menggunakan hubungan semantik (semantic relationship) yang disyorkan oleh Spradley sebagai asas analisa domain. Menurut Uhar Suharsaputra (2012: 224) "analisa hasil kajian yang bertujuan penerokaan dan hanya disasarkan untuk memperoleh gambaran seutuhnya dari objek yang diteliti, tanpa perlu diperincikan secara terperinci unsur-unsur yang ada dalam keutuhan objek kajian tersebut"

HASIL PENELITIAN

Berdasarkan hasil penelitian diketahui bahwa PT. Jejak Imani Berkah Bersama menerapkan prinsip syariah pada aspek pemasaran dengan baik. Hal ini terlihat dari terintegrasinya Sembilan elemen pemasaran yang meliputi Segmentasi, *Targeting*, *Positioning*, *Differentiation*, *Marketing Mix*, *Selling*, *Brand*, *Service*, dan Proses yang mencerminkan watak Syariah. Hal ini tercermin dalam sikap syarikat dalam melayan pelanggan dan pekerja dengan penuh hormat. Sebagai seorang makhluk, Jejak Imani mempercayai bahawa tidak ada yang lebih unggul dan selalu mempunyai kekurangan. Kepercayaan kepada nilai tersebut membuat syarikat selalu membuka diri terhadap segala bentuk perubahan, dan hikmah boleh datang dari sesiapa sahaja termasuk mahasiswa magang apalagi pelanggan yang merasakan perkhidmatan langsung. Pemberi maklumat Kunci mengatakan bahawa seseorang yang berani mengatakan "*Ana Khairan Minhu*", sejatinya dirinya seperti iblis yang tinggi hati dan akhirnya akan mengalami kemunduran atau kehancuran. Pemberi maklumat kunci memberi perumpamaan tersebut untuk menjelaskan bahawa syarikat yang tidak mahu mendengar masukan untuk berkembang pada akhirnya akan mengalami kemunduran bahkan muflis. Berdasarkan kedudukan "Rakan Tetamu Allah", syarikat memposisikan diri sebagai rakan kongsi yang tidak lebih baik daripada sesiapa sahaja yang bekerja sesuai dengan sikap atau akhlak syar'iyah.

Menurut model promosinya, ada yang membezakan Jejak Imani dengan syarikat umum lainnya, sesuai dengan kedudukan syarikat sebagai rakan kongsi tetamu Allah, mereka melaksanakan strategi yang bermanfaat untuk kehidupan spiritual masyarakat. Usaha dalam Jejak Imani memasukan unsur spiritual dalam promosinya, menjadikan profit bukanlah sasaran utama yang hendak dicapai, tapi yang penting masyarakat mendapat faedah spiritual dari aktiviti pemasaran. Syarikat tidak semata-mata menjual produknya, akan tetapi menjalin kerjasama dengan masyarakat dan mendidik kepada mereka bagaimana kehidupan seorang nabi, keluarga nabi dan sahabat-sahabatnya. Syarikat mempunyai kepedulian tinggi terhadap akhlak masyarakat, sehingga menceritakan tentang kehidupan nabi merupakan parameter terbaik di tengah krisis model sebagai panutan. Hal-hal ini dapat dilihat dari keseriusan syarikat menggarap pengajian bulanan di beberapa kota besar, dari pengajian tersebut Jejak Imani menyampaikan gagasan tentang keindahan akhlak yang diajarkan nabi. Usaha lain yang dilakukan Jejak Imani dengan rajin menggunakan laman web, twitter dan facebooknya sebagai media dakwah, dalam menulis status atau artikel Jejak Imani lebih banyak membicarakan tentang sirah nabawy dan nasihat daripada produk yang dijual, sehingga produk umrah yang ditawarkan mejadi penyelesaian bagi masyarakat yang mahukan lebih dalam menelusuri jejak kehidupan seorang nabi.

Dalam menjual syarikat tidak hanya menyampaikan sisi baik dari perkhidmatan umrah yang dimiliki, tetapi juga tidak teragak-agak menyampaikan pula realiti dan kemungkinan buruk yang mungkin berlaku. Salah satu yang sering disampaikan syarikat adalah bahawa "Mekah dan Madinah merupakan tanah suci, tetapi manusianya tidak semuanya suci", dari pernyataan ini syarikat menyampaikan watak dan tipikal orang yang keras di bawah halangan-halangan yang mungkin yang berlaku di tanah arab. Penyampaian semua maklumat ini penting bagi syarikat, sehingga jamaah boleh memahami dan memaklumi keadaan buruk yang mungkin berlaku. Walau begitu syarikat selalu menyiapkan penyelesaian apabila terjadi masalah, sehingga jamaah tetap berasa selesa dan berpuas hati.

Kes terbaru yang berlaku adalah pada tarikh 20 Disember 2014, syarikat menjadualkan pemberangkatan umrah yang akhirnya gagal kerana tiket yang ditempah syarikat tidak keluar. Masalah ini terjadi kerana seorang oknum pekerja agen tiket yang melakukan kecurangan, tetapi Jejak Imani memberi pampasan penuh kepada jamaah. Syarikat akan menghubungi satu per satu jamaah umrah, dan menawarkan pilihan pengembalian wang penuh atau ganti pemberangkatan pada tanggal 19 Januari 2015 dengan kemudahan lebih baik daripada sebelumnya sebagai ganti. Ciri-ciri yang di upgrade sebagai bentuk pampasan ini adalah kegunaan hotel bintang 5 yang sebelumnya hanya bintang 4. Langkah pujukan yang dilakukan syarikat ini berjaya membuat jamaah bersedia mengganti hari berlepas tanpa satupun yang membatalkan.

Kelebihan lain yang dimiliki syarikat adalah usaha untuk sentiasa memberikan lebih daripada yang ditawarkan, sebagai contoh adalah dalam pakej umrah Jejak Imani hanya menjajikan satu kali manasik, tetapi setelah manasik pertama syarikat kembali memberikan manasik sekaligus

fiqh umrah sehari sebelum pemberangkatan sehingga jamaah lebih bersedia. Syarikat juga membuat standard operasi untuk menjaga kualiti perkhidmatan, seperti standard manasik dan standard guide serta ustaz pembimbing. Secara keseluruhan, jamaah sangat berpuas hati dengan perkhidmatan yang di berikan oleh Jejak Imani, hal ini terlihat dari kesediaan mereka untuk memberi komnetar positif dan mengesyorkan produk umrah jejak Imani kepada rakan atau saudara mereka, bahkan dari keterangan informan kunci ada jamaah yang setiap tahunnya menghantar orang untuk umrah bersama Jejak Imani.

Kepuasan yang dirasakan jamaah kerana mereka menilai bahawa harga yang mereka bayar lebih murah daripada manfaat fungsional, emosional dan spiritual yang diperolehi. Salah seorang Informan mengatakan bahawa dari segi fungsi, harga yang mereka bayar lebih murah jika dibandingkan dengan jasa perkhidmatan umrah syarikat lain, dengan kemudahan pesawat standard Saudi Airlines dan bintang empat, Informan membandingkan dengan produk dari syarikat Al Amin yang memberi harga kira-kira US \$ 3000. Jamaah merasakan manfaat ilmu yang disampaikan selama umrah dan mengalami peningkatan kualiti ibadah sesudah umrah. Salah seorang pemberi maklumat mengat akan bahawa selepas menunaikan umrah merasakan peningkatan kualiti dan kuantiti ibadah, hal ini ditandai dengan kemahuan untuk bangun malam untuk solat tahajud dan berzikir yang mana sebelumnya tidak dia kerjakan.

Hal-hal yang menjadikan umrah yang dianjurkan oleh syarikat memberikan kesan kerohanian yang dalam kerana selama berada di tanah suci, syarikat memberi sasaran berupa "mutaba'ah amalan" atau ibadah harian. Ibadah harian yang menjadi sasaran selama di tanah suci itu adalah qiyamul lail (sholat sunah malam), Solat sunat *Rawatib* (solat sunat sesudah dan sebelum solat fardhu), tilawah (membawa Qur'an), Dzikir (mengingat atau menyebut nama Allah) yang dilakukan setiap pagi dan petang, dan sedekah. Selain target ibadah tersebut, syarikat juga memfasilitasi jamaah dengan kajian petang yang berisi tentang nasihat-nasihat. Usaha syarikat untuk menjaga kerohanian jamaahnya tidak terhenti selepas aktiviti umrah selesai, tapi berlanjutan dengan cara tetap berkomunikasi melalui kumpulan whatsapp. Usaha lain yang dilakukan syarikat iaitu dengan menganjurkan "Pengajian Alumni Umrah", sebuah Majelis yang sengaja diadakan untuk menjaga spritualitas yang terbentuk semasa di tanah suci.

KESIMPULAN

Penyelidikan ini menghasilkan kesimpulan bahawa PT. Jejak Imani Berkah Bersama telah melakukan sistem pemasaran syariah pada produk umrah dengan baik. Parameter ini diambil dari terintegrasinya sembilam elemen pemasaran yang mencerminkan karakter syariah yang berketuhanan (Teitis), beretika (Etika), professional (realistik) dan Humanis (Humanitis). Syarikat melandaskan kegiatan usahanya dengan semangat dakwah untuk mewujudkan kehidupan masyarakat spiritualis, menjadikan nabi sebagai model kehidupan sehari. Semangat itu tercermin dari model strategi pemasaran yang dilakukan syarikat, mereka tidak semata-mata menawarkan produknya, akan tetapi menjalin kerjasama dengan masyarakat dan mendidik

bagaimana kehidupan seorang nabi, keluarga nabi dan sahabat-sahabatnya melalui pengajian bulanan yang bertajuk "Majelis Jejak Nabi" ataupun postingan talian yang terdapat pada laman web dan media sosial syarikat. Penerapan Pemasaran Syariah yang baik memberikan kesan pada pengembangan pasaran yang dilakukan syarikat. Syarikat sudah baik dalam memanfaatkan ceruk market, hanya saja dalam aspek promosi yang dilakukan masih boleh dimaksimakan dengan memperhatikan SEO website.

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EW085: STRENGTHENING EDUCATION WAQF FUND FOR HIGHER EDUCATION INSTITUTIONS

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Abstract

The purpose of this paper is to highlight the importance of education waqf fund for higher education institutions (HEIs). High dependency on education loan leads to future problem to the graduates and the economic development as a whole. This paper offers a solution with the implementation of education waqf fund. However, there are challenges that will hinder the growth of the fund development that has to be considered and this paper will discuss on a few aspects that can be remedied. This paper is based on the literature review research work to look into the history and current practices of education waqf fund. Information gathered from the previous research and literature for the period of 2006 to 2016. This paper shows seven challenges to the growth of waqf fund that consist of knowledge on waqf, waqf management, mutawalli, social awareness, property donated, enactment of law and financial problem. At the end of this study, a few methods have been suggested to ensure success of the education waqf fund.

Keywords: waqf, education waqf fund, higher education institutions (HEIs), National Higher Education Fund Corporation (PTPTN), State Islamic Religious Councils (SIRCs)

INTRODUCTION

Waqf or Islamic charitable endowment is one of the oldest charities that exist in the world and has been reported to be used since the era of Egypt's pharaohs (Habibollah Salarzehi, Hamed Armesh, & Davoud Nikbin, 2010). In the Arabic language, waqf means to obstruct (Al-Khatib Al-Sharbini, 2015). Al-Khatib Al-Sharbini (2015) further discussed the definition of waqf in the Revealed Law as 'to retain property that is specific and owned whose ownership is transferrable and it can be benefitted from while the property itself remains, and this is by suspending disposal of it, while the financial proceeds go towards something that is permissible and existent'.

Magda Ismail Abdel Mohsin (2012) outlined evidence that permit waqf practices. The evidence that is based on the Quranic verse in Surah Aali Imran (3:92) carries the meaning:

By no means shall ye Attain righteousness unless Ye give (freely) of that Which ye love; and whatever Ye give, of a truth God knoweth it well.

Based on the evidence, Islam encourages people to donate for waqf fund. The benefit is not merely to the beneficiaries, but also the donor who will be rewarded in this world and hereafter for everything sacrificed. Waqf promises to the beneficiaries wide-range of benefits, which consist of democratization and good governance, the rule of law, environmental regulation, gender equality, employment or labour rights, and poverty reduction (White, 2014). Furthermore, waqf is not merely for Muslims, but also the non-Muslims through the concept of *al-Rahman* as long as it follows the basic *syariah* principles (Abdul Hamid Mar Iman & Mohammad Tahir Sabit Mohammad, 2014).

In Muslim history, waqf has been used for centuries to improve the economic condition of a society. It was used for development and other areas, such as medical and education. Many Muslim countries benefit from waqf fund and are able to build education institutions utilizing the fund. In Mek Wok Mahmud and Sayed Sikandar Shah (2010), waqf financing is not limited for religious studies, and it was used to ensure the poor enjoy the same education as the rich. The fund donated will enhance the financial standing of the students and avoid them from long-term financial distress due to their involvement with education loan. Heavy dependent on education loan will lead to future problems not only to the students, but also to the economy as a whole. This has been a problem faced by the National Higher Education Fund Corporation (PTPTN) nowadays due to high amount of unpaid loans.

In a study conducted (Norasikin Salikin, Norailis Ab. Wahab, Nurazalia Zakaria, Rosnia Marsuki, & Siti Nurulhuda Nordin, 2012), 74.7 percent higher education institutions (HEIs) students are funded by study loan followed with scholarship, parents, savings and others. Until 2014, PTPTN has issued RM53.23 billion loan to 2.34 million people (Malaymail, 2014). It has been reported that currently 605,685 lenders still did not pay their loan totalling RM 4.7 billion (Mohammad Yasir Jaafar, 2015). Hence, 170,000 PTPTN defaulters were reported to be blacklisted by Bank Negara due to RM1.2 billion unpaid loans (Malaymail Online, 2014). Increasing bankruptcy rate among youth every year in this country has worsened the situation. Recognizing the problem faced by HEIs students, it is a cry to find a solution to help future HEIs students.

Education waqf fund as philanthropic waqf is a suitable answer to remedy high dependency on education loan. The fund can be utilized by all students regardless of their field of studies. In education institution context, waqf fulfils three basic needs; institution development and facilities; operational cost; and academic excellence activities, personality and leadership (Syed Mohd. Ghazali Wafa Syed Adwam Wafa, 2010). Using waqf fund, the education institution is able to offer high quality infrastructure, library and endowment fund. The benefit that education waqf fund offers cannot be found in any other similar financial assistance as the fund covers extensive areas from the management to the students.

The significance of this study stems from a research conducted by Abdul Ghafar Ismail, Muhammad Hasbi Zaenal, and Hakimi Shafiai (2013), as he conferred that there are many Islamic philanthropic instruments. These instruments are available means to get closer to Allah in a way to achieve *falah* and to improve the economic and social conditions of Muslim community (Abdul Ghafar Ismail et al., 2013). This study is intended to utilize waqf as the Islamic philanthropic instrument recognizing the benefit that one obtained from the implementation. This research will analyse the advantages of waqf fund as compared to other financial assistance. Other than that, this paper will look into the challenges that are faced in the implementation of waqf fund and methods that can be used to overcome the problems.

Hence, this study aims to uncover and understand the implementation of education waqf fund. The increasing number of HEIs students and the needs of new financial assistance lead to realisation of this study. It is worth to study the education waqf fund as being used by Muslim ancestors and how the fund can be utilized by the present and future generations for the betterment of the education system. Specifically, this paper is written as a step to strengthen education waqf fund implementation so that the HEIs students will enjoy better education.

This study is intended to discuss the historical aspect of waqf fund in Muslim world education and the reasons why waqf is the best tool to be used by HEIs to develop the education system. Then, this research will examine the challenge that is faced in the implementation of waqf fund. At the end of this paper, a few methods are suggested to enhance the education waqf fund operation.

This paper is essentially based on the literature review research work to get an overview in the implementation of education waqf fund in history and in current practices. Information has been gathered from the previous research and literature for the period of 2006 until 2016. This includes contemporary *syariah* books on waqf, conventional books on waqf and other relevant sources from journals, conference papers and websites. Thus, this study aims to identify the challenges and method that can be used to overcome the challenges.

HISTORY OF WAQF FUND FOR HIGHER EDUCATION

Education activities were financed by waqf fund and donation since early seventh century (Muhammad Ridhwan Ab. Aziz & Mohd Asyraf Yusof, 2014). In Islamic history, waqf fund was used for public libraries, reading rooms, research activities and translation programs (Muhammad Tariq Khan, 2015). It has been reported that the island of Sicily had 300 elementary schools built using waqf fund and the fund was utilized for teachers' payment and school supplies (Muhammad Ridhwan Ab. Aziz & Mohd Asyraf Yusof, 2014). Jerusalem was reported to have 64 schools that was supported by waqf wealth at the beginning of the twentieth century (Mek Wok Mahmud & Sayed Sikandar Shah, 2010). Whilst primary and secondary education are highly funded with waqf fund, the history showed that HEIs were also funded with the fund.

Throughout history, there are a few HEIs that have waqf fund. Al-Azhar University in Egypt that has existed during the period of Fatimite dynasty, was started with a small mosque as the centre of Islamic study (Imam Bahroni, 2012). Al-Azhar University and Zaituniyyah University in Tunis were among universities provided with endowment for a long term (Holiah, 2011). Additionally, University of al-Qurewiyyin in Fez and the Shrine College of Abu Hanifah in Baghdad were known as among the earliest HEIs that utilized waqf fund (Asharaf Mohd Ramli & Mustafa Omar Mohamad, 2014). Another study conducted by Najibah Mustafa and Mohd Zamro bin Muda (2014) showed that westerners also recognized the capability of waqf for Islamic institutions and they rebrand it in the form of trust or endowment.

It is evidenced that education waqf fund or endowment fund, as recognized by the westerners can be an effective tool for a university success as many high rank HEIs have their own endowment fund. Universities like Oxford and Cambridge in Britain as well as Harvard and Stanford in United States are among universities that were built with endowment fund (Najibah Mustafa & Mohd Zamro Muda, 2014). Al-Azhar, Oxford, Cambridge, Harvard and Stanford University are among top universities in the world and their dependent on waqf or endowment fund for a very long period show that the fund really helps the universities long-term financial stability.

In Malaysian education history, waqf was first developed for primary and secondary education. The waqf educational institution started in Malaysia with the existence of *Sekolah Agama Rakyat* (SAR), *Sekolah Agama Negeri* (SAN), *madrasah* and *pondok* (Latiff Azha et al., 2013). During that day, Muslims gave up their land and wealth to build religious school, as well as houses for teachers (Najibah Mustafa & Mohd Zamro Muda, 2014). It has been reported that many Muslims those days donated their wealth as special waqf to build mosque, cemetery, and *Sekolah Agama Rakyat* (SAR) (Paiz Hassan, Mohd Zahirwan Zainal Abidin, & Ahmad Fauzee Abdullah, 2011). Meanwhile *pondok* is reported as the earliest education institution in this country that had been donated by ulama' (Latiff Azha et al., 2013).

The *pondok* institution later was replaced with *madrasah* or Arabic school in the early 20th century, which was systematic and had formal system compared to *pondok* institution (Latiff Azha et al., 2013). *Sekolah Menengah Agama al-Attas*; formerly known as *Madrasah al-Attas* and *Madrasah al-Misriyah* were known as the earliest *madrasah* built in this country (Latiff Azha et al., 2013). In 1955, Selangor palace in Klang was donated by Sultan Hisamuddin Alam Shah to open the Islamic College (Latiff Azha et al., 2013). During that day, there was no HEI in Malaysia that had its own waqf fund.

Today, many HEIs in Malaysia have their own waqf fund, such as AlBukhary International, Dana Wakaf Ilmu, Universiti Putra Malaysia, IEF (Islamic Endowment Fund, International Islamic University Malaysia), Tabung Pemberian Islam Universiti Kebangsaan Malaysia, Universiti Islam Malaysia, and Pusat Pembangunan Pembiayaan Wakaf (PPPW) / Center for

Awqaf Development Financing, Universiti Sains Islam Malaysia (USIM) (Fuadah Johari & Mohammad Alias, 2013). Despite all HEIs that work really hard to build their own waqf fund, the Malaysian government has also taken initiative to assist waqf management for education benefits.

The government showed how serious they are in developing and sustaining waqf in education. The Federal Government of Malaysia, under the Prime Minister's Department had formed Department of Awqaf, Zakat and Hajj (JAWHAR) on 27th March 2004 with the objectives of harnessing the potential of waqf, *zakat* and *mal* and assisting the States Islamic Religious Councils (SIRCs) to realize these potential in a systematic and effective manner (Azri Ahmad, Syarqawi Muhammad, & Mohd Asyran Safwan Kamaruzaman, 2012). On the other hand, it is reported that Johor Islamic Religious Council (JIRC) had bought 6-storey building that can accommodate 80 students in Cairo for students studying in Al-Azhar University using waqf fund (Azri Ahmad et al., 2012).

WAQF AS SUSTAINABLE TOOL

The rising number of HEIs in this country leads to rising need of financial support. While the government's ability to cope with current economic downturn has worsened, philanthropic funding is seen as an effective tool to remedy the problem (Ogawa, Takemoto, Takahashi, & Suzuki, 2012). HEIs should reduce their dependency on government yearly monetary budget, rather focusing on creating waqf or endowment fund on their own (Najibah Mustafa & Mohd Zamro Muda, 2014). Najibah Mustafa and Mohd Zamro Muda (2014) further discussed there are universities in the US that have developed their own endowment fund and make huge profit. Researches proved that waqf not only contribute to financial stability, but also bring more than what we can imagine.

Education waqf fund brings equality and social justice in the society. It is proven as in a study conducted by Asming Yalawae and Izah Mohd Tahir (2008), the United States acknowledged the fund has the ability to bring equality in the society. Holiyah (2011) also found that waqf in education contributes significantly in improving the quality and competitiveness of the system. The education waqf fund will be an added value to the HEI as there is another financial source for them. The fund will assist in providing better education for all levels of students, where the poor can enjoy the same quality of education with the rich.

Waqf as a beneficial philanthropic tool can be used in education to eradicate financial tight of the system. In Malaysian history, traditional Islamic education developed when Muslims donated their land to build religious schools (Najibah Mustafa & Mohd Zamro Muda, 2014). Najibah Mustaffa and Mohd Zamro Muda (2014) further elaborated that the religious studies expanded after Muslims contributed their wealth to build residences for teachers. This situation shows that waqf in any form can be used to assist the improvement of the education system due to the nature

of the fund itself. In today's world, with the advancement of technology and mass media there is nothing that we cannot do to enhance the administration and management of the fund in order for the HEI to gain more returns. For example, the HEI may invest some portion of the fund in any investment portfolio and enjoy the returns.

Modern technology aids the implementation of education waqf fund from different approaches used to raise the fund. Syed Mohd. Ghazali Wafa Syed Adwam Wafa (2010) suggested two measures that can be applied in raising the waqf fund; raising from various sources and raising from activities conducted. The sources that are recognized consist of state religious agencies, Federal and State governments, foundations, companies, cooperatives and individuals, alumni, and parents (Syed Mohd. Ghazali Wafa Syed Adwam Wafa, 2010). The existence of latest technology and up-to-date mass media will ease the implementation. However, the main contributor, that is the Muslims themselves will determine whether the fund collected will be huge or otherwise.

Muslims nowadays are aware of their responsibilities to help people in need. In Surah al-Baqarah verse 261, Allah s.w.t. reminded human beings whoever contributes their money in the goodwill, they will be rewarded with manifolds (Asmak Ab Rahman, 2009). In education waqf fund, people donate due to several reasons such as to get blessings from Allah s.w.t., to spread the religion, no heirs and to develop the economy (Ahmad Zaki Abd Latiff, Abdul Halim Ramli, Che Zuina Ismail, Kamarulzaman Sulaiman, & Norzaidi Mohd. Daud, 2006). Limited number of government university and limited inexpensive fee for tertiary education lead waqf donors to donate for waqf education as compared to other sectors, realizing the needs of poor students (Anwar Allah Pitchay et.al., 2014).

CHALLENGES IN IMPLEMENTING WAQF FOR HEIS

In waqf fund implementation, there are challenges that may hinder the development. This study highlighted seven of those challenges that consist of knowledge on waqf, waqf management, *mutawalli*, social awareness, property donated, enactment of law and financial problem.

Knowledge on Waqf

Knowledge on waqf need to be delivered to the society to ensure everyone understands what waqf is all about. In Gerend and Magloire, 2008, it is mentioned that knowledge can be enhanced through education. Based on experience of Wilayah Persekutuan Islamic Religious Council (WPIRC) waqf officers, the society still have difficulty to differentiate between waqf and *sadaqah*, and they lack of knowledge especially regarding concept and benefits of waqf (Farhana Mohamad Suhaimi & Asmak Ab Rahman, 2014). The information has to be instilled for the community to have full understanding on waqf, simultaneously avoiding the upcoming problems.

Marketing or education waqf fund promotion is one of the essential aspects that should be given careful attention by the management (Najibah Mustafa & Mohd Zamro Muda, 2014). Contemporary marketing channels such as electronic media, social media or printed media are the best tool to educate people in such a way to encourage more to donate (Najibah Mustafa & Mohd Zamro Muda, 2014). Failure in marketing or promotion will lead to problems of instilling information and understanding about waqf among society that will result in low contribution for the fund (Najibah Mustafa & Mohd Zamro Muda, 2014). In this regard, knowledge on waqf is the most powerful tool that should be taken care of before other matters. Waqf fund cannot be accumulated if society does not have essential knowledge about waqf.

Social Awareness

Awareness is reflected by how much information that is conveyed to people (Gerend & Magloire, 2008). As the society is the backbone supporting the charitable institutions, lack of awareness among public will affect the development of waqf (Farhana Mohamad Suhaimi & Asmak Ab Rahman, 2014). There are many problems arise due to lack of awareness and understanding of waqf property. Some of the problems consist of people who rent the waqf land but categorized ineligible as they are not considered poor, and waqf land sold by the children of the original tenant to a third party without changing the owner's name and consent from SIRC authority (Farra Muna Harun et al., 2014). The do's and don'ts to the waqf property, sold waqf land and legally renamed without an agreement are among the problems that happened nowadays (Farra Muna Harun et.al., 2014). Hence, the society still has the understanding that *zakat* is the only philanthropic tool that can reduce the gap between the rich and the poor and develop the economy, while they are lack of understanding about the capability that waqf has (Noor Aimi Mohd Puad, Nurauliani Jamlus Rafdi, & Wan Shahdila Shah Shahar, 2014).

To avoid the occurrence of such problem, essential information about waqf should be communicated and the waqf fund management has to be organized accordingly. Information about waqf should be conveyed to the society to avoid any objections to develop waqf property (Che Zuina Ismail, Syafini Muda, & Nor Jawanees Ahmad Hanafiah, 2014). Furthermore, donor should have the understanding before they make decision on donating their assets for waqf. Hence, the SIRCS are effectively playing their roles in instilling information about waqf in the society. Other than that, other waqf organizations and institutions have to promote awareness among society instead of focusing merely on accumulating donation.

Waqf Management

Management of the waqf fund should not be neglected as it is the backbone for the sustainability of the fund. Ahmad Sahlan Sedek, Noor Inayah Yaakub, Mohamad Abdul Hamid, and Rizal Palil (2013) in discussing waqf management problem, highlighted the problem of improper registration and documentation, accounting practices are not in compliance with the Islamic accounting method, and so on. Other than that, waqf management that involves many

individuals, and shortage of skilled staff leads to improper management system (Latiff Azha et al., 2013). The involvement of many individuals in the management may lead to other problems such as red tape.

Due to the unsystematic waqf management system, SIRC is facing two main problems; first, problem to identify the amount and waqf land location, and second, problem to register the waqf wealth for SIRC as the trustee (Che Zuina Ismail, 2012). Che Zuina Ismail (2012) further elaborated due to those problems SIRC has to confront with heirs who tried to repossess the waqf wealth and they also have to solve other approaching problem as some of the waqf wealth is not used for waqf purposes. The management problem in handling waqf fund seems to be common problems for almost every SIRC in Malaysia due to loose waqf management and law in this country.

Waqf fund management in Malaysia differs for each state, and this problem leads to different solution for the states (Ahmad Zaki Abd Latiff et al., 2006). They further elaborated three main hindrances to the management which are the enactment of law, the management static mind and bureaucracy. Bureaucracy has disrupted management of waqf fund, and it will destroy educational waqf fund development if it is left unsolved (Latiff Azha et al., 2013). meanwhile Farra Muna Harun et.al., (2014) in their study discussed the needs of law and legislation for waqf fund management and administration. They further elaborated the provisions of the enactment of the waqf is not exhaustive, and emphasize only on the administration and simple procedure consecration. The enactment on waqf is needed as it will provide guidelines for the administrators on the best way to manage the fund.

Mutawalli

Mutawalli or waqf managers is another major concern in the management of waqf fund. There are cases where the *Mutawalli* are unqualified or under knowledge (Ahmad Sahlan Sedek et al., 2013). Ahmad Sahlan Sedek et al. (2013) elaborated the qualifications of the Mutawalli refers to the ability, willingness and beliefs, in utilizing waqf asset with trust and reliance. Failure to comply with one of the qualifications will lead the *mutawalli* to be unqualified for the job. Dahlia Ibrahim and Haslindar Ibrahim (2013) in their study mentioned that the problem broadens as there are non-Muslims involved in the waqf management.

Qualified and skilled waqf managers are among the criteria needed to assist the management to achieve their goal. Ibrahim (2012) in (Ibrahim Ahmed Khalil, Yunus Ali, & Mohammad Shaiban, 2014) discussed based on expert observation, waqf officers in Malaysia do not have proper training or competency in investment analysis, project management, property valuation or any experiences that are related to the development and management of waqf assets. Those fields are important to waqf fund whereby the *mutawalli* has to know what should be done for the

growth of the fund. Besides lack of qualified and skilled waqf manager, limited number of staff adds to the fire.

Mismanagement and illegal transfer of waqf property are not surprising cases as SIRC's are facing problem of limited staff to frequently monitor the property (Noor Aimi Mohd Puad et al., 2014). In case of Selangor district, only two to three officers are placed to perform the duties (Noor Aimi Mohd Puad et al., 2014). The leading management must realize how important the best number of staff to handle every job as the effectiveness and efficiency of the staff will affect the whole system. Proper research is the best remedy before placing any number of waqf managers for each state.

Property Donated

Most of the property donated for waqf are lands that are isolated and have no proper infrastructure (Dahlia Ibrahim & Haslindar Ibrahim, 2013). In Kelantan, land donated for waqf are mostly used to build mosque or Muslim cemetery (Farhana Mohamad Suhaimi & Asmak Ab Rahman, 2014). Muslims who have the intention to contribute for waqf should realize the importance of waqf and how their contribution can assist the Muslim society. There are cases where the owner of lands gave their property with no economic value, as it did not benefit the owner (Farra Munna Harun, Bayu Taufiq Possumah, M Hakimi Mohd Shafiai, & Abd. Halim Mohd. Noor, 2016).

Another main problem with property donated, it appears that many unsolved problems attached to the property make it difficult to be developed. Dahlia Ibrahim and Haslindar Ibrahim (2013) in their study found that land cannot be developed due to its features and on some land, exists illegal occupation by the society. While Farra Muna Harun et al. (2014) in their study found that there are many unregistered waqf land due to previous system adopted by the community to entrust the village leader or Imam on the waqf land. The problem arises as the trustee deceased and there are no proves that the property has been donated for waqf (Farra Muna Harun et al., 2014).

The waqf property will be hampered due to a case where there exists defaulting land tax and other kinds of tax related to waqf land properties that lead the seized by land office and sealed of waqf premises by local authorities, in which it is beyond SIRC's control (Md. Shahedur Rahaman Chowdhury, 2012). Hence, proper consideration will help the donor as well as the management of the waqf fund to gain from the asset.

Enactment of Law

In Malaysia, there is no proper enactment of law governing every aspect of waqf that can be adopted and implemented by all states in the country. The law regulated outlined several aspects of the fund. Dahlia Ibrahim and Haslindar Ibrahim (2013) mentioned that the enactment defines

aspects of waqf which include the type, SIRC's power, administration of waqf, and so on. However, only a few SIRC's in this country have proper waqf legislation. Latiff Azha et al. (2013) proved that there is no uniformed enactment of law for each state, so as enactment for education waqf fund. The SIRC's for Melaka, Negeri Sembilan and Selangor are the only state councils that have waqf enactment, while the others do not have specific regulation on waqf (Dahlia Ibrahim & Haslindar Ibrahim, 2013).

Enactment of law for waqf has its own hindrances to be legalized. Majority of legal problems exist because waqf is a religious concept based on old theories that is lack of serious interpretation, resulting in a legal framework that is also based on the very old clarification of the religious texts (Noor Aimi Mohd Puad et al., 2014). Colonization has added to the problem as English law influences waqf legal framework. For example, the land-rights in the Malaysian Land Administration System modelled based on the colonial model, which is not simply to be used to apply for waqf lands (Noor Aimi Mohd Puad et al., 2014). Due to the absence of law and legislation on waqf, there are other problems emerged. Farra Muna Harun et al. (2014) in their study discussed that there are irresponsible parties who dominated and abused the waqf property as it is understood the property belongs to the society.

Financial Problem

Many waqf institutions are facing financial problem to manage and develop waqf assets. This is evidenced by Latiff Azha et al. (2013) as they signified the challenges that arise in the management of waqf fund are lack of funding and weakness in planning as well as developing the land. Waqf lands in Malaysia have significant economic potentials, especially the one located in urban areas (Ibrahim Ahmed Khalil et al., 2014). However, Ibrahim Ahmed Khalil et al. (2014) further elaborated SIRC's facing difficulties in developing the properties due to financial problem. The government has allocated some amounts of money, but, due to enormous amount of waqf asset, the amount allocated for waqf management is insufficient.

SIRC's and other waqf institutions are trying their best to rectify the financial problem. Many SIRC's had formed cooperation with private businesses due to inadequate fund to develop waqf assets (Dahlia Ibrahim & Haslindar Ibrahim, 2013). The cooperation apparently did not benefit SIRC's, hence, bring negativity to the welfare of the ummah (Dahlia Ibrahim & Haslindar Ibrahim, 2013). The negativity is hidden and cannot be seen through naked eyes as the main concern of private businesses is profitable income and they will not bother if the society suffers. From the outset, SIRC's seem to benefit from the cooperation, however, the private businesses earned more (Dahlia Ibrahim & Haslindar Ibrahim, 2013).

Waqf institutions facing difficulty of getting enough funds to expand waqf assets develop their own cash waqf and share waqf (Ahmad Sahlan Sedek et al., 2013). In some studies, (Haslindar Ibrahim, Afizar Amir, & Tajul Ariffin Masron, 2013; Abdel Mohsin, 2008) they defined cash

waqf as the donation of an amount of money by a founder and the dedication of its usufruct in perpetuity for the prescribed purpose. meanwhile share waqf is a movable waqf that has been established with liquid money to promote perpetual services to mankind in the name of Allah (s.w.t) (Magda Ismail Abdel Mohsin, 2012). The cash waqf and share waqf have been proven successful in various segments such as education, food and construction.

Recognizing numerous benefits that waqf fund offers, it is crucial for HEI to solve financial problem in managing their fund. Furthermore, HEI has to know which part in the institution that needs more attention. As suggested by Najibah Mustafa and Mohd Zamro Muda (2014), waqf fund is one of major successes of a HEI and it is important to give attention to provide fund for physical development, operational cost and academic excellence programme.

THE WAY FORWARD

In Najibah Mustafa and Mohd Zamro Muda (2014) and Abdul Halim Sunny (2007) outlined four factors that determine the success of education waqf fund; those are public awareness, demographic condition that is high Muslim population, economic stability owned by Muslims and professional and efficient management. These four aspects have their own significant impact on education waqf fund sustainability and wise judgment is needed to ensure the success of the fund. While demographic condition and economic stability are macroeconomic condition that is uncontrollable, the other two should be attended to guarantee continuous growth of the fund.

The expansion of education waqf fund depends on the easiness of donors to contribute to the fund. Nowadays, with the advance of technology, many online methods can be used to donate money. The government servants make their contribution through salary deduction scheme (Farhana Mohamad Suhaimi, Asmak Ab Rahman, & Sabitha Marican, 2014). The scheme showed significant increase between 2006 and 2009 and it is mostly donated among 25 to 34 years old government servants (Farhana Mohamad Suhaimi et al., 2014). Other method can be used to ease waqf payment such as online banking that is made at the convenient of the donor. Whilst these techniques encourage many donors to donate, the waqf fund administrator has to think of other ideas to accumulate higher fund.

Introducing waqf attached to a takaful scheme is a method that can be considered. Syed Mohd. Ghazali Wafa bin Syed Adwam Wafa (2010) suggested few products can be launched with the application of waqf fund, such as Waqf Scheme and General *Infaq* and *Takaful*, Education and Takaful Scheme, Educational Development Waqf and Takaful Scheme, *Hibah* and Education Will Scheme. These products will acquire attention from consumers as there are *takaful* and other schemes attached to the waqf fund, which may increase demand for the products. These products may create attention among society, however, inappropriate individuals administer the fund will bring disaster to the fund management.

Fund management that consists of appropriate individuals or parties will determine whether education waqf fund can be a success. It is proven by a research conducted by Najibah Mustaffa and Mohd Zamro Muda (2014) that suggested individuals administering the fund are one of the critical factors of education for waqf fund success. The waqf fund should be independent, practising honest and transparent administration as well as involving in different kinds of business (Najibah Mustafa & Mohd Zamro Muda, 2014). Azliza Azrah Mohd Zakaria, Rose Ruziana Abd. Samad, & Zurina Shafii (2012) outlined that mismanagement or misappropriation have significant effect on the success of the establishment of waqf fund. Clear codes and conducts should be outlined to avoid bribes or other harmful activities on the fund.

The agency administering the fund should give more attention in selecting the best candidate with suitable knowledge, skills and qualifications. Training can be provided to the staffs from time to time to enhance individuals' knowledge and skills. A research conducted by Mohd Asyraf Yusof, Muhammad Ridhwan Ab. Aziz, and Fuadah Johari (2013) proved that willingness of Muslims to donate for waqf fund were not affected by level of income, hence by knowledge and trust on individual who managed the fund. The waqf institution should follow the guidelines outlined on qualifications and skills needed before hiring *mutawalli* or waqf managers. The institution must also consider the sensitivity of the society in selecting the best candidate for the *mutawalli*.

Different enactment of law for waqf assets for each state in this country has led to difficulties in developing and accumulating growth from waqf. The SIRCs should come out with a legal framework that can be adopted by all states. The framework will assist in reducing current problems faced in managing the waqf assets. One of the problems that is reported by Minister at Prime Minister's Department, Datuk Jamil Khir Baharom, until 2009 there are 9,937 hectares of unused waqf land with an estimated value of RM1.9 billion (Zuraidah Mohamed Isa, Norhidayah Ali, & Rabitah Harun, 2011). A standardized legal framework will assist the management of waqf asset, simultaneously helping the improvement of Muslims' economy.

CONCLUSION

To conclude, this study has clearly discussed the implementation of education waqf fund in history and in current practices, in this country and also in the Muslim world. This study has also discussed seven challenges that will hamper the establishment of the fund that consists of knowledge on waqf, waqf management, *mutawalli*, social awareness, property donated, enactment of law and financial problem. Then, several ways are recognized to overcome the challenges.

From the discussion, it is shown that education waqf fund is recognized as one of the tools that can be used to assist HEIs development. The development of this fund will reduce the dependency on other financial assistants that exist nowadays. History has proven many HEIs

around the world expand as they fully utilized the waqf fund. Westerners have also implemented endowment fund that have a few similarities with education waqf fund and proven that it brought huge success to the HEIs.

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BS086:
IMPLEMENTASI GADAI EMAS SYARIAH DENGAN AKAD RAHN
SEBAGAI ALTERNATIF PEMBIAYAAN MASYARAKAT NON BANK DI
INDONESIA

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Abstrak

Gadai emas adalah salah satu bentuk utang piutang berbasis kepercayaan dari orang yang berpiutang, dimana terdapat orang yang menggadaikan barangnya berupa emas perhiasan maupun logam mulia sebagai jaminan dari sebuah hutang, tetapi barang jaminan tersebut tetap menjadi milik yang menggadaikan. Penelitian ini dilakukan dengan rumusan masalah “Bagaimanakah implementasi Gadai Emas Syariah dengan akad Rahn sebagai alternatif pembiayaan pada masyarakat non bank, dengan pokok kajian (1) Dasar hukum Gadai Emas Syariah sebagai pembiayaan, (2) Syarat dan prosedur pembiayaan melalui akad Rahn, serta (3) Hak dan kewajiban para pihak pada akad Gadai Emas Syariah. Dari hasil penelitian diketahui : (1) Dasar Hukum (a) Kitab Undang-Undang Hukum Perdata sebagai dasar Hukum Gadai, (b) Al-Qur’an dan Al-Hadits, (c) Fatwa Dewan Syariah Nasional (DSN) Majelis Ulama Indonesia (MUI) tentang Rahn, (2) Syarat dan prosedur pegadaian syariah dengan akad Rahn adalah (a) Pihak penggadai mendatangi langsung lembaga pegadaian dengan membawa barang emas seberat 10,2 gram, (b) Pihak pegadaian menaksir barang emas perhiasan 24 karat dengan nilai sebesar 22 karat, (c) Taksiran barang emas perhiasan sebagai jaminan dihitung oleh Pegadaian Syariah lebih rendah 12% dari harga pasar emas perhiasan, (d) Pihak Pegadaian Syariah menetapkan margin ujah setiap 10 hari sebesar Rp 7.300,- untuk marhun bih Rp.1.000.000,- dan maksimal tempo penebusan yang ditetapkan adalah 120 hari (4 bulan), (e) Pihak pegadaian syariah menyerahkan dana pembiayaan kepada pemberi gadai, (f) Diberikan kemudahan untuk dapat menebus barang gadai setiap saat namun harus sesuai dengan syarat dan ketentuan yang berlaku, (g) Dana pembiayaan dikembalikan kepada pihak Pegadaian Syariah pada saat jatuh tempo dan barang gadai dikembalikan kepada pemberi gadai, (h) Jika pemberi gadai gagal mengembalikan dana pembiayaan pada saat jatuh tempo dan tidak memperpanjang akadnya maka dilakukan proses lelang/eksekusi terhadap barang gadai, (3) Hak dan kewajiban secara spesifik ditetapkan dalam akad dimana akad Rahn diikuti dengan akad Ijarah guna penyewaan tempat penitipan barang emas. Proses akad berlangsung cepat dan mudah. Gadai syariah pada Pegadaian Syariah dengan akad Rahn memiliki sifat tolong menolong dengan menguntungkan para pihak. Pelayanan yang baik, syarat dan prosedur yang tidak berbelit, kepercayaan yang tinggi dari masyarakat membuat lembaga ini diminati masyarakat sebagai alternatif pembiayaan syariah.

Kata kunci: gadai emas syariah, ar-rahn, akad, ijarah, hak dan kewajiban

LATAR BELAKANG

Menyimpan emas, baik emas dalam bentuk perhiasan maupun logam mulia sebagai sarana investasi telah menjadi budaya pada masyarakat Melayu khususnya Indonesia. Kebudayaan inilah yang kemudian dirangkul oleh PT.Pegadaian (Persero) sebagai peluang untuk membantu pembiayaan masyarakat melalui akad *Ar-Rahn*.

Gadai atau *Rahn* adalah salah satu bentuk perjanjian utang piutang berbasis kepercayaan dari orang yang berpiutang, dimana orang yang berhutang menggadaikan barangnya sebagai jaminan atas hutangnya. Dalam hal ini, barang jaminan tetap menjadi milik orang yang menggadaikan namun tetap dalam penguasaan penerima gadai.

Dalam perkembangan bernegara saat ini telah lahir pula Pegadaian Syariah. Pegadaian Syariah yang merupakan cabang atau unit layanan usaha di bawah PT. Pegadaian (Persero) (Pegadaian) adalah lembaga keuangan hasil kerjasama antara PT.Bank Muamalat Indonesia, Tbk (BMI) dengan Pegadaian. Berdirinya Pegadaian Syariah ini didasarkan atas perjanjian musyawarah dengan sistem bagi hasil antara Pegadaian dengan BMI untuk tujuan melayani nasabah kedua lembaga tersebut yang ingin memanfaatkan jasa layanan gadai yang berdasarkan kepada prinsip syariah. Dalam perjanjian No.446/SP300.233/2002 dan No.015/BMI/PKS/XII/2002 tertanggal 20 Desember 2002, BMI memberikan modal atau pembiayaan bagi pendirian Pegadaian Syariah di seluruh Indonesia. Sedangkan Pegadaian merupakan pihak yang menjalankan segala bentuk kegiatannya, mulai dari mempersiapkan Sumber Daya Manusia, manajemen, serta kegiatan operasional lainnya.

Menurut Peraturan Pemerintah No.103 tahun 2000, Pegadaian memiliki status sebagai Badan Usaha Milik Negara (BUMN) yang diberi tugas dan kewenangan untuk menyelenggarakan usaha menyalurkan uang pinjaman atas dasar Hukum Gadai (Pasal 3 ayat 1). Selanjutnya, Pegadaian berkedudukan dan berkantor pusat di Jakarta (Pasal 4) serta didirikan untuk jangka waktu yang tidak ditentukan (Pasal 5). Sifat usaha dari Pegadaian ini sendiri adalah menyediakan pelayanan bagi kemanfaatan umum dan sekaligus memupuk keuntungan berdasarkan prinsip pengelolaan perusahaan (Pasal 6).

Atas dasar fungsi dan peran yang telah diamanahkan oleh Peraturan Pemerintah terhadap Pegadaian tersebut maka penelitian ini dilakukan. Pegadaian Syariah diasumsikan dapat menjadi salah satu alternatif pembiayaan pada masyarakat yang bersifat non bank serta menerapkan prinsip-prinsip syariah yang menjadi pertimbangan oleh masyarakat yang khususnya berasal dari kalangan muslim yang senantiasa mengutamakan prinsip-prinsip syariah dalam menjalankan aktivitasnya sehari-hari.

TINJAUAN PUSTAKA

Menurut Hari Saherodji, gadai adalah suatu hak yang diperoleh kreditur atas suatu barang bergerak yang diberikan kepadanya oleh debitur atau orang lain atas namanya, untuk menjamin

suatu hutang dan yang memberikan kewenangan kepada kreditur untuk mendapat pelunasan dari barang tersebut lebih dulu dari kreditur lainnya, kecuali biaya-biaya melelang barang dan biaya untuk memelihara benda tersebut telah dikeluarkan, biaya mana harus didahulukan. Lebih lanjut, Muhammad Syafi'i Antonio mengemukakan definisi gadai atau *ar-rahn* sebagai menahan salah satu harta milik si peminjam sebagai jaminan atas pinjaman yang diterimanya. Barang yang ditahan tersebut memiliki nilai ekonomis. Jika gadai atau *rahn* diartikan sebagai menahan harta milik si peminjam, maka pihak yang menahan atau penerima gadai atau *murtahin* memperoleh jaminan untuk dapat mengambil kembali seluruh atau sebagian piutangnya.

Pengertian gadai (*rahn*) yang dikemukakan oleh Zainudin Ali adalah menahan barang jaminan yang bersifat materi milik si peminjam (*rahin*) sebagai jaminan atas pinjaman yang diterimanya, dan barang yang diterima tersebut bernilai ekonomis, sehingga pihak yang menahan (*murtahin*) memperoleh jaminan untuk mengambil kembali seluruh atau sebagian utangnya dari barang gadai dimaksud, bila pihak yang menggadaikan tidak dapat membayar utang pada waktu yang telah ditentukan. Kata gadai sendiri dalam bahasa Arab disebut *rahn* yang artinya tetap atau lestari atau *al-habsu* yang artinya menahan.

METODE PENELITIAN

Jenis penelitian yang digunakan adalah penelitian hukum normatif empiris (*applied normative law*), yaitu penelitian hukum mengenai pemberlakuan atau implementasi ketentuan hukum normatif (*in abstracto*) pada peristiwa hukum (*in concreto*) dalam gadai syariah. Tipe penelitian yang digunakan adalah tipe penelitian deskriptif-analitis, memaparkan dan menggambarkan secara jelas, lengkap dan terperinci mengenai gadai emas syariah. Pendekatan masalah yang digunakan dalam penelitian ini adalah normatif analitis perbandingan hukum (*comparative legal system approach*), sedangkan data yang digunakan dalam penelitian ini adalah data sekunder dengan bahan hukum primer dan bahan hukum sekunder, meliputi bahan-bahan hukum yang berkaitan dengan dokumen-dokumen, referensi maupun literatur lainnya yang berkaitan dengan gadai syariah, serta bahan hukum tersier, meliputi bahan hukum yang memberikan petunjuk maupun penjelasan terhadap bahan hukum primer dan bahan hukum sekunder. Metode pengumpulan data yang dipergunakan dalam penulisan ini adalah studi kepustakaan dan studi dokumen.

HASIL PENELITIAN IMPLEMENTASI GADAI EMAS SYARIAH

Dasar Hukum

Kitab Undang-Undang Hukum Perdata

Pengertian gadai menurut Kitab Undang-Undang Hukum Perdata (*Burgerlijk Wetboek voor Indonesie*) II Bab XX Pasal 1150 adalah suatu hak yang diperoleh kreditur atas suatu barang bergerak, yang diserahkan kepadanya oleh debitur, atau oleh kuasanya, sebagai jaminan atas utangnya, dan yang memberi wewenang kepada kreditur untuk mengambil pelunasan piutangnya dan barang itu dengan mendahului kreditur-kreditur lain; dengan pengecualian biaya penjualan

sebagai pelaksanaan putusan atas tuntutan mengenai pemilikan atau penguasaan, dan biaya penyelamatan barang itu, yang dikeluarkan setelah barang itu sebagai gadai yang harus didahulukan. Hal tersebut kemudian yang menjadi dasar bagi Hukum Gadai.

Al Qur'an dan Al-Hadits

Dasar hukum implementasi gadai emas syariah dalam Al-Qur'an adalah Surat Al-Baqarah ayat 283 yang berbunyi :

“Jika kamu dalam perjalanan (dan bermu'amalah tidak secara tunai) sedang kamu tidak memperoleh seorang penulis, maka hendaklah ada barang tanggungan yang dipegang (oleh yang berpiutang).”

Kalimat barang tanggungan yang dipegang tersebut diartikan sebagai barang gadai. Sedangkan Aisyah ra. berkata :

”Sesungguhnya Rasulullah SAW pernah membeli makanan dengan berhutang dari seorang Yahudi, dan Nabi menggadaikan sebuah baju besi kepadanya.”

(HR. al-Bukhari dan Muslim)

Dari Abu Hurairah ra., Nabi SAW bersabda :

“Tidak terlepas kepemilikan barang gadai dari pemilik yang menggadaikannya. Ia memperoleh manfaat dan menanggung resikonya. ”

(HR. Nabi Riwayat al-Syafi'i, al-Daraquthni dan Ibnu Majah).

Selanjutnya, dari Abu Hurairah, Nabi Muhammad SAW juga bersabda:

“Tanggungan (kendaraan) yang digadaikan boleh dinaiki dengan menanggung biayanya dan binatang ternak yang digadaikan dapat diperah susunya dengan menanggung biayanya. Bagi yang menggunakan kendaraan dan pemerah susu tersebut wajib menanggung biaya perawatan dan pemeliharaan.”

(HR. Jama'ah, kecuali Muslim dan al-Nasa'i).

Fatwa Majelis Ulama Indonesia (MUI)

Pembiayaan dengan akad *rahn* di dasarkan pada fatwa Dewan Syariah Nasional (DSN) Majelis Ulama Indonesia (MUI). Fatwa Dewan Syariah Nasional (DSN) No. 25/DSN-MUI/III/2002 dan No. 26/DSN-MUI/III/2002 tentang *Rahn* Emas menetapkan :

1. *Rahn* Emas dibolehkan berdasarkan prinsip *Rahn*.
2. Ongkos dan biaya penyimpanan barang (*marhun*) ditanggung oleh penggadai (*rahin*).

3. Ongkos sebagaimana dimaksud ayat 2 besarnya didasarkan pada pengeluaran yang nyata-nyata diperlukan.
4. Biaya penyimpanan barang (*marhun*) dilakukan berdasarkan akad *Ijarah*.

Syarat dan Prosedur Pembiayaan Gadai Emas Syariah

Syarat menurut Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia

Diperbolehkannya pembiayaan gadai emas dengan akad *rahn* didasarkan pada fatwa Dewan Syariah Nasional Majelis Ulama Indonesia No.25/DSN-MUI/III/2002 dan No.26/DSN-MUI/III/2002 yang menyatakan bahwa pinjaman dengan menggadaikan barang sebagai jaminan utang dalam bentuk *rahn* dibolehkan dengan ketentuan sebagai berikut :

a. Syarat Umum

1. *Murtahin* (penerima barang) mempunyai hak untuk menahan *Marhun* (barang) sampai semua utang *Rahin* (yang menyerahkan barang) dilunasi.
2. *Marhun* dan *manfaatnya* tetap menjadi milik *Rahin*. Pada prinsipnya, *Marhun* tidak boleh dimanfaatkan oleh *Murtahin* kecuali seizin *Rahin*, dengan tidak mengurangi nilai *Marhun* dan pemanfaatannya itu sekedar pengganti biaya pemeliharaan perawatannya.
3. Pemeliharaan dan *penyimpanan Marhun* pada dasarnya menjadi kewajiban *Rahin*, namun dapat dilakukan juga oleh *Murtahin*, sedangkan biaya dan pemeliharaan penyimpanan tetap menjadi kewajiban *Rahin*.
4. Besar biaya *pemeliharaan* dan *penyimpanan Marhun* tidak boleh ditentukan berdasarkan jumlah pinjaman.
5. Penjualan *Marhun* :
 - i. Apabila jatuh tempo, *Murtahin* harus memperingatkan *Rahin* untuk segera melunasi utangnya.
 - ii. Apabila *Rahin* tetap tidak dapat melunasi utangnya, maka *Marhun* dijual paksa/dieksekusi melalui lelang sesuai syariah.
 - iii. Hasil penjualan *Marhun* digunakan untuk melunasi utang, biaya pemeliharaan dan penyimpanan yang belum dibayar serta biaya penjualan.
 - iv. Kelebihan hasil penjualan menjadi milik *Rahin* dan kekurangannya menjadi kewajiban *Rahin*.

b. Syarat Penutup

1. Jika salah satu pihak tidak menunaikan kewajibannya atau jika terjadi perselisihan di antara kedua belah pihak, maka penyelesaiannya dilakukan melalui Badan Arbitrase Syaria'ah setelah tidak tercapai kesepakatan melalui musyawarah.
2. Fatwa ini berlaku sejak tanggal ditetapkan dengan ketentuan jika di kemudian hari ternyata terdapat kekeliruan akan diubah dan disempurnakan sebagaimana mestinya.

Syarat Sah Akad Gadai Emas menurut Perspektif Islam

Syarat-syarat gadai dalam Islam yaitu :

1. Harus terdapat *sighat* .
2. Harus terdapat pihak-pihak yang berakad.
3. Para pihak telah cakap menurut hukum.
4. Harus ada benda emas yang digadaikan (*marhun*).
5. Harus ada pembiayaan (*marhun bih*).

Prosedur Pembiayaan Gadai Emas Syariah dengan Akad Rahn No.60692-17-02xxxxxx

Prosedur Akad *Rahn* sebagai berikut :

1. Pemberi gadai (*rahin*) mendatangi kantor cabang Pegadaian Syariah untuk menjaminkan barang emas (*marhun*) seberat 10,2 gram sebesar 24 karat kepada Pegadaian Syariah agar dapat memperoleh pembiayaan.
2. Pihak Pegadaian Syariah menaksir barang emas 24 karat dengan nilai sebesar 22 karat.
3. Pihak Pegadaian Syariah menaksir barang emas sebagai jaminan dengan perhitungan lebih rendah 12% dari harga pasar emas perhiasan.
4. Pihak Pegadaian Syariah menetapkan margin *ujrah* setiap 10 hari sebesar Rp.7.300,- untuk *marhun* bih Rp.1.000.000,-.
5. Pegadaian Syariah dan pemberi gadai (*rahin*) menyepakati akad gadai berbentuk *Rahn*. Akad ini meliputi jumlah pinjaman, pembebanan biaya jasa simpanan (*ijarah*) dan biaya administrasi. Jatuh tempo pengembalian pembiayaan yaitu 120 hari (4 bulan).
6. Pegadaian Syariah memberikan pembiayaan atau jasa yang dibutuhkan nasabah sesuai kesepakatan.
7. Pemberi gadai (*rahin*) menebus barang yang digadaikan setelah jatuh tempo. Apabila pada saat jatuh tempo belum dapat mengembalikan uang pinjaman, dapat diperpanjang satu kali masa jatuh tempo, demikian seterusnya. Apabila pemberi gadai (*rahin*) tidak dapat mengembalikan uang pinjaman dan tidak memperpanjang akad gadai, maka Pegadaian Syariah dapat melakukan kegiatan pelelangan dengan menjual barang tersebut untuk melunasi pinjaman.
8. Pegadaian Syariah mengembalikan emas yang digadaikan (*marhun*) kepada pemiliknya yaitu pemberi gadai (*rahin*).
9. Diberikan kemudahan untuk dapat menebus barang gadai setiap waktu dengan syarat dan ketentuan yang berlaku.

Pembiayaan atas dasar Hukum Gadai Syariah (*Rahn*) yaitu berupa penyerahan barang gadai oleh pemberi gadai (*rahin*) untuk mendapatkan pinjaman yang jumlahnya ditentukan oleh nilai emas yang digadaikan.

1. Penaksiran nilai barang, yaitu bahwa Pegadaian Syariah memberikan jasa penaksiran atas nilai suatu barang yang dilakukan oleh calon pemberi gadai (*rahin*). Jasa ini diberikan karena biasanya lembaga Pegadaian Syariah mempunyai alat penaksir yang keakuratannya dapat diandalkan.
2. Pegadaian Syariah juga menyelenggarakan jasa penyewaan (*ijarah*) tempat penitipan barang untuk alasan keamanan. Usaha ini dapat dijalankan karena Pegadaian Syariah menyediakan tempat atau gudang penyimpanan yang memadai. Untuk hal ini diperlukan juga akad *ijarah*.

Dengan demikian sebuah pembiayaan gadai emas dengan akad *rahn* akan diikuti dengan akad *ijarah* atau akad jasa penitipan emas.

Hak dan Kewajiban Para Pihak

Sebagai akibat hukum adanya perjanjian *rahn* adalah munculnya hak dan kewajiban yang bersifat mengikat para pihak. Secara umum, hak dan kewajiban yang terdapat dalam Perjanjian Gadai Emas adalah sebagai berikut :

Hak dan Kewajiban Penerima Gadai (*Murtahin*)

Penerima Gadai (<i>Murtahin</i>)	
Hak	Kewajiban
<ol style="list-style-type: none"> 1. <i>Murtahin</i> mendapatkan biaya administrasi yang telah dikeluarkan untuk menjaga keselamatan harta benda gadai (<i>marhun</i>). 2. <i>Murtahin</i> mempunyai hak menahan <i>marhun</i> sampai semua hutang (<i>marhun bih</i>) dilunasi. 3. <i>Murtahin</i> berhak menjual <i>marhun</i> apabila <i>rahin</i> pada saat jatuh tempo tidak dapat memenuhi kewajiban. Hasil penjualan diambil sebagian untuk melunasi <i>marhun bih</i> dan sisanya dikembalikan kepada <i>rahin</i>. 	<ol style="list-style-type: none"> 1. <i>Murtahin</i> bertanggung jawab atas hilang atau merosotnya harga <i>marhun</i> bila itu disebabkan oleh kelalaian. 2. <i>Murtahin</i> tidak boleh menggunakan <i>marhun</i> untuk kepentingan pribadinya. 3. <i>Murtahin</i> berkewajiban memberikan informasi kepada <i>rahin</i> sebelum mengadakan pelelangan harta benda gadai.

Hak dan Kewajiban Pemberi Gadai (*Rahin*)

Pemberi Gadai (<i>Rahin</i>)	
Hak	Kewajiban
<ol style="list-style-type: none"> 1. <i>Rahin</i> berhak mendapatkan pembiayaan dan atau jasa penitipan. 2. <i>Rahin</i> berhak menerima kembali harta benda yang digadaikan setelah melunasi hutangnya. 3. <i>Rahin</i> berhak menuntut ganti rugi atas kerusakan dan atau hilangnya harta benda yang digadaikan. 4. <i>Rahin</i> berhak menerima sisa hasil penjualan harta benda gadai yang sudah dikurangi biaya pinjaman dan biaya-biaya lainnya. 5. <i>Rahin</i> berhak meminta kembali harta benda gadai jika diketahui adanya penyalahgunaan. 	<ol style="list-style-type: none"> 1. <i>Rahin</i> berkewajiban melunasi <i>marhun bih</i> yang telah diterimanya dalam tenggang waktu yang telah ditentukan, termasuk biaya lain yang disepakati. 2. Pemeliharaan <i>marhun</i> pada dasarnya menjadi kewajiban <i>rahin</i>. Namun jika dilakukan oleh <i>murtahin</i>, maka biaya pemeliharaan tetap menjadi kewajiban <i>rahin</i>. Besar biaya pemeliharaan tidak boleh ditentukan berdasarkan jumlah pinjaman. 3. <i>Rahin</i> berkewajiban merelakan penjualan <i>marhun</i> bila dalam jangka waktu yang telah ditetapkan ternyata tidak mampu melunasi pinjamannya.

Hak dan Kewajiban pada Akad No.60692-17-02xxxxxxx

Hak dan Kewajiban pada Akad *Rahn*

Hak dan kewajiban yang diatur dalam akad *rahn* terdiri atas hal-hal sebagai berikut :

1. *Rahin* menerima dan setuju terhadap uraian *Marhun*, penetapan taksiran *Marhun*, *Marhun Bih*, *Tarif Ujrah*, biaya administrasi yang tertera pada Surat Bukti *Rahn* atau Nota Transaksi (struk) sebagai tanda bukti yang sah penerima *Marhun Bih*.

Barang emas yang digadaikan berupa gelang keroncong tak bersurat seberat 10,2 gram yang ditaksir dengan nilai 22 karat meskipun nilai emas versi toko emas adalah 24 karat.

2. *Marhun* adalah milik *Rahin*, milik pihak lain yang dikuasakan kepada *Rahin* dan atau kepemilikan sebagaimana Pasal 1977 KUH Perdata dan menjamin bukan berasal dari hasil kejahatan, tidak dalam obyek sengketa dan atau sita jaminan.
3. *Marhun* ditaksir oleh Pegadaian Syariah senilai Rp 4.568,214,- (Empat juta lima ratus enam puluh delapan ribu dua ratus empat belas Rupiah).
4. Pembiayaan (*marhun bih*) yang diajukan adalah Rp 1.000.000,- (Satu juta Rupiah)
5. Maksimum tenggat waktu 120 hari.
6. *Ujrah* per 10 hari adalah Rp 7.300,- (Tujuh ribu tiga ratus Rupiah) per 10 hari, dan maksimum tenggat waktu adalah 120 hari. Apabila pelunasan akan dilakukan setelah 3 x 10 hari maka total *ujrah* adalah Rp.7300,- x 3 = Rp 21.900,- (Dua puluh satu ribu sembilan ratus Rupiah). Maka jumlah pelunasan adalah jumlah *marhun bih* + (3 x *ujrah*), sehingga total adalah Rp.1.000.000,- + Rp. 21.900,- = Rp. 1.021.900,- (Satu juta dua puluh satu ribu sembilan ratus Rupiah).

Hal-hal lain yang diatur dalam akad yaitu :

1. *Rahin* menyatakan telah berhutang kepada *murtahin* dan berkewajiban untuk membayar pelunasan *Marhun Bih* dan *Ujrah* dan biaya proses lelang (jika ada).
2. *Murtahin* akan memberikan ganti kerugian apabila *Marhun* yang berada dalam penguasaan *Murtahin* mengalami kerusakan atau hilang yang tidak disebabkan oleh suatu bencana alam (*Force Majeure*) yang ditetapkan pemerintah. Ganti rugi diberikan setelah diperhitungkan dengan *Marhun Bih* sesuai ketentuan penggantian yang berlaku di *murtahin*.
3. *Rahin* dapat mengangsur *Marhun Bih*, minta tambah *Marhun Bih*, menebus sebagian *Marhun* sebagai akad baru, sedangkan perpanjangan waktu (*rescheduling*) tetap menggunakan akad lama yaitu dengan Taksiran dan *Marhun Bih* lama. Jika terjadi penurunan atau kenaikan nilai taksiran *Marhun*, maka mengacu kepada ketentuan yang berlaku di *Murtahin*.
4. Permintaan penundaan lelang dapat dilayani sebelum jatuh tempo dengan mengisi formulir yang telah disediakan. Penundaan lelang dikenakan biaya sesuai ketentuan yang berlaku di *murtahin*.
5. Terhadap *Marhun* yang telah dilunasi dan belum diambil oleh *Rahin* sampai terhitung sejak terjadinya tanggal pelunasan sampai dengan sepuluh hari tidak dikenakan jasa penitipan. Bila telah melebihi sepuluh hari dari pelunasan, *Marhun* tetap belum diambil, maka *Rahin* sepakat dikenakan jasa penitipan, besaran jasa penitipan sesuai dengan ketentuan yang berlaku di *Murtahin* atau sebesar yang tercantum dalam Nota Transaksi (struk).

Apabila sampai dengan tanggal jatuh tempo tidak dilakukan pelunasan, menebus sebagian *Marhun*, mengangsur *Marhun Bih*, penundaan lelang maka *Murtahin* berhak melakukan penjualan (lelang) *Marhun*.

1. Hasil penjualan lelang *Marhun* setelah dikurangi *Marhun Bih*, *Ujrah*, biaya proses lelang (jika ada) dan bea lelang, merupakan kelebihan yang menjadi hak *Rahin*. Jangka waktu pengambilan uang kelebihan selama satu tahun sejak tanggal laku lelang dan jika lewat dari jangka pengambilan uang kelebihan, *Rahin* menyatakan setuju untuk menyalurkan uang kelebihan lelang tersebut sebagai sedekah yang pelaksanaannya diserahkan kepada *Murtahin*. Jika hasil penjualan lelang *Marhun* tidak mencukupi untuk melunasi kewajiban *Rahin* berupa

Marhun Bih, Ujrah, biaya proses lelang (jika ada) dan bea lelang maka *Rahin* wajib membayar kekurangan tersebut.

2. *Rahin* dapat datang sendiri untuk melakukan minta tambah *Marhun Bih*, mengangsur *Marhun Bih*, penundaan lelang, pelunasan, dan menerima *Marhun* dan menerima uang kelebihan lelang atau dengan memberikan kuasa kepada orang lain dengan mengisi dan membubuhkan tanda tangan pada kolom yang tersedia, dengan melampirkan fotokopi KTP *Rahin* dan atau penerima kuasa serta menunjukkan asli KTP penerima kuasa.
3. Dalam hal *Rahin* atau kuasanya melakukan minta tambah *Marhun Bih*, pengambilan *Marhun* dan pengambilan uang kelebihan lelang, maka hanya dilayani di Kantor Cabang/Unit penerbit Surat Bukti *Rahn*.
4. Apabila *Rahin* meninggal dunia dan terdapat hak dan kewajiban terhadap *Murtahin* ataupun sebaliknya, maka hak dan kewajiban tersebut dibebankan kepada ahli waris *Rahin* sesuai dengan ketentuan waris dalam Hukum Republik Indonesia.
5. *Rahin* menyatakan tunduk dan mengikuti segala peraturan yang berlaku pada *Murtahin* sepanjang ketentuan yang menyangkut Hutang Piutang dengan Akad *Rahn*.
6. Apabila terjadi perselisihan dikemudian hari akan diselesaikan secara musyawarah untuk mufakat dan apabila tidak tercapai kesepakatan akan diselesaikan melalui Pengadilan Agama setempat.

Dari uraian di atas maka diketahui bahwa pembiayaan ini ketika hendak dilunasi tidak dikenakan biaya bunga (*rent*), tetapi hanya dikenakan biaya penitipan emas.

Hak dan Kewajiban pada Akad Ijarah

Setelah akad gadaai emas *rahn* selesai maka pihak Pegadaian Syariah menindaklanjuti perbuatan hukum berupa transaksi akad *ijarah* yaitu jasa penitipan barang emas kepada Pegadaian Syariah dengan membebani pihak penyewa atau penguasa dari barang emas (*marhun*) biaya penyewaan tempat. Secara lengkap isi akad *ijarah* sebagai berikut :

Kami yang bertandatangan pada Surat Bukti *Rahn* (SBR) ini, yakni *Mua'jjir* (pemberi sewa) dalam hal ini PT.Pegadaian (Persero) dan *Musta'jir* (penyewa atau kuasa dari marhun), sepakat membuat akad *ijarah* sebagai berikut:

1. *Musta'jir* menyewa tempat penyimpanan gudang milik *Mua'jjir* untuk menyimpan *marhun* milik *musta'jir*.
2. *Musta'jir* tunduk dan mengikuti segala peraturan yang berlaku di *Mua'jjir* dan setuju dikenakan *ujrah* (sewa penyimpanan) dengan ketentuan tarif *ujrah* yang berlaku di *Mua'jjir* atau sebesar yang tercantum di nota transaksi (struk).
3. Tarif *ujrah* per 10 (sepuluh) hari, untuk satu hari sampai dengan sepuluh hari dihitung sama dengan sepuluh hari.
4. Permintaan penundaan lelang dari *Musta'jir* dapat diberikan tambahan hari penundaan lelang sesuai ketentuan pada *Mua'jjir* dan dikenakan *ujrah* sesuai akad *ijarah* dan ketentuan yang berlaku di *Mua'jjir* atau sebesar yang tercantum dalam nota transaksi (struk).
5. *Mua'jjir* akan memberikan ganti kerugian apabila *Marhun* yang berada dalam penguasaan *Mua'jjir* mengalami kerusakan atau hilang yang disebabkan oleh suatu bencana alam (*Force*

- Majeur*) yang ditetapkan pemerintah. Ganti rugi diberikan setelah diperhitungkan dengan *ujrah*, sesuai ketentuan penggantian yang berlaku di *Mua'jjir*.
6. Apabila *Musta'jir* meninggal dan terdapat hak dan kewajiban terhadap *Mua'jjir* ataupun sebaliknya, maka hak dan kewajiban tersebut jatuh kepada ahli waris *Musta'jir* sesuai dengan ketentuan waris dalam Hukum Republik Indonesia.
 7. Terhadap transaksi ulang *Rahn*, minta tambah *Marhun Bih*, mengangsur *Marhun Bih*, penundaan lelang, dan pelunasan dikenakan *ujrah* yang besarnya sesuai dengan ketentuan yang berlaku di *Mua'jjir* atau sebesar yang tercantum dalam Nota Transaksi (struk).
 8. Dari penjualan *Marhun*, maka:
 - a. Jika terdapat uang kelebihan setelah dikurangi *ujrah* adalah milik *Musta'jir*. Jangka waktu pengembalian uang kelebihan adalah selama satu tahun sejak tanggal penjualan, dan jika lewat waktu dari yang ditentukan, *Musta'jir* menyatakan sebagai sedekah yang pelaksanaannya diserahkan kepada *Mua'jjir*.
 - b. Jika tidak mencukupi untuk melunasi kewajiban *Musta'jir* berupa *ujrah* maka *Musta'jir* wajib membayar kekurangan tersebut.
 9. Apabila terjadi perselisihan dikemudian hari akan diselesaikan secara musyawarah untuk mufakat dan apabila tidak tercapai kesepakatan akan diselesaikan melalui Pengadilan Agama setempat.

Demikian Akad *Ijarah* ini berlaku dan *Mua'jjir* dengan *Musta'jir* sejak Surat Bukti *Rahn* (SBR) ini ditandatangani oleh kedua belah pihak pada kolom yang tersedia.

KESIMPULAN

Gadai memiliki dasar hukum yang sah baik dari perspektif Hukum Negara (Kitab Undang-Undang Hukum Perdata), Agama Islam (Al-Qur'an dan Al-Hadits) dan didukung oleh Fatwa Dewan Syariah Nasional (DSN) Majelis Ulama Indonesia (Fatwa MUI) dimana MUI sendiri merupakan lembaga yang mewadahi para ulama, zu'ama, dan cendikiawan Islam di Indonesia untuk membimbing, membina dan mengayomi kaum muslimin di seluruh Indonesia.

1. Syarat dan prosedur pegadaian syariah dengan akad *Rahn* haruslah diikuti dengan akad *Ijarah* sebagai akad jasa penitipan barang emas. Syarat dan prosedur yang diterapkan oleh Pegadaian Syariah dalam melayani masyarakat tidak rumit dan berbelit-belit, cenderung sangat mudah, ringan dan berbiaya rendah sehingga memungkinkannya untuk dapat menjadi alternatif pembiayaan non bank bagi masyarakat Indonesia.
2. Hak dan kewajiban baik penerima gadai (*murtahin*) maupun pemberi gadai (*rahin*) diatur dengan baik dan secara tertulis melalui Akad *Rahn* dan Akad *Ijarah*, yang isinya ditetapkan sesuai dengan dasar-dasar hukum gadai yang telah ada dari perspektif hukum negara, agama dan juga Fatwa Dewan Syariah Nasional (DSN) Majelis Ulama Indonesia (MUI).

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BZ088:
DARI PEREMPUAN UNTUK PEREMPUAN
(PENGELOLAAN ZAKAT PRODUKTIF UNTUK PENGENTASAN
KEMISKINAN MENUJU MDGs)

H. Dahlia Syaib

UNIVERSITAS TADULAKO PALU

Abstrak

Tulisan ini merupakan pengembangan dari hasil-hasil penelitian sebelumnya tentang amil zakat dan perempuan. Amil zakat sebagai mediator antara pemberi zakat dan penerima zakat belum menunjukkan peran strategisnya memecahkan masalah kemiskinan sekalipun Negara telah memperkuat kedudukan lembaga pengelola zakat dengan diberlakukannya undang-undang pengelolaan zakat. Syariat zakat dan undang-undang pengelolaan zakat ditujukan kepada laki-laki dan perempuan. Ketika keduanya bersinergi dalam pengelolaan zakat diniscayakan memberi dampak positif bagi kebangkitan zakat. Termrginalisasinya perempuan di dalam amil zakat dipengaruhi oleh paham teologi yang tidak kontekstual selanjutnya mengental dalam budaya patriarkhi. Permasalahan dalam tulisan ini adalah, bagaimana perempuan dapat meningkatkan fungsi dan perannya sebagai pengelola zakat. Bagaimana organisasi perempuan memasyarakatkan penghimpunan zakat melalui Organisasi Pengelola Zakat. Bagaimana organisasi perempuan mengidentifikasi kelompok perempuan miskin dan memberdayakan melalui dana zakat produktif. Tujuan penelitian ini adalah: a). Untuk meningkatkan fungsi dan peran perempuan dalam Amil Zakat, b) untuk meningkatkan partisipasi organisasi perempuan dalam pengumpulan zakat melalui Organisasi Pengelola Zakat. c). Untuk menemukan model pemberdayaan perempuan melalui pendayagunaan zakat. Penelitian ini dikategorikan sebagai penelitian cross sectional yang membandingkan perubahan subjek penelitian setelah periode waktu tertentu. Metode studi kasus diterapkan dalam penelitian ini, yang mendalami kondisi dan pengelolaan lembaga zakat, amil zakat dikaitkan dengan peran organisasi perempuan dalam mengatasi kemiskinan perempuan. Penelitian bersifat retrospektif dan studi kasus ex post facto yakni pelaksanaan penelitian mempergunakan data yang telah dicatat, dan terdokumentasi pada beberapa hasil penelitian yang dilakukan untuk obyek telaah yang telah diselesaikan prosesnya. Untuk lebih mempertajam makna dan fungsi penulis menggunakan istilah ex post facto hanya untuk telaah obyek yang prosesnya sudah final, tidak dapat diulang atau dilanjutkan pada subyek yang sama. Hasil penelitian menunjukkan: Perempuan tidak berbeda dengan laki-laki dalam melakukan tugas pengelolaan (amil) zakat. Peran-peran yang dapat dilakukan oleh perempuan di dalam amil zakat adalah: perempuan sebagai muballigh (motivator) zakat, perempuan selaku muzakki/mushdiq, dan perempuan sebagai pengelola (amil) zakat. Organisasi perempuan dapat berpartisipasi dalam mengefektifkan tugas Organisasi Pengelola Zakat. Ada dua sisi kepentingan organisasi prp, sebagai muzakki/mushdiq dan sebagai mustahiq. Sebagai muzakki dan atau mushdiq, organisasi perempuan dapat mendorong perhimpunan zakat dari para anggota serta simpatisan yang tergolong tingkat ekonomi menengah ke atas, melalui pengajian-pengajian cabang atau ranting. Sebagai mustahiq, organisasi perempuan memiliki

sejumlah anggota dhu'afa serta sejumlah program pemberdayaan perempuan dan berhak mengelola dana zakat, infak/sedekah dari bagian fi sabilillah. Peran organisasi perempuan sangat strategis untuk melakukan berbagai program pemberdayaan perempuan. Beberapa hasil penelitian kajian wanita yang pernah dilakukan, menyimpulkan bahwa kegiatan perempuan yang bisa dijadikan sasaran pemberdayaan adalah: Pengelola Makanan Majan (Dahlia Syuaib, 2012), Peternakan Lebah Madu (Dahlia Syuaib, 2013), Pengelola Industri Rumah Tangga Kain Sutra (Syuaib, 2011), Pemberdayaan Wanita Nelayan (2014),

PENDAHULUAN

Perempuan tidak berbeda dengan laki-laki, kedudukannya sebagai *khalifatan fil ardh* (Q.s. Fathir, 35:39), disertai tugas dan tanggungjawab oleh Allah SWT untuk mengelola alam semesta dan segala isinya. Tugas kekhalifaan hanya diberikan kepada manusia bukan pada makhluk lain.

Secara demografi, jumlah perempuan hampir sebanding dengan jumlah laki-laki (Data PBB: 49.7% dari 7.017.543.956 jumlah penduduk). Jumlah tersebut menunjukkan bahwa perempuan adalah sumberdaya manusia yang harus didayaguna kan. Salah satu tugas sosial kemasyarakatan yang selama ini kurang melibatkan perempuan di dalamnya adalah tugas pengelolaan zakat (Syuaib, 2012). Tugas ini penting dibahas terutama menghadapi masalah kemiskinan yang belum terselesaikan sebagaimana harapan MDGs. Potensi zakat sebagai salah satu kekuatan ekonomi umat yang kalau dikelola dengan baik akan mampu mengakumulasi modal yang pada akhirnya menciptakan pendapatan.

Zakat adalah ajaran yang terkait dengan *amwal* (harta benda), berdimensi sosial kemasyarakatan harus dikelola secara terencana, terprogram, dan terarah. Karena itu pemerintah Indonesia telah mengeluarkan undang-undang pengelolaan zakat N0 38 Tahun 1999 selanjutnya diperbaharui kembali dengan UU N0 23 Tahun 2011. Begitu pentingnya tugas *amil* zakat sampai-sampai para ulama menyatakan bahwa *amil* zakat menjadi salah satu golongan yang mendapat bagian dari zakat, sekalipun *amil* zakat tersebut tergolong kaya. Argumentasi ini lebih dipahami sebagai daya dorong pelaksanaan pengelolaan zakat secara sungguh-sungguh dan profesional.

Zakat di Indonesia, jika dihitung potensinya sangat menakjubkan. Pusat Budaya dan Bahasa Universitas Islam Negeri, (Hidayatullah, 2005) mengungkapkan potensi zakat Indonesia adalah sebesar Rp 19, 3 triliun per tahun. Hasil survey PIRAC (*Public Interest Research and Advocacy*) tahun 2004 menunjukkan kesadaran umat Islam di Indonesia sesungguhnya relatif tinggi 49,8% responden yang di survey di 10 kota besar menyatakan sebagai wajib zakat: 94,5% sudah membayar zakat rata-rata sebesar Rp 416.000,- per tahun. Dengan asumsi jumlah keluarga yang mampu sebanyak 32 juta kepala keluarga, maka setiap tahun zakat yang diterima adalah sebesar Rp 6,132 Trilliun. Namun catatan pengumpulan dari beberapa lembaga zakat sangat jauh dibawah angka tersebut. Para muzakki yang menyalurkan zakatnya melalui lembaga pengelola zakat yang hanya 10,5%. Muzakki lebih suka membayar zakat lewat perorangan langsung, karena ada kepuasan batin tersendiri bagi muzakki (pemberi zakat). Pada tahun 2007 PIRAC

kembali melakukan survei di sepuluh kota besar di Indonesia, hasilnya menunjukkan tingkat kesadaran muzakki terhadap kewajiban membayar zakat hanya berkisar 55%. Artinya, masih ada 45% muzakki yang tidak berzakat. Di Sulawesi Tengah, realisasi baru mencapai 3% dari Rp 24 milyar pertahun dari potensi zakat (Data BAZ Sulawesi Tengah, 2014).

Perempuan Dan *Amil Zakat*

Secara faktual, keterlibatan perempuan di dalam lembaga pengelola zakat masih kecil jumlahnya. Bias gender dalam penafsiran teologi membawa efek pada pelaksanaan zakat dengan munculnya keragu-ragu dari tokoh masyarakat untuk menempatkan perempuan sebagai pengurus Organisasi Pengelola Zakat. Ini terbukti pada kuantitas perempuan yang terlibat sebagai pengurus dalam Organisasi Pengelola Zakat di beberapa daerah di Indonesia hanya 0%-8.57% dan itupun dalam posisi tidak penting (Syuaib, 2012).

Yusuf Al-Qardawi, salah seorang ulama kontemporer dalam bukunya berjudul *Fiqh al-Zakah* mengungkapkan pendapat sebagian ulama untuk tidak mensyaratkan *amil* zakat itu perempuan, bertolak dari *hadits* yang berbunyi : *لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ* (Tidak akan berhasil suatu kaum bila urusan mereka diserahkan kepada perempuan). Pendapat serupa juga didasarkan atas makna yang terkandung di dalam Q.,s.al-Tawbah/9:60 bahwa *وَالْعَامِلِينَ عَلَيْهَا* (petugas-petugas *amil* zakat) tidak mencakup perempuan.

Jika hadis di atas dijadikan rujukan untuk membatasi ruang gerak perempuan hanya di wilayah domestik maka bagaimanakah ayat-ayat al-Qur'an yang tidak membedakan antara laki-laki dan perempuan dalam amal shaleh (Q.s. al-Imran, 3:195):

فَاسْتَجَابَ لَهُمْ رَبُّهُمْ أَنِّي لَا أُضِيعُ عَمَلَ عَامِلٍ مِّنْكُمْ مِّنْ ذَكَرٍ أَوْ أُنْثَىٰ

“Maka Tuhan mereka memperkenankan permohonannya (dengan berfirman): Sesungguhnya Aku tidak menyalah-nyalahkan amal orang-orang yang beramal di antara kamu, baik laki-laki atau perempuan”.

Bila kita menyimak redaksi hadis di atas secara utuh, nampak bahwa matan hadis tidak terkait dengan urusan zakat.

عَنْ أَبِي بَكْرَةَ قَالَ : لَمَّا بَلَغَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّ أَهْلَ فَارِسٍ مَلَكَوا عَلَيْهِمْ بِنْتُ كِسْرَى قَالَ : لَنْ يُفْلِحَ قَوْمٌ وَلَوْ أَمَرَهُمْ امْرَأَةٌ.

“Ketika Rasulullah SAW mengetahui bahwa masyarakat Persia mengangkat putri Kiswa sebagai penguasa mereka, beliau berkata, “Tidak akan beruntung suatu kaum yang menyerahkan urusan mereka kepada perempuan.”

Hadis di atas ditujukan kepada pemimpin Persia ketika itu mengangkat anak perempuan Raja Kisrah menjadi Ratu. Telah menjadi kelaziman sebagian raja-raja ketika itu menjalankan roda pemerintahan seorang diri dengan sistem kepemimpinan yang otoriter. Kalau hadis Abî Bakrah berlaku umum untuk membatasi perempuan di bidang kepemimpinan publik, maka bagaimana kisah Ratu Bilqis sebagai pemimpin tertinggi negeri Saba', kepemimpinannya telah terdokumentasi di dalam Al-Qur'an (lihat Q.s. an-Naml, 27:32, 35, 36) sebagai sosok perempuan cerdas dan bijaksana.

Musyawarah diantara para pembersar negeri Saba'telah dipraktekkan oleh Ratu Bilqis dalam memimpin negeri Saba. Praktek musyawarah seperti ini tidaklah sulit bagi perempuan mewujudkannya, karena menurut Gulle perempuan adalah mahluk yang suka bekerjasama dan tidak suka mendominasi. Sifat fleksibel perempuan juga diungkapkan oleh Chodorow, "*Woman are less individuated than men, they more fleksibel ego boundaries*"

Dalam soal kesetaraan antara laki-laki dan perempuan, Allah SWT dalam al-Qur'an menyebutkan jenis laki-laki (*al-dzakar*) pasti akan disertai dengan penyebutan jenis perempuan (*al-untsâ*). Ayat demikian ini terdapat pada 15 tempat dalam al-Qur'an. Ketika masyarakat jahiliyah menganggap perempuan sebagai mahluk hina, Rasulullah SAW dengan tegas menyatakan :

إِنَّمَّا النِّسَاءُ شَقَائِقُ الرِّجَالِ

(Perempuan adalah pasangan yang sebanding dengan laki-laki). Jika demikian maka tidak ada salahnya perempuan bekerjasama dengan laki-laki dalam tugas pengelolaan (*amil*) zakat.

Berdasarkan uraian di atas, maka serangkaian tugas *amil* yang tersebut dalam pasal 1 UU.N0. 23 Tahun 2011 bukanlah tugas yang dilakukan oleh laki-laki semata, tetapi dalam bidang tertentu perempuan sangat eksis dan potensial untuk itu. Ken Suratiyah dalam tulisannya yang berjudul, "Wanita Dalam Pembangunan", mengatakan bahwa posisi perempuan adalah sentral dan bukan marginal. Perempuan hanya kelihatannya lemah, sesungguhnya mereka punya potensi yang luar biasa.

Peran yang dapat ditunjukkan oleh perempuan di dalam Organisasi Pengelola Zakat dalah sebagai muballigh (motivator) zakat, sebagai *muzakki/mushdiq*, dan sebagai *amil* zakat.

Peran sebagai muballigh (motivator) zakat.

Di dunia Islam belum dikenal ada muballigh khusus bidang zakat sebagaimana dokter dikenal dengan dokter spesialis. Yang ada adalah muballigh Islam dengan keahlian mentablighkan ajaran agama Islam secara universal, meliputi aqidah, ibadah, muamalah, akhlak, syariah,

Materi zakat cukup luas lingkup bahasannya sebagaimana luasnya materi zakat yang ditulis oleh ulama kontemporer Yusuf al-Qardhawi, bahkan lebih diperluas lagi dengan materi undang-undang zakat sebagai landasan yuridis pelaksanaan zakat di Indonesia

Syari'at zakat haruslah dipahami dan diamalkan oleh muslim yang mampu. Hasil penelitian menunjukkan, bahwa keengganan orang untuk membayar zakat bukan semata-mata karena tingkat kesadaran rendah. tetapi tingkat pengetahuannya tentang zakat dan seluk beluknya yang rendah. Ada 6 (enam) variabel pengetahuan masyarakat tentang zakat yang digunakan dalam penelitian terdahulu, yaitu tentang hukum zakat, sasaran penyaluran zakat, obyek zakat, wajib zakat, *amil* zakat, undang-undang zakat. Dari 360 responden diperoleh temuan; *Pertama*, pengetahuan masyarakat tentang pengertian zakat, infak/sedekah, muzakki, *amil* zakat dalam kategori “rendah”; *Kedua*, pengetahuan masyarakat tentang sasaran penyaluran zakat dan obyek zakat dalam kategori “sedang”; *Ketiga*, pengetahuan masyarakat tentang hukum zakat dalam kategori “tinggi”.

Berdasarkan kenyataan di atas maka muballigh zakat diperlukan. Pengalaman ketika membangun kesadaran wajib zakat, peneliti melakukan 2 (dua) cara yaitu: *Pertama*, menyebarkan surat edaran kepada golongan muslim kaya (pemilik *amwal*). *Kedua*, memberi ceramah zakat pada kelompok pengajian perempuan. Hasilnya, cara yang pertama tidak ada jawaban, namun pada cara kedua memperoleh hasil yang ditandai dengan gerakan spontanitas para anggota pengajian menunaikan zakat dan membayar sedekah. Dengan demikian dapat diketahui, bagaimana peran motivasi dalam membangun kesadaran wajib zakat.

Motivasi adalah salah satu bentuk “saling mengingatkan”

وَذَكِّرْ فَإِنَّ الذِّكْرَى تَنْفَعُ الْمُؤْمِنِينَ

(Dan tetaplah memberi peringatan, karena sesungguhnya peringatan itu bermanfaat bagi orang-orang yang beriman. *Q.*, s. *al-dzâriyât*/51;55).

Karena kedudukan perempuan sangat sentral dalam rumah tangga, maka motivator zakat yang sesuai adalah perempuan. Bukankah orang yang pertama percaya atas kerasulan Muhammad SAW adalah istri Rasulullah SAW Khadijah binti Khuwailid, dan perempuan ini pulalah orang yang pertama menginfakkan hartanya untuk perjuangan Islam. Saudara perempuan Umar Ibn Al-Khattab juga berhasil melunakkan hati tokoh yang tegas ini ke dalam Islam.

Menurut Nancy (1992), bahwa perempuan memiliki sifat fleksibel yaitu *familiarity*, *egalitariaty*, dan *harmony*. Sifat ini menjadi potensi psikologis yang diperlukan dalam tugas sebagai motivator terutama dalam melakukan hubungan/interaksi dengan wajib zakat dan mustahiq zakat. Dengan potensi psikologisnya perempuan tidak sulit menyentuh bidang spiritual si wajib

zakat. Motivasi internal yang bersumber dari dalam diri individu berarti menekankan pada keyakinan agama si wajib zakat disebut juga motivasi spiritual (*al-quwwat al-rûhiyah*) yaitu berupa kesadaran seseorang bahwa ia mempunyai hubungan dengan Allah SWT dan harta yang diperoleh bersumber dari Allah SWT. Si wajib zakat diharapkan tumbuh kesadaran dan ketaatannya kepada Allah SWT sehingga ia terpenggil untuk melakukan kewajibannya menunaikan zakat, menanamkan dalam jiwanya solidaritas sosial yang tinggi terhadap sesamanya. Jika kewajiban tersebut ditunaikan maka Allah SWT menjanjikan pahala yang berlipat ganda (Q., s. al-Baqarah/2:261), sebaliknya jika kewajiban menunaikan zakat ditinggalkan, maka Allah SWT akan memberikan ganjaran siksa (Q., s. al-Tawbah/9:34). Motivasi seperti ini menurut Heidjrahman R (dalam Paudji Anoraga dan Sri Suyuti) adalah motivasi positif, yaitu proses untuk mencoba mempengaruhi orang lain agar menjalankan sesuatu yang kita inginkan dengan cara menjanjikan keinginan untuk mendapatkan hadiah, dalam hal ini pahala dari Allah SWT. Inilah motivasi terkuat yang ditanamkan dalam diri seseorang.

Dalam menjalankan tugasnya sebagai muballighat atau motivator zakat tidaklah sulit bagi perempuan untuk mengalihkan pikiran dan perasaan si wajib zakat kepada masalah ketertinggalan umat khususnya menimpa kaum perempuan. Penyakit kebodohan dan ketergantungan yang penyebabnya berpangkal pada kemiskinan lebih banyak menimpa kaum perempuan dari pada laki-laki. Nani Zulminarni mengemukakan, bahwa kemiskinan masih menjadi wajah perempuan Indonesia, jumlah perempuan miskin bertambah lebih pesat dari pada laki-laki. Hal tersebut disebabkan karena adanya diskriminasi pada peran produksi di mana perempuan hanya sebagai pengakses tetapi bukan sebagai pengontrol. Studi mutakhir di beberapa negara menunjukkan bahwa kaum miskin di dunia yang kini berjumlah 1,3 milyar, 70 % di antaranya adalah perempuan. Kemiskinan perempuan akan mempengaruhi tingkat kesejahteraan keluarga, dan keluarga yang sejahtera menjadi barometer kesejahteraan umat.

Kartini Kartono mengemukakan sifat-sifat yang dimiliki perempuan sebagai *human being* antara lain, perempuan pada umumnya lebih tertarik pada hal-hal yang bersifat praktis, perempuan lebih langsung dan lebih meminati segi-segi kehidupan yang konkrit, perempuan lebih suka melindungi dan lebih perhatian, menunjukkan bahwa dalam melakukan perannya selaku motivator zakat, sifat keutamaan perempuan yang disebutkan ini sangat diperlukan.

Perempuan selaku muzakki/munfiq, mushdiq

Perempuan selaku *muzakki/mushdiq*, diartikan sebagai kemampuan perempuan mengakses sendiri kekayaannya baik yang bersumber dari hasil usahanya sendiri, dari warisan orang tuanya, maupun hadiah dari orang tua atau suaminya, dan dengan kesadarannya sendiri perempuan mau mengeluarkan sebahagiannya dalam bentuk zakat, dan atau infak/sedekah.

Syari'at zakat yang diturunkan oleh Allah SWT ditujukan kepada umat Islam yang mampu dan memenuhi syarat tanpa membedakan jenis kelamin. Sebab ayat Allah SWT yang menggunakan

sighat amr (وَأَثَرُ الزَّكَاةِ / وَاتَيْنِ الزَّكْوَةَ) Q., s. al-Baqarah/2:110, dan Q., s. al-Ah_zâb/33:33) ditujukan kepada laki-laki dan perempuan.

Hasil penelitian Syuaib (1999) juga menunjukkan adanya anggapan dalam masyarakat bahwa yang berkewajiban mengeluarkan zakat adalah suami sebagai kepala keluarga (62% jawaban dari 360 responden). Pandangan yang terjaring lewat wawancara terfokus memberikan alasan klasik terkait kedudukan laki-laki sebagai *qawwam* bagi perempuan.

Kesadaran perempuan akan dirinya sebagai muzakki sesungguhnya membawa implikasi positif di bidang usaha, sebagaimana al-Qurân s. al-Nisâ'/4:32 menyebutkan bahwa laki-laki yang berusaha akan memperoleh apa yang ia usahakan dan perempuan yang berusaha akan memperoleh apa yang ia usahakan.

Berusaha termasuk mencari rezeki adalah dalam rangka memakmurkan bumi Allah SWT (Q., s. Hûd/11:61). Tugas ini dibebankan kepada umat manusia laki-laki dan perempuan. Tercatat dalam sejarah, isteri Rasulullah SAW yang pertama Khadijah binti Khuwailid adalah sosok perempuan sukses di bidang perdagangan. Istri nabi yang lain bernama Zainab binti Jahsy juga aktif bekerja sampai menyamak kulit binatang dan hasil usahanya itu beliau sedekahkan.

Upaya perempuan menggeluti bidang usaha dan memperoleh sendiri hasil usahanya menunjukkan kemandirian perempuan di bidang ekonomi. Jika kemandirian perempuan di bidang usaha terjadi maka akses perempuan sebagai *muzakki* akan semakin terbuka tanpa bergantung pada laki-laki.

Pada riset aksi partisipatoris yang pernah dilakukan, sebanyak 82% dari 30 orang pengurus Lembaga Amil Zakat St. Masyithah menyatakan kesediannya untuk langsung dipotong gaji mereka (zakat Profesi) lewat bendahara kantor di tempat mereka bekerja, sedangkan yang berprofesi sebagai pengusaha menyatakan kesediannya untuk membayar setiap memperoleh rezeki dari Allah SWT.

Perempuan selaku *amil zakat*

Perempuan selaku *amil zakat*, diartikan sebagai kemampuan perempuan berperan sebagai pengelola zakat. *Amil* dari kata amal yang diterjemahkan dengan “orang yang mengerjakan atau pelaksana”. *Amil* zakat berarti pelaksana dalam lembaga pengelola zakat.

Ada 2 (dua) bentuk lembaga pengelola zakat menurut undang-undang, yaitu lembaga pengelola zakat yang dibentuk oleh pemerintah disebut BAZNAs dan lembaga pengelola zakat yang dibentuk oleh masyarakat disebut LAZ. Lembaga zakat yang disebut terakhir ini mendapat kewenangan dari pemerintah manakala telah memenuhi semua persyaratan yang tersebut di dalam undang-undang (Pasal 11 UU.N0 23 tahun 2011).

Pengelolaan zakat meliputi perencanaan, pengorganisasian, pelaksanaan, dan pengawasan terhadap pengumpulan dan pendistribusian serta pendayagunaan zakat. Serangkaian tugas yang disebutkan ini, kalau penerapannya pada lingkup budaya masa kehidupan para ulama mazhab terdahulu jelas tidak dimungkinkan pelaksanaannya oleh perempuan sebab sangat berhubungan dengan dunia publik yang sudah diklaim sebagai wilayahnya laki-laki. Namun, pada konteks kehidupan masa kini, tugas-tugas pengelolaan zakat tidak lagi sepenuhnya dikerjakan dengan cara *door to door*, tetapi dengan manajemen pengelolaan berbasis teknologi maka serangkaian tugas di atas tidaklah sulit bagi perempuan melaksanakannya.

Perempuan yang berpeluang terlibat sebagai *amil* zakat dapat direkrut dari berbagai tingkat pendidikan formal, mulai dari tamatan madrasah aliyah sampai alumni sekolah tinggi agama Islam. Alumni madrasah aliyah yang tidak dapat melanjutkan pendidikan ke jenjang pendidikan tinggi karena ketiadaan biaya, namun berprestasi dapat direkrut menjadi tenaga tetap pada Organisasi Pengelola Zakat. Mereka terkonsentrasi di tiap kecamatan dan dapat didayagunakan pada lembaga unit pengelola zakat tingkat kecamatan. Mengapa siswa miskin?. Karena dengan kondisi obyektif kehidupan mereka diharapkan timbul sikap empati untuk membantu sesamanya agar keluar dari lingkaran kemiskinan. Kondisi ini menjadi daya dorong pengelola zakat untuk meningkatkan peran *amil* zakat dalam tugas penerimaan dan pendayagunaan zakat. Yang tidak kalah pentingnya adalah upaya pemberdayaan tenaga kerja perempuan miskin pada lembaga pengelola zakat.

Pada kondisi sekarang kita tidak perlu lagi menganut pandangan sebagian ulama Fiqhi yang tidak memberikan peluang pada perempuan terlibat sebagai pengelola zakat. Sudah tiba masanya tenaga-tenaga trampil perempuan dimanfaatkan pada lembaga/ badan *amil* zakat, kalau perlu lembaga atau badan *amil* tersebut memiliki kelompok “muballigh/kader zakat” termasuk di dalamnya perempuan.

Tugas lain yang dapat dilakukan oleh perempuan dalam Organisasi Pengelola Zakat adalah tugas pembinaan atau pendampingan terhadap golongan miskin potensial. Golongan ini telah berusaha dalam berbagai bidang ekonomi produktif namun belum mampu mengembangkan usahanya karena kurangnya akses yang dimiliki baik di bidang permodalan maupun keterampilan usaha. Menurut Yusuf al-Qrdhâwî, bahwa pembagian dana zakat dilakukan kepada dua golongan, yaitu, *Pertama*, mereka yang mempunyai penghasilan tetapi tidak mencukupi, seperti pengrajin, pedagang kecil, dan petani, akan tetapi tidak mempunyai perlengkapan yang cukup untuk menunjang usahanya atau modal yang memadai untuk berdagang. *Kedua*, bagi mereka yang tidak mampu berusaha (non-produktif), seperti orang sakit menahun, jompo, anak kecil, dan sejenisnya, diberikan zakat untuk memenuhi kebutuhan selama setahun.

Perempuan yang masuk ke dalam golongan pertama dapat menggunakan dana zakat untuk pengembangan usahanya. Tidak sedikit perempuan terjun di bidang usaha namun usaha mereka tidak dilirik oleh kebijakan pemerintah karena usaha tersebut tergolong usaha rumah tangga,

sekalipun sesungguhnya usaha sektor informal berkontribusi pada pemenuhan kebutuhan pokok keluarga.

Dengan menggunakan metode penelitian yang berperspektif perempuan, sikap empati perlu dilakukan agar semua permasalahan yang terjadi di belakang kehidupan perempuan miskin termasuk permasalahan usaha yang digeluti serta kemungkinan adanya keinginan lain untuk mengembangkannya, dapat terungkap. Apa yang menjadi kebutuhan serta keinginan perempuan miskin haruslah muncul dari dirinya sendiri menurut pandangannya sendiri. Yang dapat mengorek semua ini hanyalah perempuan. Perempuan yang bertugas sebagai *amil* zakat dapat membantu perempuan memecahkan masalah kemiskinan yang membelenggunya.

Manfaat zakat perlu dilakukan ke arah manfaat jangka panjangnya dengan cara membiayai berbagai kegiatan latihan ketrampilan produktif, pemberian bantuan modal kerja, atau bantuan pemula (*start capital*). Jadi zakat dapat berfungsi sebagai *carring capacity* yaitu sebagai daya dukung dalam memenuhi tingkat kebutuhan dasar manusia dalam upaya peningkatan kualitas kehidupannya.

Pendayagunaan zakat adalah bagian tugas pengelolaan zakat meliputi tugas pendampingan terhadap usaha-usaha produktif perempuan miskin. Mulai dari perekaman masalah dengan mengandalkan metode dialog, membangun rasa empati antara perempuan sebagai *amil* zakat dan perempuan miskin potensial adalah cara yang efektif. Selanjutnya dalam upaya penggunaan zakat untuk pengembangan usaha perlu ada bimbingan penggunaan dana, demikian pula upaya pendampingan peningkatan usaha. Semua tugas ini sangat cocok bila dilakukan oleh perempuan. Menghadapi ketidakdinamisan lembaga/badan *amil* zakat maka keterlibatan perempuan dalam pelaksanaan zakat menjadi kemestian yang tidak bisa dielakkan, agar *amil* zakat sebagai lembaga amanah menjadi lebih aktif, berdayaguna dan berhasil guna untuk kepentingan umat sesuai dengan hikmah diturunkannya syari'at zakat untuk *rahmatan lil alamin*.

Kemelut kemiskinan perempuan

Menurut data PBB, 1/3 dari penduduk dunia hidup di bawah garis kemiskinan, sementara itu sekitar 70% dari mereka adalah perempuan. Sangat relevan untuk menepohong kemiskinan perempuan lewat beberapa peristiwa yang dipublikasikan melalui berita koran serta tayangan televisi, dan mengkajinya lewat analisis kesenjangan gender.

Bencana alam maupun bencana sosial termasuk kerusakan baik yang telah lama maupun yang baru terjadi memerlukan perhatian semua pihak. Berbagai peristiwa yang pernah ditayangkan lewat berbagai pemberitaan, seperti peristiwa pembagian zakat di Purworejo pada bulan ramadhan tahun 2008 telah mengorbankan (tewas) sebanyak 21 orang perempuan hanya karena mereka berjuang mendapatkan dana sebesar 20.000 rupiah, kantor BAZNAS Kebon Sirih Jakarta setiap hari menerima kunjungan lebih dari 20 orang ibu-ibu dari berbagai sudut kota Jabodetabek

untuk mendapatkan biaya pengobatan, biaya pendidikan, bayar utang, bahkan juga biaya kontrak rumah. Perebutan dana zakat, dana BLT, Raskin, yang kesemuanya menggambarkan kemiskinan perempuan.

Peristiwa kerusuhan yang mernimpa Indonesia, bencana tsunami di Aceh, konflik horizontal di Poso, Ambon, dan Sampit Kalimantan Barat, meninggalkan penderitaan bagi ibu-ibu yang harus mengasuh anaknya karena kehilangan ayah saat konflik dan saat tsunami terjadi. Tidak sedikit keluarga-keluarga yang dikepalai oleh perempuan (*single mother*) karena kehilangan suami dan harta benda sehingga harus memulai kehidupan baru dari titik nol kembali. Bahkan diantaranya ada yang sulit menemukan titik awal bagaimana memulai meniti jalan kehidupan untuk melepaskan diri dari cengkaman kesulitan hidup karena semua harta yang dimiliki habis tanpa tersisa, sementara anak-anak mereka memerlukan perhatian khusus dalam perkembangannya termasuk pemenuhan kebutuhan lahir maupun bathin.

Ketika rumah tempat tinggal dan tempat usaha hilang lenyap seketika bersama hilangnya sang suami berakibat pada timbulnya trauma yang berkepanjangan bagi ibu-ibu. Anak sebagai hak milik yang tersisa terpaksa dititipkan ke panti-panti asuhan. Kondisi ini mengharuskan perempuan mencari usaha sesuai dengan ketrampilan yang dimiliki. Ibu-ibu yang pada awalnya sebagai pekerja domestik dengan modal ketrampilan yang rendah hanya bisa bekerja sebagai pembantu rumah tangga, atau buruh tani.

Memang sulit melepaskan eksistensi perempuan dari dampak konflik. Perang di Timor Timur secara jelas menunjukkan bahwa perempuan di tempat-tempat pengungsian sangat rentan terhadap kekerasan ekonomi ketika bantuan kemanusiaan tidak cukup, pengungsi perempuanlah yang pertama menghadapi beban kerja untuk memenuhi kebutuhan pangan bagi keluarganya. Ada yang memiliki kios di pinggir kamp di mana mereka sedikit menjual sayur, buah-buahan atau makanan kecil yang mereka masak sendiri. Ada yang memperoleh uang dengan mencuci pakaian atau mengemis dari rumah ke rumah di Belu dan TTU. Bahkan ada pengungsi perempuan yang menjadi pekerja seks komersial di beberapa lokasi prostitusi di Atambua.

Dampak kemiskinan perempuan sangat berpengaruh pada kualitas hidup keluarga. Perempuan miskin akan sulit memenuhi kebutuhan pertumbuhan janin dalam kandungan karena gizi yang tidak terpenuhi. Dampak buruk dari pengaruh stres pada ibu, sulit melakukan kontrol terhadap tumbuh kembangnya anak pada sisi kesehatan dan pendidikan.

Salah satu tujuan MDGs adalah menekan angka kematian ibu. Jika faktor kemiskinan yang menjadi penyebab kematian ibu tanpa ada upaya untuk mengatasinya, maka dampaknya akan lebih meluas kualitas hidup keluarga menjadi rendah. Jika satu orang perempuan miskin yang berhasil dientaskan kemiskinannya akan mempengaruhi beberapa orang anggota keluarga lainnya.

Organisasi perempuan dan upaya pemberdayaan

Zakat, terkait dengan *amwal* (ragam macam harta benda), yang diperoleh dari hasil usaha dan atau hasil pertanian (Q.s. Al-Baqarah, 2:267). Harta benda tersebut tersimpan di kantong umat sebagai kekayaan yang diperoleh atas rahmat dan karunia Allah SWT, dan pada takaran tertentu serta waktu tertentu wajib disalurkan kepada fakir miskin (8 asnaf) sebagai haknya, meminta atau tidak meminta (Q.s. Adzariyaat, 51:19). Pihak yang menjadi penghubung antara pemilik harta (*muzakki*) dan penerima zakat (*mustahiq*) disebut “Amil zakat”.

Pengelolaan zakat adalah kegiatan perencanaan, pengorganisasian, pelaksanaan, dan pengawasan terhadap pengumpulan, pendistribusian, dan pendayagunaan zakat (Pasal 1 (ayat1) UU. No.23 Tahun 2011).

Organisasi perempuan yang berbasis keagamaan dan kemasyarakatan memiliki peluang menjadi daya dorong pelaksanaan zakat di kalangan perempuan. Organisasi perempuan seperti ‘Aisyiyah misalnya adalah salah satu organisasi perempuan nasional dengan serangkaian program-program kemasyarakatan tidaklah sulit untuk menunjukkan partisipasinya dalam meningkatkan hasilguna dan dayaguna zakat. Betapa tidak, pengurus Aisyiyah yang berada pada tingkat pusat sampai tingkat ranting, memiliki tenaga-tenaga trampil dan terbiasa bekerja tanpa pamrih untuk kepentingan agama dan masyarakat. Anggota ‘Aisyiyah tersebar pada seluruh wilayah, cabang, dan ranting di seluruh Indonesia dengan tingkat ekonomi yang bervariasi, tingkat ekonomi tinggi, menengah, dan dhu’afa. Kenyataan ini memperkuat akses organisasi perempuan sebagai *amil* zakat.

Jika dilihat pada sisi pendayagunaan zakat, terdapat dua sisi kepentingan organisasi perempuan, yaitu sebagai *muzakki/mushdiq* dan sebagai *mustahiq*. Sebagai *muzakki/mushdiq*, anggota organisasi perempuan yang tingkat ekonominya masuk dalam kategori menengah ke atas dapat dijadikan sasaran pengumpulan zakat oleh Organisasi Pengelola Zakat melalui pengajian-pengajian yang diselenggarakan oleh cabang atau ranting. Kajian tematik zakat dapat dijadikan sebagai salah satu metode diharapkan dapat berperan sebagai daya dorong ((*al-quwwah al-ruhiyyah*), dan sebagai penggugah hati para muzakki dan mushdiq mengeluarkan zakat, infaq dan atau shadaqahnya. Sebagai *mustahiq*, organisasi perempuan memiliki sejumlah program pemberdayaan perempuan berhak menerima bagian dari zakat dalam porsi *fi sabilillah*.

Berdasarkan pengalaman penelitian yang dilakukan (Syuaib, Dahlia, 20012), ternyata kajian tematik zakat yang diperkaya dengan metode penguatan keyakinan (*al-quwwah al-ruhiyyah*), telah berhasil menghimpun dana zakat dan sedekah dari anggota pengajian pada saat uji coba dilakukan, dibanding dengan menumbuhkan kesadaran lewat surat yang dikirim dengan pos (Syuaib, dahlia, 20012).

Tugas Organisasi Pengelola Zakat adalah menghimpun dana dari *muzakki/mushdiq* untuk disalurkan kepada mustahiq 8 (delapan) asnaf dan diantaranya adalah fakir miskin. Peta kemiskinan yang termuat di situs www.dompet.dhuafa.org/zakat-untuk-mengentaskan-kemiskinan/, menyebutkan jumlah mutahiq (golongan yang berhak menerima zakat) di seluruh Indonesia adalah 33,943.313 jiwa. Dari segi gender, 49,9 persen mustahik adalah laki-laki, sisanya 50,1 persen perempuan.

Salah satu mustahik perempuan yang kurang mendapat perhatian adalah Pekerja Rumah Tangga (PRT). Pekerja rumah tangga adalah pengelola urusan rumah tangga yang biasanya didominasi oleh tenaga kerja perempuan. Antara PRT dengan sang majikan biasanya tidak diikat oleh suatu perjanjian yang ketat. Syarat formal yang didalamnya mengatur tentang hak dan kewajiban hanya dibicarakan secara lisan sehingga sewaktu-waktu dapat dilanggar oleh masing-masing pihak.

Pekerja Rumah Tangga adalah pihak yang membutuhkan pekerjaan dan menggantungkan banyak harapan pada majikannya, kedudukannya sebagai pihak yang dikendalikan mengikuti semua peraturan dalam rumah tangga serta mengerjakan pekerjaan berdasarkan perintah majikannya. Jika dilihat dari sudut alokasi waktu, semua pekerjaan rumah tangga yang dikelola dari pagi hingga malam hari diperkirakan menggunakan waktu berkisar rata-rata 16-20 jam per hari. Berdasarkan kondisi kerja seperti ini, dapat dikatakan bahwa PRT adalah orang terdekat dengan keluarga dan memegang peranan penting atas kelangsungan kehidupan sebuah keluarga. Berbeda dengan karyawan formal lainnya yang memiliki jam kerja tertentu termasuk tukang kebun atau sopir laki-laki. Kenyataan waktu dan volume kerja seperti ketika zakat tersebut dibagikan?. PRT adalah termasuk salah satu asnaf yang berhak mendapatkan dana zakat.

Pada dasarnya zakat itu hak milik orang miskin yang ada pada orang kaya dan harus diberikan kepada pemilik hak yaitu fakir miskin berdasarkan permohonan atau tanpa permohonan (Q., s Adz-Dzariyat/51:19). Dasar pandangan ini adalah, harta milik orang kaya diperoleh dari campur tangan orang lain (termasuk fakir miskin) baik secara langsung atau tidak langsung. Setiap keuntungan yang diperoleh orang kaya merupakan hasil dari suatu proses yang melibatkan jasa orang lain, apakah itu sopir, buruh, atau pegawai. Mereka yang terlibat dalam proses mendapatkan keuntungan tidak tercatat dalam administrasi kantor sebagai pihak yang berjasa, karena pada dasarnya mereka telah diberi upah sesuai dengan jasanya. Dari sisi kemanusiaan, para pemberi jasa termasuk PRT telah memberi andil atas keberhasilan mendapatkan keuntungan si kaya dengan cara menyiapkan makanan, mencuci dan menyetrika pakaian, menjaga anak, bahkan mungkin mengangkat tas yang berisi dokumen penting orang kaya. Berdasarkan hal ini maka pantaslah kalau PRT masuk dalam daftar penerima zakat selain gaji yang diperoleh.

Semua jenis pekerjaan yang telah dilakukan oleh PRT di dalam keluarga tidaklah nampak secara ekonomi. Budaya pembagian kerja secara seksual yang melokalisasikan perempuan di sektor

domestik adalah pekerjaan bernilai rendah karena tidak menghasilkan uang, sekalipun serangkaian pekerjaan yang dilakukan sangat penting. Ratna Saptari dan Brigitte Holzner mengingatkan pentingnya memasukkan kerja domestik sebagai kerja. Alasannya karena anggota keluarga lain takkan mampu melaksanakan pekerjaan produktif tanpa ada yang mengerjakan pekerjaan domestik.

Perempuan yang berprofesi sebagai PRT tidaklah diharapkan sebagai PRT seumur hidup. Pembantu rumah tangga adalah pekerja rumah tangga yang memiliki sejumlah pengalaman mengelola beragam jenis pekerjaan kerumah tanggaaan. Pengalaman yang diperoleh selama ini menjadi dasar dalam pengembangan usaha produktif, seperti usaha Laundry, usaha makanan jajan, usaha catering, usaha warung dan semacamnya. Semua jenis pekerjaan yang disebutkan ini adalah jenis usaha yang telah lama ditekuni oleh perempuan dan masuk dalam kategori usaha mandiri atau disebut *Self Employed*

Loekman Soetrisno menyatakan bahwa *self-employed* adalah jenis usaha yang telah lama dikenal oleh masyarakat luas baik di pedesaan maupun diperkotaan. *Self-employed* tidak memerlukan modal besar atau ketrampilan tinggi namun mampu menyerap banyak tenaga kerja, terutama memberikan peluang kerja bagi perempuan-perempuan miskin. Selanjutnya, Lukman Soetrisno menyatakan bahwa usaha *self employed* memiliki peran untuk menekan angka kemiskinan.

Usaha lain yang dapat dijadikan sasaran pemberdayaan organisasi perempuan adalah jenis usaha yang bergerak di bidang industri rumah tangga, seperti penenun kain sutra. Jenis pekerjaan ini telah digeluti oleh perempuan secara turun temurun dan dari waktu ke waktu yang menekuni pekerjaan semakin kurang, namun masih bisa ditemukan di beberapa daerah di Kabupaten Donggala Sulawesi Tengah.

Pekerjaan yang dilakukan secara tradisional dengan menggunakan alat tenun gedogan sangat memperlambat jumlah produksi, dan tentunya dari segi ekonomi kurang menguntungkan sementara hasil yang sangat minim tersebut berkontribusi pada pemenuhan konsumsi (ala kadarnya) keluarga (Syuaib, Dahlia, 20014). Industri rumah tangga ini berpeluang untuk dikembangkan. Bentuk pengembangannya adalah menggunakan alat ATBM yang dapat menghasilkan beragam produk dan mempertahankan alat gedogan untuk produk yang bernuansa klasik. Untuk pengembangannya memerlukan modal usaha yang dapat diambil dari bagian zakat produktif.

Hasil penelitian yang lain (Syuaib, Dahlia 2013) yang dapat dilakukan oleh perempuan adalah peternakan lebah madu berlokasi di sekitar rumah. Alatnya sangat sederhana dan cara penanganannya dengan cara sederhana. Modal yang digunakan adalah pembuatan kotak eram serta alat penangkal sengatan lebah. Pada umumnya rumah tangga yang menekuni pekerjaan ini berada di wilayah pertanian. Di satu sisi masyarakat membutuhkan konsumsi madu sebagai

sumber energy dan kaya akan gizi namun di sisi lain pelaku usaha yang menekuni pekerjaan ini sangat terbatas. Dalam memanfaatkan waktu-waktu lowong, ibu-ibu rumah tangga dapat menekuni pekerjaan ini karena konsentrasi usahanya di sekitar rumah.

Zakat adalah hak orang miskin. Pemberian zakat dari muzakki ke mustahik bukanlah tindakan belas kasihan atau tindakan mengharapkan balas jasa kepada pemberi zakat (*muzakki*). Oleh karena itu maka sepantasnya zakat yang akan dikeluarkan untuk PRT disalurkan lewat “Organisasi Pengelola Zakat”. Dalam syariat zakat, Organisasi Pengelola Zakat yang dikendalikan oleh “*Amil Zakat*” adalah pihak yang telah ditetapkan oleh Allah SWT (lihat Q.,s. Al-Tawbah/9:60) sebagai pengelola dan pendistribusi dana zakat kepada mustahiq. Keuntungan yang diperoleh bila zakat tersebut dibagi oleh “*Amil Zakat*” agar si penerima zakat tidak merasa berhutang budi kepada pemberi zakat, dan zakat yang telah dikeluarkan oleh muzakki tepat sasaran.

Amil zakat yang tergabung di dalam Organisasi Pengelola zakat memiliki peran strategis untuk menghimpun dana zakat dari para muzakki dan selanjutnya meneruskannya kepada mustahiq (khusus) perempuan. Perempuan sangat memahami bagaimana beban perempuan miskin di dalam keluarga dan dampak kemiskinan perempuan terhadap berbagai bidang kehidupan keluarga. Perempuan dapat berempati dengan sesamanya dan dengan pendekatan seperti ini akan lebih mudah mengorek permasalahan yang tersembunyi di belakang kehidupan perempuan. Pendekatan interpersonal yang akrab merupakan cara untuk mempermudah masuk ke akar permasalahan perempuan serta sejumlah harapan yang selama ini terbelenggu oleh lingkaran kemiskinan. Memahami akar permasalahan dan mengetahui cita-cita luhur serta potensi pengembangan diri perempuan hanya dapat dilakukan dengan cara berempati dari perempuan untuk perempuan dengan tujuan agar zakat produktif yang diberikan tepat sasaran.

Zakat dalam Islam tidak hanya mengandung manfaat praktis tetapi juga mengandung manfaat strategis seperti pemberdayaan. Pemberdayaan adalah pemberian penguatan kepada perempuan agar mereka bisa mandiri. Membangun keberdayaan perempuan melalui dana zakat dapat diupayakan dengan memperkuat usaha produktif sesuai bidang usaha yang mereka minati. Cara seperti ini diharapkan dapat merubah kondisi orang miskin dari penerima zakat (*mustahiq*) menjadi pembayar zakat (*muzakki*) atau sekurang-kurangnya menjadi pemberi sedekah (*mushdiq*).

Temuan An Stoler (1977) menunjukkan bahwa perempuan di pedesaan mencari nafkah di luar rumah antara lain dengan berdagang kecil-kecilan (40%) mereka memberi pelayanan terhadap kebutuhan lokal. Pendapatan perempuan telah menempatkan mereka pada posisi sentral dalam ekonomi rumah tangga. Sayangnya posisi sentral ini sering tidak tampak karena nilai-nilai patriarki yang begitu kuat di masyarakat, seperti konsep perempuan sebagai ibu rumah tangga dan laki-laki sebagai pencari nafkah. Konsep ini membawa implikasi yang kurang

menguntungkan khususnya bagi kegiatan usaha produktif perempuan, karena selalu dipandang oleh masyarakat dan kadang-kadang oleh perempuan itu sendiri sebagai kerja sampingan. Akibat lanjutnya, usaha produktif perempuan menjadi tidak sungguh-sungguh. Moser, melalui Pendekatan Kesamaan (*Equity Approach*) mengakui bahwa perempuan merupakan partisipasi aktif dalam proses pembangunan yang mempunyai sumbangan terhadap pertumbuhan ekonomi melalui kerja reproduktif dan produktif mereka walaupun sumbangan mereka seringkali tidak diakui. Charoline Moser berpendapat bahwa untuk membantu perempuan di dunia ketiga antara lain dengan pendekatan anti kemiskinan (*Anti Poverty Approach*) dan pendekatan Penguatan diri (*Empowerment Approach*).

Pendekatan anti kemiskinan (*Anti Poverty Approach*) menekankan pada peran produktif perempuan atas dasar penghapusan kemiskinan dan peningkatan keseimbangan pertumbuhan ekonomi dengan peningkatan produktifitas perempuan pada rumah tangga yang berpenghasilan rendah. Kaitan dengan pemberdayaan zakat dalam keluarga, perempuan miskin menjadi objek pendayagunaan zakat. Pendekatan penguatan diri (*empowerment approach*) adalah pendekatan melalui upaya penghapusan subordinat perempuan yang dipengaruhi oleh antara lain, faktor ideologi, budaya, serta teologi yang tidak sesuai. Dua pendekatan yang digunakan untuk peningkatan kualitas hidup perempuan patut menjadi agenda organisasi perempuan.

Untuk investasi jangka panjang, dana zakat dapat diarahkan pada pemenuhan biaya pendidikan keluarga miskin terutama pendidikan vokasi (ketrampilan) dapat menghantarkan mereka kepada dunia kerja. Pendidikan bidang Tata Boga misalnya, lembaganya telah tersedia pada hampir semua daerah di Indonesia dengan jenjang pendidikan tingkat sekolah lanjutan sampai perguruan tinggi, merupakan peluang yang dapat dimasuki oleh keluarga perempuan miskin. Ilmu yang diperoleh anak bersesuaian dengan usaha sang ibu di bidang *self-employed*. Kelak, terdapat penyelarasan kerja antara pengalaman yang dimiliki oleh sang ibu dan pengetahuan akademik dari sang anak sehingga akan melahirkan kerja profesional yang menyenangkan.

Untuk menerobos konsep pengentasan kemiskinan perempuan di atas, diharapkan Organisasi Pengelola Zakat dapat melibatkan organisasi perempuan dan berkomitmen mengentaskan kemiskinan perempuan. *Amil Zakat* dapat bekerjasama dengan organisasi perempuan (organisasi yang bergerak di bidang sosial kemasyarakatan) merancang secara matang konsep pemberdayaan perempuan melalui pendayagunaan zakat.

PENUTUP

Pemahaman pengelolaan zakat pada masa kehidupan para ulama terdahulu adalah serangkaian tugas publik yang hanya pantas dilakukan oleh laki-laki. Pola pembagian kerja secara seksual tidak member akses kepada perempuan selaku *amil zakat*. Konteks pemahaman seperti tidak sejalan dengan beberapa nash al-Qur'an dan as-Sunnah yang tidak membedakan laki-laki dan perempuan dalam beramal shaleh dan beramar makruf nahi mungkar. Paham teologi yang bias

perlu diluruskan demi menghindari termarginalisasinya perempuan dalam tugas pengabdian kepada Allah SWT.

Hasil penelitian menunjukkan: Perempuan tidak berbeda dengan laki-laki dapat melakukan tugas pengelolaan (*amil*) zakat. Peran-peran yang dapat dilakukan oleh perempuan di dalam *amil* zakat adalah: perempuan sebagai muballigh (motivator) zakat, perempuan selaku mushdiq dan mushdiq, dan perempuan sebagai pengelola (*amil*) zakat. Tugas pengelolaan zakat lebih efektif dan efisien manakala dilakukan secara terprogram, terencana, dan terarah oleh organisasi perempuan. Ada dua sisi. sebagai muzakki dan atau mushdiq dan sebagai mustahiq. Sebagai *muzakki/mushdiq*, organisasi perempuan dapat menghimpun dana zakat dari para anggota serta simpatisan yang tergolong tingkat ekonomi menengah ke atas, melalui pengajian-pengajian cabang atau ranting. Sebagai mustahiq, organisasi perempuan memiliki sejumlah program pemberdayaan perempuan berhak menerima bagian dari zakat dalam porsi *fi sabilillah*.

Peran organisasi perempuan sangat strategis untuk melakukan berbagai program pemberdayaan perempuan. Beberapa hasil penelitian kajian wanita yang pernah dilakukan, menyimpulkan bahwa kegiatan perempuan yang bisa dijadikan sasaran pemberdayaan adalah: Pengelola Makanan Majan (Syuaib, 2009), Peternakan Lebah Madu (Syuaib, 2006), Pengelola Industri Rumah Tangga Kain Sutra (Syuaib, 2002).

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**EW089:
ISSUES OF CEMETERY MANAGEMENT IN INDONESIA AND
EMERGENCY SOLUTIONS BASED ON WAQF**

Ima Rachmalia, et al

Abstract

As the urban growth accelerate, shortage of burial space become a big issue. It impacts how dhuafa hardly find the adequate burial space with low cost. Although actions taken by government to solve the issue, there is no strategic solution being formulated. Limited space for cemetery, with its expensive costs in the city, is still the phenomena which cannot be avoided. The aim of this study was to explore burial space management alternatives, cemeteries crisis, and perceptions of Indonesia urban communities around the issue of shortage of land. The author felt that it is important to do this research since there have been so many debates about how expensive the cost of cemetery after the issue of land shortage arise. This paper examines problems that arise from the expensive cost of cemetery, as well as an insight to current urban practices in managing burial spaces in Indonesia. Also, it is trying to discuss current waqf-based cemetery management as new funerary management in Indonesia. It also provide some solutions through some approaches that can be applied to counter the existing issues.

Keywords— urban cemetery, land shortage, waqf, Indonesia burial practices

INTRODUCTION

In Indonesia, one of big cities in Indonesia, the issue of land shortage represents a pressing concern. That is because, in highly dense cities, it is often hard enough to find room for the living, let alone the dead. Nowadays, it is hard to find a land were planned as spacious, landscaped gardens to house human remains.

It causes a lot of issues arise. Along with an increase in human population and development booming, land shortage for burials is one of the many issues that emerge out of accelerated urban growth in most developing Asian countries, including Indonesia.

The rarity of graveyard area becomes more difficult, as the cemeteries manager determine high cost for a grave. For the poor, it inflict new problem. They do not have money to pay a decent burial for their family. In Indonesia, *premanisme* (Indonesian gangster) force the community to pay more expensive than it should be.

Furthermore, unfortunately, these expensive-cemeteries area are not systematically managed. It is causing the community become uninterested to make visits. Not only because of the management which is not sharia compliant, a haunted and horrific atmosphere in cemetery, has supported superstitions mentality among the Muslim community.

The main objective of this paper is to highlight the current practice of cemetery in Indonesia and to recommend the implementation of waqf-based cemetery in re-developing the cemetery management which have been kept idle and unproductive for many years in Indonesia. The main objective for introducing waqf-based cemetery is to encourage all citizens to participate in developing their societies, to solve the problem of urban cemeteries which is running out burial space, and particularly encourage them to make achievable cemetery for the *dhuafa*.

This act has also a religious dimension which motivate participants to contribute voluntarily since they knew that such act will carry their rewards multiplied until the Day of Judgment. It is as promised by the Prophet Muhammad in the following hadith. *“Abu Hurairah (Allah be pleased with him) reported Allah’s messenger (pbuh) as saying: When a man dies his acts come to an end, except three things, recurring charity, or knowledge (by which people benefit), or pious offspring, who pray for him”*.

In formulating possible solutions to this problem, there are two main components that will be discussed in this research. First, the paper will review the progression of burial practice in Indonesia up to now. Second, this paper will also propose some possible solutions to the scarcity of land for burial in the metropolitan area of Indonesia.

Cemetery in Indonesia

Indonesia has 94 autonomous regions, that spread across 33 provinces in the country. The 70% of regions located in Java and Sumatera. The population reached 514.000 people, with the rate of population growth of approximately 1,82% per year (2000-2005), and the average population density is 33 inhabitants/ha. Bandung, Cimahi, and Yogyakarta, are the most populous cities in Indonesia, with the average population density reaches 135 inhabitants/ha. Not surprisingly, the shortage of land become the most important factor that causes the area’s expensive cost in cities. (Doni J Widiyanto, Ishma Sopriadi: 2009).

Along with this fact, the needs of providing residential area, facilities and infrastructure, and public facilities, are the inevitable needs for the urban community. As a result, green spaces transformed into built-up areas.

These conditions are inversely proportional to the rule of Permenpu No. 5/PRT/M/2008 about green space provision and providence in the city. It said, green space functioned as the place where the plants grow, the lungs of the city, and water catchment areas.

Green space area can include city park, green lane, and burial place. As the burial place, a green space has another utilization such as a place for pilgrimage, and spiritual-oriented area. In many cases, these potential of burial space have not been implemented, so the cemetery was always known as horror and dirty place.

Therefore, to actualize the clean, beautiful, and safe place, the community need to build a burial place as city park, with ‘memorial park’ concept. The ‘memorial park’ concept aimed to: 1) avoid a high cost that caused by shortage of land. 2) improve product quality and services. 3) the 30% of green space availability 4) availability of facilities and infrastructures in cemetery area, to accomodate people’s activities. 5) combine 3 things: cemetery, park, and building, so it will create different atmosphere every moments. 6) build a clean, tidy, and comfortable cemetery area.

Furthermore, ‘memorial park’ concept should also consider humanitarian aspects, such as: 1) restore the function of cemetery, only as cemetery. 2) avoid panic, during times of grief. 3) the guaranteed serenity for the family, with the completion of all of the things needs to be fulfilled. 4) create the spirit of the remembrance of death. (Purwaningsih: 2009)

Luxury Cemetery Business and The Problem of The Poor

To help the poor, which always discriminated, is also one of the consideration. In many cases, *dhuafa* was often difficult to find burial space for their family. It because of they did not able to pay the expensive cost.

Fellow of Indonesian Association of Landscape Architects (IALI), Ir. Achmad Firmansam Bastaman, in his article “Muslim Cemetery Optimization as Green Space Potential in City” said that limited space for cemetery, with its expensive costs in the city, is the phenomena which cannot be avoided.

In Jakarta, for example. Karno, as the Head of Community Unit 3, Karet Tengsin, Tanah Abang Jakarta, said that the majority his community is from *dhuafa*. The expensive cemetery cost, particularly in Karet Biyak, overburden those who is grieving. In Jakarta, the cost of burial space reaches 1-1,5 million rupiah. (Republika, 2013)

In another media, *Kompas* (2015) launched a news titled: “*In Jakarta, How Hard People To Die!*”. In the article, Bowo as one of the interviewees admitted that their family should pay 2,5 million rupiah to get a burial space. The cemetery manager said to Bowo, that the cost included the rent of the grave, and gravedigger’s fee. But in fact, after burial rites, the gravedigger still asked for money.

In the other hand, luxury cemetery business attract businessmen to invest their money. A luxurious cemetery, as *Tempo* (2013) said in its article, become a trend in Indonesia. As San Diego Hills Memorial Park (the largest cemetery, located in Karawang, West Java) built five years ago, some developers build other luxurious cemetery as ‘the final resting place’ for the rich.

San Diego owned by Lippo Group. They targeted people whose never-ending salary. The 500 hectares cemetery, has its own swimming pool, running track, high class Italian restaurant, helipad, and 8 hectares of “Angel’s Lake”.

Giri Tama, Lestari Memorial Garden, and Al Azhar Memorial Garden followed in San Diego’s footsteps. Al Azhar Memorial Garden itself is a luxurious cemetery for Muslims, with mosque, playground, multipurpose building, and foodcourt. A grave with 1.5 x 3 meters for one person, reached 23 million rupiah, without maintenance costs. It is certainly higher than the cost of burial at public cemeteries, that managed by government, which only need about 6 million rupiah/per plot, and 50 thousand rupiah for maintenance costs.

General Marketing Manager of Lestari Memorial Garden, Jeffry Yamin said in the article, that people nowadays is more open to talk about death. In his opinion, people should prepare it as the shortage of burial space and the land prices continue to rise every year.

At the same time, President of Al Azhar Memorial Garden, Rachmat Effendi Achlil explained that luxurious cemetery business is not different with property business. He added, they also build landscape, bridge, and ‘final resting place’.

Waqf Concept, A Cemetery Solution for All

Related to these problems, there is an interesting object in West Bandung. Waqf of Muslim Cemetery Firdaus Memorial Park (FMP), program that initiated by a philanthropic institutions, Sinergi Foundation. This is a solution for limited burial space, as well as the expensive cost of cemetery.

Reported from *Tabloid Alhikmah* (2014), the idea of FMP started in 2011 in their office, when the bell rang, broke the silence of the night. A husband and wife, while hugging their daughter who got an illness, beg them for help. Unfortunately, the rescue end tragically. Her life cannot be saved. The little girl breathed her last breath in one of hospitals in Bandung.

But the saddest part is when the *jenazah* should be buried. The parents cannot be able handle the burial rites, as they did not have any money to pay. Asep Irawan, the Deputy CEO of Sinergi Foundation itself directly served the poor parents. The mosque caretaker said to him, that the cost of cemetery is approximately 600 thousands rupiah.

For the poor, 600 thousands rupiah mean a lot. It is quite possible the money is the bridge of their future. This sad experience had made a deep impression on his heart. He was trying to find the way, to guarantee similar incident will not occur in the future. *Dhuafa* have been through so many obstacles in their life. Asep Irawan will not let them feel the suffer in the end of their lives.

The complexity of burial space issues, becomes more complex for the poor, as the cost force them to pay high.

Discussion was conducted with the experts. Until the idea to solve these problems transformed into one thing. Waqf of Muslim Cemetery Firdaus Memorial Park (FMP), a public asset which fully owned by the community, and based on waqf. Firdaus Memorial Park, a muslim cemetery that located in Ciptagumati and Mandalamukti district, Cikalongwetan, West Bandung. From Cipularang Toll Road, the placed located in KM 106,300-105,700 Purbaleunyi Toll Road towards Jakarta.

Firdaus Memorial Park wants to be like Firdaus Paradise. Sinergi Foundation does not only want to actualize the dream to help *dhuafa* to get a proper cemetery, but also become *firdaus* which managed a beautiful, eco-friendly, and sharia-compliant, as social asset.

The Cemetery Emergency Solutions Based on Waqf

Central Bureau of Statistics and Department of Gardens and Funeral in Bandung (2011), said in their data: *“If the average of mortality rate in Bandung was 6.600 deaths per year, then the graveyard with 1.461.508 m² which managed by Bandung’s government, will be exhausted within nine years.”* Now, it’s been 6 years since the data published, does it mean the graveyard in Bandung will decrease drastically over next three years? And how the availability of cemetery in other big cities in Indonesia?

Based on these facts, the availability of cemetery, especially in big cities of Indonesia, seems to be an issue which should be solved. Fellow of Indonesian Association of Landscape Architects (IALI), Ir. Achmad Firmansam Bastaman, in his article “Muslim Cemetery Optimization as Green Space Potential in City” said that limited space for cemetery, with its expensive costs in the city, is the phenomena which cannot be avoided. The availability of empty space in the city nowadays, could be categorized as rarity which is hardly obtainable even with high cost.

If we consider the function of green space, Bastaman added, cemetery contributes to the urban ecosystem as the place where the plants grow, the lungs of the city, and water catchment areas. Those functions, Bastaman observed, are almost impossible to implemented by muslim cemetery in general.

People’s habit of building the grave with permanent and strong materials, cause cemetery to become full of hard materials, which is estimated to have Building Coverage Ration (BCR) more than 90%. Hence, it is still doubtful to categorize a cemetery as green space.

In the matter of comfort of the pilgrims, he continued, the cemetery which load so many graves exceeds its maximum capacity is very pathetic. Unavailability of adequate pedestrian circulation,

as well as the lack of shade trees, cause the cemetery could not give comfort to their visitors. Often, pilgrims were forced to walk amidst scorching, by stepping one grave to another, only to reach their family's grave. Moreover, for the poor, the cost of the grave is another issue. They should prepare million rupiahs to entomb their family worthily.

Firdaus Memorial Park

Since its launching in December 7th 2013, currently Waqf of Islamic Cemetery "Firdaus Memorial Park" already contained 70 corpses. The seventeen corpses were from the poor, and the rest of them were *waqif* and family. In fact, first corpse who buried in Firdaus Memorial Park was from dhuafa. She is Tati, an old woman without close relatives. Tati is a pauper from Ciwaruga, Parongpong, West Bandung.

Also, in addition to how expensive the cemetery costs which became burial problems, Ir. Achmad Firmansam Bastaman as one of Firdaus Memorial Park's initiator, explained that there are any other important factors in this case, such as the city which is running out of burial space, a haunted and horrific atmosphere, until the management which is not sharia compliant. In fact, we know that for muslims, funeral rites and the availability of burial space are fardhu *kifayah*. It is a communal obligation for muslims.

Therefore, FMP is an endeavour to solve those problems. For the poor, FMP team is ready to serve 24 hours. And that is preceded by a simple ritual involving bathing, shrouding the body, shalat, burying the body, then providing the burial itself. It is all free without any charges.

The writer believes that for the rich, who missed a comfortable, naturefriendly, non-profit oriented, and of course sharia compliant final resting place, Firdaus Memorial Park offers the best alternative, in waqf system.

In terms of 'sharia-compliant cemetery' factor, FMP provided a cemetery without luxurious construction (just flat grassy ground), and the corpse is put in the grave in the direction of *qiblah*. As Al Baqi Cemetery in Medina, FMP also reuse the grave. Once the body of the previous deceased had decomposed, the grave can be reused to bury another deceased. Islamic scholars, both classical and contemporary, said that it is permissible to reuse a grave despite sufficient vacant space being available in the graveyard.

Scholars, have ruled that it is prohibited to destroy a graveyard which contains graves of Muslims unless their bones have disintegrated and turned to dust. This can be determined either by firsthand verification or by calculating a certain number of years. This time period varies depending on the nature of the soil, since the soil of some graveyards hastens the disintegration of bones more than that of others.

FMP itself is in integrated area called “Firdaus Park”, in Ciptagumati and Mandalamukti district, Cikalongwetan, West Bandung. Also, in Firdaus Memorial Park, there is an area of community development which includes: agriculture, livestock and green areas, and the mosque-based boarding school.

Currently, 11 of 31 hectares of area was released. Particularly for muslim cemetery, 1.5 hectares of area consists of 337 graves with capacity for 1.011 corpses. We target to reach 20 hectares area for cemetery, consists of 10 thousands graves for waqif and 10 thousands for the poor. And corpses capacity reaching 60 thousands, as the grave could contain three bodies. So here it is, the whole-hearted endeavour to solve the problem of urban cemetery. Most importantly, it based on waqf.

CONCLUSIONS AND RECOMMENDATION

Cemeteries are one of the sectors faced with challenges yet not much attention has been paid to it on a national scale. The land is decreased, along with an increase in human population and development booming. As result, the cost of burial space is getting more expensive every year. For the poor, it is a big issue.

With the expansion of suburban area outside the cities, it is important to take notice of the impacts that it has in accommodating for burial facilities as a whole. Waqf-based cemetery, which give a free access for *dhuafa* because it is non-profit cemetery, is one of solutions. Not only to help the poor, but also consider the other factor, such as green space area.

It is therefore recommended that the following be considered in cemetery planning:

- (1) Widely use of waqf-based for cemetery management;
- (2) Provide burial space for the poor;
- (3) Multiple-use approach to cemeteries such as recreational area, open space, green space, and *syariah*compliant;
- (4) Compactness; create and preserve higher density, compact form;
- (5) Employing a variety of cost effective alternative methods to Islamic burial
- (6) Reuse Grave, as it is recorded in hadith: Aisyah *radiyallahu ‘anhu*, and Talhah ibn `Ubayd Allah were exhumed from their graves and buried elsewhere because their original graves were damaged. Mu’adh bin Jabal dug up his wife’s gave and wrapped her in clean shrouds, for she had been wrapped in very old ones. [Ibn Qudâmah, al-Mughnî]

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BZ090:
**SISTEM DAN MODEL PENGELOLAAN ZAKAT (Tinjauan Historis
Pelaksanaan Zakat (Filantropi Islam) di Sulawesi Selatan Indonesia)**

H.Muh. Ali Jennah

Abstrak

Sistem dan model pengelolaan zakat telah dicontohkan oleh Rasulullah dan Khalifaturrasyidin. Zakat pada zaman tersebut, di kawalselia oleh pemerintah. Model pengelolaan zakat di Sulawesi Selatan Indonesia di implementasikan oleh Dato Sulaiman (Kadhi) yang ditunjuk oleh Amatoa Wajo (Raja) pada abad ke 17. Beliau mengkoordinir dan mengawasi pegawe syara (Petugas keagamaan) sebagai amale (amil) yang bertugas khusus untuk melaksanakan pemungutan dan pendistribusian zakat di wilayah kerajaan. Politik Hukum Pemerintah Belanda di Indonesia selama tiga setengah abad, telah merusak tata nilai sistem dan model pengelolaan zakat. Belanda zakat dari urusan yang melekat dengan kekuasaan menjadi urusan pribadi ke pribadi tanpa dikawal dan pengawasan pemerintah. Lahirnya Undang Undang No 38 Tahun 1999, yang kemudian diamandemen dengan Undang Undang No 23 Tahun 2011 tentang Pengelolaan zakat di Indonesia, belum sepenuhnya berhasil memperbaiki budaya zakat yang telah ditanamkan oleh Belanda. Hal ini disebabkan umat Islam belum percaya sepenuhnya dengan Badan Amil Zakat. Trust, transparansi dan akuntabilitas, merupakan kunci penegakan hukum pengelolaan zakat. Disamping itu menjaga marwah adat istiadat (budaya) yang berlangsung dipedesaan harus menjadi perhatian lembaga pengelola zakat.

PENDAHULUAN

Filantropi Islam (zakat), bukan hal yang baru dikalangan masyarakat Islam Sulawesi Selatan khususnya dan kalangan umat Islam Indonesia pada umumnya. Sejak Islam membumi di Tanah Sulawesi, doktrin (rukun) ketiga (zakat) telah pula menyertai kewajiban pokok lainnya dalam kehidupan umat Islam.

Sejak abad ke-17 filantropi Islam (zakat), telah diaktualisasikan di sejumlah wilayah kekuasaan Islam di Indonesia termasuk di Sul Sel. Kerajaan Wajo misalnya yang terkenal dengan "Kali" (Kadhi) nya Datok Sulaiman telah menggoreskan tinta emas dalam pengelolaan zakat. Kewajiban umat ini dikelola dibawah pengawasan kerajaan (negara), sebagaimana pola dan sistem yang telah dicontohkan Rasulullah SAW dan Khulafaurrasyidin.

Kedatangan penjajah Belanda di Indonesia, dengan sengaja mendesain politik hukum, untuk memisahkan umat Islam dari nilai-nilai agamanya. Penjajah tidak membiarkan potensi pengangkat kesejahteraan dan keadilan sosial umat Islam (zakat) berjaya dan langgeng. Mereka tahu kalau hal ini dibiarkan, pasti akan membahayakan kelangsungan penjajahannya.

Akibat politik penjajah inilah, ”kemeranaan” pengelolaan zakat ditanah air dimulai. Sejak Indonesia merdeka sampai kini, kita masih tertatih tatih untuk mengangkat wibawa zakat sebagai Institusi umat menuju kesejahteraan dan keadilan sosial. Tidaklah salah kalau dikatakan, diantara sendi pokok Islam yang Lima, ”zakat” adalah adalah rukun yang tak terurus dengan baik atau mungkin dibiarkan salah urus, ujung ujungnya, ”merana”.

Kendati upaya ”penyembuhan” (zakat) sebenarnya telah dilakukan oleh the founding father (baca: tokoh Islam) secara tidak langsung melalui konstitusi UUD 1945. Mereka mematrikan konsep meningkatkan kesejahteraan rakyat dan mewujudkan keadilan sosial dalam pembukaan Undang Undang Dasar Negara Indonesia Tahun 1945, memasukkan pasal agama (pasal 29), pasal kesejahteraan (pasal 34) dan konsep piagam Jakarta (kendati tidak diakomodir seluruhnya). Rumusan Kesejahteraan dan keadilan sosial pada hakikatnya sangat relevan dan bersinggungan langsung secara harmonis dengan tujuan yang ingin dicapai oleh pranata keagamaan zakat.

Lahirnya UU Pengelolaan Zakat (UU No. 38 Tahun 1999) dan peraturan lainnya. Selanjutnya di ubah dengan UU Pengelolaan Zakat (UU No.23 Tahun 2011) membawa harapan besar bagi ummat Islam, yang sekaligus menjawab penantian berpuluh-puluh tahun masyarakat muslim Indonesia, akan regulasi dan payung hukum pengelolaan zakat. Dalam tataran das sollen Pemerintahan Indonesia telah merespon dan menunjukkan iktikad baik terhadap aspirasi masyarakat muslim dengan menerbitkan regulasi pengelolaan zakat. Namun dilapangan (das sein), masih banyak ditemukan hambatan dan tantangan dalam upaya mengoptimalkan penegelolaan zakat.

Salah satu hal yang perlu dicermati dan menjadi pertanyaan adalah mengapa *trust* masyarakat muslim khususnya di Sul Sel belum tumbuh secara signifikan untuk menyerahkan zakatnya melalui BAZ dan LAZ.

TINJAUAN TEORITIS TENTANG ZAKAT

Istilah ”zakat, Infaq dan Sadaqah”, biasanya digandengkan dalam ulasan para ulama, cendikiawan bahkan dalam rumusan peraturan perundang-undangan. disatu sisi ketiga istilah tersebut memiliki pengertian yang dapat dipersamakan, yakni memberikan sesuatu kepada orang lain dengan mengharap ridha dan pahala dari Allah SWT. Namun secara khusus zakat berbeda dengan sadaqah dan Infaq. Zakat diartikan sebagai penunaian salah satu kewajiban (rukun) muslim yang telah memenuhi syarat keagamaan (*syar’i*) dengan menyisihkan sebagian hartanya kepada golongan yang berhak menerimanya (*mustahiqzakah*).

Zakat adalah ibadah maaliyah yang diwajibkan Allah untuk mengabdikan kepadaNya. Zakat adalah hak Allah yang harus ditunaikan oleh muzaki (orang yang wajib membayar zakat). Dalam pengertian ibadah kepada Allah inilah sebenarnya hakikat zakat. Seorang muzaki membayar

zakat semata mata didasarkan pada keikhlasan, yakni tidak mengharapkan sesuatu sebagai imbalan berupa materi, kecuali keridhoan dan pahala dari Allah semata.

Menunaikan zakat sebagai ibadah kepada Allah, bukan berarti bahwa Allah memerlukan materi zakat, karena Allah Maha Kaya dan memiliki segalanya. Oleh karena itulah dalam kewajiban zakat Allah memerintahkan untuk menyalurkan harta yang dizakatkan itu untuk orang-orang yang berhak menerimanya.

Penunaian kewajiban pada dasarnya adalah karena perintah Allah atau yang sering dikenal dengan istilah ibadah wajib. Melaksanakan ibadah bagi seorang muslim adalah suatu keniscayaan, karena dia yakin bahwa manusia diciptakan tidak lain adalah untuk beribadah kepada Allah.

Zakat sebagai ibadah *maaliyah Ijtima'iyah*, memiliki *double oriented*, disatu sisi berdimensi Ilahiyah, sebagai manifestasi keimanan seseorang yang muaranya ketaqwaan kepada Khaliqnya. Disisi lain memiliki dimensi sosial ekonomi yang bermuara kepada keadilan sosial. Namun tujuan yang paling ditonjolkan dalam implementasinya adalah sisi kedua. Oleh karena itu zakat dikenal pula sebagai rukun kemasyarakatan.

Sebagai rukun masyarakat berbeda dengan rukun pribadi seperti shalat, shaum dan haji. Rukun pribadi apabila tidak dilaksanakan hanya berdampak pada individu itu sendiri. Namun rukun masyarakat dalam pelaksanaannya melibatkan kehadiran pihak lain, dari muzaki, mustahik dan amil. Secara pribadi orang yang tidak mau menunaikan zakat, akan menerima azab yang pedih. Dampak di masyarakat, zakat yang tidak ditunaikan akan menambah akut atau melestarikan kemiskinan, yang akhirnya bermuara kepada ketidak stabilan masyarakat itu sendiri. Keharmonisan, ukhuwah Islamiyah dan wathoniyah akan terganggu.

Oleh karena itulah, dalam ibadah zakat tidak bisa dilaksanakan secara personal, ia harus melibatkan kehadiran pemerintah atau negara, sebagaimana yang dicontohkan oleh Rasulullah dan khulafaurrasyidin. Keterlibatan pemerintah (amil) dalam pelaksanaan perzakatan baik langsung atau tidak langsung merupakan.

Zakat adalah sebuah persoalan kewajiban yang terkait dengan kekuasaan. Menurut Yusuf Qardawi (1999:545): “Zakat bukanlah urusan yang diberikan kepada orang per-orang tetapi bagian dari tugas negara”. Negara yang berkompeten untuk mengurus zakat, ialah pemerintahan negara yang sah menurut pandangan islam, yakni negara Islam atau negara yang dikategorikan sebagai *Dar Al-Islami*.

SEKILAS SEJARAH PERKEMBANGAN PENGELOLAAN ZAKAT DI SUL-SEL DAN INDONESIA PADA UMUMNYA

Arung Matoa Wajo, sebagai penguasa pusat kerajaan Islam di Wajo Provinsi Sulawesi Selatan Indonesia, pada abad ke 17, menaruh perhatian besar terhadap sumber-sumber keuangan Islam, Infaq, Shadaqah, hibah, wakaf termasuk zakat. Beliau memberikan kewenangan pengelolaan zakat kepada *pagawesara* (Petugas yang mengurus keagamaan di Kerajaan), yang terdiri dari para pemuka agama (Taufiq Abdullah, (editor) 1983).

Sebagai seorang raja yang telah menganut agama Islam, Raja Wajo telah mengangkat seorang penganjur Islam terkenal yakni Datok Sulaiman selaku "Kali" (Kadhi). Datok Sulaiman diberi kewenangan oleh Raja untuk menangani masalah masalah keagamaan rakyat. Datok Sulaiman kemudian mengangkat beberapa orang wakil untuk membantu beliau dalam menjalankan tugas tugas yang diembannya, Salah seorang diantaranya selaku *amale (amil)* pemangku pengelola zakat, (memungut dan mendistribusikan zakat mal dan Fitrah) (H.P. Badron, 2005:3).

Pagawesara dalam hal ini *amale (amil)*, untuk melaksanakan tugas tugas pengelolaan zakat, menjadikan masjid, surau atau langgar sebagai pusat pengelolaan sumber-sumber keuangan umat Islam. Rumah rumah ibadah itu sendiri pada umumnya dibangun di atas tanah wakaf dan biaya pembangunannya diperoleh dari masyarakat Islam sendiri, baik berupa zakat sadaqah ataupun hibah (Falmawati Tahir, 2003:247).

Amale kemudian mengangkat dan memimpin para pemungut zakat (*pagawesara*) di seluruh wilayah kerajaan Wajo, dengan persyaratan yang sangat ketat, berdasarkan pertimbangan syariat, efisiensi dan kemudahan pengawasan. Hal ini merupakan kebijakan yang sangat tepat dan menunjukkan bahwa *amale* tersebut adalah mewakili dan dibawah kontrol pemerintah. Dengan kata lain tidak dibenarkan seseorang memungut zakat tanpa pengangkatan resmi dari pemegang kewenangan kerajaan.

Pendistribusian zakat oleh Datok Sulaiman dan Amale ditujukan untuk fakir miskin dan kepada "pegawesyara" yakni para pembantu beliau di bidang keagamaan. Penyaluran zakat kepada para mustahiq diharapkan dapat meningkatkan kesejahteraan. Khusus kepada "pegawesyara". Mereka dituntut untuk meningkatkan pelayanan keagamaan seperti mengajar, dan tugas tugas keagamaan lainnya, termasuk mendidik para muallaf yang baru mengenal dan masuk Islam. Sistem pengelolaan zakat yang diterapkan oleh Datok Sulaiman ini, menurut hemat penulis sangat tepat dan sesuai dengan sunnah Rasul dan Khulafaurrasyidin.

Seiring dengan masuknya penjajah Belanda di Indonesia, sistem yang berjalan dengan baik ini telah dikacaukan. Alasan yang mereka munculkan kepermukaan bahwa pemerintah Hindia Belanda tidak berhak untuk mengelola zakat, dipermukaan nampaknya alasan ini dapat dibenarkan oleh masyarakat. Karena pemerintahannya yang kafir. Namun dibalik itu, hidden

politiknya memperlemah dana zakat yang teridentifikasi digunakan sebagai sumber keuangan Islam untuk melakukan pemberontakan kepada penjajah. Apabila dikelola melalui suatu lembaga resmi yang dikontrol oleh para raja Islam atau masjid akan membahayakan kelangsungan penjajah. Bukankah salah satu *mustahiqzakah* adalah golongan *fisabilillah*.

Sebelum Indonesia dijajah Belanda, kita kenal beberapa kesultanan Islam mencapai kejayaan karena dukungan dana internal umat Islam. Misalnya Kesultanan di Aceh, Sumatera Barat, Banten, Mataram, Demak, Banjar, Ternate, Sejumlah kerajaan di Sulawesi Selatan dsbnya. Dana potensial Umat, Infaq hibah, Wakaf dan termasuk Zakat, mereka gunakan untuk memperbaiki kualitas kesejahteraan umat (pendidikan, insentif guru guru mengaji dsbnya). Bahkan beberapa kesultanan memanfaatkan dana ekonomi umat untuk mengadakan hubungan dengan luar negeri, misalnya mengirim pemuda Islam yang cerdas untuk menuntut Ilmu di Tanah Saudi, Mesir dsb. (Abudin Nata, 1999:84).

Hukum Pemerintah Belanda pada mulanya bersifat netral dengan dana internal yang dihimpun oleh umat Islam. Pasal 134 ayat 2 *Indische Staatregeling (IS)* yang memuat bahwa Pemerintah Hindia Belanda harus bersikap netral terhadap semua agama yang berada dibawah wilayah kekuasaannya. Namun setelah menyadari bahwa ternyata potensi ekonomi umat termasuk hasil zakat yang dikelola oleh pemuka agama Islam melalui masjid, digunakan sebagai alat perjuangan anti kolonial, seperti pecahnya perang paderi (1821-1837), Perang Diponegoro(1825-1830) dan Perang Aceh (1873-1903), mereka kemudian mengubah politik hukum Hindia Belanda untuk memperlemah sumber sumber keuangan umat Islam.

Bermula dari penasehat Hindia Belanda tahun 1889 Christian Snouck Hurgronje, yang memperingatkan kepada pemerintah Hindia Belanda agar didalam kenetralannya, tetap memantau kegiatan umat Islam, karena menurut penelitiannya Islam sangat berbahaya bagi Belanda baik sebagai kekuatan agama maupun politik.

Selanjutnya politik Hindia Belanda mengubah kebijaksanaan kenetralannya dengan mencampuri urusan umat Islam, agar dana umat Islam zakat dapat mereka kendalikan dan tidak terpusat. Falmawati tahir (2003: 249) menyatakan:

”Salah satu kebijakan Pemerintah Hindia Belanda dalam politik Islamnya yaitu Bijblad Nomor 1892 tanggal 4 Agustus 1903 yang berisi kebijakan untuk mengawasi terjadinya penyelewengan keuangan zakat. Penghulu (naib) sebagai pegawai administrasi pemerintah Hindia Belanda, tidak diberi gaji. Untuk melemahkan kekuatan rakyat yang bersumber dari zakat, pemerintah melarang semua pegawai dan priyayi pribumi ikut serta membantu pelaksanaan zakat . Larangan ini dituangkan dalam Bijblad Nomor 6200 tanggal 28 Pebruari 1905”.

Larangan pemerintah Hindia Belanda ini sangat memukul keuangan umat Islam. Kalau pada masa sebelum larangan tersebut, keuangan masjid antara lain bersumber dari zakat digunakan untuk kepentingan umat Islam, tetapi setelah regulasi tersebut, bahkan dengan pengaruh pemerintah Hindia Belanda sempat dimanfaatkan untuk memberi sumbangan kepada rumah sakit zending di Mojowarno yang pendiriannya diprakarsai pendeta Johannes Kruyt (1835-1918). Kas Masjid di Kediri dimanfaatkan untuk membiayai asrama pelacur dan secara rutin kas masjid digunakan untuk membantu aktifitas penyebaran agama Kristen (Aqib Suminto: 1985: 165-167).

Kondisi Umat islam dibawah penjajahan Belanda selama kurun waktu 350 tahun, telah membentuk prilaku umat dalam hal zakat sebagai berikut:

1. Umat Islam tidak mempercayai lagi bahwa dana zakat yang dikumpulkan dibawah kendali pemerintah di peruntukkan sebagai dana kesejahteraan dan kepentingan umat Islam.
2. Pegawai pemerintah Hindia Belanda yang berasal dari kalangan pribumi dilarang mencampuri urusan zakat. Ini artinya mencabut akar koordinasi pengumpulan zakat.
3. Penyaluran zakat yang hanya diberikan kepada para guru mengaji atau imam masjid setempat memecah konsentrasi dan pengumpulan dana umat untuk kepentingan yang lebih besar.
4. Wajib zakat kemudian memandang bahwa zakat bukan lagi urusan pemerintah untuk kepentingan Islam tetapi urusan pribadi masing masing dan dilakukan dengan suka rela saja. Tanpa ada unsur paksaan bagi yang enggan melaksanakannya.

Kendati kontrol pemerintah Hindia Belanda untuk memecah konsentrasi sumber keuangan Islam demikian ketatnya, namun menurut Falmawati (2003:251)” Akibat lanjutnya, disana sini diseluruh tanah air bermunculan yayasan atau organisasi Islam yang mengangkat dirinya sebagai amil zakat, infaq dan sadaqah, termasuk harta Wakaf” .

Yayasan organisasi Islam ini setiap tahun memungut zakat dengan cara mengedarkan poswessel kosong kepada para wajib zakat (muzaki) dengan jangkauan cukup jauh, atau datang *door to door* untuk meminta zakat, infaq dan sadaqah. Jalan ini menurut hemat penulis dapat saja dibenarkan karena dalam kondisi hukum yang sangat repressif. Walaupun akibatnya bahwa dana umat Islam yang begitu potensial besarnya akhirnya terpecah pecah dan perjuangan menjadi lemah. Sebenarnya keadaan seperti inilah yang dikendaki oleh Hindia Belanda dengan politik hukumnya yang repressif dan *divide et empera* tersebut.

Kendati Indonesia merdeka, kondisi perzakatan yang lumpuh akibat politik hukum Belanda tidak serta merta bangkit. Konstitusi dan hukum negara , belum sepenuhnya memungkinkan negara/ pemerintahannya mengelola zakat. Dengan kata lain hukum belum sepenuhnya berpihak untuk menegakkan zakat. Disamping itu sebagian umat Islam yang telah mentradisi melakukan pembayaran zakat menurut pola dan sisitemnya masing masing. Bahkan ada yang masih

menganggap bahwa negara Nasional Indonesia bukanlah negara Islam yang mempunyai kewenangan mengelola zakat.

Berbanding lurus dengan politik pemerintah yang tidak sesegra mungkin meregulasi atau menerbitkan payung hukum tentang zakat, Rakyat (umat Islam) melihat bahwa institusi Islam dan fakir miskin tidak dijamin sepenuhnya pembiayaannya oleh pemerintah. Oleh karena itu umat Islam berpikir lebih baik menyalurkan zakat sebagaimana tradisi yang telah berlangsung lama sejak Belanda. Mereka langsung menyalurkan kepada orang atau lembaga yang erat hubungannya secara emosional keagamaan dengan kehidupan sehari-hari, misalnya guru mengaji, imam Masjid, madrasah, panti asuhan dsbnya. Kondisi seperti ini diperparah dengan masih adanya pendapat yang menyatakan penyerahan zakat secara langsung *face to face* lebih afdhol, ketimbang menyerahkannya melalui Badan Amil. Secara sosiologis kondisi seperti ini merupakan penyebab penyakit parah zakat tetap pada kondisinya yang merana.

Secara teoritis sebenarnya Negara Indonesia dapat dikategorikan sebagai *dar al Islami*, sebagaimana yang dapat dipahami dari teori As Syiasahnya Abd Raman Taj dan Kadir Audah. Oleh karena itu menurut hemat penulis Indonesia berkewajiban mengelola sendi pokok Islam (zakat). Prof Hazairin mengembangkan pola pemahaman yang mendukung gagasan keterlibatan negara dalam pengelolaan zakat (Hazairin, 1983: 68-69)

Menurut Syechul Hadi Permono (1995:154): Kendati Indonesia adalah negara yang bukan bersimbol negara Islam, akan tetapi falsafah negaranya dan hukum konstitusinya, tidak bertentangan dengan prinsip Islam, yakni bertujuan untuk mewujudkan keadilan sosial dan meningkatkan kesejahteraan bagi warganya. Dengan demikian maka negara Republik Indonesia berkewajiban membentuk badan amil zakat untuk mengelola zakat.

Yusuf Qardawi (1999:545): “Zakat bukanlah urusan yang diberikan kepada orang per-orang tetapi bagian dari tugas negara”. Negara yang berkompeten untuk mengurus zakat ialah pemerintahan negara yang sah menurut pandangan islam, yakni negara Islam atau negara yang dikategorikan sebagai “*dar al-Islami*”.

Prof. A.G.H. Ali Yafie (2000: 71). menyatakan: ”... mengelola dan mengatur soal zakat oleh pemerintah Indonesia bukan saja suatu kebolehan, tetapi lebih bersifat keharusan agar inti dan semangat yang terkandung dalam zakat benar-benar dapat dirasakan manfaatnya”.

Secara yuridis konstitusional, Ibadah umat beragama telah dijamin keberlangsungannya oleh negara. Jadi secara tidak langsung Pasal 29 ayat (1) dan (2), memberikan legalitas konstitusional terhadap pelaksanaan dan pengelolaan zakat. Hukum Islam di Indonesia menjadi salah satu sumber hukum nasional dan sekaligus menjadi filter bagi hukum positif negara kita (wawancara dengan, Andi Rasydiana Amir, Oktober 2005).

Berpuluh-puluh tahun setelah Indonesia merdeka perzakatan dibiarkan menjadi urusan umat Islam secara tradisional dengan pola dan sistem yang dianutnya masing masing. Keadaan seperti ini mengusik sejumlah tokoh Islam, agar negara ikut campur membenahi persoalan zakat. Gayungpun bersambut, Ketika Presiden Soeharto dalam peringatan Isro Mi'raj di Istiqlal mengumumkan kepada seluruh umat Islam Indonesia bahwa secara pribadi beliau bersedia sebagai amil zakat.

Sebagai tindak lanjut pidato presiden itulah Menteri agama mengeluarkan sejumlah peraturan menteri sehubungan dengan pembentukan BAZIS dan Baitul Mal. Kemudian perangkat hukum tersebut menjadi acuan daerah daerah untuk membentuk BAZIS termasuk Sulawesi Selatan yang membentuk Bazis 1985 (H.P. Badron, 2005:5). Tumbuh dan berkembangnya Bazis setiap daerah, nampaknya belum seluruhnya menjawab kebutuhan umat Islam untuk mendayagunakan zakat sebagai sumber keuangan Islam demi mencapai kesejahteraan dan keadilan. Lahirnya UU No 38 tahun 1999 di Era Kepemimpinan BJ Habibie, memperkuat kedudukan hukum pengelolaan zakat di tanah air. Lembaga yang diberi kewenangan secara atribusi dalam UU ini adalah BAZ dan LAZ. Badan Amil Zakat (BAZ) dibentuk oleh pemerintah secara berjenjang dari pusat, Daerah Provinsi, Kab/Kota, sampai tingkat Kecamatan, sedangkan di tingkat desa, instansi pemerintah dan BUMN dibentuk Unit Pengumpul Zakat (UPZ). Institusi lain yang diberi kewenangan menurut UU ini adalah Lembaga Amil Zakat. LAZ dibentuk oleh masyarakat dan diakui keberadaan oleh pemerintah apabila memenuhi persyaratan tertentu menurut peraturan perundang undangan.

Pertanyaan terbesar kita, Apakah pola dan sistem yang dianut oleh masyarakat muslim di Sulawesi Selatan, mengalami perubahan setelah UU ini diberlakukan dan sejauhmana trust masyarakat dalam penyaluran zakatnya.

Dalam pengamatan penulis, pola dan sistem pengelolaan zakat di Sulawesi Selatan dapat disimpulkan antara lain Sebagai Berikut:

1. Masyarakat masih lebih banyak menyalurkan zakatnya langsung ke muzaki, dan kepada lembaga-lembaga keagamaan yang tidak resmi dibanding menyalurkannya melalui BAZ/LAZ (lembaga resmi berdasarkan peraturan perundang-undangan pengelolaan zakat).
2. Kebiasaan pola penyaluran zakat face to face merupakan bagian prilaku keagamaan, yang sudah menjelma menjadi budaya perzakatan. Hubungan antara muzaki dan mustahik, nampaknya telah terjalin hubungan fungsional yang diikat dengan prinsip resiprositas antara kedua pihak.
3. Trust masyarakat terhadap lembaga resmi zakat (BAZ) belum signifikan, hal ini dapat dilihat dari data zakat mal yang tercatat di Sul Sel tahun 2004 hanya sebesar Rp 2.611.262.905,- (data keagamaan Kanwil Depag Sul-Sel 2004). Apabila dibanding dengan penduduk di sul sel pada tahun tersebut sebanyak 7.379.370 jiwa, maka data diatas menunjukkan bahwa wajib zakat di sul sel hanya 1 % dari penduduk yakni

368.968 jiwa x Rp 340.000,- (diambil dari perkiraan batas zakat minimal dari nishob 85 gr emas dengan harga per gram kl.Rp 160.000 = Rp 136 juta). = Rp 2.508.924.000,-

Dari sekelumit kondisi perzakatan yang dikemukakan diatas, maka kiranya kedepan, pola dan sistem perzakatan harus dikelola dengan penuh kearifan dengan mengakomodir pola pola perzakatan yang ada dalam masyarakat. Hal ini agar supaya kebiasaan yang sudah berakar di masyarakat tidak tercabut dari akar budayanya.

Salah satu sistem yang harus diakomodir oleh pengurus BAZ yakni menunjuk pengurus masjid dan yayasan pendidikan (madrasah., psantren) dan lembaga lainnya termasuk para guru mengaji sebagai UPZ (lembaga resmi pengurus zakat menurut peraturan perundang-undangan zakat). Selama ini UPZ dibentuk oleh BAZ kecamatan lebih dominan dikuasai oleh perangkat Kelurahan atau Desa setempat, yang nota benenya dianggap masyarakat sebagai birokrasi yang kurang bersentuhan dengan hal hal keagamaan.

PENUTUP

Filantropi Islam (zakat) sudah sedemikian membudaya dikalangan masyarakat Islam di Sul Sel. Dalam sejarah Kerajaan Wajo misalnya Pola dan sistem yang dianut dalam pengelolaannya dibawah tanggung jawab seorang Amale dan Kadhi yang diangkat dan di kontrol oleh kerajaan.

Kedatangan penjajah Belanda dengan politik hukumnya yang sangat repressip, mengubah pola dan sistem perzakatan. Zakat hanya menjadi kewajiban individu per individu dengan suka rela tanpa pengelolaan dan kontrol suatu badan resmi. Sehingga sumber keuangan yang sangat potensial untuk kesejahteraan umat menjadi tidak berdaya.

Setelah kemerdekaan, Kendati Indonesia memiliki konstitusi yang memungkinkan pemerintah mengelola zakat, ternyata selama berpuluh puluh tahun pengelolaan zakat tetap dibiarkan menjadi urusan individu masyarakat muslim. Dilain pihak masyarakat muslim, belum melihat bahwa pemerintah mempunyai kepedulian yang tinggi terhadap kaum duafa dan institusi Islam, sehingga masyarakat tetap menyalurkan zakatnya untuk kepentingan umat Islam sendiri. Walaupun hal ini dirasakan sebagai suatu kelemahan dan belum sesuai dengan tujuan yang dikehendaki dalam prinsip dan tujuan zakat.

Lahirnya regulasi pengelolaan zakat Tahun 1999, ibarat setetes embun kesejukan yang dinanti umat, Kendati telah membawa sedikit perubahan nuansa perzakatan, namun masih jauh dari harapan umat. Salah satu kendalanya adalah Trus umat masih belum signifikan menyalurkan zakatnya melalui lembaga BAZ/LAZ. Masyarakat lebih banyak menyalurkan dengan caranya sendiri.

Untuk menjembatani permasalahan ini, kiranya amil dan tempat tempat penyaluran zakat yang selama ini di percaya masyarakat untuk menerima zakatnya diformalisasi atau dibentuk menjadi UPZ dibawah koordinasi dan pengawasan BAZ.

RUJUKAN

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BZ092:
**OPTIMALISASI DAN MODERNISASI PENGELOLAAN ZAKAT DALAM
MENINGKATKAN KESEJAHTERAAN UMAT(Menjadikan BAZNAS
Sebagai Solusi)**

Saidul Amin, MA

Abstrak

Pengulangan kata zakat sebanyak 35 dalam al-Quran bukan tanpa hikmah dan rahsia. Hal ini merupakan sinyal pentingnya rukun Islam ketiga ini dalam pasang-surut belantika kehidupan manusia. Zakat sesungguhnya adalah solusi ilahiyah yang dapat mengobati kensenjangan sosial, baik lokal, nasional, regional, maupun global. Ajaran ini bersifat universal dan melintasi sempadan bangsa dan negara. Kemiskinan dan keterbelakangan yang dihadapi sebagian negara Islam saat ini memerlukan solusi tuntas, Maka peran zakat kembali diharapkan untuk menyelesaikan bengkalai yang tak sudah. Zakat kini bukan lagi sekedar kewajiban, akan tetapi jihad. Namun di atas fondasinya harus dibangun kreasi, inovasi, dan modernisasi pengelolaannya agar sejalan dengan perkembangan zaman dan menjadi dasar terciptanya tujuan Islam sebagai rahmatan lil alamin.

Kata Kunci : Zakat, Kesejahteraan Umat, Baznas

PENDAHULUAN

Islam adalah agama *shumul* (lengkap), meliputi berbagai aspek kehidupan manusia, baik masalah peribadi, masyarakat, pemerintahan, negara, ekonomi, hukum dan lainnya. Ajarannya meliputi aspek material dan spiritual yang menjunjung tinggi keselamatan dan kebahagiaan dunia dan akhirat. Maknanya Islam adalah agama untuk manusia dan sejalan dengan fitrah kemanusiaan.

Salah satu pilar terpenting dalam kehidupan manusia adalah ekonomi. Sehingga kemiskinan ekonomi dapat membawa kepada kekafiran, Islam menawarkan berbagai konsep tentang pemberdayaan ekonomi umat, di antaranya zakat yang bersifat universal dan multi fungsi. Sayangnya khazanah ilahiyah ini seringkali tidak dikelola secara optimal sehingga kurang berdampak terhadap kesejahteraan umat. Untuk itu optimalisasi dan memodernisasi pengelolaan zakat sangat penting demi terwujudnya umat Islam yang gemilang, terbilang dan cemerlang.

ZAKAT

Dalam Lisan al-‘Arab, zakat berarti suci, bertambah, tumbuh, berkah dan terpuji. Namun menurut Wahidi kata dasar *zaka* adalah bertambah dan tumbuh, sehingga bisa dikatakan, tanaman itu *zaka*, artinya tumbuh dan setiap yang tumbuh dikatakan *zaka*, artinya bertambah.

Sementara di dalam istilah fikih zakat difahami sebagai hak yang wajib dikeluarkan dalam harta yang dimiliki seseorang apabila sudah sampai nisabnya kepada asnaf atau orang-orang yang

berhak menerimanya. Kewajiban ini bersifat mutlak berdasarkan al-Quran, al-Sunnah dan Ijmak tanpa ada sedikitpun ikhtilaf.

Berdasarkan definisi di atas maka hakikat zakat adalah kewajiban untuk mengeluarkan harta yang dimiliki apabila sudah sampai nisabnya kepada asnaf tertentu dan itu akan membersihkan harta dan jiwa pelakunya serta mengundang keberkatan dan rezki dari Allah SWT.

Kata-kata zakat diulang sebanyak 35 kali di dalam al-Quran dan 27 kali diantaranya seiring dan sejalan dengan perintah solat. Hal ini tentu merupakan sinyal kalau hubungan ke langit harus selaras dengan hubungan di bumi. Pada sisi lain, perintah ber zakat tidak hanya ada pada ayat madaniyah yang berbicara tentang masalah muamalah, akan tetapi juga ada pada ayat-ayat makkiyah yang banyak berbincang tentang akidah dan ibadah. Hal ini membuktikan bahwa zakat sesungguhnya akidah dan ibadah sosial. Artinya, zakat merupakan hubungan di antara sesama manusia yang menjadi bukti keteguhan akidah dan kesempurnaan ibadah.

Zakat juga merupakan sistem penjamin perlindungan pertama dalam sejarah keuangan manusia yang sudah ada sebelum dunia Barat mengenal sistem asuransi (*insurance*) pada tahun 1941. Sistem ini tidak sekedar berunsur filantropi, membantu fakir miskin dan orang yang kurang mampu akan tetapi bernuansa lebih luas lagi sebagai upaya peningkatan ekonomi ummat dan bangsa yang mengikis kesenjangan sosial dan menumbuhkan jiwa tauhid dalam kehidupan masyarakat. Karena keluasan cakupan dan dampaknya, maka zakat berbeda dengan pajak dan bentuk bantuan sosial lainnya. Sehingga ibadah ini adalah konsep ilahiyah yang bernuansa kaffah.

OPTIMALISASI DAN MODERNISASI PENGELOLAAN ZAKAT

Optimalisasi dan modernisasi pengelolaan zakat tidak dapat jalan sendiri. Ada beberapa aspek penting yang terlebih dahulu harus dilakukan agar tujuan zakat sebagai solusi permasalahan umat dapat mencapai matlamat sesungguhnya. Di antara hal penting itu adalah :

Reformasi Mindset

Tidak dapat dipungkiri bahwa setiap muslim mengakui bahwa zakat adalah rukun Islam yang wajib dilakukan jika telah memenuhi syarat-syarat tertentu. Namun permasalahannya adalah rukun Islam yang ke tiga ini masih dianggap sebagai gerakan personal bukan ibadah sosial. Sehingga masih dikelola secara individu belum menjadi gerakan massif dan holistic, sehingga hasilnya tidak maksimal sebagai solusi masalah kemiskinan.

Untuk itu perlu ada perubahan mindset di kalangan umat bahwa zakat sesungguhnya bukan ibadah individu akan tetapi sosial sebab dia memang obat untuk kesenjangan sosial. Zakat bukan sekedar ibadah biasa, akan tetapi merupakan Jihad ekonomi yang membantu umat keluar dari

rumah kemiskinan. Peningkaran terhadap kewajiban berzakat bukan hanya mendapat azab akhirat akan tetapi juga hukuman di dunia.

Reinterpretasi Pemahaman Asnaf

Penerima zakat atau asnaf ada delapan kelompok seperti yang telah disebutkan secara qot'i di dalam al-Quran, yaitu :

انما الصدقات للفقراء والمساكين والعاملين عليها والمؤلفة قلوبهم وفى الرقاب والغارمين
وفى سبيل الله وابن السبيل

Dalam menafsirkan ayat di atas para penafsir dapat dikelompokkan kepada tekstualis dan kontekstualis. Kelompok pertama sangat rigid dan memahami apa adanya. Sementara kelompok kedua mencoba memperluas pemahaman ayat tersebut dan menyesuaikannya dengan kondisi semasa.

Pada aspek-aspek prinsip pemahaman tekstual sangat diperlukan sebagai basis atau tempat berpijak. Akan tetapi pemahaman kontekstual juga penting agar pemahaman agama itu tidak jumud dan statis, selama selaras dengan *maqasid* al-syariah yang terkandung dalam hakikat ayat tersebut.

Maka pengagihan dan penyaluran zakat konsumtif harus dialihkan lebih banyak kepada yang produktif. Amil yang bekerja secara manual harus berubah menjadi lembaga professional. Pembinaan muallaf yang tidak terstruktur dialihkan menjadi *muallaf center* yang berfungsi sebagai asrama, pondok pesantren, bahkan pusat pelatihan kemahiran untuk para muallaf. Agar masyarakat terbebas dari riba, maka al-Gharimin bisa dikembangkan menjadi koperasi syariah, BMT yang fokus membantu masyarakat miskin. Kalimat fi sabilillah yang pada awalnya diperuntukkan untuk orang yang berperang secara fisik, dapat dikembangkan menjadi peperangan pemikiran. Sehingga buku-buku dakwah dan pusat-pusat dakwah serta pengiriman juru dakwah ke tempat tertentu dapat dibiayai dengan uang zakat yang dikelola secara professional.

Pemahaman sebahagian ulama bahwa zakat hanya boleh dibagikan di tempat harta itu didapatkan juga harus dipertanyakan kembali. Sebab banyak dalil yang membolehkan pemberian zakat ke daerah yang lain jika sangat diperlukan. Hal ini tentu membuktikan keuniversalan ajaran Islam.

Reinterpretasi dan perluasan pemahaman seperti inilah yang sangat diperlukan agar pengelolaan zakat benar-benar mencapai sarannya.

Modernisasi Lembaga Pengelola Zakat

Perubahan zaman membuat semua hal juga berubah, termasuk pemahaman dan pengelolaan zakat. Untuk itu perlu ada modernisasi di semua aspek yang berkaitan dengan zakat dari mulai pengumpulan (*Fundraising*), pendistribusian (*Tasyarruf*), pendayagunaan dan pengembangan. Ada beberapa hal yang sesungguhnya dapat dilakukan, di antaranya :

Pertama, Meningkatkan kepercayaan public (*Trust*) terhadap lembaga-lembaga Pengelolaan Zakat, khususnya bentukan pemerintah yang sering beraroma negative. Kedua, Pengelolaan zakat berbasis Information Technology (IT) dan Information and Communication Technology (ICT) . Ketiga, pendistribusian juga harus berdasarkan data yang valid dan tepat sasaran. Dalam hal ini bekerjasama dengan Lembaga Penelitian dan Perguruan Tinggi dapat dilakukan. Keempat Pendayagunaan dan Pemberdayaan yang bertujuan meningkatkan fungsi zakat kepada aspek yang lebih luas dan berdampak lebih maksimal,

Untuk itu Lembaga Pengelolaan Zakat harus mengoptimalkan perannya dengan melakukan beberapa hal, di antaranya : Pertama, bekerjasama dengan MUI dan tokoh masyarakat untuk mencerahkan dan merubah *mindset* masyarakat, sehingga zakat bukan sekedar ibadah personal akan tetapi sosial. Zakat tidak sekedar pelepas dahaga ekonomi sesaat dan konsumtif, akan tetapi obat pemberdayaan umat yang produktif.

Kedua, sosialisasi program yang lebih luas dan *mapping* yang akurat terhadap *muzakki* dan *mustahiq*, sehingga ada data bank yang valid bagi memudahkan pengumpulan dan pendistribusian zakat.

Ketiga, Harus ada upaya serius menyandingkan pajak dan zakat sehingga umat Islam yang sudah membayarkan zakatnya di Baznas dan LAZ dapat mengkonversikannya kepada kewajiban pajak yang harus dibayarkannya seperti termaktub dalam UU No. 36 tahun 2008. Untuk itu peran pemerintah sangat diperlukan.

BAZNAS Sebagai Solusi

Undang-Undang Nomor 38 tahun 1999 menjadi landasan legal formal pelaksanaan Zakat di Indonesia untuk pembentukan Badan Amil Zakat Nasional (BAZNAS) yang merupakan badan resmi dan satu-satunya yang dibentuk oleh pemerintah berdasarkan keputusan Presiden RI no 8 tahun 2001. Kemudian dikokohkan lagi dengan UU Nomor 23 tahun 2011 tentang pengelolaan Zakat dan Peraturan Pemerintah Nomor 14 tahun 2014. Lembaga Pemerintah Bersifat *nonstructural* ini bersifat mandiri dan bertanggung jawab kepada Presiden melalui Menteri Agama.

Badan ini memiliki fungsi yang sangat strategis sebagai perencana, pelaksana, pengendalian, pelaporan zakat yang dihimpun dari masyarakat serta pendistribusiannya kepada masyarakat baik

yang sederhana dalam bentuk konsumtif maupun produktif. Untuk membumikan program ini Baznas memiliki wewenang untuk menghimpun dan mendistribusikan zakat, memberi rekomendasi berdirinya Baznas dan LAZ yang ada di bawahnya.

Perbedaan signifikan di antara Baznas dan lembaga Amil Zakat sebelumnya justru pada pemahaman konsep amil zakat yang utuh. Intinya Baznas bukan sekedar mengutip lalu mendistribusikan saja, akan tetapi ada pendayagunaan dan pengembangan sehingga para mustahik tidak menjadi mustahik abadi namun dibina untuk menjadi muzakki. Intinya harus ada perubahan baik dari segi *mindset* maupun kesejahteraan.

Pada sisi lain Baznas juga berperan sebagai consortium semua Lembaga Amil Zakat (LAZ) sehingga mudah untuk mendata, mendistribusikan dan mengatur langkah-langkah yang lebih baik demi keoptimalan peran zakat dalam meningkatkan perekonomian umat

Menurut penelitian FEM IPB bekerja sama dengan Baznas, sesungguhnya setiap tahun potensi pengumpulan dana zakat itu sebanyak Rp. 210 triliun setahun. Namun kenyataannya, menurut Khuzaifah Hanum pada tahun 2011 dana zakat yang terhimpun hanya Rp. 1,7 triliun. Apabila potensi ini dimaksimalkan. Maka zakat akan menjadi pilar yang sangat penting untuk meningkatkan kesejahteraan umat.

PENUTUP

Demikianlah makalah singkat ini disampaikan sebagai gambaran bahwa optimalisasi dan modernisasi Lembaga Pengelola zakat, khususnya Baznas yang dilakukan secara optimal akan menjadi faktor signifikan untuk menentaskan kemiskinan dan meningkatkan perekonomian umat.

Untuk itu Lembaga Pengelolaan zakat, khususnya Baznas harus mampu menjadi lembaga kepercayaan umat sehingga dapat berperan lebih banyak. Menejmen terbuka dan bekerja sama dengan semua pihak adalah menjadi prinsip utama.

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BZ093:
**IMPLEMENTASI MANAJEMEN RISIKO LEMBAGA AMIL ZAKAT
(STUDI KASUS PADA LAZNAS INISIATIF ZAKAT INDONESIA (IZI))**

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PENDAHULUAN

Dalam dua dekade terakhir, pertumbuhan dan perkembangan zakat dan lembaganya mengalami kemajuan yang sangat pesat, baik di dunia internasional maupun di Indonesia. Konsep pengelolaan zakat yang tadinya sederhana dan dikelola secara tradisional kini mengalami modernisasi, baik metode penghimpunan dan pendayagunaannya maupun sistem pengelolaan organisasi lembaga-lembaga zakat yang ada.

Dari sejumlah data penghimpunan riil, jumlah zakat yang berhasil dikumpulkan oleh BAZNAS dan LAZ resmi di seluruh Indonesia belum mencapai angka yang optimal. Berdasarkan data resmi Badan Amil Zakat Nasional (BAZNAS), diketahui bahwa penghimpunan zakat nasional baru mencapai angka Rp. 3.27 triliun pada tahun 2015. Zakat yang terhimpun masih kurang dari lima persen dibandingkan dengan total potensinya.

Kesadaran yang tinggi dari lembaga-lembaga zakat yang ada bahwa zakat hakikatnya adalah amanah untuk umat kini semakin tumbuh dengan baik. Kesadaran ini juga didasari makin baiknya pemahaman bahwa zakat adalah salah satu instrumen yang memiliki nilai strategis dalam pembangunan masyarakat suatu negara. Zakat merupakan instrumen sosial yang memiliki dampak yang sangat signifikan apabila dikelola dengan baik dan profesional. Iqbal (2014) mengelompokkan zakat sebagai *redistributive pillars* (pilar redistribusi) untuk membantu *extreme poor* (golongan sangat miskin) dan *the poor* (golongan miskin) keluar dari kemiskinan dan akhirnya menjadi *financially included* (terinklusi secara finansial).

Kesadaran tadi juga didasari bahwa potensi zakat Indonesia mencapai angka Rp. 217 triliun atau setara dengan 3.40 % PDB Indonesia tahun 2010 (Firdaus, et al. 2012). Potensi tersebut terbagi menjadi 3 kelompok besar, yaitu potensi zakat penghasilan individu (rumah tangga) Rp. 83 triliun, potensi zakat perusahaan baik BUMN maupun swasta Rp. 117 triliun dan potensi zakat tabungan Rp. 17 triliun. Sebagai perbandingan, penelitian lain dari PIRAC menyatakan bahwa potensi zakat Indonesia adalah sekitar Rp. 20 triliun per tahun, sementara ADB memprediksi potensi zakat Indonesia berjumlah sekitar Rp.100 triliun per tahun.

Semakin tinggi kemampuan lembaga-lembaga zakat mengelola zakat di Indonesia, dibutuhkan pula semakin besar kepercayaan masyarakat pada lembaga pengelola zakat. Dan untuk terus menjaga kepercayaan ini diberikan masyarakat, lembaga zakat harus mampu menunjukkan kualitas pengelolaannya secara baik dan transparan. Harus ada informasi memadai dari lembaga-lembaga zakat, bagaimana mereka mengurus dirinya secara sungguh-sungguh agar tidak terjadi penyimpangan terhadap amanah yang diberikan masyarakat pada lembaga zakat yang ada. Masyarakat harus tahu dan juga mengerti bahwa ada upaya penjagaan, komitmen dan pengawasan terhadap nilai-nilai kejujuran dan kebaikan dalam mengelola zakat.

Dalam dunia usaha atau korporasi, kita mengenal istilah *Good Corporate Governance* (GCG) ataupun *Good Government Governance* (GGG) di bidang pemerintahan, dan untuk lembaga zakat yang dapat juga dikategorikan *Islamic Philanthropy* atau lembaga nirlaba Islam berlaku apa yang disebut dengan *Good Philanthropy Governance* (GPG). Istilah-istilah tersebut (*good governance*) menggambarkan penerapan prinsip-prinsip yang baik dalam tata kelola sebuah institusi, apakah itu berupa korporasi, pemerintahan ataupun lembaga pengelola zakat.

Bagi lembaga zakat, adalah sebuah keniscayaan untuk taat pada aturan yang ada dan sungguh-sungguh untuk melakukan pengelolaan zakat. Karena pada dasarnya semua dana ZIS yang masuk merupakan dana publik yang harus dipertanggungjawabkan dengan benar. Dana yang masuk dan terkumpul misalnya, harus dipastikan mampu disalurkan dengan baik, sesuai kategori ashnaf dan prioritas kebutuhannya. Dalam implementasinya, sebuah lembaga zakat harus memiliki system dan prosedur yang jelas dalam menghimpun, mendayagunakan serta mengelola lembaganya. ini tak lain karena lembaga zakat mengelola amanah masyarakat dan setiap amanah harus dipertanggungjawabkan dengan baik melalui berbagai macam metode dan pendekatan.

Namun demikian masa depan dari pengelolaan zakat modern ini, akan sangat bergantung pada kepercayaan masyarakat luas. Kepercayaan ini sendiri bukan cek kosong, harus ada pembuktian kemampuan lembaga pengelola zakat dalam menjaga amanah ini dalam wujudnya yang nyata, terutama dalam menjaga reputasi lembaga masing-masing. Dan berbicara soal reputasi ini, ternyata ia masuk ke dalam bagian manajemen risiko pengelolaan zakat.

Selama ini, istilah manajemen risiko dalam pengelolaan zakat merupakan sesuatu yang tidak lazim didengar. Berbeda dengan industri perbankan syariah maupun konvensional di mana mereka mengenal dengan baik istilah manajemen risiko ini dan bahkan mampu mengidentifikasi hal-hal apa saja yang termasuk ke dalam jenis-jenis risiko yang harus dikelola. Tujuannya agar pihak perbankan dapat meminimalisir berbagai kemungkinan yang akan memberikan dampak negatif bagi pertumbuhan industri mereka.

Berdasarkan pertemuan perdana *International Working Group on Zakat Core Principles* (IWGZCP) akhir Agustus tahun lalu, telah disepakati bahwa identifikasi risiko dalam

pengelolaan zakat merupakan hal yang sangat penting karena akan mempengaruhi kualitas pengelolaan zakat ke depan. Paling tidak, ada empat jenis risiko yang telah teridentifikasi dan dunia perzakatan harus memiliki konsep yang jelas dalam memitigasi risiko-risiko tersebut. Pertama, risiko reputasi dan kehilangan muzakki. Kedua, risiko penyaluran. Ketiga, risiko operasional, dan yang keempat adalah risiko transfer zakat antar negara.

Dalam kerangka itu, tulisan ini mencoba mendiskusikan beberapa isu yang berkaitan dengan manajemen risiko lembaga pengelola zakat, khususnya yang telah diimplementasikan di Lembaga Zakat Nasional Inisiatif zakat Indonesia (IZI). Untuk mengantarkan kepada pembahasan manajemen risiko pengelolaan zakat tersebut, penulis memulai dengan paparan tentang perkembangan lembaga zakat di Indonesia serta peluang dan tantangannya.

Perkembangan Lembaga Zakat

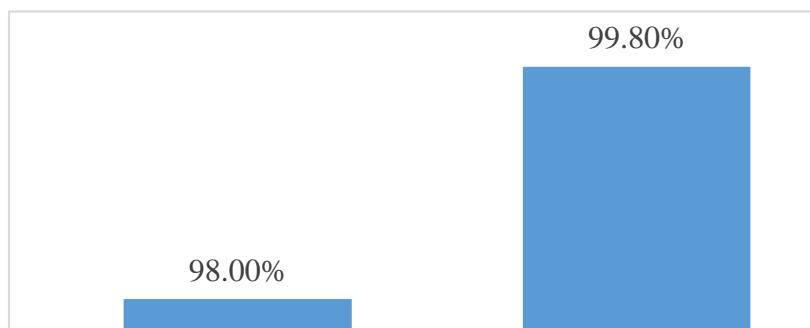
Di Indonesia, istilah *philanthropy* belum dikenal secara luas, meskipun prakteknya telah berakar kuat dalam tradisi masyarakat Indonesia. Bahkan, untuk menggambarkan tindakan berderma di Indonesia, masyarakat lebih akrab dengan istilah karitas (*charity*) yang juga berasal dari bahasa Yunani. Filantropi Islam terdiri dari zakat, infak dan sedekah (ZIS) dan wakaf.

Dalam ajaran Islam, ZIS mengandung pengertian yang sama, yaitu berderma. Dalam ayat 60, surat al-Maidah, misalnya, tidak mengintrodukir istilah zakat, tetapi sedekah. Namun, pada tataran diskursus penggunaan istilah Zakat, Infak dan Sedekah mengandung makna yang spesifik. Zakat acap diartikan sebagai membelanjakan (mengeluarkan) harta yang sifatnya wajib dan salah satu rukun Islam serta berdasarkan perhitungan yang tertentu. Infak acap merujuk kepada pemberian yang bukan zakat, yang kadangkala jumlahnya lebih besar dari zakat. Biasanya dimaksudkan untuk kepentingan *fi sabilillah*, dalam arti sarana, misalnya, bantuan untuk masjid, madrasah, pondok Pesantren, rumah sakit.

Saat ini, lembaga-lembaga Filantropi Islam (termasuk lembaga pengelola ZIS) terus berupaya membantu pemerintah untuk mengurangi masalah kemiskinan dan sejumlah masalah krusial lainnya yang diderita masyarakat miskin (*dhuafa*). Salah satu dana untuk membantu mengurangi kemiskinan ini adalah dana yang bersumber dari dana zakat, infaq dan sedekah (Jahar, 2010, 687). Hasil survey Pusat Bahasa dan Budaya UIN Jakarta selama tahun 2004 menunjukkan bahwa nyaris semua masyarakat muslim Indonesia pernah berderma. Sumbangan ini besarnya beragam sesuai kemampuan masing-masing. Adapun derma atau sumbangan ini biasanya berupa zakat, infaq maupun sedekah. Bila dijumlahkan besaran angka yang didapat adalah 19,3 triliun (Abu Bakar, 2006, 3).

Penelitian yang dilakukan UIN tadi sekaligus mengkonfirmasi penelitian sebelumnya tentang potensi kedermawanan yang dilakukan masyarakat Indonesia yang dilakukan oleh PIRAC pada tahun 2000. Survey PIRAC ini menunjukkan bahwa 96 % masyarakat menyatakan pernah

menyumbang (Abu Bakar, 2006, 16). Data lebih lengkap yang memuat penelitian kedermawanan ini ditunjukkan PIRAC dalam tiga kali survey-nya yakni pada tahun 2000, 2004 dan 2007. Penelitian ini sendiri dilakukan di sebelas kota di Indonesia yaitu : Medan, Padang, Jakarta, Bandung, Semarang, Surabaya, Denpasar, Pontianak, Balikpapan, Makassar dan Manado (Saidi, 2008, 15).



Grafik 1.1.

Tingkat Kedermawanan Masyarakat Indonesia

Menurut Tandjung (IMZ, 2013, 3) potensi pertumbuhan zakat dapat diindikasikan terus menguat dengan adanya regulasi dan potensi melegislasikan kebijakan-kebijakan tentang zakat di Indonesia. Data yang diperoleh dari hasil riset IRTI (*Islamic Research and Training Institute*) mengungkapkan bahwa IDB (*Islamic Development Bank*) menyebutkan bahwa potensi zakat di Indonesia adalah 2 persen dari PDB. Sehingga potensi zakat pada tahun 2009 mencapai angka 100 triliun (Beik, 2011, 7). Sementara itu penelitian Beik (2012) menyebutkan total dari keseluruhan potensi zakat di Indonesia dari variasi sumber zakat yaitu pendapatan rumah tangga, pendapatan perusahaan, dan tabungan adalah mendekati 217 triliun rupiah. Jumlah ini sama dengan 3,4 % dari GDP Indonesia pada tahun 2010 (Tandjung dalam IMZ, 2013, 4).

Haryono (2013, v-vii) menyatakan, lembaga-lembaga filantropi Islam telah tumbuh sebelum Republik Indonesia berdiri, seperti yang dilakukan oleh Muhammadiyah dan Nahdlatul Ulama (NU) yang dengan sistem yang dimiliki mampu mendirikan dan mengelola ribuan sekolah, pesantren, rumah sakit hingga universitas. Filantropi Islam di Indonesia terus tumbuh dan berkembang, seusai berdiri kedua pilar filantropi besar Muhammadiyah dan NU, kemudian tumbuh pula berbagai lembaga yang ada. Tongkat estafet itu-pun kemudian dilanjutkan dengan berkembangnya model pengelolaan dana filantropi Islam yang berbasis lembaga profesional, seperti BAZIS DKI dan BAMUIS BNI yang berdiri pada tahun 1968, BAZ Sumatera Barat (1973), Yayasan Dana Sosial Al Falah (1987), hingga Dompot Dhuafa (1993), Rumah Zakat (1998) dan PKPU (1999). Lembaga-lembaga ini dalam perkembangannya turut membidani lahirnya program-program pemberdayaan masyarakat berbasis ekonomi, pendidikan, kesehatan, penanggulangan bencana, hingga sektor pangan.

Menurut Jahar (2010, 683), pertumbuhan filantropi Islam (lembaga-lembaga amil zakat (LAZ) dan wakaf) di Indonesia menunjukkan fenomena yang sangat menarik. Kehadiran lembaga-lembaga ini yang akhir-akhir ini semakin marak, mulai di setiap masjid dan lembaga, kepanitiaan sebagai pengumpul zakat baik bersifat insidental atau berkembang menjadi lembaga permanen menjadi pemandangan yang lumrah. Data akurat tentang lembaga zakat dan wakaf belum terekam secara baik, karena independensi pengelola zakat dan system regulasi mengenai gerakan filantropi belum tersedia dengan baik. Karena itu setiap lembaga/yayasan berinisiasi mengelola zakat, mulai yang bersifat insidental menjelang Ramadhan atau penanggulangan bencana hingga lembaga permanen yang mengelola dana zakat dan wakaf.

Pada tahun 1989, Menteri Agama mengeluarkan instruksi untuk pembinaan ZIS bagi lembaga keagamaan. Pada tahun 1991, diterbitkan keputusan bersama antar Menteri Agama & Menteri Dalam Negeri No. 29 dan 47 untuk pembinaan BAZIS & dilanjutkan dengan Instruksi Menteri Agama No.5 tahun 1991 terkait pedoman pembinaan teknis BAZIS (Fakhrudin, 2008).

UU terbaru terkait Pengelolaan Zakat yaitu UU No.23 Tahun 2011 dan dijabarkan dalam PP No.14 2014 tentang Pengelolaan Zakat. Dua instrumen dasar hukum ini telah memperkuat system pengelolaan zakat, tertuang didalamnya dari proses pengumpulan, pengelolaan, pelaporan, pendistribusian dan audit atas dasar transparansi dan akuntabilitas yang tinggi. Fase sekarang adalah fase peralihan menuju kebangkitan zakat, dengan sinergi pemerintah, BAZNAS, BAZNAS Propinsi, BAZNAS Kabupaten/Kota dan LAZ.

Saat ini menurut Jahar (2010, 683) ada lebih 400-an lembaga zakat telah berdiri di Indonesia. Dalam perkembangannya, lembaga zakat, infaq dan wakaf berevolusi antara kesadaran keagamaan untuk menanggulangi masalah sosial secara temporer dan upaya untuk mengentaskan kemiskinan. Orientasi lembaga seperti ini baru pada tahap konformisme, yaitu ketaatan akan perintah Tuhan dan kecintaan pada manusia karena ajaran agama. Menurut data Departemen Agama Republik Indonesia, perkembangan pengelola zakat di Indonesia cukup pesat, tercatat sampai waktu itu jumlah Badan Amil Zakat Propinsi ada 32, Badan Amil Zakat Daerah ada 330 dan Lembaga Amil Zakat Nasional 18 lembaga (Depag RI, 2008, 69).

Menurut Aflah (2011, vii-ix), maraknya pertumbuhan organisasi pengelola zakat bisa jadi sebuah indikasi positif. Karena jika dilihat antara potensi zakat dan realisasi penghimpunan zakat di Indonesia masih terjadi *gap* yang sangat jauh. Potensi zakat yang ditengarai mencapai 100 triliun per tahun (Didin Hafidhuddin, 2010), baru terkumpul 1,3 triliun (data FOZ 2009). Artinya “kue” potensi zakat masih sangat besar dan belum tergalai optimal. Masih tersimpan kekuatan hebat zakat yang apabila terhimpun dengan baik, dapat membantu kemiskinan di Indonesia.

Jadual 1.1.

Jumlah Penghimpunan Dana Member Forum Zakat (FOZ) 2008-2012

TAHUN	PHP FOZ
2008	527,174,189,657
2009	635,805,554,921
2010	782,158,365,348
2011	844,294,122,482
2012	977,208,313,824

(Sumber : Laporan FOZ, Tahun 2012)

Dari tahun ke tahun, potensi zakat terus tumbuh. Saat bersamaan, penghimpunan atau donasi dari masyarakat juga terus meningkat seiring semakin baiknya organisasi pengelola zakat dalam mengelola organisasinya. Berikut adalah tabulasi data penghimpunan zakat oleh Badan Amil Zakat Nasional (BAZNAS) sampai tahun 2013 berdasarkan laporan keuangan yang telah diperiksa oleh konsultan independen atau Kantor Akuntan Publik.

Jadual 1.2

Penghimpunan Zakat Baznas 2009-2013

Tahun	Zakat	Total Ziswaf	Pertumbuhan
2009	19,371,179,661	26,377,107,112	
2010	23,661,022,281	33,125,920,075	26%
2011	32,986,949,797	49,076,832,691	48%
2012	40,387,972,149	59,904,014,645	22%
2013	50,741,735,215	70,188,122,558	17%

(Sumber: <http://pusat.baznas.go.id/laporan-bulanan/?category=13>)

Profil Risiko Lembaga Zakat

Kajian manajemen risiko memang tengah naik daun. Lembaga keuangan termasuk bank Syari'ah, setidaknya telah mengakui bahwa mereka harus memperhatikan cara-cara untuk memitigasi risiko agar bisa tetap mempertahankan daya saing, profitabilitas, dan loyalitas nasabah. Oleh karena itu bank-bank tengah berselancar pada penerapan manajemen risiko yang merupakan proses berkesinambungan serta memakan banyak pikiran, tenaga, dan uang.

Risiko di dalam konteks bisnis bank dan lembaga keuangan lainnya, tidaklah selalu mewakili sesuatu hal yang buruk. Kenyataannya risiko bisa mengandung di dalamnya suatu peluang yang sangat besar bagi mereka yang mampu mengelolanya dengan baik. Risiko dalam konteks perbankan merupakan suatu kejadian potensial baik yang dapat diperkirakan maupun yang tidak diperkirakan yang berdampak negative terhadap terhadap pendapatan dan permodalan bank. Dalam implementasi proses manajemen risiko, pada tahap awal bank harus secara tepat mengidentifikasi risiko dengan cara mengenal dan memahami seluruh risiko yang sudah ada

(*inherent risks*) maupun yang mungkin timbul dari suatu bisnis baru bank, termasuk risiko yang bersumber dari perusahaan terkait dan afiliasi lainnya.

Aspek terpenting dalam penerapan manajemen risiko adalah kecukupan prosedur dan metodologi pengelolaan risiko, sehingga kegiatan usaha bank tetap dapat terkendali (*manageable*) pada batas yang dapat diterima serta menguntungkan bank. Namun demikian mengingat perbedaan kondisi pasar struktur, ukuran serta kompleksitas usaha bank, tidak ada satu sistem manajemen risiko yang universal untuk seluruh bank, sehingga setiap bank harus membangun sistem manajemen risiko sesuai dengan fungsi dan organisasi manajemen risiko pada bank.

Lembaga zakat sebagai lembaga yang mengumpulkan dana dari masyarakat dan menyalurkannya pada mereka yang membutuhkan juga memiliki risiko. Sebagaimana bank, lembaga zakat juga harus mampu memitigasi risiko lembaganya agar tetap bisa survive dan terus dipercaya masyarakat. Beberapa waktu lalu berdasarkan hasil pertemuan tiga kali working group penyusunan “*Zakat Core Principles (ZCP)*”, risiko-risiko terkait dengan pengelolaan zakat yang telah teridentifikasi antara lain adalah risiko reputasi dan kehilangan muzaki, risiko penyaluran, risiko operasional dan risiko transfer zakat antar negara. Risiko-risiko tersebut perlu dikelola karena dapat memengaruhi kinerja lembaga pengelola zakat dan kepercayaan publik.

Secara sederhana, risiko dapat diartikan sebagai keadaan yang dapat menciptakan peluang terjadinya suatu ancaman yang dapat menimbulkan dampak negatif berupa kehilangan sesuatu yang berharga, seperti reputasi dan kepercayaan. Menurut Godfrey (1996), jika merujuk pada analisis atas probabilitas terjadinya risiko dan dampak yang ditimbulkan dari risiko tersebut, maka ada empat kemungkinan tingkat penerimaan risiko, yaitu : *unacceptable* (risiko yang tidak dapat diterima atau ditoleransi), *undesirable* (risiko yang sebaiknya dihindari), *acceptable* (risiko yang dapat diterima namun perlu dikelola), dan *negligible* (risiko yang dapat diabaikan karena tidak memiliki pengaruh signifikan).

Dengan keempat tingkat penerimaan risiko tersebut, maka lembaga zakat perlu melakukan identifikasi terkait dengan risiko apa saja yang mungkin muncul dalam aktivitas pengelolaan zakat, bagaimana dampaknya, dan bagaimana memitigasi risiko tersebut melalui tindakan dan langkah yang tepat dan efektif. Selama ini, manajemen risiko belum terlalu dikenal di dunia pengelolaan zakat. Padahal, ada banyak dampak negatif yang bisa ditimbulkan ketika terjadi suatu peristiwa yang sebenarnya bisa diantisipasi sebelumnya melalui penerapan manajemen risiko yang baik.

Sebagai contoh, dalam penyaluran zakat untuk program beasiswa, maka diantara risiko yang dapat terjadi adalah risiko keterlambatan proses pencairan dana beasiswa ke rekening mustahik. Padahal keterlambatan ini berpotensi menciptakan masalah, yaitu dikeluarkannya mustahik tersebut dari sekolah/ kampus tempatnya belajar. Jika ini terjadi, maka hal tersebut berpotensi

merusak nama baik lembaga zakat.

Untuk itu, diperlukan adanya tindakan mitigasi yang tepat. Misalnya, dengan cara menghubungi otoritas sekolah/kampus tempat belajar mustahik yang bersangkutan. Jika ini yang dilakukan, maka perlu diatur siapa petugas amil yang bertanggung jawab untuk menghubungi pihak sekolah/kampus dan menyampaikan informasi keterlambatan pencairan ini.

Contoh yang lain adalah risiko dari sisi penghimpunan zakat. Misalnya, risiko kurangnya informasi pengelolaan zakat yang dilakukan lembaga kepada para muzakki, padahal mereka telah berzakat secara rutin kepada lembaga. Implikasi yang dapat ditimbulkan adalah menurunnya tingkat kepercayaan muzakki kepada lembaga. Untuk itu, perlu dilakukan tindakan mitigasi yang tepat. Misalnya, dengan menyejajarkan laporan rutin pengelolaan zakat kepada muzakki secara langsung dengan disertai ucapan permohonan maaf atas keterlambatan penyampaian informasi ini. Hal tersebut harus dimasukkan ke dalam standar prosedur operasional lembaga.

Dengan dua contoh di atas, maka mengembangkan kajian mengenai manajemen risiko dalam pengelolaan zakat menjadi hal yang sangat penting. Dalam konteks inilah, Triyani, Beik dan Baga (2015) mencoba mengidentifikasi risiko-risiko yang mungkin terjadi pada pengelolaan zakat. Dari hasil kajian yang ada, ternyata ada 60 jenis risiko yang perlu dikelola dengan baik oleh organisasi pengelola zakat, baik BAZNAS maupun LAZ. Risiko-risiko tersebut terdiri atas 16 risiko pada aspek penghimpunan zakat, 26 risiko pada aspek pengelolaan zakat, dan 18 risiko pada penyaluran dan pendistribusian zakat. Tugas lembaga zakat selanjutnya adalah melakukan formulasi manajemen risiko ini melalui perumusan Peraturan lembaga agar setiap lembaga, termasuk LAZNAS dan BAZNAS daerah, dapat mengembangkan manajemen risiko ini dengan baik, sehingga peluang terjadinya hal-hal negatif yang dapat menghambat pembangunan zakat nasional dapat diminimalisir.

Kembali ke uraian zakat *Zakat Core Principle* (2015), pada dasarnya semua risiko lembaga zakat tadi bermuara pada 4 (empat) risiko utama lembaga pengelola zakat, yaitu : 1. Risiko Reputasi dan Kurangnya Kepercayaan Masyarakat ; 2. Risiko Penyaluran ; 3. Risiko Operasional dan Kepatuhan Syariah ; 4. Risiko Transfer antar Negara.

Adapun menurut Triyani, Beik dan Baga (2015): Analisis Manajemen Risiko Pengelolaan Zakat secara garis besar ada tiga kelompok risiko operasional pengelolaan zakat, antara lain : 1. Pengumpulan Dana Zakat (Dana zakat, Hambatan pengumpulan zakat, Tingkat kepercayaan) ; 2. Pengelolaan Dana Zakat (Penggunaan dana zakat yang tidak tepat, Waktu penyaluran/distribusi zakat, Lemahnya monitoring amil, Tingkat kepercayaan pada amil, Terhambat kebijakan pemerintah, Lemahnya pelayanan

amil) ; 3. Pendistribusian (Tingkat Kepercayaan pada Amil, Distribusi yang tidak tepat, Hambatan dalam pendistribusian zakat).

Penerapan manajemen risiko, bermanfaat kepada lembaga zakat karena bagi lembaga zakat diharapkan dapat meningkatkan kepercayaan yang akan berimplikasi pada naiknya penghimpunan sekaligus kepercayaan muzaki. Manajemen risiko ini juga dapat memberikan gambaran kepada pengelola zakat secara internal mengenai sejumlah kemungkinan kondisi lembaga zakat di masa datang, meningkatkan metode dan proses pengambilan keputusan yang sistematis didasarkan atas ketersediaan informasi, digunakan sebagai dasar pengukuran yang lebih akurat mengenai kinerja lembaga zakat, digunakan untuk menilai risiko yang melekat pada instrument atau kegiatan pengelolaan zakat yang dari hari ke hari kompleksitasnya meningkat serta menciptakan infrastruktur manajemen risiko yang kokoh dalam rangka meningkatkan performa lembaga zakat yang baik.

Bagi asosiasi lembaga zakat atau regulator pengelolaan zakat, penerapan manajemen risiko pengelolaan lembaga zakat akan mempermudah penilaian terhadap kemungkinan adanya penyimpangan pengelolaan yang dilakukan lembaga zakat, yang dapat mempengaruhi dunia zakat keseluruhan.

Agar dapat menerapkan manajemen risiko di lembaga zakat maka perlu diketahui jenis-jenis risiko yang dihadapi oleh lembaga zakat. Dibawah ini uraian singkat dari 4 (empat) jenis risiko Berdasar Kesepakatan dalam International Working Group on Zakat Core Principles (IWGZCP) : 1. Risiko reputasi dan kehilangan muzakki ; 2. Risiko penyaluran ; 3. Risiko operasional dan ; 4. Risiko transfer zakat antar Negara.

RISIKO REPUTASI DAN KEHILANGAN MUZAKI

Bila berbicara mengenai reputasi, maka hal ini merupakan faktor yang sangat penting karena akan menentukan tingkat kepercayaan publik, termasuk menentukan loyalitas muzakki dalam membayarkan kewajiban zakatnya. Karena itu, segala hal yang dapat menimbulkan impresi pada buruknya reputasi kelembagaan amil harus dapat diminimalisir. Sebagai contoh, manajemen penyaluran yang bersifat asal-asalan, apalagi dengan cara mengumpulkan mustahik untuk berbaris di lapangan mengantri pembagian uang, merupakan tindakan yang dapat menurunkan kredibilitas institusi lembaga zakat sehingga berpotensi merusak reputasi lembaga pengelola zakat.

Demikian pula dengan persoalan akuntabilitas dan transparansi keuangan. Ini menjadi isu yang sangat penting karena akan sangat mempengaruhi tingkat kepercayaan muzakki. Inilah esensi mengapa risiko reputasi dan kehilangan muzakki ini harus dikelola dengan baik. Institusi zakat juga harus memiliki prosedur mitigasi risiko jika terjadi hal-hal yang tidak diinginkan.

Risiko penyaluran

Risiko penyaluran Ini terkait dengan ketidaksesuaian antara rencana kerja penyaluran dengan realisasi di lapangan dikarenakan beragam faktor, baik yang bersifat internal maupun eksternal kelembagaan, maupun yang disengaja, tidak disengaja dan dalam keadaan terpaksa (*force majeure*).

Misalnya, pada program tahun ini telah direncanakan bahwa alokasi dana zakat untuk bantuan korban bencana alam adalah sebesar 10 persen dari total dana yang akan disalurkan. Ternyata muncul bencana yang tidak terprediksikan sebelumnya, sehingga angka 10 persen menjadi tidak cukup. Katakan yang diperlukan adalah 15 persen. Kekurangan 5 persen, jika tidak mampu diatasi dengan penghimpunan dana yang baru, maka harus diatasi dengan mengambil alokasi dana untuk program lain. Jika ini yang terjadi, maka akan menimbulkan masalah dengan mustahik program lain. Bagaimana memitigasi risiko ini, maka lembaga amil harus memiliki prosedur (SOP) antisipasi yang tepat dan efektif.

Risiko operasional

Risiko operasional ini terkait dengan kegiatan operasional kelembagaan amil. Misalnya, hilangnya sejumlah database karena belum baiknya administrasi pengarsipan dan penyimpanan file yang dimiliki institusi amil. Atau keterlambatan penyaluran dana zakat untuk program pemberdayaan mustahik karena prosedur yang berubah-ubah, maka hal ini berpotensi mengganggu kelancaran program lembaga secara keseluruhan. Karena itu, memiliki sistem pengadministrasian yang tepat dan prosedur penyaluran yang tepat dan tidak mudah berubah merupakan bagian dari upaya meminimalisir risiko operasional.

Risiko transfer zakat antar negara

Risiko yang dapat muncul antara lain apakah dana zakat yang diberikan oleh negara donor kepada negara penerima telah sesuai dengan perencanaan yang disepakati atau tidak. Perlu ada alat ukur sebagai kontrol untuk meminimalisir terjadinya penyalahgunaan dana zakat.

IMPLEMENTASI MANAJEMEN RISIKO DI LAZNAS IZI

Lembaga Amil Zakat Nasional Inisiatif Zakat Indonesia (IZI) adalah lembaga zakat baru yang secara historis dilahirkan oleh sebuah lembaga sosial yang sebelumnya telah dikenal cukup luas dan memiliki reputasi yang baik selama lebih dari 16 tahun dalam memelopori era baru gerakan filantropi Islam modern di Indonesia yaitu Yayasan Pos Keadilan Peduli Ummat (PKPU).

Dengan berbagai konsideran dan kajian mendalam, IZI dipisahkan (*spin-off*) dari organisasi induknya yang semula hanya berbentuk unit pengelola zakat setingkat departemen menjadi sebuah entitas baru yang mandiri berbentuk yayasan tepat pada Hari Pahlawan, 10 November 2014.

Alasan paling penting mengapa IZI dilahirkan adalah adanya tekad yang kuat untuk membangun lembaga pengelola zakat yang otentik. Dengan fokus dalam pengelolaan zakat serta donasi keagamaan lainnya diharapkan IZI dapat lebih sungguh-sungguh mendorong potensi besar zakat menjadi kekuatan real dan pilar kokoh penopang kemuliaan dan kesejahteraan ummat melalui *positioning* lembaga yang jelas, pelayanan yang prima, efektifitas program yang tinggi, proses bisnis yang efisien dan modern, serta 100% *shariah compliance* sesuai sasaran *ashnaf* dan *maqashid* (tujuan) syariah.

Tekad tersebut menemukan momentumnya dengan terbitnya regulasi baru pengelolaan zakat di tanah air melalui Undang-Undang Pengelolaan Zakat No 23 tahun 2011. Dengan merujuk kepada undang-undang tersebut dan peraturan pemerintah turunannya, Yayasan IZI kemudian menempuh proses yang harus dilalui dan melengkapi seluruh persyaratan yang telah ditetapkan untuk memperoleh izin operasional sebagai lembaga amil zakat. *Alhamdulillah*, setelah melalui proses yang panjang dan berliku, kira-kira 13 bulan setelah kelahirannya sebagai yayasan, pada tanggal 30 Desember 2015, IZI secara resmi memperoleh izin operasional sebagai Lembaga Amil Zakat skala nasional melalui surat keputusan Menteri Agama Republik Indonesia no. 423 tahun 2015. Tanggal tersebut menjadi momentum penting lainnya yang menandakan lahirnya Lembaga Amil Zakat Nasional (LAZNAS) IZI, sebagai penerus visi dan misi pengelolaan zakat yang telah dirintis oleh PKPU sebelumnya selama lebih dari 2 windu.

Sebagai lembaga zakat nasional IZI secara formal memperoleh legalitas dari Kementerian Agama Republik Indonesia pada tanggal 30 Desember 2015, dengan diterbitkannya KMA No 423 Tahun 2015 tentang Pemberian Izin kepada Yayasan Inisiatif Zakat Indonesia sebagai Lembaga Amil Zakat Nasional.

Adapun keputusan tersebut, diterima secara resmi pada tanggal 4 Januari 2016, praktis sejak itu lah IZI sebagai lembaga amil zakat nasional mulai berkiprah di dunia perzakatan di Indonesia. Walaupun kiprah IZI secara de jure dimulai awal Januari 2016, namun sejatinya, para pengelola dan pengurus yang terlibat di Yayasan IZI, sejak awal reformasi sudah terlibat aktif dalam mengelola dana zakat dan kemanusiaan.

Di jajaran Dewan Pembina Yayasan IZI, terdapat sosok drg. Hardiono, Sp.BM, beliau adalah salah satu tokoh yang membidani lahirnya lembaga kemanusiaan PKPU pada tahun 1999, di Dewan Pengawas terdapat Dr. Oni Syahroni, MA, tokoh da'i muda yang aktif diberbagai lembaga keislaman, Doktor Fiqh dengan disertasi summa cumlaude di Universitas Al Azhar Cairo ini juga seorang hafidz qur'an, beliau juga Anggota Dewan Syariah Nasional MUI, Direktur Pusat Studi Islam Wasathiyah, Dosen Fiqh Bisnis dan Keuangan Syariah Universitas Indonesia.

Sedangkan pengurus Yayasan PKPU, relatif adalah orang-orang muda yang sedang berada dalam pendakian menuju puncak performance di kehidupannya, Ketua Pengurus Yayasan IZI adalah Wildhan Dewayana, ST, M lulusan teknik penerbangan ITB dan Master Kepemimpinan Universitas Indonesia, sejak awal memang meniatkan dirinya untuk berkhidmat kepada ummat, Nana Sudiana aktivis muda perzakatan Indonesia di posisi sekretaris Yayasan, sedangkan di bendahara yayasan, dipercayakan kepada Suharyanto.

Sementara itu di jajaran Manajemen Laznas IZI, Direktur Utama Wildhan Dewayana, Direktur Edukasi dan Kemitraan Zakat Rully Barlian Thamrin, Direktur Pendayagunaan Nana Sudiana dan Direktur Operasional Suharyanto.

Walau IZI adalah lembaga zakat baru, namun sejak awal lembaga zakat ini bertekad untuk memenuhi sejumlah kepatuhan dan prasyarat organisasi yang baik dan unggul serta transparan. Dibawah ini diuraikan secara singkat gambaran lembaga ini dalam melakukan implementasi manajemen risiko lembaga pengelola zakat.

Pertama, implementasi risiko reputasi dan kehilangan muzaki

Dalam konteks menjaga reputasi, IZI sejak awal dalam struktur organisasinya memutuskan memiliki Dewan Pengawas Syariah (DPS). Bukan hanya itu, dibawah DPS ini dibentuk lagi struktur baru yang bernama Biro Kepatuhan Syariah (BKS) yang focus kerjanya mengawal secara regular seluruh keputusan DPS yang telah dibuat. BKS ini menjadi garda depan seluruh keputusan strategis lembaga IZI, baik yang bersifat ke dalam maupun ke luar.

Biro ini juga membuat Panduan Kepatuhan Syariah yang telah diputuskan DPS dan BKS dan akan diberlakukan pada seluruh unit dan struktur yang ada di lembaga IZI. Selain adanya dokumen Kepatuhan Syariah, BKS ini juga mempersiapkan proses audit syariah serta melakukan audit internal untuk lembaga IZI. Audit ini bukan hanya menilai aktivitas unit-unit yang ada, juga memastikan tidak ada temuan yang akan berpeluang mengurangi bahkan berdampak buruk bagi reputasi IZI di mata masyarakat.

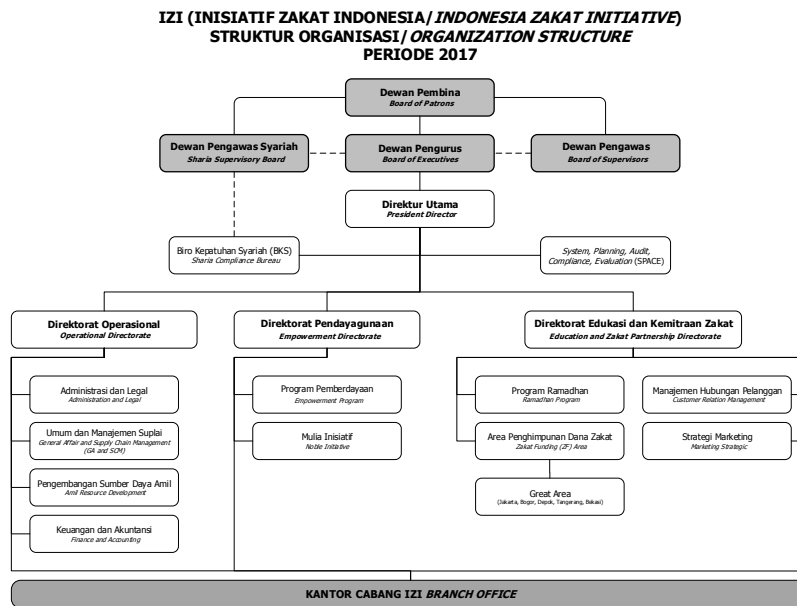
Saat yang sama, seluruh unit merasakan dampak positif dari kebijakan ini, karena mereka memiliki ketenangan dalam bekerja karena apa yang dikerjakan sudah dipastikan DPS sesuai dengan nilai-nilai *good governance* sekaligus sesuai dengan syariah.

Reputasi yang ingin dibangun IZI bukan semata reputasi dihadapan manusia (public) namun dihadapan Allah Yang Maha Kuasa. Bahwa bekerja sebagai bagian amil zakat adalah sebuah pekerjaan mulia dan perasaan ini dikukuhkan dengan rujukan yang jelas akan syariah yang menjadi dasar aktivitas IZI.

BKS tidak hanya akan bicara fikih zakat atau hal-hal lain yang berhubungan dengan pengelolaan

zakat, namun juga menjadi *sibghah* lembaga bagi dipatuhinya akhlak dan perilaku pegawai dan aktivitasnya atas dasar syariah. Pengawasan ini uniknya, bahkan dimulai sejak adanya atau akan diterbitkannya produk baru atau kebijakan baru apapun di setiap unit yang ada di IZI.

Muzaki, mustahik serta publik dengan demikian merasa terjamin bahwa lembaga IZI benar-benar memiliki kesungguhan akan kesesuaian dengan aturan yang ada, termasuk dengan nilai-nilai syariah. Dalam hal hubungan dengan penghimpunan maupun penyalurannya, BKS sejak awal telah pula membuat rambu-rambu untuk aktivitas SDM di IZI maupun unit kerja yang ada di dalamnya. Semua dipastikan merujuk pada kebijakan kepatuhan yang ada dan dengan rutin pula Tim BKS melakukan audit syariah ini secara berkala.



Kedua, Risiko Penyaluran

Risiko penyaluran di IZI dimitigasi selain dengan telah adanya rambu-rambu dan ketentuan syariah, juga dengan mulai diterapkannya *dashboard* pengawasan program untuk setiap program penyaluran yang sedang dan masih berjalan. Dengan pembuatan system IT Base yang akurat, sejumlah program akan termonitor sekaligus detail perkembangannya juga akan diketahui secara berkala. Ini bukan hanya di pusat namun juga untuk penyaluran program di seluruh cabang dan jejaring yang ada.

Rencana program penyaluran juga sejak di RKAT telah disusun berdasar jenis program dan ashnaf penerima zakat sehingga ketika program berjalan, pihak pengelola program, yakni bidang Pendayagunaan bisa dengan pasti merujuk pada rencana program, termasuk pada rencana ashnaf yang telah ditetapkan.

Setiap program juga telah dibuat dan ditetapkan Standart Operational prosedur (SOP) masing-masing sehingga sejak awal akan mudah dilakukan dan memiliki standar layanan dan kualitas

yang sama, baik di pusat maupun di seluruh cabang yang ada di IZI. Harapannya tidak ada masalah dalam penyaluran serta mampu menjangkau mustahik dengan baik serta program ini mampu dilakukan secara tepat dan efektif.

Ketiga, Risiko Operasional

Risiko operasional di IZI mulai dimitigasi dengan penggunaan *IT Base*. Sejumlah pekerjaan tidak lagi manual dan butuh proses yang panjang. Untuk internal lembaga prosesnya sudah paperless dan cepat, bahkan bisa juga menggunakan smart phone yang telah menjadi standar yang digunakan seluruh pegawai IZI. Hal-hal seperti *database*, administrasi pengarsipan dan penyimpanan file yang dimiliki sudah berbasis IT. Termasuk dalam proses penyaluran dana zakat untuk program pemberdayaan mustahik dibuat lebih singkat dan cepat, sehingga petugas pelaksana tidak butuh waktu lama.

Prosedur dan waktu yang dibutuhkan untuk proses internal maupun eksternal juga telah ditetapkan dan juga diumumkan sejak awal, sehingga ada kepastian waktu dan kejelasan prosesnya.

Keempat, Risiko transfer zakat antar negara

Risiko ini bagi IZI belum terasa, karena selain baru lembaganya. IZI juga belum memiliki jejaring ke luar negeri secara signifikan. Ke depan bisa jadi, seiring meluasnya jejaring, IZI juga akan memitigasi aspek risiko ini.

PENUTUP

Dari paparan di atas dapat diambil kesimpulan sebagai berikut:

1. Kapasitas manajemen risiko yang efisien adalah bagaimana lembaga zakat mampu menempatkan posisi secara strategis dalam dinamika gerakan filantropi Islam dengan mereduksi semua risiko. Tidak adanya sistem manajemen risiko yang sehat dan kuat dapat mengurangi tingkat kepercayaan masyarakat sehingga bisa berdampak pada menurunnya tingkat partisipasi masyarakat pada lembaga zakat.
2. Sumber daya yang memadai perlu disiapkan lembaga zakat untuk melakukan identifikasi risiko serta pengembangan teknik-teknik manajemen risiko. Dalam hal ini, teknik manajemen risiko perbankan bisa diadopsi lembaga zakat.
3. Implementasi Manajemen Risiko di Laznas IZI sudah mengarah dan sesuai mitigasi manajemen risiko pada lembaga zakat. Hal ini setidaknya IZI memiliki kemampuan untuk mengidentifikasi risiko dan mempersiapkan seluruh kemungkinan risiko ini dengan menyiapkan sejumlah hal sebagai bentuk mitigasinya.
4. Lembaga zakat lain, setidaknya bisa sharring dengan IZI bila akan melakukan hal yang sama, sekaligus juga untuk saling belajar meningkatkan mitigasi risiko lembaga zakat agar bisa terus diperbaiki dan ditingkatkan.

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