



Cash *Waqf*: Historical Evolution, Nature and Role as an Alternative to *Riba*-Based Financing for the Grass Root

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Abstract

It is a settled matter among the Muslim jurists that *riba* in its any form is prohibited. It is so due to the exploitation and injustice associated with *riba*-based loans. To overcome the resulting hardship of non-availability of easy loans, sustainable alternatives are provided under the Shariah to enhance mutual dealings and promote commercial transactions. This paper sets to explore the Islamic heritage of cash *waqf* as alternative to *riba* based financing, the nature and its potentials in assisting the grass root in the society. This is because entrepreneurship which could be one of the key solutions to the growing poverty in the world, availability of cash is a prerequisite to making its wide practice a possibility. It is undisputable that the poor are unbankable and so they are denied access to commercial loans. This research contends that cash *waqf* could serve as a solution to this problem, by investigating the historical evolution and identifying the challenges that could stand against its development through lessons from the past. The paper finds that cash *waqf* is capable of promoting entrepreneurship in the world with interest free loans from the cash *waqf* institutions, making the poor self reliant and dignified.

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1. Introduction

The growing poverty in the world, specifically the third world nation is mainly accentuated by the absence of credit to the grass-root of the society. They have no access to loan because the bank sees them as unbankable. This had led to the introduction of micro finance banks, and yet how to reduce poverty remains one of the biggest problems the world is facing today. Therefore, Cash *waqf* as a money-based type of *waqf* is capable of assisting the grass-root in securing interest free loan for small businesses, and also, subject to the purview of the *mutawalli* some of the grass-roots may also get no-refund financial assistance to start up a business.

The former Ottoman Empire successfully practiced cash *waqf* for a very long period and the positive impact in the alleviation of the poverty was felt. So also the city of Fes, Morocco, practiced cash *waqf* for lending and borrowing without additional premium to the principal during repayment. At present, many countries have proven this capability of cash *waqf* to be a vibrant alternative to interest bearing loan. In the Middle East for example, countries like Kuwait, Oman, UAE, and Saudi Arabia have been practicing cash *waqf* over a relatively long time and the practice has stood the test of time.

In Asia, cash *waqf* has also gained acceptance. For example the Malaysian National Fatwa Council passed the fatwa that permits cash *waqf* in 2007 (YayasanWaqaf Malaysia, 5, July, 2014). In addition, Amir et.al. (2010) in Ibrahim et.al. (2013) said that, the huge cash *waqf* fund collected by the Selangor State Religious Council (SSRC) gives numerous advantages in developing the Islamic economy, loans in financing small and medium industry business, settling of debts, such as houses, investment in property for the Muslims as property will be rented to generate profits.

According to Ali (2009), economic activities cannot be translated into material benefit without mutual cooperation and empathy for our fellow mankind. He observes that the institution of *waqf* is one of the divine alternatives that seek to build a sustainable bridge across this gap. Allah SWT says in the Holy Quran:

“...but *Al-birr* (righteousness) is one who believes in Allah and the last day and the Angels, And the Books, And The messengers; To spend of your substance out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the ransom slaves, to be steadfast in prayer, And give Zakat...” (Quran2:177).

Imam Al-Qurtubi (1964) said in his *Al-Jamiu Li Ahkam Al-Quran* with respect to this verse that, ‘*Al-birr*’ is a name that encompasses all types of righteousness. He continues, some scholars of *tafseer* hold that this verse was revealed after the Prophet (S.A.W) migrated to Madina and all the obligatory acts have been spelt out, and so the verse was revealed in order to alert the Muslims that righteousness is not limited to *Salat* (prayers) and other obligatory acts of Islam, but it extends to doing voluntary act. From this perspective *waqf* is a voluntary act that is encouraged by the verse, covertly or overtly. More importantly, one will notice that this verse has stated that righteousness is not complete and followed by mentioning the complement. Also, the verse mentioned voluntary giving out of one’s property out of love for Allah and at the same time mentioned zakat. This means that giving zakat is not enough to fulfill the rituality in sharing one’s wealth with others, but voluntary giving must also be considered (Imam Al-Qurtubi, 1964). This necessitates on Muslims to cooperate in building up *waqf* apart from the zakat in order to heed to the divine call for inter-personal assistance.

The importance of being empathetic with the grass-roots manifests more when observing that, poverty alleviation was among the first activities of Prophet Muhammad (S.A.W) upon his migration to Madinah. And in this period there occurred a popular episode from one his companion called Abdul Rahman Ibn Auf who was offered free wealth but he politely rejected and chose to be an entrepreneur by enquiring about the location of the market place. Within a short period of being doing business he became successful and got married without seeking for external financial assistance. This supports the fact source of credit is the problem facing the grass-roots.

So also, Allah SWT has mentioned the importance of doing business in many verses of the Holy Quran, most emphatic of which is the enjoining on going about the earth to look for sustenance of Allah. This is even after the Friday prayers.

“then when the (*Jumuat*) *salat* is ended, you may disperse through the land, and seek the bounty of Allah (by working), and remember Allah much, that you may be successful” (Quran 62: 10).

This verse and many others in the Holy Quran have emphatically enjoined on doing business. But it is clear that doing business is not possible without credit. Also, the Holy Prophet’s (S.A.W) first wife Khadijah, was a popular and successful business woman.

It is against this back ground this paper sets to discuss the historical perspective of cash *waqf*, its viability as alternative to *riba*-based financing for the grass-roots and the nature of its operation based on the Maliki School and Zafar of the Hanafi School’s mode of implementation. This is because one of the fundamental problems of the grass-roots today is lack of access to capital. It is a well-established fact that government cannot be the sole employer of its citizenry. This inability of the government to absorb all able-bodied member of the workforce has left many without jobs and further resulting in increasing poverty. Therefore, with the institution of *waqf* in general, as a religious philanthropic institution, and cash *waqf* in particular which is more flexible for financing entrepreneurs on interest free loan is viable of assisting the grass-roots.

This institution of *waqf* has been used by the defunct Ottoman Empire in providing revolving loans for people who want to get involved into business. However, contrary to Islamic prescriptions, they used to charge interest on money borrowed, a development that met strong criticisms from the scholars of that era. For this reason, this paper will discuss the ideal nature and the Shariah compliant method of managing a cash *waqf* without tainting it with *riba*.

The objectives of this paper are as follows:

1. To argue that cash *waqf* should not only serve as alternative to interest based financing to the grass-roots, but also financing based on ‘return-only the principal’ without any profit and loss sharing agreement between the cash *waqf* and the grass-roots.
2. To argue that rather than engaging the grass-roots in profit and loss (PLS) sharing agreement with the cash *waqf* institutions, the fund of the cash *waqf* should be managed for profit generation through engagement of the funds with other high net worth business men or direct involvement of the *mutawalli* in lawful investments like shares and *sukuks*.

2. Definition of Cash Waqf

Al-Tasuli in his commentary of Tuhfat al-Hukkam, defined the meaning of cash *waqf* in the Maliki School, “as the process of dedicating cash as *waqf* for the purpose of lending it to those designated as the beneficiaries without interest” (Al-Tasuli, 1998, v.2, p:369). Also, Zufar Ibn Al-Huzail (110AH-158AH) of the Hanafi School defined it “as the process of dedicating cash as *waqf* and investment of same so that the profits are used for the *waqf*'s stipulated charitable deeds” (IbnNujaym, n.d, v. 5, p: 219). In the same vein, Cizacka (2004) defines cash *waqf* as “a charitable endowment established with cash capital”. Mohsin (2009) defined cash *waqf* as “the confinement of an amount of money from founder and dedication of its usufruct according to founder’s condition, in perpetuity to the welfare of the society”.

Al-Tasuli’s definition explains the objective of cash *waqf*, which is administering of a revolving loan without interest. The defect of the definition is that it did not touch on the method of making the fund sustainable; as only lending without investing the fund makes it prone to credit risk that would be further aggravated by default payment and so, the fund would crunch. However, the definition is a sample of one of the primary objectives of cash *waqf*. That is lending of money by the cash *waqf* institution to the poor beneficiaries without engaging them in *mudarabah* agreement with the cash *waqf* institution. This is what the above Zufar’s definition clarifies by saying that the cash is invested “so that the profits are used for the *waqf*'s stipulated charitable deeds”. These two classical definitions complement each other to inform the exact nature of cash *waqf*. The two definitions though, do not expressly prevent establishment of *mudarabah-mudarib*'s relationship between the cash *waqf* and the poor beneficiary, but it is inferred that they have impliedly prevented it.

Zufar’s definition provides for the sustainability of cash *waqf* fund management that will allow it to give loan without PLS agreement. The above second ambit of Zufar’s definition refers to a third party, as the *mudarib*, which is not the stipulated beneficiary. It is the profit realized through the *mudarabah* between the cash *waqf* institution and the *mudarib* that will be given out as loan to the grass-roots to do business. Therefore an Ideal cash *waqf* must be practiced in this form if cash *waqf* must remain devotional without becoming microfinance bank over a time. This is because *mudarabah-mudarib*'s relationship in cash *waqf* will create more liabilities to the grass-roots. But interest free business loan to transact business and without PLS agreement between the grass-root and the cash *waqf* management will make it easy for him to repay the loan. This is so because from Islamic point of view, proven negligence or misconduct in the loss of capital of the *mudarabah* will obliges repayment, but unproven one will set him free from repayment liability.

But lending without *mudarabah*, which only carries the obligation to repay only the capital will not discharge the borrower from the liability to repay the loan. This is the sharia ruling, whether the money got lost due to negligence or without negligence, except the lender opts to forgo his right at his own volition.

Furthermore, the classical scholars whose *fatwa* is unambiguously in permitting use of cash as *waqf*, starting from Imam Malik to Zufar did not mean PLS contract between the cash *waqf* and the beneficiaries. This is evidenced in Imam Malik’s *Al-Mudawwanah*, where he was asked of a man who gave 100 gold dinar as *hubs* (a synonymous word to *waqf*) to another man for one or two years term so that the latter will trade in it and the money eventually became less than the exact amount, he replied that the beneficiary loanee was liable for repayment (Malik, 1994, *Al-Mudawwanah*, 4:452). It could be observed that he did not attach any other liability; profit of a *mudharabah* whatsoever.

In the same vein Zufar has argued further that, the same principle of carrying out investment will apply in a situation where a *waqif* gives measurable or weighable items as *waqf*- e.g food stuff-, *these will be sold for cash and the proceeds will be used for mudharabah so that the profits are used for the stipulated charity of the waqf*. He also held that in the case of seedlings given as *waqf* for the peasants to cultivate they will return the equivalent after maturity of the crops (IbnNujaym, n.d, v. 5, p: 219). One will understand from this that in the two cases he did not stipulate entering into *mudharabah* with a beneficiary or engagement into *muzara’ah* (crop sharing) contract agreement between the *mutawalli* and the peasant farmer respectively. Rather they are only liable to return the exact amount or quantity of seedlings they borrowed.

Mohsin’s definition also is not different from the intent of the classical scholars in cash *waqf*. She has used the word “dedication of its usufruct according to founder’s condition”. To have a usufruct of cash there must be investment and the usufruct is the profits that are generated from the original fund. This makes her

definition nearer to those of the classical scholar that emphasized on conducting *mudharabah* with the fund and using the profits to do charitable works. Though she was not specific on this point, but it is inferred. Cizakca's definition had used the word 'capital'. This makes the definition clear that it supports the supply of credit by cash *waqf* and the profit realized will be used for charity. However whether all the borrowers will be under PLS contract or some borrowers are actually under PLS while others are not is something that is not clear. Anyway all the four definitions all support supply of credit to the benefiting borrowers without PLS, but it also not possible to deny that Cizakca's definition supports involving the borrowers in PLS with the cash *waqf*. This is well understood from his article posted to Muslim Heritage Web site* on Ottoman cash *waqf* are good proofs that the definition supports engaging the beneficiaries with PLS as against the argument of this paper.

In line with the forgoing, the researcher further argues that the speculation that if the loanees are not obliged to enter into PLS they will be less serious or the cash *waqf* funds will crunch is a frivolous argument. This is rebutted by situation of business of self-owner of capital. He works to generate profit, knowing that if he did not put effort his capital and profit may crunch and loss his social responsibility to his household. Also, these speculations are avertable through constant monitoring of the grass-root business activities and by imposing on him a compulsory savings scheme with the cash *waqf* till he completely offset the actual loan he borrowed. On the part of crunching of the funds, this is refuted by the *mutawalli's* constant investment of the funds in healthy businesses like appreciating shares and *sukuks*.

To close the argument, involving the beneficiaries as PLS partners to the cash *waqf* institutions will equate the activities of cash *waqf* to those of Islamic Micro finance, few of which have been successful and the stories of their conventional counterparts which have been said to increase poverty instead of reducing it are not hidden (Leikem, 2012, p:34).

3. Historical Background of Cash *waqf*

Development of cash *waqf* can be traced back to the era of the *Sahabah*, when Sayyidatunah Hafsa (may Allah be pleased with her) who is one of the Holy Prophet's (S.A.W) wives had bought some jewelries at the price of 20 thousand dirham, which she dedicated as *waqf* for the women of al-Khattab family lineage (Ibn Qudamah, n.d.). Although this were jewelries and not cash, but it is a sound authority to mark what evolved to cash *waqf* because in the era of the *sahabah* to the time of Malik who first permits cash *waqf*, cash and jewelries were from the same source, which is either gold or silver.

In the same vein, the use of cash as *waqf* is found in the writings of the four schools of thoughts, with Imam Malik Ibn Anas (93-179AH) being the first Imam that allowed cash *waqf* in unambiguous term. This is mentioned in "*al-Mudawwanah*" under the chapter of *ariyatu dananir wa darahim* (lending of gold dinar and silver coins) and it is clearly stated as the *modus operandi* that the cash is lent to people as a revolving loan (Imam Malik, n.d,v.4, p: 452). This further strengthens the argument of the researcher that the grass-roots should benefit from cash *waqf* without obligation to refund more than what they borrowed, neither by interest nor by PLS.

Zufar Ibn al-Huzail (110-158AH), one of the companions of Abu Hanifah and notable scholar of the Hanafi School of thought is the second jurist after Imam Malik, who also unequivocally passed *fatwa* that permits cash *waqf*. He explained the feasibility of cash as asset that constitutes a *waqf* by explaining that the cash is invested in *mudharabah* (sleeping partnership) and the profit is used to deliver charity works for the beneficiaries (IbnNujaym, 1997, v.5, p: 338-9). This is a clear-cut explanation of the format of a cash *waqf*. It mandates the *mutawalli* to manage the funds efficiently and use the profit to do the charity and also prevent him from using the original fund.

It is further argued by the Hanafi School that Zufar was not the first Hanafi Jurist to argue in favour of validity of cash *waqf*, but the validity was already granted by Muhammad, who was another companion of Abu Hanifa, who set a general standard for identifying type of property that should qualify for *waqf*. He said so long is "a common practice of the people." Therefore, Muhammad has already said that any moveable property is eligible for *waqf* provided it has become the "common practice of the people" to use it as *waqf*

*<<http://muslimheritage.com/article/ottoman-cash-waqfs-revisited-case-bursa-1555-1823>> Date accessed, 2, July, 2014.

(IbnNujaym, 1997, v.5, p: 338-9). To buttress this common practice they cited the practice of Romans in using cash as *waqf*, evidencing the possibility and affirming the principle laid down by Muhammad. Therefore, Muhammad preceded Zufar in allowing cash as assets of *waqf* (IbnAbidin, 2000, v.13, p: 450). The researcher however agrees that Zufar's championship in allowing cash as *waqf* in the Hanafi School is based on an express statement, specific and not a general statement as made by Muhammad. In the same vein the Shafie School also held that cash *waqf* is permissible (Nawawi, n.d.). So also, one finds the Hanbali School had contended the possibility of cash *waqf* and some of them analytically gave weight to its permissibility (IbnQudamah,n.d, v.6, p: 262).

After the two eras of Malik and Zufar, the practice of cash *waqf* was revived in Fes in Morocco and by the Ottoman Empire (1301-1922CE). Cizacka (2004) concluded through his research on the Bursa Cash *waqf* under Ottoman Empire between 1555-1823 that, some 19 % of the cash *waqf* in the Empire survived for more than a century (Cizacka, 2004, p: 6). He unequivocally mentioned that he used a period of 100 years as a yardstick for the perpetuity test and the above percentage was the result. This means that if the yardstick of 100 years was reduced lower the percentage could have been more than that. In the city of Fes, al-Dasuqi reported from al-Bulaydiyyi (1683- 1763 CE) in his *Hashiyah* that in the towns of Fes, Morocco, there was 1000 *Uqiyyah* (one *uqiyyah* is equivalent to 40 *dirhah*) of gold dedicated as *waqf* for lending as a revolving loan and they used to return copper in place of the money they collected, consequently the *waqf* became perished (al-Dasuqi, n.d).

Based on the date of birth and death of al-Bulaydiyyi who reported this cash *waqf* event in the city of Fes, it means that the practice was between the 17th and 18th centuries where that of Ottoman Empire started in the 16th century to the 19th century. This means that the revival of cash *waqf* started earlier in the Ottoman and lasted longer than it started and lasted in Fes. After the collapse of the Ottoman Empire there is no record of any practice of cash *waqf* as all the contemporary researchers on this area do not make reference except to the Ottoman cash *waqf*.

At the contemporary time, cash *waqf* got reawakened innovative developments; by using *waqf* shares to collect the donation or direct deposit to bank account of the cash *waqf*. The reawakening with these modes of payment are best traced to the year 1999 in the Sultanate of Oman and the State of Kuwait, and later UAE in 2001. These countries made innovation into cash *waqf* by collecting *waqf* donation through shares issued – not company shares that are traded at stock exchanges- and sold to the members of the public, whereby the proceeds of the shares are invested and the returns are distributed to the designated beneficiaries (Qutb al-Arabi, 2013).

After this development in the above named countries, practices of cash *waqf* spread to the whole Muslim world today. For example in Malaysia, in 2007 the National Fatwa council passed fatwa that permits cash *waqf*. This further evidences the beginning of the reawakening in the Middle East which started as early as late 19th and 20th centuries (Qutb al-Arabi, 2013).

It worth noting however, that some *waqf* laws in the world had since the time of their enactment recognized the donation to *waqf* but the practice was not developed until recent time. For example in Malaysia, Mahmood (2007) in Osman, et al., (2012) maintained that Perak State religious council has since 1959 included cash *waqf* in their *waqf* enactment rules 18 (2) of *waqf* Regulation Control 1959. The rule states that “the state control of wakaf committee may receive from anyone wishing to donate money for the general benefit of Muslim Religious purposes who shall sign a form kept for the purpose.” And sections 57 and 58 of the Singaporean Administration of Muslim law enactment 1968 also, has since that time included donation of money to the *waqf* institution.

5. Parties to a Cash Waqf

Based on modality of managing cash *waqf* the author posits that there are four parties in a cash *waqf*, namely:

1. the *waqifun* (donors), who intend to get rewarded by Allah by offering part of their hard-earned income as assistance to the poor through the cash *waqf* institution,
2. the management (*mutawallis*) of the cash *waqf* institution,
3. The cash *waqf*'s investees, who the *mutawallis* invest the fund with for the purpose of generating profit to help the poor.

4. The designated beneficiaries, in most cases, the grass-root of the society (M.A Mannan, 2011). Based on the Maliki view these segment get a revolving loan, while based on Zufar's view they get assisted from the profits generated from the investment of cash *waqf*. The two views are not contradicting each other because Zufar marinated that the charity would be defrayed from the profits of the *mudharabah* which also concise with the charity that is embedded in the revolving loan mentioned by the Maliki School.

This division is based on the aforementioned objective of this research; that in cash *waqf* the grass-root must only be given loan without engaging them in PLS venture with the cash *waqf* institution, thereby expecting a specific percentage of return from them. But the *mutawalli* of the cash *waqf* must get involved in actual investment of the cash *waqf* funds to generate income from which interest free loan is offered to the grass-roots to do business. This is the classical jurists' understanding of cash *waqf* as attributed above to Maliki School and Zufar.

Against this view, it becomes mandatory for *mutawallis* to be acquainted with the knowledge of modern investment strategies and risk management techniques. The optimum result of all these is the actualization of the primary aim of cash *waqf*; ability to offer interest free revolving loans to the grass-roots for entrepreneurship in accordance with the Maliki School or absolute financial assistance on no-repayment basis, as held by Zufar.

It is worth mentioning that the perpetuity status of cash *waqf* in Fes, Morocco failed the test of time and the fund got perished because there was no investment outlet to increase the fund and protect it against consequences of default payment. Conversely, the perpetuity was retained resiliently and stood the test of time during the defunct Ottoman Empire for the sole reason that there was continuous investment of the cash and profits were being realized. Although some of the investments were not conforming to the Shariah but that is not the focus of this paper.

6. Why Cash *Waqf*?

In the Encyclopedia of Small Business, Hillstrom et al (2002, p: 304), observe that,

“a small business that employs debt financing accepts a direct obligation to repay the funds within a certain period of time. The interest rate charged on the borrowed funds reflects the level of risk that lender undertakes, by providing the money. For example, a lender might charge a start-up company a higher interest rate than a company that had shown a profit for several years.”

The above quote, though is on interest based lending to the grass-root, but further supports the argument of this paper that the grass-root be given an interest free loan on one hand, and without PLS agreement between them and the cash *waqf* institution on the other hand.

Further, part of the message carried by the above quotation is that it is difficult for the grass-root to make formidable profits that will enable them to easily and rapidly grow if they are under PLS agreement. The quotation further sheds the light that it is difficult for the grassroots to grow in their businesses if they borrow interest bearing loan and consequently become obliged to repay the principal and the interest charged. This is because business failure is due to many factors, which may not even come from the loanee's misconduct or negligence, and some may be as a result of destiny, while others may be delinquency risk and inflation. Therefore, cash *waqf* becomes the most appropriate source of financing for the grass-roots in the society based on its mode of operation supported by this research. This is because this mode will not place repayment obligation other than the capital on the grass-root.

7. Modus Operandi of Cash *Waqf* Management

As mentioned earlier in the definitions, The Maliki School of thought had averred that the method of using cash as *waqf* is to engage the cash in lending to others as a revolving loan, without any interest, arguing that in this way the perpetuity nature of *waqf* is retained. In essence, the refunded amount will be reallocated to other prospective borrowers. Shedding light on the modus operandi, Zufar in his definition explained that

cash *waqf* involves management of the cash donated as the *waqf* through *mudharabah*, and the profit is used to assist the beneficiaries while the capital that represents the fund is retained for continuous investment.

Borrowing from the Ottoman Cash *Waqf* practice, Toraman et.al. (nd, p:7) in their research on cash *waqf* state that, register of typical cash *waqf* from 18th century contains the following information:

1. The name of the *Waqf* and the purpose for which it was established,
2. The name of the mahalle (group of houses in a distinct neighbourhood); district, in which the endowment was registered,
3. The name of the trustee (the mutawalli),
4. The time period covered by the census,
5. Original capital of the *Waqf*,
6. Later additions to the capital of the *Waqf* either by individuals or by other *Awqaf*,
7. The balance of the new capital thus formed,
8. The return obtained from the investment of the endowed capital at the end of the year.
9. The purpose for which the annual return was designated,
10. The names of the borrowers,
11. The amount of capital they borrowed,
12. The mahalle where the borrowers lived,
13. The religious denomination of the borrowers and,
14. Their gender.

What should be added to the above details is the type of business and the business office address of the beneficiaries. These details will facilitate the cash *waqf* mutawalli's administrative, managerial and monitoring processes on the activities of the benefiting grass-roots with regards to the money lent to them.

Cizacka (2004) mentioned that the Ottoman cash *waqf* used to generate income through lending the cash and charging of interest of about 10 to 12 per cent on it. Profit through *murabahah*, secondary market was created by the *mutawallis* (the trustees of *waqf*), who used to borrow fund from the cash *waqfs* they were entrusted and in turn re-lend the amount to money exchanger in Bursa at a higher rate. In doing this they enjoyed the difference between the interest rate of cash *waqf* institutions and the money exchanger borrowing rate as profit.

It is important to note anyway, that the practice of charging interest on money lent, whether from cash *waqf* or otherwise is one of the greatest sins in the eyes of the religion of Islam. However the Ottoman cash *waqf* charging of interest was approved by the *fatwa* passed by Ebusuud Efendi between 1545 and 1574 C.E, who ruled that it was permissible for the *waqf* to lend money on interest due to necessity (El-Gamal, 2003). This *fatwa*, however, was vehemently opposed by his contemporary scholars, who voiced out that interest charged on any loan falls within the ambit of the interest prohibited by the Shariah (Cizacka, 2004).

At the Contemporary time, many cash *waqf* institutions generate income from investment in real estates, apparently deviating from the mistakes made by their predecessor, The Ottoman Empire. For example, The Omani Ministry of *Awqaf* and Religious affairs issues cash *waqf* shares at 3 Omani Riyals per unit share, sell them to the donors, and the Ministry itself invests these shares and distributes the profits to the areas designated as the beneficiaries. These areas have been named as building of Mosques, funding of memorization of the Glorious Quran, provision of residential buildings for poor families, catering for the widows, orphans, divorcees, provision of food for breaking of fast and advancement of *qardh al-hasan* (benevolent loan) (Qutb al-Arabi, 2014).

The management of cash *waqf* funds through investment into real estate is common among most cash *waqf* institutions in the world. To mention few but not limited to, Emirate of Shariqah (Sharjah *Awqaf* General Secretariat, n. d); Kuwait (Qutb al-Arabi, 2014); charitable society of women in Dammam, Saudi Arabia (Qutb al-Arabi, 2014); Singapore (Kamsari, 2009; Shamsiah Abdul Karim, n.d).

All the jurisdictions mentioned above represent the ideal manner a cash *waqf* is practiced and in consonance with the objective of this research. They invest the funds and use the profit to defray the charitable activities that covers *qard-hasan* and other financial assistance. This framework while conforming to the earlier jurists' envisioned system of cash *waqf*, it also supports the argument of this paper that the beneficiaries are poor grass-root and so should not be involved in PLS with the cash *waqf* institution, but a mere refundable loan without any obligation to pay premium to the actual amount borrowed. And in the

opinion of the researcher this framework will speed up the financial stability of the grass-roots and accordingly they will rise from poverty level to the level of self-reliant people. Also, the beneficiary grass-roots will become potential zakat payers, ultimately contributing to the financing of another grass-root. The potential payment of zakat has covered the expected PLS returns.

8. Advantages of Cash *Waqf*

Some of the advantages of cash *waqf* are as follows,

1. Wider public participation. Due to the low denomination of *waqf* shares for example, almost everybody, both the affluent and poor are able to donate amount of *waqf* share. This is even easy to donate if the *waqf* shares are structured on varying negligible amounts, according to the level of incomes of the people in a given society.
2. Effective Instrument in Poverty Alleviation. Farhat binti Saifuddin et al (2014) maintained that cash *waqf* has been identified as one of prospectively effective instrument in poverty alleviation. The effectiveness is based on the first point, wider public participation in the fund raising process, and good management and administration.
3. Flexibility of fund raising and investment of same. Unlike the traditional tangible asset-based *waqf*, cash *waqf* always has liquidities due to continuous inflows of donation from philanthropists and government aids. For example in Malaysia, upon the establishment of the Yayasan Wakaf Malaysia (Malaysian Wakaf Foundation) in 2006, the government expressly committed to support the *waqf* in Malaysia with funds. And the YMW also formalized the public contribution of minimum of RM10 to the development of *waqf*. The opportunity to make similar payment to the Yayasan Dakwah Islamiah Malaysia (YADIM) (the Malaysian Islamic Daawah Foundation) at the same amount was formalized (Ibrahim et al, 2013).

So also, various State Religious Councils have also sanctioned this type of schemes. Even some Banks such as Bank Muamalat has established a cash *waqf* in favour of Selangor State Religious Council that is the trustee of *waqf* in Selangor. The bank undertook to make an initial donation of RM1000, 000 as a start. Then each staff of the bank will also donate RM75,040.00 to the fund. Then direct contribution from retail and corporate sector in the states. With the collaboration of the state government the bank undertakes to manage the funds for free (Bank Muamalat, n.d).

It is based on the above cash *waqf* appears to be flexible; facilitative for donations and realizes liquidity in most of the time. Therefore the *mutawalli* now has the responsibility to manage the fund successfully for profit realization and ability to finance the grass-roots.

9. The Risks Involved in Financing with Cash *Waqf*

The risks involved in financing the grass-root with cash *Waqf* come from the following perspectives.

1. Default payment by the borrowing grass-roots who may fail to return the amount lent to them. This poses a credit risk to the institution of cash *waqf* as it happened in Fes mentioned above. This risk will cripple the activeness of the institution and consequently destroy the perpetuity.
2. Potential moral hazard by some managers (*mutawalli*) of the cash *waqf*. This occurs through lack of scrutiny of *mutawallis* and ultimately the potential donors will lose confidence in further subscription to the fund raising process of the Cash *waqf*.
3. Lack of resilience in many Muslim economies where the cash *waqf* predominantly operates. This has a gradual process of reducing the fund drastically as the investments are not capable of yielding the expected returns and consequently the beneficiary grass-roots will have nothing to do business.

10. Managing the Above Mentioned Risks

The researcher opines that the challenges mentioned above are avertable through the following approaches;

1. With respect to the default risk that poses credit risk to the cash *waqf* institution the following measure should be taken;
 - a. Business loan should only be offered to someone who has already received entrepreneurial training that is conducted by the same cash *waqf* institution or any other body as long he can evidence entrepreneurial skill with a reliable certificate. And also, people with high school certificates and above should be regarded as having undergone entrepreneurial training.
 - b. Type of business to be transacted by the grass-roots should be selected in consultation with the cash *waqf* institution. A new business man is ignorant of market and the risk associated with some businesses even though such businesses may apparently promise high return.
 - c. Establishment of Mandatory savings scheme for the grass-roots to save certain amount of their returns with the cash *waqf* institution in order to further strengthen the financing portfolio of the cash *waqf*.
 - d. Periodic assessment of the grass-roots' business performance; as a way of alerting them of the concern of the cash *waqf* authority of the money lent to them,
 - e. Mandatory *takaful* policy for every benefiting grass-root to provide coverage for his business throughout the period of the interest free loan.
2. To manage the moral hazard risk of some *mutawalli* the following measures are important;
 - a. The government should monitor the affairs of the *mutawalli* and dictate to him the type of investment he or she is allowed to invest in. This is akin to the strategy used by some jurisdictions in reducing risk in the collective investment scheme like mutual funds, open-ended investment company and real estate investment trusts (REITs). For example, section 171 of the Nigerian Investment and Securities Act (ISA) 2007 (as amended), states that [collective investment] scheme fund shall be invested by a manager in any of the following-“(a) bonds, bills and other securities issued or guaranteed by the Federal Government and the Central Bank of Nigeria; (b) bonds, debentures, redeemable preference shares and other debt instruments issued by corporate entities listed on a securities exchange and registered under this Act; (c) ordinary shares of public limited companies listed on a securities exchange and registered under this Act with good track records having declared and paid dividends in the preceding five years; (d) bank deposits and bank securities of which the banks shall be rated by rating agencies registered by the Commission; (e) investment certificates of closed-end investment fund or hybrid investment funds listed on a securities exchange and registered under this Act with a good track records of earning; (f) units sold by open-end investment funds or specialist open-end investment funds listed on the securities exchange recognized by the Commission; (g) real estate investment; and (h) such other instruments as the Commission may, from time to time, prescribe (section 171, Investment and Securities Act, 2007).”
This provision will halt or at least reduce the corruption of the *mutawalli* credit risk. However, the research is not calling for the full implementation of the provision as it contains many non-shariah compliant investments. But is a good example of how any fund manager could be regulated in order to reduce both moral hazard and credit risks. It then becomes mandatory for the *mutawalli* to have knowledge of modern investment with registered funds managers.
 - b. A fair remuneration be offered to the *mutawalli* and incentive such as periodic bonus for any of his unexpected huge success in the profit realization.
 - c. Continuous technical training and inculcation of fear of Allah of the heaviness of the trust on him in the wealth under his trusteeship.
3. The issue of resiliency in the economy is not a strong factor that will affect cash *waqf* negatively if the first other two risks are taken care of. This is the only thing that will create confidence in the hearts of the prospective donors and the cash *waqf* will continue to get liquidity to finance the grass-roots.

11. Conclusion

Cash *waqf*, if harnessed and efficiently regulated will assist the grass-roots of the society. The history and the nature of its operation show that it is a buoyant financial institution if the Muslims are serious in taking its advantage. It is even capable of replacing Micro Finance Banks whether Islamic or conventional types. As retaining the name micro finance will remove the spirituality and sense of devotion that is inbuilt in cash *waqf* which is religiously orientated, and it is on this basis the prospective donors are get the courage to donate to the cash *waqf*. The success story of the Ottoman cash *waqf* supports this claim that the institution is vibrant alternative financing for the grass-roots. And so, the Muslims should be bold enough to popularize this institution that is strong enough to alleviate the poverty at the grass-root level.

The new system of collecting the fund through issuance of share is another innovation for credit enhancement for cash *waqf*. Therefore, as highlighted above the risk that is naturally associated with cash *waqf* should be taken into consideration and a thing that calls for research on that aspect of risk management techniques in cash *waqf*. So also, disbursement of fund, whether on no-repayment basis or as a revolving loan should be sequel to a training on wealth management or managerial skill of trading.

Any delay payment should be addressed in accordance with the teachings of the Glorious Quran chapter 2, verse 280 that says, "If the debtor is in a difficulty, grant him time Till it is easy for him to repay. But if ye remit it by way of charity, that is best for you if ye only knew (Abdullah Ali Yusuf Trans.)." In the light of this verse the defaulters should be offered zakat to repay their debt owed to cash *waqf* because they deserve share of the debtor from the zakat as enshrined in the Glorious Quran chapter 9, verse 60.

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