AN ANALYSIS OF WAQF, ZAKÄT, QARḌ AND TAKÄFUL AS ISLAMIC SOCIAL FINANCE INSTRUMENTS: JURISTIC VIEWS

Nur Farhah Mahadi*

ABSTRACT
This paper discusses how waqf properties, zakat and qard which are Islamic social finance (ISF) instruments, can be used to assist different categories of low-income individuals and groups to achieve financial empowerment and widen their financial well-being. In addition, this paper explains how takaful products and services can prevent financial anxiety and strengthen the financial resilience of low-income individuals and groups against unpredictable shocks. Qualitative approach is used to review opinions of both classical and contemporary jurists from four major Sunni madhâhib namely, the Ḥanafîyyah school, the Mâlikîyyah school, the Shâfi‘îyyah school and Ḥanâbiyyah school on the useability and application of waqf, zakât, qarḍ and takaful as social financing tools. In addition, the paper discusses ijtihād held by a number of Muslim jurists who are known for deep thought and their ability to scrutinise and compare opinions and views from different Shari‘ah sources. As the result, the divergent views expressed by these jurists are to some extent reconciled to help the policymakers and other interested parties to have a clear understanding of the actual meaning of the concept of sufficiency of sustenance/need (ḥājah) and conditions that deem to appropriately align with the concept. This is expected to provide the basis for the policymakers to formulate policies and strategies for the intended beneficiaries who are the low-income individuals and groups who constitute the vulnerable groups in a society.

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* Assistant Professor, IIUM Institute of Islamic Banking and Finance, International Islamic University Malaysia. Email: farhahmahadi@iium.edu.my.
SUATU ANALISA WAKAF, ZAKAT, QARĐ DAN TAKAFUL SEBAGAI INSTRUMEN KEWANGAN SOSIAL ISLAM: PANDANGAN ULAMA

ABSTRAK

Kertas kerja ini membincangkan bagaimana wakaf, zakat dan qarḍ sebagai instrumen kewangan sosial Islam (ISF) digunakan bagi membantu pelbagai golongan berpendapatan rendah samada secara individu mahupun berkumpulan untuk mencapai pemerkaasan kewangan dan meluaskan rangkuman kewangan mereka. Tambahan pula, kertas kerja ini menerangkan bagaimana produk dan servis takaful mengelakkan mereka dari dibelenggu oleh kebimbangan kewangan dan mengukuhkan daya tahan kewangan mereka terhadap sesuatu yang tidak dapat diramalkan. Pendekatan kualitatif digunakan dalam kertas kerja ini untuk mengkaji pendapat cendekiawan klasik mahupun kontemporari daripada keempat-empat mazhab, iaitu, mazhab Ḥanafiyyah, mazhab Malikiyyah, mazhab Shafi‘īyah dan mazhab Hanbaliyyah tentang kebolehgunaan dan aplikasi wakaf, zakat, qarḍ dan takaful sebagai alat pembiayaan sosial. Selain itu, kertas kerja ini membincangkan tentang ijtihad yang diguna pakai oleh sebilanga ulama yang terkenal dengan pemikiran yang kritis dan keupayaan mereka untuk meneliti, dan membandingkan pendapat dan pandangan daripada sumber syariah yang berbeza. Hasilnya, pandangan berbeza yang diutarakan oleh para fuqahā‘ ini sedikit diselaraskan untuk membantu penggubal dasar dan pihak yang berkepentingan untuk memahami dengan jelas maksud sebenar perluhan (hajat) dan syarat-syarat yang dianggap sesuai dengan konsep ini. Kertas kerja ini menyediakan asas kepada penggubal dasar untuk menggubal dasar dan strategi tertentu bagi individu dan kumpulan berpendapatan rendah iaitu mereka yang mudah terdedah dalam sesuatu masalah ini.

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INTRODUCTION
As Malaysia progresses towards the shared prosperity vision 2030, it is crucial to ensure balanced and inclusive growth. The waqf authorities, zakāt institutions and takāful industry play a critical role in enhancing the socio-economic well-being of Malaysians. This vision cannot be achieved without addressing the specific needs of the lower income segment who have lesser residual income, not much is left for savings or for financial protection in the event of misfortune.

Waqf, zakāt, and qard are part of principles and economic behaviours rather called as Islamic social finance (ISF) instruments which have significant positive effects on different categories of vulnerable and lower income individuals or groups to achieve financial empowerment and widen their financial well-being. The integration of waqf and zakāt in Islamic microfinance will help generate sustainable income and employment for these categories. The discussion in this paper extends to the possible role of Islamic microfinance institutions (MFIs) as a medium through which this objective can be realised.

In addition, takāful products and services present another form of ISF alongside with social protection, and adaptive safety-nets to achieve a long-term financial goal would implicitly prevent financial anxiety and strengthen the financial resilience and individuals’ ability to have control over their finances, and to absorb unpredictable financial shocks in the future.

RESEARCH METHOD
This paper applies qualitative approach by discussing ijtiḥād held by several traditional and contemporary Muslim jurists on utilising waqf properties (mawqūf) and its funds and zakāt proceeds to support different categories of low-income individuals and groups to achieve financial empowerment and widen their financial well-being. This paper is classified into explorative and descriptive research design. The exploratory study is generally intended to explore new insights on these ISF instruments to be utilised in assisting the low-income individuals

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and groups who constitute the vulnerable groups in society to expand their financial sustainability. This paper describes opinions of both classical and contemporary jurists from four major Sunni madhāhib schools on the useability and application of *waqf*, *zakāt*, *qarḍ* and *takāful* as social financing tools. This paper reviews secondary data to gather information related to research objectives which are primarily found in both printed and digital traditional and contemporary manuscripts (*kutub turāth*) i.e. through a systematic literature review.

**ISLAMIC SOCIAL FINANCE INSTRUMENTS**

According to Al-Zarqāʾ, various Islamic institutions and structures include *waqf*, *zakāt* and *qarḍ hasan* as tools to redistribute income and wealth for the fulfilment of essentials and necessities for the society.\(^3\) Siddiqī asserts that the ingenuity of the Islamic financial sector would be to incorporate the vision of a moral society and socially responsible finance into functioning institutions.\(^4\) In line with this assertion, this paper discusses the *ijtihād* held by a number of Muslim jurists and their opinions on the useability and application of *waqf*, *zakāt*, *qarḍ hasan* for microfinancing to overcome financial anxiety and strengthen the financial resilience of lower income individuals and groups to survive and become financially independent. Financial institutions can capture the information of this category of people from their social groups to evaluate and bring operations to them and design financial products tailored to their conditions and communities.

Moreover, *takāful* products and services present another form of ISF that can serve as financial protection which can prevent financial anxiety and strengthen the financial resilience of lower income individuals and groups.

**Waqf**

The technical meaning of *waqf* according to Ibn Qudāmah\(^5\) is preserving the principal and dedicating its usufruct for the benefit of a

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\(^3\) Muḥammad ānas Al-Zarqāʾ, *Islamic Distributive Schemes*, in Munawwar Iqbal (Editor), Distributive Justice and Need Fulfillment in an Islamic Economy (Leicester: The Islamic Foundation, 1998) 163-216.


righteous objective. The word *waqf* is usually used synonymously with *habs* (to detain). Ibn Rushd says: The word *al-habs* and *al-waqf* are synonymous and there is no difference between the two at all. The same position has been mentioned by Muḥammad bin Qāsim al-ʿĀnṣārī.6

Meanwhile, cash *waqf* gets its capital from cash collected from the donors (institution, individuals, companies, corporations or private or public organizations). To create a *waqf*, whether movable or immovable, holds the same legal conditions. Irrevocability, perpetuity and inalienability are the three main conditions that applies across the board regardless of the nature of the *waqf*. The yields from immovable *waqf* are derived from the assets while in the case of movable such as cash *waqf*, the capital needs to be invested through various modes so that it yields some benefits. Henceforth, the benefits are thereafter distributed to the beneficiaries.

**Payment to trustee (Mutawalli/ Nāẓir)**

*Mutawalli* (Nāẓir) plays an important role in the management and maintenance of the *waqf*. He is required to do everything at his disposal to ensure the *waqf* is beneficial to the beneficiaries as stipulated by the *waqf* founder. He manages the *waqf* in terms of its development, defending the *waqf* in court in case of any disputes, seal agreements and contracts on its behalf and discharge the obligation it owes. All the above should be in conformity with the intended purpose stimulated by the *waqf* founder.

The notion of *mutawalli* is to be the receiver of *waqf manfa‘ah* is aligned with the narrative of ‘Umar R.A. who acquired a land in Khaibar9 and betrothed it as *sadaqaḥ* to the following beneficiaries i.e.

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6 قال ابن رشد: فَأَما الحبس والوقف فمعناهما واحد لا يفترقان في وجه من الوجوه.


the deprived, the closest kin, and for emancipation of slaves. The _waqf_ property (mawqūf) are prohibited neither to be sold, inherited nor given away as a gift. _Mutawalli_ who manages the property is permitted to derive pecuniary benefit in a reasonable manner.

It is clear from the enormous responsibility held by the _nāẓir_ that he deserves to be remunerated and paid for the role he plays. This is based on the legality of using the usufruct of a human being which is clearly supported by the Qur’ān, the Sunnah and consensus.

The amount of the wages to be paid to the _nāẓir_ depends on several factors discussed by Muslim jurists. If the _waqf_ founder stipulates the remuneration, it can either be equal to the market value, less than the market value or more than the same. There is no dispute among the Muslim jurists that if the amount is equal to the market value, the _waqf_ manager's stipulation should be executed. If however the amount is more than the market value, Muslim jurists hold different opinions. The majority of scholars from Ḥanafīs, Mālikīs, and Shāfi‘īs posit that it has to be executed.

If the amount stipulated is less than the market value, some jurists opine that the _nāẓir_ can ask the judge to fix his numeration upward so that it will be at par with the market value.

If the _waqf_ founder did not stipulate any amount of money to the _nāẓir_, Islamic Jurists have a different opinion regarding the same. The Ḥanafīs posit that the _nāẓir_ does not deserve remuneration. The

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14 Zayn al-Dīn bin Ibrūhim bin Muḥammad Ibn Nujaym, _Al-Baḥr Al-Rāiq_, _op.cit._, vol.5 , 264.
Shāfīʿīs oppose the allocation of remuneration for nāẓir if it has not been stipulated by the waqf founder even if he raises the issue with the judge.\(^{15}\) This is contrary to the Mālikīs view which gives the judge the right to allocate a monthly wage for the nāẓir if that was not done by the waqf founder.\(^{16}\) The Ḥanbalīs applied the general rule of trustee manager which allows him to consume what is considered reasonable.\(^{17}\)

In general, the source of the remuneration will be borne by the proceeds of the waqf and not from the principal. The same applies to cash waqf. This conforms to the legal maxim which states whatever is prohibited to take is also prohibited to give i.e. مَا حَرُمَ أَخْذُهُ حَرُمَ إِعْطَاؤُهُ. Nonetheless, necessities render the prohibited permissible if it has been properly ascertained, assessed, and treated proportionally.

**Utilising Waqf Properties (Mawqūf) and Waqf Fund**

Having demonstrated the permissibility of cash waqf and the appropriate financing model to invest cash waqf or to extend waqf-based microfinancing to the intended beneficiaries the lower income individuals or groups, let’s demonstrate how to cater for the cost and expenses that arise from the investment and setting up of the cash waqf fund.

Generally, any kind of Islamic Sharīʿah compliant investment which is geared towards making profit is guided by the principle of al-ghunm bi al-ghurm “Gaining profits is with the undertaking of risk” and legal maxim al-kharāj bi al-ḍamān “Return must be justified by guaranty/ risk”. Even if all steps are taken to minimize risks, the investment is still susceptible to it and as a result there is no guaranteed profit, and the investment is exposed to lose.

In case of a loss due to investment or expenditure that arises from setting up a cash waqf fund, is it permissible to deduct those expenditures from waqf capital? There are several options that can be considered. An indispensable feature of waqf is that its corpus must remain intact i.e. perpetuity, which cannot be put to risk of loss. This feature demands waqf authorities to manage the risks in an appropriate way i.e. to invest the endowment in safe low-risk instruments and use

\(^{15}\) Al-Ghāmrūwī, Muḥammad al-Zuhrī, op. cit.


the returns for financing purposes, but also to separate the risks arising from financing assets using waqf funds and deposits.

There are several modes of investment for cash waqf that have been explicitly mentioned in the books of fiqh and aḥādīth. The yield from the cash Waqf can be used to lend out interest-free loans or non-refundable financial assistance to individuals. This mode has been mentioned in al-Mudawwanah where Saḥnūn asked Imām Mālik: “If someone preserve one hundred dirham as a waqf and give it out as a loan to others, is he liable to pay zakāt?” Imām Mālik said: “Yes, he has to pay zakāt.”

Investing cash waqf is also mentioned by Imām Al-Zuhrī and has been tacitly proposed by Imām Al-Bukhārī in his Ṣaḥīḥ. Moreover, Imām Al-Nawawī narrates an opinion in Shāfi‘ī school of fiqh regarding renting of gold and silver coin. In our contemporary time, several cash model has been proposed. Murābahah, Istiṣnā‘ and Salam can be used as a debt-based financing model while Mudārabah, Mushārakah and Wakālah bi al-istithmār can be used as an equity-based financing model.

Does Ijtihād applies to Cash Waqf?

All acts of worship have an underlying ḥikmah or wisdom that comes with it. However, not all the wisdomis capable of being known to us. The logic behind an act of worship can be known or also unknown. If it is the latter, then, it has to be followed and practiced without knowing the underlying logic. This type of ‘ibādāt does not accept ijtihād. An example is the number of prayer cycle (raka‘āt) for obligatory prayers, washing parts of the body while taking ablution instead of the whole body etc.

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19 (بَابُ وَقْفِ الدَّوَابِ وَالكُرَاعِ وَالعُرُوضِ وَالصَّامِتِ) وَقَالَ الزُّهْرِيُّ : فِيمَنْ جَعَلَ أَلْفَ دِينَارٍ فِي سَبِيلِ اللَّهِ وَدَفَعَهَا إِلَى غُلَامٍ لَهُ تَاجِرٍ يَتْجِرُ بِهَا ، وَجَعَلَ رِبْحَهُ صَدَقَةً لِلْمَسَاكِينِ وَالأَقْرَبِينَ ، هَلْ لِلرَّجُلِ أَنْ يَأْكُلَ مِنْ رِبْحِ ذَلِكَ الأَلْفِ شَيْئًا وَإِنْ لَمْ يَكُنْ جَعَلَ رِبْحَهَا صَدَقَةً فِي المَسَاكِينِ ، قَالَ : لَيْسَ لَهُ أَنْ يَأْكُلَ مِنْهَا Al-Bukhārī, Muḥammad ibn Ismā‘īl, Ṣaḥīḥ Al-Bukhārī, vol. 4 (Egypt: n.p, 1897), book 14, ḥadith 254.
On the other hand, *waqf* which has played significant role throughout Islamic history, is an act of worship with a very enormous purpose and benefits.

“’Izz bin ’Abd al-Salām says: Acts of worship are of two types:21 (1) One whose benefits/interests are for the hereafter e.g. fasting, prayers, ḥajj and spiritual retreat, (2) One whose benefits/interests are derived by its performer in the hereafter and those whose benefits/interests are for receivers in this worldly life. e.g. zakāt, alms, animal sacrifices, gifts, endowment (*waqf*) and prayers.”

The same was mentioned by contemporary scholars.23 *Waqf* is highly recommended in Islam and is an act of worship that comes with

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22 ’Izz bin ’Abd al-Salām, *op.cit.*, 18.
enormous benefits to the society. Due to that, all the means that will lead to its preservation and maintenance is given precedence in Islam and has a basis in Islamic jurisprudence.

Waqf as a legal entity
Majority of Islamic jurists held the opinion that *waqf* cannot be considered as an entity on its own. It is explicitly mentioned in the books of *fiqh* that *waqf* is not considered a legal entity and that it is not permissible to acquire a loan on behalf of the *waqf*. In case a loan is acquired on its behalf, the liability solely lies with the *nāzir*.24 On the other hand, majority of contemporary scholars consider *waqf* to be a legal entity and that it can assume liabilities as far as it conforms with the Sharī’ah.25

Borrowing to cater for *waqf*
Regarding expenses pertaining to setting up of a cash fund, it is permissible to borrow money to cater for the same so that it can be paid back from the future benefits/yield that arises from the *waqf* investment. There are no disputes among Islamic Jurists on whether it is permissible to borrow for the purposes of the *waqf* if the *waqf* founder gave permission to do so.26 According to the Ḥanafis however, it is not permissible for the *nāzir* to borrow for the *waqf* without the permission of the *waqf* founder. Their opinion is based on the premise that *waqf* is not considered a legal entity. In cases of necessity, it is allowed under

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two conditions: (1) with the ruler's permission, and (2) if there are no proceeds from the mawqūf.\textsuperscript{27}

On the other hand, according to the Mālikīs and Ḥanbalīs,\textsuperscript{28} it is permissible for the nāẓir to borrow money on behalf of the waqf contrary to Shāfī`ī's school of thought. It is not permissible for the nāẓir to borrow money for the waqf without prior approval of the waqf founder or permission of the ruler.\textsuperscript{29}

Regarding the offering waqf-based microfinancing to the lower income segment, if the cash waqf is merely utilised for this regard, waqf authorities need to mitigate any loss that the waqf capital might be exposed to, hedging and all the necessary security measures is very crucial in keeping the risks to the minimum. The waqf capital should always remain intact and never to be used for any investment cost or other expenditures. Doing so will go against the legal condition of perpetuity and continuity. According to the opinion of Imām Mālik and an opinion narrated by Al-ʿĀnṣārī from Zufar, it’s not permissible to give out money to be spent without repayment.\textsuperscript{30}

Hence, to offer waqf-based microfinancing to vulnerable groups, the model that can be utilised is through the utilisation of waqf properties (mawqūf) and its pecuniary benefits or proceeds (manfaʿah). The usufruct (manfaʿah) may be used to support other obligations and preservation of facilities provided that the activities or the facilities are consonant with Shariʿah.\textsuperscript{31} This conforms with al-qawā'id al-fiqhiyyah which states whatever is prohibited to take is also prohibited to give i.e. مَا حَرُمَ أَخْذُهُ حَرُمَ إِعْطَاؤُهُ. Waqf must serve the beneficiaries for a long-term basis.\textsuperscript{32} Hence, to ensure its perpetuation, Jabatan Wakaf, Zakat dan Haji (JAWHAR),

\begin{thebibliography}{99}
\item \textsuperscript{27} Ibn ʿĀbidīn, \textit{op.cit.}, vol. 3, 580; Ibn Nujaym, \textit{op.cit.}, vol. 5, 227.
\item \textsuperscript{28} Al-Māwardī, \textit{op.cit.}, vol. 7, 72; Al-Buhūfū, \textit{op.cit.}
\item \textsuperscript{29} Ibn ʿĀbidīn, \textit{op.cit.}, vol. 3, 580; Al-Baghdādī, Ghiyāth al-Dīn bin Ghānim bin Muḥammad, \textit{Majmaʿ al-Ḍamānāt}, (n.p: Dūr-Al-Kitāb Al-Islāmī, n.d.), 332.
\item \textsuperscript{30} Muḥammad ʿAbdullāh Al-Khurāshī, \textit{Sharḥ Mukhtasar Khalīl likhrāshi}, vol. 7 (Lebanon: Dūr al-Fikr,1901), 80; Ibn Nujaym, \textit{op.cit.}, vol. 5, 337.
\item \textsuperscript{31} Nor Asiah Mohamad, Azlinor Sufian, and Sharifah Zubaidah Syed Abdul Kader, “The Potential of Waqf for Maintenance and Management of Stratified Properties in Malaysia,” \textit{IIUM Law Journal} 25, no. 2 (2017): 244.
\item \textsuperscript{32} Muhammad Abdurrahman Sadique, “Development of dormant waqf
\end{thebibliography}
Yayasan Wakaf Malaysia (YWM), the State Islamic Religious Council (SIRC) and other respective parties should provide innovative mechanisms to develop idle and non-productive waqf properties in Malaysia which in turn can be extensively utilised for the vulnerable groups to empower their financial sustainability.

**Zakāt**

There are numerous evidences on 48*akat* obligation, and its distribution as described in the Qur’ān and in all books of sunnah i.e. Ṣaḥīḥ al-Bukhārī, Ṣaḥīḥ Muslim, Jāmi‘ al-Tirmizi, Sunan al-Nasā‘ī, Sunan Abī Dāwud, and Sunan Ibn Mājah. The authorities are responsible for collection and distribution of zakāt, as supported by Qur’ānic verses, the practice of the Prophet (ﷺ) and the wise successors after him along with the great companions. The government and respective institutions i.e. the SIRCs should use their judgment in controlling the distribution of zakat funds by distributing the funds beyond the current needs of its beneficiaries according to priority. Zakāt disbursement in the form of working capital and human capital (skills training) had been discussed in the 3rd Islamic Convention on 11-16 October 1986 in Amman.

In respect of the distribution of 48*akat* funds to its beneficiaries (aṣnāf), the question arises is whether 48*akat* fund can be integrated into microfinancing programme in a form of Murābahah, Ijārah, Muḍārabah and Mushārakah can be used to fund business expansions and to fund other needs of the business, besides qarḍ al-ḥasan to effectively facilitate wealth creation of the vulnerable groups. There are diverging opinions among the jurists on certain aspects of

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33 Qur’ān, 2:267, 6:242, 9:34, 60, and 103, and several other verses.

34 Supported by surah al-Tawbah, “خَذۡ مِنۡ أَمۡوَالِهِمۡ صَدَقَةً تُطَهِّرۡهِمۡ وَتَزَكَّیۡهِمُ بِهَا وَصَلَّۡعَ لَعۡلَیۡهِمْ” (Qur’ān, 9:103) The word “خذ” is referred to the Prophet (ﷺ) as leader of the Islamic state, to the extent that when Abū Bakr remained using state authority and its law enforcement body to zakāt collection and distribution. Scholars unanimously acknowledge the verb “take” is addressed to the Prophet (ﷺ) and to whoever runs the affairs of Muslims after him. Al-Qaraḍāwi, Yusūf, op.cit., vol. 2, 113.

35 This coincides with the qawāʼid fiqhiyyah (Islamic legal maxim) which states لا يَنْكَرُ تغيّر الأحكام بتغيّر الأزمان i.e. it is irrefutable that rulings change in accordance with the change in time. This has been discussed by Sheikh
utilisation of zakāt funds which requires new ijtihād\textsuperscript{36}. For instance, applying al-qard al-hasan from zakāt funds to the vulnerable individual or groups is interpreted as an ijtihādic issue.

Al-Qaraḍāwī stated it based on the government’s obligation, which is based on taṣarruf al-imām ‘ala al-raʾiyah manūṭ bi al-maṣlaḥah.\textsuperscript{37} He believes that zakāt fund can be utilised to establish factories and businesses with regard to the fulfilments of the lower income groups (the poor) needs.\textsuperscript{38} Al-Karkhī, a leading Ḥanafite, Al-Shawkānī, and Ibn al-Humām believe that the distribution of zakāt funds must be made immediately upon fulfilling all the conditions

\textsuperscript{36} For instance, during ʽUmar ibn al-Khaṭāb time, he regarded that the disbursement of zakāt fund to muallafah al-qulūb ‘those whose hearts are to be won over’ was for the purpose of winning over their heart is no longer relevant. As ‘Umar alleged that “فَمَن شَاءَ فَلْيُؤْمِن وَمَن شَاءَ فَلْيَكْفُرْ” (Whoever decides to believe, be it or whoever decides to disbelief, be it”)

Hence, he decided not to give zakāt to muallafah al-qulūb. Ibn ‘Asākir, Tārīkh Madīnah Damshiq, edited by Muḥib al-Dīn Abī Saʿīd, vol. 35, (Beyrūt: Dār al-Fikr, n.d.), 44. This decision of ‘Umar in disabling zakāt to this aṣnāf was due to his ijtihad of the ‘illah as the cause (ratio legis) that gave them the right to receive zakāt ceased to exist, the legal ruling which was contingent upon it ceased to exist too. Bachar Bakour, “The Permanent and Changing Side of Sharia” International Journal for Muslim World Studies (IJMWS), no.14 (2016): 37-81. ‘Umar’s ijtihād with his profound understanding of jurisprudential determinations assist to identify the underlying cause of the ruling (i.e., the reason why new converts legally deserve receiving zakāt fund). Once the cause returns, the ruling comes to force again.

\textsuperscript{37} which means the leader’s policy for the citizen must be based on benefits.

\textsuperscript{38} Yusūf Al-Qaraḍāwī, op.cit., vol. 2, 13.
before obstacles and hindrances arise, otherwise it does not fulfil its role.

However, if its benefit must be delayed, the government holds the authority. Al-Ru’înî asserted that the government may delay the distribution of zakāt to the following year if its ijtihād shows such action. If the delay is inevitable, Al-Ramlî asserted that in case of destruction or loss of zakāt funds, the zakāt authorities shall compensate the due amount.

Al-Shāfiʽî followed by some Ḥanbalites, Al-Nawawī, Ibn al-‘Arabī, and Al-Qurtubî discussed that the purpose of zakāt fund

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44 “A craftsman would be given an amount sufficient to buy tools and equipment that allow him to work and gain his sustenance….. People of other professions would be given according to the requirement of their profession. Farmers would be given farming land or portions thereof that would be sufficient to gain them sufficiency of sustenance. As for those who have no craft or ability, they must be given sustenance sufficient for the rest of their lives, regardless of one-year limitations.” Yaḥya bin Sharaf Al-Nawawī, al-Majmū’ Sharḥ al-Muhadhab lilShīrāzī, edited by Muḥammad Najīb al-Muṭi’ī, vol. 6 (Jeddah: Maktabah al-Irshād,n.d.), 193-195. According to Al-Nawawī, capital can be divided into two forms either by cash or equipment appropriate to their respective skills. Yaḥya bin Sharaf Al-Nawawī, op.cit.

45 Ibn al-‘Arabī in his Aḥkām al-Qur’ān, adds, “If zakāt is practised, and some further need arises, the rich must be obligated to provide for this need by unanimous agreement.” Abū Bakar al-Mālikī Ibn al-‘Arabī, Aḥkām al-Qur’ān, edited by: Muḥammad ’Abd al-Qādir ’Aṭā, part one (Beyrūt: Dār al-Kutub al-’Ilmiyyah, 2003), 59-60.

46 Al-Qurtubî emphasizes the same: “Scholars are in agreement that if a need
disbursement is to ensure the lower income segments especially the poor and needy to get better access to their basic sufficiency until they acquire sufficiency of sustenance, which tacitly supporting 'Umar al-Khaṭāb’s statement, he emphasised that “When you give, make them rich.” In another instance, he declared that, “Indeed, I shall repeat the distribution of ṣadaqah to the poor, even if one of them has one hundred camels.” Hence, the utmost objective of zakāt distribution is to achieve an adequate and suitable standard of living of its beneficiaries (aṣnāf) and to empower them to become economically and financially independent, hence improve their lives in society. Suffice to say that the zakāt authorities should apply ijtihād in the case of zakāt distribution techniques as they are closely linked to ‘urf and social change, and they must improve the identification of opportunities and risks/threats of providing such assistance to the vulnerable individuals and groups. This is related to the betterment of those communities at a specific time and place.

_Qard_

According to Al-Khaṭīf, _al-Qard_ refers to a portion of money given to the debtor by the creditor, or a part of property taken from the creditor’s property. In terms of terminology, Al-Zuhaylī refers _al-Qard_ to a contract in which a creditor extends credit by transferring a sum of money or goods to another entity or debtor intended to be repaid the same amount of money or goods that were received (in original form during the contract) in the future.

arises after the distribution of zakāt, funds must be collected and used for that need.” Muḥammad bin Ṭāhir Al-Baghdādī, _Al-Amwāl_, (al-Qāhirah: Maktabat al-Kullīyāt al-Azharīyah, 1968), p.565.

Ibid.


Money is regarded as ribawi item,\(^{51}\) hence, any self-generating or self-expanding value of interest or any excess of profit on a loan (qard) is tantamount to ribā, which Allah SWT has forbidden\(^{52}\). In principle, al-Qard is adequate to explain a decent transaction that does not associate with interest charges (ribā) or profit which its benefit is solely to the debtor’s favour.

In general, Qard refers to a person’s right to do ṣadaqah by assisting his relatives who are in straitened circumstances i.e. financial difficulties with interest-free loan. The concept of thoughtfulness here leads to the debtor’s token of appreciation which the debtor offers monetary consolation to the creditor for his assistance. Suffice to say, in Islam, al-qard is a contract based on helping, voluntary (tabarrū’), and compassionate assistance to individuals in need.

Qard-based microfinance offers interest-free microcredits to the intended beneficiaries lower income segment, focusing on its sources of financing. Due to the nature of the instruments and legal requirements, a qard-based microfinance, zakāt-based microfinance and waqf-based microcredit will face certain unique operational and risk management issues.

**Takāful**

In addition, takāful products and services present another form of ISF that can prevent financial anxiety and strengthen the financial resilience of lower income individuals and groups against

\(^{51}\) From ‘Ubādah Ibn Al-Ṣāmit: The Prophet (ﷺ), said: “Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt - like for like, equal for equal, and hand-to-hand; if the commodities differ, then you may sell as you wish, provided that the exchange is hand-to-hand.” Imam Muslim ibn al-Hajjaj al-Naysaburi, Ṣaḥīḥ Muslim, Kitāb al-Musāqāt, Bāb al-Sari wa Bay‘ī al-Dhahabi bi al-Waraqi Naqdan, vol. 3, hadith 1211.

\(^{52}\) Qur’ān, 2: 275, “But Allah has permitted trade and forbidden riba.” Abū al-A’lā al-Mawdūdī defined as “a predetermined excess or surplus over and above the loan received by the ribā creditor conditionally in relation to a specified period”. Al-Mawdūdī, Abū al-A’lā, Ribā, vol. 1, (Jeddah: Dār as-Suʿūdiyyah, 1987), 33.

\(^{53}\) Qur’ān, 57:11, “Whoever wants to give a loan to Allah, a good loan (spending his wealth in the way of Allah), then Allah will double the payment to him by many times. And Allah restricts and enlarges, and to Him you belong returned”
An Analysis of Waqf, Zakāt, Qarḍ and Takāful

unpredictable shocks with appropriate understanding and confidence in takāful among the lower income segment with the attractive and flexible product offerings from takaful operators.

Takāful continues to perennially and constantly protect owners of Takāful certificates and insurance policies against defined losses and perils. This is based on the concept of ta‘āwun, tabarrū’, hibah and waqf contracts in takāful which has been defined by the Islamic Financial Services Act (IFSA)2013 and Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) in Sharī‘ah Standard No.2654.

There were protection schemes or mutual risk sharing mechanisms like takāful during Arab jahiliyyah, i.e. (1) al-‘āqilah or better known as al-diyyāt (blood money) asserted by Imām Mālik in al-Muwaṭā’55, Ibn Qudāmah in al-Mughnī and Ibn Khaldūn in al-Muqaddimah56, when Arab indemnify the clan or family for the death of their family member due to murder (intentional and also unintentional) with a compensation of money or camels. The concept of al-diyyāt or blood money later approved after the advent of Islam, Allah (SWT) reveals in the Qur’ān, Al-Baqarah:178;57 (2) ḍamān khatar al-ṭarīq where the Arab traders were also protected from losses caused by bandits and

54 Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), Sharī‘ah Standard No.26: Islamic Insurance, 2015, 673 -700.

55 Imam Mālik had discussed the issue of blood money in al- Muwaṭā’. He said this system was an altar to the primitive custom of blood called for blood and lessened the war among the warring tribes. In this system, the whole community or tribe agrees to provide financial compensation as blood money to the unintentional murder of the counter tribe’s person.

56 Ibn Khaldūn claimed that Arabs were practicing the concept of insurance where members of trade participated in a scheme to indemnify any member of the group at an event of loss of stocks or profit through the collection of contributions from members.

57 يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلَى ۖ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالأُنثَى بِالأُنثىٰۚ فَمَنْ عُفِّيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِبِ هُدْبِ الْمَعْرُوفِ وَأَدَاءَ إِلَيْهِ بِإِحْسَانٍ ۗ ذَٰلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ ۗ فَمَنِ اعْتَدَىَٰ بَعْدَ ذَٰلِكَ فَلَهُ عَذَابٌ أَلِيمٌ ۗ بَعْدُ ذَٰلِكَ فَلَهُ عَذَابٌ أَلِيمٌ ۗ بَعْدُ ذَٰلِكَ فَلَهُ عَذَابٌ أَلِيمٌ

“O you who have believed, prescribed for you is legal retribution for those murdered - the free for the free, the slave for the slave, and the female for the female. But whoever overlooks from his brother anything, then there should be a suitable follow-up and payment to him with good conduct. This is an alleviation from your Lord and a mercy. But whoever transgresses after that will have a painful punishment.”

58 A ccounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), Sharī‘ah Standard No.26: Islamic Insurance, 2015, 673 -700.
pirates; (3) al-qasāmah which provided compensation to families of the victims of murder in the event the killers could not be identified. ‘Umar al-Fārūq designed it to be very systematic and efficient, and insisted that names of Muslims in all parts of the state be registered in al-dīwān; (4) al-dīwān, those registered in al-dīwān were required to provide mutual help to one another and contribute towards compensation for death caused by a member of the community; (5) maʾqil, and al-tahanud. It was Al-Qaraḍāwī who first suggested that an Islamic insurance system be based on a cooperative organization (muʿasasah taʿāwuniyyah) and that one of the four conditions of a sound cooperative is that the money collected must be based on tabarrūʾ.

In reference to the Malaysia’s National Strategy for Financial Literacy, 2019-2023, how do the lower income groups generate multiple sources of income, through financial savings and protection? Mainstreaming the incorporation of ISF like waqf, ṣadaqah and zakāt can solve commercially viable financial protection to be offered to the most vulnerable in the society. According to Mr. Adnan Zaylani, “the incorporation of ISF instrument in takāful solutions in a more structured and scalable manner can have transformative impact in making financial protection more affordable for society. Waqf, ṣadaqah and zakāt are examples of social finance instruments which can be embedded in the design structure of takāful products”.

59 Yusūf Al-Qaraḍāwī, al-Halāl wal harām fi al-Islām, (Al-Qāhirah: Dār al-Kutub al-Maṣriyyah, 2012). Al-Qaraḍāwī further stated that tabarrūʾ is hibah and that to revoke it is harām. Since then, the concept of tabarrūʾ has been adopted in the takāful contracts issued by takāful operators. However, on the practical side, the concept hibah bi thawāb (hibah with recompense) was suggested instead. Refer M. Mahbubi Ali, Rusni Hassan and Shabana M. Hasan, “An Exploratory Study of Shari‘ah Issues in the Application of Tabarru’ for Takaful,” Global Review of Islamic Economics and Business 1 no. 3 (2015), 164-174.
61 Adnan Zaylani Mohamad Zahid, “Leading in a Disruptive World – Revolutionising Takaful” (Assistant Governor Keynote, Takaful
In constructing solutions to accommodate for the lower income segment, the takāful industry can exploit and leverage on the principles of *Perlindungan Tenang*\(^{62}\) initiative, which promote protection solutions that are reasonable, accessible, easily operated, convenient to buy and claim, as well as offering good protection value\(^{63}\) which would attract the lower income individuals and groups.

**FINANCIAL RESILIENCE**

By initiating waqf-based microcredit, zakāt-based microfinance or qarḍ-based microcredit through a noble charitable effort to beneficiaries that have no other access to financial services, either through non-interest refundable loan (*qarḍ al-ḥasan*)\(^{64}\), or for partnership-based contracts e.g. *Muḍārabah*\(^{65}\) and *Mushārakah* or for debt-based financing e.g. *Salam* (agriculture-based businesses), *Istiṣnā‘*, *Ijārah* and etc. ISF tools allow redistribution of wealth within a society and increase the purchasing power of the lower income segment and the most vulnerable groups which will enable them to contribute positively to the economic growth.

Expanding ISF tools to overcome financial anxiety and strengthen the financial resilience of low-income individuals and groups against

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63 Adnan Zaylani Mohamad Zahid, *op.cit.*

64 When repayment of qarḍ is made, the institution of zakāt must distribute the capital to another *mustahiq* whose rights have been delayed before.

65 *Muḍārabah* in the context of zakāt-based microfinancing, 'amīl is regarded as a financier while *mustahiq* as an entrepreneur to venture into a business they want to venture into. Since *muḍārabah* is based on a profit sharing system, the 'amīl and beneficiaries must share profit and loss as in the agreement. Profit from the acquired business should be distributed to the other *mustahiq*. On the contrary, in the event of a loss, it will be jointly shared between the 'amīl and *mustahiq*. 
unpredictable shocks who have experienced financial shortfalls and struggled to survive as their working capital gets depleted and left with no obvious source of financing, during a period in which access to finance might determine their own survival. The important question to be asked is how these group of people can overcome the existing barrier to the provision of financial service.

The goal of financial inclusion is for the lower income segment, who constitute the vulnerable groups in a society, to get better access to financial services through Islamic social finance tools. The policymakers are expected to formulate policies and strategies, as well as find solutions to the challenges that prevent the intended beneficiaries from fully participating in the formal financial sector to eventually have multiple sources of income, and is prepared for future shocks, through financial savings and protection. Hence, waqf authorities, zakāt institutions and takāful industry are deemed as a game-changer in empowering financial resilience to these respective groups.

CONCLUSION
Waqf-based, zakāt-based and qard-based microfinances lead to economic empowerment and aim at social transformation of the poor and ensure social justice which eventually achieve Maqāṣid al-Sharīʿah. Therefore, waqf authorities and zakāt institutions must maintain its sustainability and robustness by having in place an appropriate framework and measurement mechanisms in extending waqf-based, zakāt-based and qard-based microfinances to its intended as well as managing its risks, where applicable. The respective authorities should determine a distinctive and comprehensive operational framework for this purpose, as well as a thorough disclosure and reporting apparatus, customised to the special principles and demands of Sharīʿah-compliant microfinancing and investment. Whereas takāful industries should take adequate action to educate the intended beneficiaries and inculcate awareness about the importance of financial protection.