

AN ANALYSIS OF WAQF, ZAKĀT, QARḌ AND TAKĀFUL AS ISLAMIC SOCIAL FINANCE INSTRUMENTS: JURISTIC VIEWS

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ABSTRACT

This paper discusses how *waqf* properties, *zakāt* and *qarḍ* 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 *takāful* 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 *madhāhib* namely, the Ḥanafīyyah school, the Mālikīyyah school, the Shāfi'īyyah school and Ḥanbaliyyah school on the useability and application of *waqf*, *zakāt*, *qarḍ* and *takāful* 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 (*hājah*) 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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SUATU ANALISA WAKAF, ZAKAT, QARḌ DAN TAKAFUL SEBAGAI INSTRUMEN KEWANGAN SOSIAL ISLAM: PANDANGAN ULAMA

ABSTRAK

Kertas kerja ini membincangkan bagaimana wakaf, zakat and *qarḍ* sebagai instrumen kewangan sosial Islam (ISF) digunakan bagi membantu pelbagai golongan berpendapatan rendah samada secara individu mahupun berkumpulan untuk mencapai pemeraksanaan 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 Ḥanafīyyah, mazhab Malikiyyah, mazhab Shāfi'īyah dan mazhab Ḥanbaliyyah tentang kebolegunaan dan aplikasi wakaf, zakat, *qarḍ* dan takaful sebagai alat pembiayaan sosial. Selain itu, kertas kerja ini membincangkan tentang ijtihad yang diguna pakai oleh sebilangan 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 sebanyak diselaraskan untuk membantu penggubal dasar dan pihak yang berkepentingan untuk memahami dengan jelas maksud sebenar keperluan (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 sesebuah masyarakat.

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Keywords: Kewangan Sosial Islam, Pandangan Ulamā', *Waqf*, *Zakāt*, *Qarḍ*, *Takāful*, Pengukuhan Daya Tahan Kewangan.

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 *qarḍ* are part of principles and economic behaviours rather called as Islamic social finance (ISF)¹ 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 *ijtihad* held by several traditional and contemporary Muslim jurists on utilising *waqf* properties (*mawqūf*)² and its funds and *zakāt* proceeds to support different categories of low-income individuals and groups to reach 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

¹ Nor Asiah Mohamad, Azlinor Sufian and Sharifah Zubaidah Syed Abdul Kader, "The Potential of Waqf for Maintenance and Management of Stratified Properties in Malaysia," *IIUM Law Journal* 25, no. 2 (2017) :229-256, <https://doi.org/10.31436/iiumlj.v25i2.308>.

² Muhammad Abdurrahman Sadique et al., "Socio-Legal Significance of Family Waqf in Islamic Law: Its Degeneration and Revival," *IIUM Law Journal* 24, no. 2 (2016) :309-334, <https://doi.org/10.31436/iiumlj.v24i2.275>.

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-Zarqā', various Islamic institutions and structures include *waqf*, *zakāt* and *qarḍ ḥasan* as tools to redistribute income and wealth for the fulfilment of essentials and necessities for the society.³ Şiddiqī 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 ḥasan* 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 Qudāmah⁵ is preserving the principal and dedicating its usufruct for the benefit of a

³ Muḥammad Ānas Al-Zarqā', *Islamic Distributive Schemes*, in Munawar Iqbal (Editor), *Distributive Justice and Need Fulfillment in an Islamic Economy* (Leicester: The Islamic Foundation, 1998) 163-216.

⁴ Muḥammad Najātullah Şiddiqī, *Ribā, Bank Interest and the Rationale of its Prohibition* (Jeddah: Islamic Research and Training Institute, 2004) 140.

⁵ Ibn Qudāmah and 'Abdullah bin Muḥammad, *Al-Mughnī*, vol. 6 (Egypt: Maktabah al-Qāhirah, 1968), 5.

righteous objective. The word *waqf* is usually used synonymously with *ḥabs* (to detain). Ibn Rushd says: The word *al-ḥabs* and *al-waqf* are synonymous and there is no difference between the two at all.⁶ The same position has been mentioned by Muḥammad bin Qāsim al-Ānṣārī.⁷

Meanwhile, cash *waqf* gets its capital from cash collected from the donors (institution, individuals, companies, corporations or private or public organizations)⁸. 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/ Nāzir*)

Mutawalli (Nāzir) 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 *ṣadaqah* to the following beneficiaries i.e.

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

Muḥammad bin Aḥmad Ibn Rushd, *Al-Muqadimāt*, (Lebanon: Dār al-Garb al-Islāmī, 1988), v.2, 419, Al-Ānṣārī, Muḥammad bin Qāsim, *Sharah al-Hudūd Ibn 'Arafah*, vol. 1 (Lebanon: Maktabah al-'ilmiyyah, 1994), 380.

⁷ Al-Ānṣārī, Muḥammad bin Qāsim, *ibid*.

⁸ Nor Asiah Mohamad, "A Study on the Socio-Economic Roles of Waqf Ahli (Family Waqf) in Promoting Family Security and a Sustainable Family Economy," *IJUM Law Journal* 26, no. 1 (2018) :141-160, <https://doi.org/10.31436/ijumlj.v26i1.383>.

⁹ Muslim ibn al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Waṣiyyah, Bāb al-Waqf, vol. 25, hadith 1632.

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 derived 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,¹⁰ Mālikīs,¹¹ and Shāfi'īs¹² 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.¹³

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.¹⁴ The

¹⁰ Zayn al-Dīn bin Ibrāhīm bin Muḥammad Ibn Nujaym, *Al-Ashbāh wa Al-Nāẓir*, (Lebanon: Dār Al-Kutub Al-'Ilmiyyah, 1999), 235, Ibn 'Ābidīn, *op.cit.*, vol. 4, 451.

¹¹ Muḥammad Ibn 'Arafah, *Al-Mukhtaṣar Al-Fiqhī*, edited by Ḥāfiẓ 'Abd al-Rahman Muḥammad Khayr, vol. 8 (n.p: Mu'asasah Khalaf, 2014), 491; Al-Dardīr, Aḥmad, *Al-Sharh al-Kabīr ma'a Ḥāshiyah al-Dusūqī*, vol. 4, (Lebanon: Dār al-Fikr, 1992), 88; Al-Sāwī, Aḥmad bin Muḥammad, *Ḥāshiyah Al-Šāwī 'ala al-Sharah al-Šaghīr*, vol. 4, (n.p: Dār al-Ma'ārif, n.d), 118-119.

¹² Ibn Ḥajr Al-Haytamī, *Al-Fatāwa Al-Fiqhiyyah Al-Kubra*, vol. 2, (n.p: Al-Maktabah al-Islāmiyyah, 1999), 42; Al-Shirbīnī, Muḥammad bin Muḥammad al-Khaṭīb, *Mughnī Al-Muḥtāj ila Ma'rifah Ma'ānī Alfāẓ al-Manḥāj*, vol. 3 (Lebanon: Dār al-Kutub Al-'ilmiyyah, 1994), p.551; Al-Ghamrāwī, Muḥammad al-Zuhrī, *Al-Sirāj Al-Wahāj Sharh Matan Al-Manḥāj* (Lebanon: Dār al-Ma'rifah, 1337H), 307.

¹³ Ibn 'Ābidīn, *op.cit.*, vol. 4, 451.

¹⁴ Zayn al-Dīn bin Ibrāhīm bin Muḥammad Ibn Nujaym, *Al-Baḥr Al-Rāiq*, *op.cit.*, vol.5 , 264.

Shāfi'īs 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 حَرَّمَ أَخْذُهُ حَرَّمَ 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 Sharī'ah 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-Ghamrāwī, Muḥammad al-Zuhrī, *op.cit.*

¹⁶ Al-Dardīr, Aḥmad, *Ḥāshiyat al-Dusūqī*, vol. 4 (Lebanon: Dār al-Fikr, 1992), 88.

¹⁷ Sham al-Dīn Muḥammad Ibn Mufliḥ, *Al-Furū'*, edited by 'Abullah bin 'Abd al-Muhsin, vol. 4 (Lebanon: Muassasah al-Risālah, 2003), 325.

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*.”¹⁸

Investing cash *waqf* is also mentioned by Imām Al-Zuhrī and has been tacitly proposed by Imām Al-Bukhārī in his *Ṣaḥīḥ*.¹⁹ Moreover, Imām Al-Nawawī narrates an opinion in Shāfi‘ī school of *fiqh* regarding renting of gold and silver coin.²⁰ In our contemporary time, several cash model has been proposed. *Murābahah*, *Istiṣnā’* and *Salam* can be used as a debt-based financing model while *Muḍārabah*, *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 wisdoms 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.

¹⁸ Imām Mālik, *al-Mudawwanah al-Kubra*, vol. 1 (Lebanon: Dār al-Kutub al-‘ilmiyyah, 1994), 380.

¹⁹ (بَابُ وَقْفِ الدَّوَابِّ وَالْكُرَاعِ وَالْغُرُوضِ وَالصَّامِتِ) وَقَالَ الزُّهْرِيُّ : فِيمَنْ جَعَلَ أَلْفَ دِينَارٍ فِي سَبِيلِ اللَّهِ وَدَفَعَهَا إِلَى غُلَامٍ لَهُ تَاجِرٌ يَتَجَرُّ بِهَا ، وَجَعَلَ رُبْحَهُ صَدَقَةً لِلْمَسَاكِينِ وَالْأَقْرَبِينَ ، هَلْ لِلرَّجُلِ أَنْ يَأْكُلَ مِنْ رِبْحِ ذَلِكَ الْأَلْفِ شَيْئًا وَإِنْ لَمْ يَكُنْ جَعَلَ رُبْحَهَا صَدَقَةً فِي الْمَسَاكِينِ ، قَالَ : لَيْسَ لَهُ أَنْ يَأْكُلَ مِنْهَا

Al-Bukhārī, Muḥammad ibn Ismā‘īl, *Ṣaḥīḥ Al-Bukhārī*, vol. 4 (Egypt: n.p, 1897), book 14, ḥadīth 254.

²⁰ Al-Nawawī, *Rawḍat al-Ṭālibīn wa ‘umda al-Muftīn*, (Lebanon: al-Maktabah al-Tawfīqiyyah, n.d.), 410.

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.

قال عز بن عبد السلام: الطاعات ضربان: أحدهما ما هو مصلحة في الآخرة كالصوم والصلاة والنسك والاعتكاف. الضرب الثاني: ما هو مصلحة في الآخرة لباذله وفي الدنيا لأخذه كالزكاة والصدقات والضحايا والهدايا والأوقاف والصلاة.

“‘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, *ḥijj* 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.”

وقال أيضاً: المشروعات ضربان: أحدهما ما ظهر لنا أنه جالب لمصلحة أو دارئ لمفسدة، أو جالب دارئ لمفسدة، أو جالب دارئ لمصلحة، ويعبر عنه بأنه معقول المعنى.

الضرب الثاني: ما لم يظهر لنا جلبه لمصلحة أو درؤه لمفسدة، ويعبر عنه بالتعبد. وفي التعبد من الطوعية والإذعان مما لم تعرف حكمته ولا تعرف علته ما ليس مما ظهرت علته وفهمته حكمته.

“He affirms that: Legitimate acts of worship are of two types:²²

1. Those that are known to us to bring benefits or prevent mischiefs or bring and prevent mischiefs or bring and prevent benefits. These acts of worship are known as spiritual acts with known reasons.

2. Those that are known to us to bring benefits/interests or prevent mischief and it is known as spiritual acts. Some of spiritual acts compose of actions that the wisdom and cause effects behind it are not known and others are the opposite.”

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

²¹ ‘Izz bin ‘Abd al-Salām, *Qawā'id al-Aḥkām fī Maṣāliḥ al-Ānām*, vol. 1, (Beyrūt: Dār al-Ma'ārif, 1410H), 17.

²² ‘Izz bin ‘Abd al-Salām, *op.cit.*, 18.

²³ Muṣṭafa Aḥmad Al-Zarqā, *Aḥkām al-Waqf*, 2nd ed., (Jordan: Dār 'āmar, 1999), 19; Ibn Bayyah, ‘Abdullah al-Maḥfūz, *I'māl al-Maṣlahah fī al-Waqf*, 3rd ed., (Dubai: Markaz Al-Mūwaṭā', 2018), 43.

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 Shari'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 Ḥanafīs 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

²⁴ Khayr al-Dīn Al-Ramlī, *Al-Fatāwa Al-Khayriyyah*, vol. 1, (Egypt: Maṭba'ah Muḥammad Sa'īd Bāshā, 1856), 121; Ibn 'Ābidīn, Muḥammad Amūn bin 'Amar, *Radd al-Muḥtār 'ala al-Durr al-Mukhtār*, vol. 6, (Lebanon: Dār-al-Fikr, 1992), 599; Ibn Nujaym, *Al-Baḥr Al-Rāiq*, vol. 5 (n.p: Dār-Al-Kutub Al-'ilmiyyah, 1997), 350.

²⁵ Muṣṭafa Aḥmad Al-Zarqā, *Al-Madkhal Ila Naẓariyat al-Iltizām*, (Dimashq: Dār-al-Qalam, 1999), 51; Muhammad Shettima, Hama Adam Biu and Muhammad Al-Ameen Deribe, "The Relevance of Islamic Legal Maxims in Determining Contemporary Legal Issues," *IIUM Law Journal* 24, no. 2 (2016): 415-451, <https://doi.org/10.31436/iiumlj.v24i2.254>.

²⁶ Al-Māwardī, *Al-Inṣāf*, vol. 7 (Egypt: Al-Hajr, 1995), 72; Al-Buhūtī, Maṣṣūr bin Yūnus bin Idrīs, *Kashāf al-Qinā' 'an Matan al-Iqnā'*, vol. 4 (KSA: Ministry of Justice 2000), 267.

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

On the other hand, according to the Mālikīs and Ḥanbalīs,²⁸ it is permissible for the *nāẓir* to borrow money on behalf of the *waqf* contrary to Shāfi'īs 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.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-Ānṣārī from Zufar, it's not permissible to give out money to be spent without repayment.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 (*manfa'ah*). The usufruct (*manfa'ah*) may be used to support other obligations and preservation of facilities provided that the activities or the facilities are consonant with Shari'ah.³¹ This conforms with *al-qawā'id al-fiqhiyyah* which states whatever is prohibited to take is also prohibited to give i.e. مَا حَرَّمَ أَخْذُهُ حَرَّمَ إِعْطَاؤُهُ.

Waqf must serve the beneficiaries for a long-term basis.³² Hence, to ensure its perpetuation, Jabatan Wakaf, Zakat dan Haji (JAWHAR),

²⁷ Ibn 'Ābidīn, *op.cit.*, vol. 3, 580; Ibn Nujaym, *op.cit.*, vol. 5, 227.

²⁸ Al-Māwardī, *op.cit.*, vol. 7, 72; Al-Buhūfī, *op.cit.*

²⁹ Ibn 'Ābidīn, *op.cit.*, vol. 3, 580; Al-Baghdādī, Ghiyāth al-Dīn bin Ghānim bin Muḥammad, *Majma' al-Damānāt*, (n.p: Dār-Al-Kitāb Al-Islāmī, n.d.), 332.

³⁰ Muḥammad 'Abdullah Al-Khurāshi, *Sharḥ Mukhtasar Khalīl likhrāshi*, vol. 7 (Lebanon: Dār al-Fikr, 1901), 80; Ibn Nujaym, *op.cit.*, vol. 5, 337.

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," *IJUM Law Journal* 25, no. 2 (2017): 244.

³² Muhammad Abdurrahman Sadique, "Development of dormant waqf

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 *48akat* obligation, and its distribution as described in the Qur'ān³³ 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'anic verses, the practice of the Prophet (ﷺ) and the wise successors³⁴ after him along with the great companions. The government and respective institutions i.e the SIRC should use their judgment in controlling the distribution of *zakāt* 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 *48akat* funds to its beneficiaries (*aṣnāf*), the question arises is whether *48akat* fund can be integrated into microfinancing programme in a form of *Murābahah*, *Ijārah*, *Muḍārabah* and *Mushārah* 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 jurists³⁵ on certain aspects of

properties: Application of traditional and contemporary modes of financing," *IIUM Law Journal* 18, no. 1 (2010), 77.

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

³⁴ Supported by surah al-Tawbah, “خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ”. (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-Qaraḍāwī, Yūsūf, *op.cit.*, vol. 2, 113.

³⁵ This coincides with the *qawā'id fiqhīyyah* (Islamic legal maxim) which states لا يُنْكَرُ تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَانِ 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*³⁶. For instance, applying *al-qarḍ al-ḥasan* from *zakāt* funds to the vulnerable individual or groups is interpreted as an *ijtihād*ic issue.

Al-Qaraḍāwī stated it based on the government's obligation, which is based on *taṣarruf al-imām 'ala al-ra'īyyah manūṭ bi al-maṣlahah*.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.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

Muṣṭafa al-Zarqā' in *Sharah al-Qawā'id al-Fiqhiyyah* and Imām al-Shātibī in *al-Muwāfaqāt*. Read al-Zarqā', Aḥmad Muḥammad, *Sharah al-Qawā'id al-Fiqhiyyah*, edited by Abū Guhdah, 'Abd al-Satār and al-Zarqā', Muṣṭafa Aḥmad, 2nd ed., (Damshiq: Dār al-Qalam, 1989), 227-228; Al-Shātibī, Ibrāhīm Mūsa, *al-Muwāfaqāt*, edited by Mashhūr Ḥasan Āl Salmān, vol. 2 (Al-Qāhirah: Dār Ibn 'afān, n.d), 492. The meaning of changes in rulings due to changes in time and place is only restricted to *al-mutaghayyirāt* (changeable) rulings. This is because Sharī'ah applies to all times.

³⁶ For instance, during 'Umar 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 “قَمَنْ شَاءَ فَلْيُؤْمِنْ وَمَنْ شَاءَ فَلْيُكْفُرْ” “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 Sa'īd, vol. 35, (Beyrūt: Dār al-Fikr, n.d.), 44. This decision of 'Umar in disabling *zakāt* to this aṣnāf was due to his *ijtihād* 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.

³⁷ تصرف الإمام على الرعية منوط بالمصلحة which means the leader's policy for the citizen must be based on benefits.

³⁸ Yusūf Al-Qaraḍāwī, *op.cit.*, vol. 2, 13.

before obstacles and hindrances arise,³⁹ otherwise it does not fulfil its role⁴⁰.

However, if its benefit must be delayed, the government holds the authority. Al-Ru'īnī asserted that the government may delay the distribution of *zakāt* to the following year if its *ijtihād* shows such action.⁴¹ If the delay is inevitable, Al-Ramlī asserted that in case of destruction or loss of *zakāt* funds, the *zakāt* authorities shall compensate the due amount.⁴²

Al-Shāfi'ī followed by some Ḥanbalites,⁴³ Al-Nawawī,⁴⁴ Ibn al-ʿArabī⁴⁵, and Al-Qurṭubī⁴⁶ discussed that the purpose of *zakāt* fund

³⁹ Muḥammad bin ʿAli Muḥammad bin ʿAbd Allah Al-Shawkānī, *Nayl al-Awṭār min asrār muntaqa al-Akḥbār*, vol. 4 (Makkh: Dār al-Ḥadīth, 1993), 148.

⁴⁰ Muḥammad bin ʿAli Muḥammad bin ʿAbd Allah Al-Shawkānī, *Faṭḥ al-Qadīr*, vol. 1 (Beyrūt: Dār Ibn Kathīr, 1993), 482-483, and Radd al-Muḥtār, *op.cit.*, vol. 2, 13-14

⁴¹ Sham al-Dīn Abū ʿAbdullah Al-Ru'īnī, *Mawāhib al-Jalīl fī Sharḥ Mukhtasar Khalīl*, vol. 2 (Beyrūt: Dār al Kutub al-ʿIlmiyah, 1995).

⁴² Shams al-Dīn Muḥammad bin Abī al-ʿAbās Aḥmad bin Hamzah Shihāb al-Dīn Al-Ramlī, *Nihāyah al-Muḥtāj ila Sharḥ al-Munḥāj*, vol. 2 (Beyrūt: Dār al-Fikr, 1984), 134.

⁴³ ʿAlā' al-Dīn Al-Mardāwī, *Al-Inṣāf fī Ma'rifah al-Rājiḥ min al-Khilāf*, vol. 3, (Beyrūt: Dār Iḥyā' al-Turāth al-ʿArabī, 1995), 238.

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-Muḥadḥab lil-Shīrāzī*, edited by Muḥammad Najīb al-Muṭī'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-ʿArabī 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-ʿArabī, *Aḥkām al-Qur'ān*, edited by: Muḥammad ʿAbd al-Qādir ʿAṭā, part one (Beyrūt: Dār al-Kutub al-ʿIlmiyyah, 2003), 59-60.

⁴⁶ Al-Qurṭubī 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.”⁴⁷ 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.”⁴⁸ 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.

Qarḍ

According to Al-Khafif, *al-Qarḍ* refers to a portion of money given to the debtor by the creditor, or a part of property taken from the creditor’s property.⁴⁹ In terms of terminology, Al-Zuhaylī refers *al-Qarḍ* 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.⁵⁰

arises after the distribution of *zakāt*, funds must be collected and used for that need.” Muḥammad bin Aḥmad bin Abī Bakar bin Faraḥ al-Anṣārī Al-Qurṭubī, *Al-Jāmi’ li-ahkām al-Qur’ān* (Tafsīr al-Qurṭubī), edited by: ‘Abd Allah bin ‘Abd al-Muḥsin al-Turkī, 1st ed., vol.2, (Beyrūt: Mu’asasah al-Risālah, 2006), 223.

⁴⁷ Abū ‘Ubayd al-Qāsim bin Sallām Al-Baghdādī, *Al-Amwāl*, (al-Qāhirah: Maktabat al-Kullīyāt al-Azharīyah, 1968), 565.

⁴⁸ *Ibid.*

⁴⁹ ‘Alī Al-Khafif, *Aḥkām al-Mu’āmalāt al-Shar’īah* (al-Qāhirah: Dār al-Fikr al-‘Arabī, 1996), 465.

⁵⁰ Wahbah Al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuhu* (Dimasyq : Dār al-Fikr, 1997), 618

Money is regarded as *ribawī* item,⁵¹ hence, any self-generating or self-expanding value of interest or any excess of profit on a loan (*qarḍ*) is tantamount to *ribā*, which Allah SWT has forbidden⁵². In principle, *al-Qarḍ* 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.

مَنْ دَا أَلَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضِغَهُ لَهُ أَضْعَافًا كَثِيرَةً⁵³

In general, *Qarḍ* 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-qarḍ* is a contract based on helping, voluntary (*tabarrū*'), and compassionate assistance to individuals in need.

Qarḍ-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 *qarḍ*-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-Sāmit: 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'i al-Dhahabi bi al-Waraqī Naqdan, vol. 3, ḥadīth 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-Su'udiyah, 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"

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 Shari'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-Muwaṭa'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 khaṭar* al-tariq where the Arab traders were also protected from losses caused by bandits and

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

⁵⁵ Imam Mālik had discussed the issue of blood money in al- Muwaṭa'. 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 وَالْأُنثَى بِالْأُنثَى ۚ فَمَنْ عَفَىٰ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِّبَاعٌ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ۚ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ ۚ فَمَنْ اعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ – 2:178

“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.”

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 community⁵⁸; (5) *ma’qil*, and *al-tahanud*. It was Al-Qaraḍāwī who first suggested that an Islamic insurance system be based on a cooperative organization (*mu’asasah ta’āwuniyyah*) and that one of the four conditions of a sound cooperative is that the money collected must be based on *tabarrū’*.⁵⁹

In reference to the Malaysia’s National Strategy for Financial Literacy, 2019-2023,⁶⁰ 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”.⁶¹

⁵⁸ Zuriah Abdul Rahman, and Hendon Redzuan, *Takaful: The 21st Century Insurance Innovation* (McGraw-Hill (M), 2009).

⁵⁹ Yusūf Al-Qaraḍāwī, *al-Halāl wal ḥarām fī al-Islām*, (Al-Qāhirah: Dār al-Kutub al-Maṣriyyah, 2012). Al-Qaraḍāwī further stated that *tabarrū’* is *hibah* and that to revoke it is *ḥarām*. Since then, the concept of *tabarrū’* 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.

⁶⁰ “Malaysian National Strategy for Financial Literacy 2019-2023”, Financial Education Network, 2019, <https://www.sc.com.my/api/documentms/download.ashx?id=6385977c-bd2c-4612-bda8-9ce6a5961720>

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 value⁶³ 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 *Mushārah* 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

Rendezvous, Four Seasons Hotel Kuala Lumpur, October 8, 2019), <https://www.bnm.gov.my/-/assistant-governor-keynote-address-at-the-takaful-rendezvous-2019-leading-in-a-disruptive-world-revolutionising-takaful->; Aznan Hassan, "Sharī'ah Issues In The Operation Of Retakāful And Reinsurance: A Preliminary Exploration From Sharī'ah Perspective," *IIUM Law Journal* 19, no. 2 (2011) :149-178, <https://doi.org/10.31436/iiumlj.v19i2.7>.

⁶² "Perlindungan Tenang," Bank Negara Malaysia, 2021, <https://www.bnm.gov.my/documents/20124/948107/PD+Perlindungan+Tenang.pdf/ba34bc32-af87-5aa7-0c19-b11c980028ba?t=1625225115430>

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-Sharī'ah*. 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 Sharī'ah-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.